

# The Gambia

## Integrated State-Owned Enterprises Framework (iSOEF) Assessment

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## Acronyms and Abbreviations

AMRC	Asset Management Recovery Corporation	IPP	Independent power producers
BIA	Banjul International Airport	iSOEF	integrated State-Owned Enterprises Framework
BPMRU	Book Production and Material Resources Unit	ITFC	Islamic Trade Finance Corporation
BTI	Bertelsmann Stiftung's Transformation Index	KPI	Key performance indicator
CG	Corporate governance	kWh	Kilowatt hour
CEO	Chief Executive Officer	MOFEA	Ministry of Finance and Economic Affairs
CN	Competitive Neutrality	MOU	Memorandum of Understanding
DPPP&PE	Directorate of Public-Private Partnerships and Public Enterprises	NAO	National Audit Office
E&Y	Ernst & Young	NAWEC	National Water & Electricity Company
GAMCEL	Gambia Telecommunications Cellular Company	NFSPMC	National Food Security Processing and Marketing Corporation
GAMPOST	Gambia Postal Services	NPSC	National Printing Stationary Corporation
GAMTEL	Gambia Telecommunications Company	OP	Office of the President
GCAA	Gambia Civil Aviation Authority	PC	Performance Contract
GCCPC	Gambia Competition and Consumer Protection Commission	PEA	Public Enterprise Act
GDA	Gambia Divestiture Agency	PEC	Public Enterprises Committee
GDP	Gross domestic product	PMT	Postal Money Transfer
GFSM	Governance Finance Statistics Manual	PURA	Public Utilities Regulatory Authority
GGC	Gambia Groundnut Corporation	QFDs	Quasi-fiscal deficits
GIA	Gambia International Airline	RCM	Revenue Compensation Mechanism
GNPC	Gambia National Petroleum Company	PURA	Public Utilities Regulatory Authority
GPA	Gambia Ports Authority	SOE	State-owned enterprise
GPPA	Gambia Public Procurement Authority	SSA	Sub-Saharan Africa
GRTS	Gambia Radio and Television Services	SPV	Special purpose vehicle
HFO	Heavy fuel oil	SSHFC	Social Security and Housing Finance Corporation
IFI	International Financial Institution	WAPP	West African Power Pool
IFRS	International Financial Reporting Standards	WASH	Wash, sanitation, and hygiene
IMF	International Monetary Fund	WBG	World Bank Group
IOD	Institute of Directors	WDI	World Development Indicators

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## Executive Summary

- i. **This report applies the new World Bank integrated State-Owned Enterprises Framework (iSOEF) methodology to assess The Gambia’s SOE sector and its current reform trends.** The report provides one of the first comprehensive applications of the World Bank’s new iSOEF methodology in Africa by providing first a landscape of SOEs in The Gambia, and then addressing key aspects for assessing SOEs, namely: “Effects on Markets”; “Fiscal Impact”; and “Corporate Governance and Accountability Mechanisms”. Leveraging the World Bank’s expertise across its Equitable Growth, Finance, and Institutions (EFI) Vice Presidency, this multidimensional assessment looks at the interrelationships of the challenges and opportunities faced by the Gambia’s SOEs to propose holistic and sequenced recommendations to strengthen their governance and performance. The primary audience of the iSOEF is the Government of The Gambia, in particular the Ministry of Finance and Economic Affairs (MOFEA) and other relevant stakeholders.
- ii. **Despite several waves of privatization, the SOE sector still comprises several companies operating in key sectors and showing a limited track record of financial performance.** Until recent years the Government was diverting SOE revenues and constraining some SOEs to deliver public services at below cost. Large SOEs were particularly affected, including the National Water and Electricity Company (NAWEC), Gambia Telecommunication Company (GAMTEL), and Gambia Ports Authority (GPA). And most SOEs were affected to some extent by the accompanying breakdown in financial discipline and weaknesses in their governance structures.
- iii. **As a result, the Government re-launched its SOE reform agenda, aimed to reduce SOEs’ direct and implicit burden on public finances and to strengthen their corporate governance.** At end-2017, total liabilities from SOEs were estimated at 31.3 percent of GDP, with NAWEC accounting for half of this total. With support from International Financial Institutions (IFIs), the Government launched a series of measures to improve the operational and financial management and governance of SOEs, to reduce their fiscal burden and risks. Special purpose audits were conducted on the most important SOEs, and MOFEA signed a multiannual Performance Contract with NAWEC, based on measurable key performance indicators (KPIs). Also, the Government has drafted a new SOE bill that was submitted for approval to the National Assembly in April 2022.
- iv. **NAWEC has made some notable achievements to improve its operational and financial performance.** For instance, there was a major organizational restructuring including the appointment of a new, externally recruited Group Finance Director to build an effective financial team. Furthermore, MOFEA signed a Memorandum of Understanding (MOU) with NAWEC in 2018 through which the Government absorbed 75 percent of NAWEC’s debt in 2019. NAWEC cross-arrears with other public entities were completely wiped clean. As these reforms have started recently, it is expected that the outcome of these improvements on NAWEC financials will be reflected in the next policy notes or analytical reports on SOEs.
- v. **Major efforts are still required to establish a sound, efficient and financially sustainable SOE sector in The Gambia, while progress has slowed partly due to the COVID-19 pandemic.** The special purpose audits revealed a wide range of issues, from insolvency, weak accounting systems, and the overstatement of assets to conflicting commercial and socio-economic objectives, and corporate governance issues. In addition, fiscal risks to the budget could arise from further losses, arrears and defaults by SOEs. NAWEC, Gambia Cellular Company (GAMCEL) and the National Food Security, Processing and Marketing Corporation, formerly the Gambia Groundnut Corporation (NFSPMC/GGC), are particularly vulnerable. Transfers and subsidies to SOEs increased from 0.6 percent of GDP in 2019 to 1.0 percent of GDP in 2020, as the Government bailed-out and cleared arrears for several enterprises.

## SOEs and the Market

vi. **Out of 12 non-financial SOEs identified as the “SOE portfolio” for this assessment, 6 SOEs operate in fully commercial/competitive sectors, 4 in contestable sectors, and 2 in natural monopoly sectors.**<sup>1</sup> Interestingly, SOEs in commercial/competitive sectors, which are viable for the private sector and where there is no clear economic rationale for state ownership, such as NFSPMC/GGC, are large market players and operate as de facto monopolies with significant risks of creating market distortions. Contestable sectors are often served under a reduced number of market players and therefore may exhibit some barriers to entry that can be exacerbated by the presence of SOEs. Examples of SOEs in these sectors include the Gambia National Petroleum Company (GNPC) and telecom companies (GAMTEL and GAMCEL). Finally, two SOEs —NAWEC and Gambia Postal Services (GAMPOST)— operate in natural monopoly sectors providing utility and postal services, respectively.

vii. **This iSOEF assessment identifies a wide variety of policies associated with SOEs in The Gambia that can distort the functioning of markets and have significant implications for the viability and profitability of private companies.** SOEs may be subject to a different set of market rules vis-à-vis private competitors, which creates market distortions and crowds-out private investment. The key findings can be grouped into two broad categories, as follows:

- Firm-level competitive neutrality principles<sup>2</sup> : i) risks for competition were found due to the lack of separation of commercial and non-commercial activities of SOEs; ii) SOEs are not required (legally nor in practice) to have separate accounts and disclose the revenues and costs associated with commercial and non-commercial activities, which increases risks for cross-subsidization and distorts prices of goods and services; iii) SOEs are not systematically required to achieve a market rate of return, except in contract programs negotiated on a case-by-case basis.
- Cross-cutting competitive neutrality principles: i) some SOEs may benefit from state ownership links to access essential facilities, whereas private companies have to get licenses; ii) SOEs benefit from some regulatory advantages over private competitors — for example, the Government is explicitly enabled to grant exclusive right for the operation of port facilities, often without an assessment of potential competitors or viability of the private sector to come in; iii) although SOEs are subject to the same set of rules applying to all firms regarding the tax law, procurement law, and competition act, some exemptions remain with potential risks of creating an unlevel playing field —for example, tax exemptions on particular SOEs (e.g., GPA); iv) SOEs benefit from concessionary terms on loans through means that are not available to the private sector (see fiscal impact section for further details). Moreover, although some progress is evidenced in the separation between the role of SOEs as market players and as regulators (e.g., telecom sector), some SOEs enjoy this dual role and are often in charge of the provision of licenses, definition of tariffs, and determining the access to essential facilities for their (current or potential) competitors.

1 Commercial/Competitive sectors refer to competitive sectors characterized by small entry barriers; contestable sectors are characterized by moderate entry barriers, public goods, or externalities; and natural monopoly sectors are those that exhibit high entry barriers, economies of scale, or sub-additivity cost structures.

2 Competitive neutrality refers to an assessment to measure in what extent SOEs are subject to the same set of rules and market discipline as private companies. The more symmetric are those set of rules among private firms and SOEs, the lower the risks of tilting the playing field in favor of certain market players.

**viii. As a result, the lack of a level playing field is translating into high prices, poor service delivery, and bottlenecks to improved competitiveness of The Gambia.** Sectors with presence of SOEs are exhibiting difficulties to deliver high quality services at competitive prices. For instance, the lack of separation (cost and revenues allocation) in services such as water and electricity results in cross-subsidies and undermines the ability of NAWEC to provide reliable electricity services to consumers. High prices, low coverage, and frequent blackouts impact the development and competitiveness of the industrial sector. In the telecom sector, the private sector also perceives a distorted playing field since the SOEs have access to preferential interest rates for loans towards infrastructure and access to essential facilities with delayed payments. This can deter private investment and undermine the development of digital services. Similarly, in the logistics sector, the monopolistic role of the Gambia International Airline (GIA) and the GPA, and limited capacity in ports and airports is translating into high prices and frequent delays for exporters, which is weakening their ability to compete internationally. The private sector could bridge the investment gaps and foster the development of these key enabling sectors in The Gambia, but it is essential to ensure a level playing field such that both SOEs and private firms face similar market rules and conditions.

### Fiscal Costs and Risks of SOEs

**ix. Available data indicates that SOEs made a minor contribution to the central government revenue in recent years but required significant budget support.** On the one hand, SOEs paid only 0.23 percent of GDP in taxes on average during 2016-19, which reflects: i) large tax exemptions; ii) limited ability to meet tax payments due to financial difficulties; and iii) the fact that most of the larger SOEs—except for the GPA—are not profitable, and therefore are not liable to pay corporate income tax. On the other hand, some SOEs are subsidized by the Government as a compensation for the cost of their social objectives—e.g., NFSPMC/GGC and NAWEC together received about 0.7 percent of GDP per year during 2018-2020. Also, budget funds are frequently used for debt servicing of government loans on-lent to SOEs, with only minimal reimbursements from the latter. Budget payments for this purpose equalled 0.45 percent of GDP on average during 2018-2020. Furthermore, the inability of SOEs to honor their debt service payments has imposed a significant burden on the budget through government bailouts—e.g., the Government took over or wrote off NAWEC debts unduly imposed on the SOE by the previous regime; the stock of those debts amounted to 2.8 percent of GDP in 2019.

**x. The SOE sector poses sizable fiscal risks, as it lacks financial viability.** Three major SOEs—NAWEC, GAMTEL/GAMCEL and Gambia Civil Aviation Authority (GCAA)—are not financially viable and cannot become so without major structural reforms, which would likely take several years to implement. In addition, most of the SOEs depend entirely on borrowing to finance their capital investment expenditures because their own resources are insufficient. As their creditworthiness is limited, any borrowing that they incur entails loans either directly contracted or guaranteed by the Government.

**xi. In this context, three major sources of fiscal risks emanating from SOEs are identified.** One source takes the form of direct and explicit government obligations related to external loans used for projects implemented and operated by SOEs. The cost to the budget of servicing these debt obligations, plus the cost of servicing the domestic debts taken over from NAWEC, is estimated at GMD 1,526 million (1.5 percent of GDP) in 2021. A second source is related to potential default on the loans contracted directly by SOEs, with a government guarantee. These are mostly short-term trade credits from the Islamic Trade Finance Corporation (ITFC). A third source of fiscal risks is implicit in nature, and stems from both: i) the accumulation of arrears owed by SOEs to other SOEs, the Social Security and Housing Finance Corporation (SSHFC), the private sector and the government itself; and ii) contingent fiscal obligations to ensure that SOEs can maintain essential services—such as for GAMTEL and GAMCEL.

## Corporate Governance and Accountability Mechanisms

xiii. **A new Directorate for SOE Oversight has been established within the MOFEA, which has taken over SOE related responsibilities carried out by the Directorate of Public-Private Partnerships and Public Enterprises (DPPP&PE).** The new Directorate aims to strengthen the monitoring and oversight of SOE performance. The current institutional set-up for SOE ownership and oversight in the Gambia is dispersed among several entities. Line ministries are charged with key ownership functions such as the nomination of SOE board members and the approval of major capital expenditures. In turn, the DPPP&PE —on behalf of MOFEA—oversees SOE financial performance monitoring and evaluation. At the same time, the Department of Strategic Policy and Delivery at the Office of the President (OP) plays an SOE ownership role. Furthermore, the draft SOE bill proposes to establish a new stand-alone SOE Commission to exercise a more centralized ownership function over SOEs. If this bill is enacted, the Directorate for SOE Oversight will act as the executing arm of the SOE Commission.

xiii. **There were significant delays in the preparation and disclosure of annual SOE financial statements, which made it difficult to provide an accurate and comprehensive evaluation of the SOE sector in this assessment.** The 1990 Public Enterprises Act contains no requirements for annual financial statements. However, the 1997 Constitution requires public enterprises to submit the preceding year's annual report to the National Assembly within three months of the end of its financial year. In practice, public disclosure of annual financial statements was often delayed for years. There has been recent improvement though, and, as of June 2021, the 2019 financial statements for most SOEs were available on the MOFEA's website. For this assessment, the team relied on SOE financial data compiled by the DPPP&PE, which is not publicly available. In some cases, this data presents significant disparities as compared to SOE financial statements recently published on the MOFEA's website.

xiv. **The application of accounting standards by SOEs differs, making it difficult to compare financial information across SOEs and over time.** While some SOEs are applying International Financial Reporting Standards (IFRSs), a few others are in transition to IFRSs and the rest apply national accounting standards. The Government aims to migrate all SOEs to IFRSs to achieve comparability. However, the special purpose audits note that the adoption of IFRS would not be achievable in the short term, since the first step would be to establish the current financial position of each SOE based on a common set of accounting principles.

xv. **Most SOE boards do not play their expected strategic oversight role, and the nomination process for board members could be strengthened.** Key functions and responsibilities of SOE boards are mostly exercised by OP and/or DPPP&PE, thus undermining the authority of the board. As per board nomination and appointments, they are currently handled by OP without an apparent coordinated process on qualification requirements and selection criteria to select the most qualified directors.

xvi. **NAWEC signed a multiyear Performance Contract (PC) with the MOFEA and the Ministry of Energy in 2019; however, current capacities are not enough to ensure effective monitoring and compliance.** NAWEC's PC is structured around a set of relevant and measurable KPIs. MOFEA —with support of the Public Utilities Regulatory Authority (PURA)— is assigned the responsibility of monitoring compliance by NAWEC and the government. To date, monitoring has been limited because of several factors: (i) a lack of current and reliable management information; (ii) limited institutional mechanisms to track performance against KPIs and to allow for in-year course corrections; and (iii) the impact from the COVID-19 pandemic. To overcome these difficulties, MOFEA has contracted an external audit firm, with support from the World Bank, to evaluate performance against agreed KPIs and associated targets.

xvii. **The Gambia Public Procurement Authority (GPPA) Act of 2014 defines the procurement process for the entire public sector, including SOEs, which sometimes present specific challenges.** The GPPA regulations are intended to ensure a competitive market for suppliers and a transparent process which stands the test of public scrutiny. However, the challenge is to ensure that the procurement process is efficient, to enable the SOEs to respond in a timely manner to market conditions. The GPPA act is currently under revision. The revised bill was approved by the Cabinet and is expected to be approved soon by the National Assembly. According to this revised bill, standard procurement rules would not apply to public utilities operating as a national monopoly, which may apply to some SOEs. These entities will however need to adopt specific procurement procedures in line with the principles stated in the revised bill.

### Main Options for Reforms

xviii. **Recognizing the Government's commitment to SOE reform, this iSOEF proposes recommendations to improve the governance and performance of SOEs, while limiting their fiscal costs and risks.** SOE reforms are multidimensional and require a holistic and integrated approach. As such, this iSOEF focuses on four main intertwined options for reform, as presented below. Other important reform options are explored in Chapter 6, and a detailed Action Plan is offered.

- **Strengthen institutional arrangements for SOE financial oversight.** Leverage the ongoing process for establishing a new Directorate for SOE Oversight at MOFEA to increase SOE financial oversight effectiveness. The new Directorate would strengthen the monitoring of SOE performance and should expand and build on DPPP&PE's SOE oversight responsibilities. The Directorate would also carry out the following functions: i) strengthen MOFEA-SOEs links by convening quarterly meetings with SOE leadership teams and corresponding line ministries; ii) ensure that SOE financial information is timely and comprehensively collected from SOE audited financial statements; iii) build capacity for periodic financial analyses and elaborate a standardized set of key financial SOE statistics and ratios for both individual SOEs and the SOE portfolio ; iv) produce and maintain an updated annual record of the net fiscal impact of SOEs on the budget; v) build capacity for quarterly performance monitoring and evaluation of SOEs that signed PCs with the Government; and vi) build capacity for periodic assessments of fiscal risks associated with individual SOEs.
- **Systematize SOEs' relationship with the budget to properly calculate and compensate them for implementing public policy objectives.** First, it is necessary to make the financial relationships between the Government and the SOEs fully transparent, so that the magnitude of these transactions can be properly recorded and understood. That is a prerequisite for managing the fiscal risks from SOEs. The recent formalization of financial relationships with NAWEC could be extended to the overall SOE portfolio. Second, where there is a public policy rationale for subsidizing services or required compensation for non-profitable public services provided by SOEs, such as the fertilizer subsidy provided by NFSPMC/GGC, this should be made explicit in the budget. And NFSPMC/GGC should be fully reimbursed for the cost of providing the subsidy. This compensation should be separated from the revenues derived by SOEs from commercial activities to avoid risks of cross-subsidization and to avoid distorting prices of goods and services provided in the commercial/competitive segments.
- **Strengthen SOE transparency, reporting and disclosure.** The following should be disclosed through the MOFEA website: (i) regular and updated audited annual financial statements (including the last completed fiscal year) for the 12 SOEs defined in the SOE portfolio; and (ii) annual SOE aggregate reporting, specifying main SOE financial performance trends, as well as government sector policy and reforms underway within six months of a fiscal year. The 2020 Consolidated SOE Financial Performance Report prepared in April 2022 by the Directorate for SOE Oversight is a good start towards aggregate reporting



and should be continued annually. Other measures that could help reinforce SOE transparency and accountability include: (i) ensuring that annual audited financial statements reflect the consolidation of each major SOE (parent company) and its subsidiaries; (ii) migrating to IFRS for at least the top five SOEs by 2019 annual gross revenues; and (iii) allowing MOFEA to participate in the selection of auditors for SOEs, addressing cases where a given SOE audited financial statement contains qualified opinions and conducting effective follow-up of auditor recommendations.

- **Level the playing field between SOEs and private companies through a review of key competitive neutrality issues in the legal and institutional framework.** Most of the SOEs participate in commercial and contestable sectors where The Gambia could attract private investment and foster competition. This would require mechanisms to ensure that the private sector (existing and potential entrants) receive similar treatment and are exposed to the same market discipline. It might be associated with ownership transformation (e.g., divestiture) but is not necessarily limited to it in the short term. Key reforms include (i) restricting preferential access of SOEs to credit<sup>3</sup>, (ii) limiting access to essential facilities free of charge or under different conditions to SOEs vis-à-vis private peers<sup>4</sup>, (iii) addressing the lack of separation between commercial and non-commercial functions including the design of proper compensation mechanisms, and (iv) promoting independence of the regulatory bodies from the SOEs.

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3 SOEs should have access under market-based interest rates rather than concessional terms with the state. If specific type of support is provided for a sector, both private and state companies should be eligible in similar terms to those resources.

4 SOEs competing vis-a-vis private peers should not benefit from any preferential terms (or reduced prices) to access essential facilities, even in cases where the SOE has a parent company holding key infrastructure.

## Matrix of proposed options for SOE reform

Legend:

ST: Short term – 6 months

MT: Medium term – 6-24 months

Key:

DAC – Directorate of Aid Coordination

DLDM – Directorate of Loans and Debt Management

DPPP – Directorate of Public Private Partnerships

DSOE – Directorate of SOE Oversight

DOB – Directorate of Budget

GCCPC – Gambia Competition and Consumer Protection Commission

MPAU – Directorate of Economic Policy and Research

MOJ – Ministry of Justice

NAO – National Audit Office

OP – Office of the President

PS – Permanent Secretary

PURA – Public Utilities Regulatory Authority

Reform Area	Recommendation	Time Horizon	Responsible Agency
<b>1. Priority Recommendations</b>			
<b>SOE Corporate Governance: Ownership and Oversight Function</b>	<b>1. Strengthen institutional arrangements for SOE financial oversight</b>		
	<ul style="list-style-type: none"> <li>Recruit a specialists' team in the new Directorate for SOE Oversight at MOFEA.</li> </ul>	ST	DSOE
	<ul style="list-style-type: none"> <li>Ensure that the new Directorate is held as a centralized SOE oversight unit at MOFEA and operates as the secretariat (executing branch) of the SOE Commission after the new SOE bill is enacted.</li> </ul>	MT	PS, MOFEA
	<ul style="list-style-type: none"> <li>Strengthen MOFEA-SOEs links by convening meetings (initially biannually, but on a quarterly basis over time) with SOE leadership and corresponding line ministries.</li> </ul>	ST	DSOE
	<ul style="list-style-type: none"> <li>Ensure that SOE financial information is timely and comprehensively collected by the new Directorate from SOE audited financial statements.</li> </ul>	ST	DSOE
	<ul style="list-style-type: none"> <li>Build capacity for periodic financial analysis and elaborate a standardized set of key financial SOE statistics and ratios for both individual SOEs and the SOE portfolio in line with the Credit Risk Assessment proposed in the 2021 Framework for the Management of Government Guarantees.</li> </ul>	ST	DLDM and DSOE
	<ul style="list-style-type: none"> <li>Elaborate and keep an updated annual record of the net fiscal impact of SOEs on the budget.</li> </ul>	ST	MPAU
	<ul style="list-style-type: none"> <li>Build capacity for quarterly performance monitoring and evaluation of SOEs that signed performance contracts with the Government. Start with NAWEC and follow up with other potential SOEs.</li> </ul>	ST to MT	DSOE
	<ul style="list-style-type: none"> <li>Build capacity for periodic assessment of major fiscal risks associated to SOEs.</li> </ul>	ST to MT	DSOE
<b>SOE Fiscal Impact</b>	<b>2. Systematize SOEs' relationship with the budget to properly calculate and compensate them for their quasi-fiscal activities to make them financially viable</b>		
	<ul style="list-style-type: none"> <li>Make the financial relationships between the Government and SOEs fully transparent, so that the magnitude of these transactions can be properly recorded in the budget.</li> </ul>	ST	MPAU, DOB and DSOE
	<ul style="list-style-type: none"> <li>Duly compensate SOEs —through explicit budget transfers— for the actual cost of their public service obligations (profitable or non-profitable) (e.g., NFSPMC/GGC on fertilizer subsidy, NAWEC on tariff subsidy through the RCM).</li> </ul>	ST	MPAU and DOB

<b>SOE Corporate Governance: Transparency, Reporting, and Disclosure</b>	<b>3. Strengthen SOE transparency, reporting and disclosure</b>		
	<ul style="list-style-type: none"> <li>Publish audited annual SOE financial statements on MOFEA's website regularly.</li> </ul>	ST	DSOE
	<ul style="list-style-type: none"> <li>Prepare SOE report annually and publish on MOFEA's website, including: (i) a standardized set of key financial statistics and ratios for the SOE portfolio; (ii) annual net fiscal impact of SOEs on the budget; (iii) progress update on KPIs and associated targets for all SOEs signing a PC with the Government; (iv) an assessment of SOE-related fiscal risks focused on largest/financially troubled SOEs; and (v) list of audited SOE financial statements containing qualified opinions and corresponding auditor recommendations.</li> </ul>	MT	DSOE
	<ul style="list-style-type: none"> <li>Ensure that annual audited financial statements reflect the consolidation of each major SOE (parent company) and its subsidiaries (such as GAMTEL and GAMCEL).</li> </ul>	MT	DSOE
	<ul style="list-style-type: none"> <li>Migrate to IFRS for at least top five SOEs by 2019 annual gross revenues: NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC.</li> </ul>	MT	DSOE, NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC
	<ul style="list-style-type: none"> <li>Allow MOFEA to participate in the selection of auditors for SOEs.</li> </ul>	MT	OP/NAO
<b>SOE and the Markets</b>	<b>4. Level the playing field between SOEs and private companies to attract investment</b>		
	<ul style="list-style-type: none"> <li>Separate commercial and non-commercial functions to prevent distortions in pricing and cross-subsidization, either through the implementation of accounting practices or separating the functions into different legal entities.</li> </ul>	ST	DSOE
	<ul style="list-style-type: none"> <li>Introduce competitive neutrality principles in the Competition Act and eliminate regulatory provisions that allow the preferential access to credit (e.g., concessionary loans), essential facilities and key inputs to SOEs below market prices. Eliminate exclusions of statutory monopolies from the Competition Act and subject SOEs to similar market rules as the private peers to improve performance and service delivery.</li> </ul>	ST	GCCPC
	<ul style="list-style-type: none"> <li>Create mechanisms that enable private access to essential facilities on equal terms to those offered to SOEs. For instance, review the PURA regulation to ensure the access to essential facilities operate under the same rules (with respect to price, timeline, coverage, etc.) for private companies and SOEs.</li> </ul>	ST	PURA
	<ul style="list-style-type: none"> <li>Introduce policy instruments to enable competition in certain market segments (e.g., access and interconnection to energy grid coupled with tariff regulation) as an alternative to SOE direct operation.</li> </ul>	ST	PURA
	<ul style="list-style-type: none"> <li>Explore the option to remove the price regulations in fully commercial sectors, where SOEs are present, and implement less distortive targeted compensation mechanisms or other approaches to support vulnerable populations (e.g., vouchers, subsidies on demand), while creating incentives for the private sector to enter.</li> </ul>	ST	DOB, MPAU
	<ul style="list-style-type: none"> <li>Review and adjust regulatory provisions that might inhibit the entry of the private sector in competitive segments and any mechanisms that can shield SOEs from competition (e.g., import bans).</li> </ul>	ST	GCCPC



	<ul style="list-style-type: none"> <li>Review the PPP framework to explore the possibility to open concessions for SOEs operating in contestable sectors (e.g, ports) to attract private investment and improve service delivery.</li> </ul>	ST	DPPP
<b>II. Other Recommendations</b>			
<b>SOE Corporate Governance: Performance Monitoring</b>	<ul style="list-style-type: none"> <li>Promote the signing of multi-year Performance Contracts between individual SOEs, MOFEA and corresponding line ministries structured around relevant and measurable KPIs and associated targets. Focus on top five SOEs: NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC.</li> <li>Include timely submission of audited financial statements a mandatory requirement in performance agreements and for the performance evaluation of CEOs and Boards.</li> </ul>	ST to MT	DSOE, NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC
	<ul style="list-style-type: none"> <li>Bring several of the SOEs to financial viability (e.g, NAWEC, GAMTEL, GAMCEL and NFSPMC/GGC). This would involve a combination of cost reductions (e.g, in staffing levels) and adjustments to prices.</li> </ul>	ST to MT	MPAU, DSOE and SOEs
	<ul style="list-style-type: none"> <li>Formalize external borrowing for the SOE-sector through on-lending agreements. Sign subsidiary loan agreements with SOEs to bind them legally to service those debts.</li> </ul>	ST	DLDM and DSOE
	<ul style="list-style-type: none"> <li>Legally prohibit direct lending among SOEs and by SSHFC (legacy issue) through the new SOE bill/revised Public Finance bill.</li> </ul>	ST	DSOE and MOJ
	<ul style="list-style-type: none"> <li>Include the SOE sector in the 2020 new project selection and appraisal procedure to assess their investment projects with the aim to rationalize the public investment program and to anchor debt sustainability.</li> </ul>	MT	DAC and DPPP&PE/DSOE
	<ul style="list-style-type: none"> <li>Replace policy-based subsidies with subsidies paid directly to the beneficiaries (targeting based on means-testing or other policy criteria) to support SOEs' ability to recover their costs, while strengthening their incentives to improve efficiency by removing the 'moral hazard' of subsidies covering their operational losses.</li> </ul>	MT	MPAU, DSOE, SOEs
<b>SOE Corporate Governance: Boards of Directors</b>	<ul style="list-style-type: none"> <li>Apply the board nomination and appointment procedures required by the Corporate Governance Code —ensuring the participation of OP, MOFEA and corresponding line ministries. Focus on top five SOEs in the first phase: NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC.</li> <li>Empower the SOE Commission to nominate and appoint board members, once the new SOE bill is enacted.</li> <li>Develop an ownership policy outlining the objectives of state ownership, as well as expectations for individual companies in terms of their performance and adherence to general corporate governance principles.</li> <li>Empower SOE boards —using further legislation, training, and other relevant tools, as required— so they can fully exercise their functions of strategic SOE oversight and management supervision.</li> <li>Promote adequate training programs, peer exchanges and learning opportunities for potential candidates and existing SOE board members (for instance, leverage on the recent creation of the Institute of Directors in The Gambia for such purposes).</li> </ul>	MT	DSOE

<b>SOE and the Market: Ownership transformation and other alternatives for private sector participation</b>	<ul style="list-style-type: none"> <li>• Develop a strategy to attract private investors to SOE markets, opening competitive segments where SOEs operate as de facto monopolies to full competition.</li> <li>• Consider ownership and management transformation methods to attract private investors (e.g., temporal concession of the GPA) as well as temporal or permanent ownership transformation (i.e., divestiture) for SOEs in competitive sectors where there is no clear economic rationale (e.g., GIA can be part of a temporal concession, GAMTEL can be part of a full divestiture option).</li> <li>• Design a system for selecting projects of high priority for the Government, considering a range of instruments: PPPs, concessions, management contracts with private sector, minority stake equity participation, rather than direct SOE participation.</li> <li>• Strengthen the surveillance capacity of sectoral regulators as well as enforcement tools from the competition agency to monitor SOEs and apply similar market rules as for private peers.</li> </ul>	MT	DSOE
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## Immediate Priorities (listed by sequence)

Reform Area	Recommendation	Responsible Agency
<b>SOE Corporate Governance</b>	<ul style="list-style-type: none"> <li>• Recruit a specialists' team in the new Directorate for SOE Oversight at MOFEA.</li> <li>• Strengthen MOFEA-SOEs links by convening meetings (initially biannually, but on a quarterly basis over time) with SOE leadership and corresponding line ministries.</li> <li>• Ensure that SOE financial information is timely and comprehensively collected by the new Directorate from SOE audited financial statements.</li> <li>• Publish audited annual SOE financial statements on MOFEA's website regularly.</li> </ul>	DSOE
	<ul style="list-style-type: none"> <li>• Build capacity for periodic financial analysis and elaborate a standardized set of key financial SOE statistics and ratios for both individual SOEs and the SOE portfolio in line with the Credit Risk Assessment proposed in the 2021 Framework for the Management of Government Guarantees.</li> </ul>	DLDM and DSOE
	<ul style="list-style-type: none"> <li>• Promote the signing of multi-year Performance Contracts between individual SOEs, MOFEA and corresponding line ministries structured around relevant and measurable KPIs and associated targets. Focus on top five SOEs: NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC.</li> <li>• Include timely submission of audited financial statements a mandatory requirement in performance agreements and for the performance evaluation of CEOs and Boards.</li> </ul>	DSOE, NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC
	<ul style="list-style-type: none"> <li>• Build capacity for quarterly performance monitoring and evaluation of SOEs that signed performance contracts with the Government. Start with NAWEC and follow up with other potential SOEs.</li> </ul>	DSOE
<b>SOE Fiscal Impact</b>	<ul style="list-style-type: none"> <li>• Make the financial relationships between the Government and SOEs fully transparent, so that the magnitude of these transactions can be properly recorded in the budget.</li> </ul>	MPAU, DOB and DSOE

<b>SOE and the Markets</b>	<ul style="list-style-type: none"> <li>Separate commercial and non-commercial functions to prevent distortions in pricing and cross-subsidization, either through the implementation of accounting practices or separating the functions into different legal entities.</li> </ul>	DSOE/MOFEA
	<ul style="list-style-type: none"> <li>Explore the option to remove the price regulations in fully commercial sectors, where SOEs are present, and implement less distortive targeted compensation mechanisms or other approaches to support vulnerable populations (e.g., vouchers, subsidies on demand), while creating incentives and removing legal barriers to allow the private sector to enter.</li> </ul>	MPAU/MOFEA
<b>SOE Fiscal Impact</b>	<ul style="list-style-type: none"> <li>Duly compensate SOEs —through explicit budget transfers— for the actual cost of their public service obligations (profitable or non-profitable) (e.g., NFSPMC/GGC on fertilizer subsidy, NAWEC on tariff subsidy through the RCM).</li> </ul>	MPAU and DOB
	<ul style="list-style-type: none"> <li>Formalize external borrowing for the SOE-sector through on-lending agreements. Sign subsidiary loan agreements with SOEs to bind them legally to service those debts.</li> </ul>	DLDM and DSOE
	<ul style="list-style-type: none"> <li>Legally prohibit direct lending among SOEs and by SSHFC (legacy issue) through the new SOE bill/revised Public Finance bill.</li> </ul>	DSOE and MOJ
<b>SOE Corporate Governance</b>	<ul style="list-style-type: none"> <li>Elaborate and keep an updated annual record of the net fiscal impact of SOEs on the budget.</li> </ul>	MPAU
	<ul style="list-style-type: none"> <li>Build capacity for periodic assessment of major fiscal risks associated to SOEs.</li> </ul>	DSOE
<b>SOE and the Markets</b>	<ul style="list-style-type: none"> <li>Create mechanisms that enable private access to essential facilities on equal terms to those offered to SOEs. For instance, review the PURA regulation to ensure the access to essential facilities operate under the same rules (with respect to price, timeline, coverage, etc.) for private companies and SOEs.</li> </ul>	PURA and GCCPC

## CHAPTER 1: Introduction

1. **This report applies the new World Bank integrated State-Owned Enterprise Framework (iSOEF), developed by the Equitable Growth, Finance and Institutions (EFI) Vice Presidency, to provide a comprehensive assessment of The Gambia’s SOE sector and its current reform trends.** The report provides one of the first applications of the World Bank’s new integrated SOE framework (iSOEF) in Africa. Leveraging the World Bank’s expertise across its EFI Vice Presidency, this multidimensional assessment looks at the interrelationships of the challenges and opportunities faced by SOEs in The Gambia and aims to propose holistic and sequenced recommendations to strengthen their governance and performance.
2. **The main objective of this iSOEF is to inform the Government, the World Bank and relevant stakeholders of the economic and fiscal impact of the SOE portfolio and identify ways to strengthen the performance and corporate governance of SOEs.** The primary audience of the iSOEF is the Government of the Gambia, in particular the Ministry of Finance and Economic Affairs (MOFEA).

### Data Availability

3. **Although firm-level information is limited in The Gambia, this report elaborates on multiple data sources to provide an overview of the key issues related to SOEs in The Gambia.** Although the analysis was constrained by the lack of comprehensive financial information for SOEs, the team was able to work on available information, annual reports and data provided by the Government for the elaboration of this report. The absence of this systematic information is highlighted as one significant point to improve the transparency and disclosure dimension of SOEs’ corporate governance in Chapter 5. In June 2021, MOFEA posted the financial statements of the 12 SOEs on the website. For this assessment, the team relied on SOE financial data compiled and provided to the team by the DPPP&PE during the iSOEF mission of May 2021 and the SOE financial statements published in June 2021.

### Methodology

4. **The report follows the modular structure of the iSOEF and its respective guidance notes.**<sup>5</sup> The iSOEF’s modular structure allows for the flexible implementation of various modules depending on their relevance, existing analyses, and available resources. This iSOEF covers an overall landscape of the SOE sector and provides an analysis based on three iSOEF modules capturing key aspects of the SOE sector<sup>6</sup>, namely: “SOEs and the Market” (iSOEF Module 1)<sup>7</sup>; “Fiscal Impact” (iSOEF Module 2); and “Corporate Governance and Accountability Mechanisms” (iSOEF Module 4).

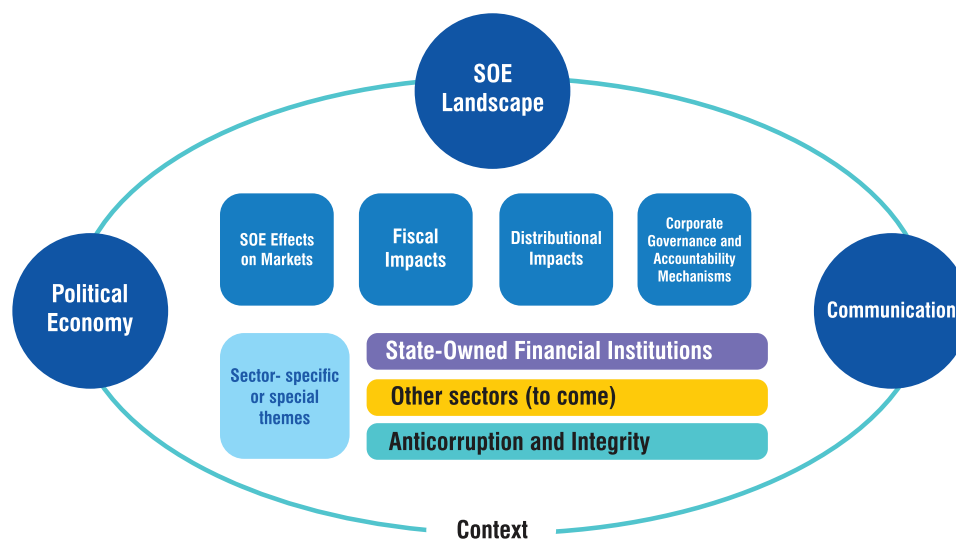
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5 World Bank (2019). In addition, the IFC-WBG (2021) SOE knowledge note to engage private sector participation in sectors with presence of SOEs was key to complement the assessment. The document can be retrieved at: <https://worldbankgroup.sharepoint.com/sites/gge/CPSD/Documents/CPSD%20Resources/CPSD%20SOE%20Knowledge%20Note%20-%20Final%20-%20Feb%202021.pdf>

6 The iSOEF takes a modular and flexible approach depending on client requests, the needs and possibility of the country, and data availability. As such, the distributional impacts module (Module 3) was not requested in this round of the iSOEF assessment.

7 The market module (Module 1) also employed the WBG-IFC SOE knowledge note developed by the Global Markets and Competition Team for the assessment and proposal of policy reforms.

Figure 1: Integrated SOE Framework (iSOEF)



## Structure of the Report

5. The report structure is organized in the following 6 Chapters:

- Chapter 1: Introduction.
- Chapter 2: The SOE Landscape.
- Chapter 3: iSOEF Module 1: SOEs and the Market.
- Chapter 4: iSOEF Module 2: Assessment of the Fiscal Costs and Risks from the SOE Sector.
- Chapter 5: iSOEF Module 4: Corporate Governance and Accountability Mechanisms.
- Chapter 6: Options for Reforms.

## CHAPTER 2: The SOE Landscape

### Background and Recent Developments in the SOE Sector

6. **The SOE sector in The Gambia developed in the 1970s, right after the country gained its independence and became a republic within the British Commonwealth. At independence,** The Gambia, similar to most African nations, inherited the notion of extensive public sector involvement in the economy, in part due to the absence of the private sector in key areas of its developing economy. As a result, SOEs became a core element of the economy from its origins, with major participation in key strategic sectors including transport, electricity, water & sewage, oil & gas, and agriculture, and therefore representing a significant share of the country's GDP and public sector employment.
7. **Underperforming SOEs have been a concern for the Government since the 1980s, which has resulted in several reform attempts.** Repeated attempts at reforming SOEs and actions taken to improve SOE performance yielded below-expectation results over the past decades. These measures include initiatives in the Economic Recovery Program of the 1980s, the Program for Sustained Development of the early 1990s, and the Enhanced Structural Adjustment Facility of the 1990s. During the early 2000s, The Gambia Divestiture Agency (GDA) made progress in improving SOE oversight, monitoring and evaluation, but its ambitious privatization plan was not achieved, and the Agency was closed in 2009.
8. **By 2014-2015, the SOE sector comprised companies operating in key strategic sectors and showing a limited track record of financial performance.**<sup>8</sup> The Government was diverting SOE revenues and constraining some SOEs to deliver public services at below cost. Large SOEs were particularly affected, including the National Water and Electricity Company (NAWEC), Gambia Telecommunication Company (GAMTEL), Gambia Telecommunication Cellular Company (GAMCEL) and Gambia Ports Authority (GPA). Most SOEs were affected to some extent by the accompanying breakdown in financial discipline and weaknesses in their governance structures. In 2014, the Government intervened to cover unpaid external debt obligations of NAWEC, GAMTEL and the National Food Security, Processing and Marketing Corporation, formerly known as The Gambia Groundnut Corporation (NFSPMC/GGC). Total government injection is estimated at 5 percent of GDP.<sup>9</sup>
9. **Since 2017, there have been fundamental changes in the economy and economic policy environment.** The democratically elected Government that took office in 2017 has been taking bold steps to put the economy on a sound footing. The National Development Plan for 2018-2021 focuses on building good governance and accountability, stabilizing the economy, modernizing agriculture, investing in education and health services, building infrastructure including restoring energy services, promoting inclusive tourism, empowering youth, and promoting private sector development for job creation.
10. **In this context, the Government re-launched its SOE-reform agenda, aimed at reducing the direct and implicit burden of SOEs on public finances.** By the end of 2017, total liabilities from SOEs were estimated at 31.3 percent of GDP, with NAWEC accounting for half of this total.<sup>10</sup> With support from IFIs, the Government launched a series of measures to improve the operational and financial management and governance of SOEs, as a means to reduce their fiscal burden and risks. Early measures taken included the liberalization of fuel supply to NAWEC, and a halt on government guarantees to SOEs, unless in full compliance with the provisions of the Public Finance Act. More recently, the Government produced a

8 For the purpose of this assessment, a set of 12 SOEs are analyzed, which does not include the financial sector and SOE subsidiaries.

9 World Bank (2020b)

10 Ibid.

time-bound strategy for clearing verified arrears. Arrears to NAWEC have been cleared and a new system has been established to prioritize electricity bill payments and avoid those arrears re-accumulating, especially with other public sector agencies and SOEs.<sup>11</sup>

11. **Measures have also been taken recently to strengthen SOE corporate governance.** The Government has drafted a new SOE bill, which defines the SOE governance framework. However, its approval is pending the adoption of a new Constitution. In 2019, “special purpose audits” were conducted on seven SOEs, and agreements were signed among the audited SOEs and the government to implement the audits’ recommendations. Similar audits were concluded also during 2020 for all major SOEs. The authorities are also moving ahead with plans to liberalize the telecom sector, and a new management team has been put in place at NFSPMC/GGC. NAWEC’s governance framework is being reinforced through several measures, including the appointment of a new management team (such as group directors), the approval of a new Board charter, the signing of a Performance Contract with MOFEA based on measurable key performance indicators (KPIs), and the implementation of new procurement rules for key purchases, including fuel.
12. **Despite these significant efforts, major challenges remain to achieve a sound and financially sustainable SOE sector. Progress has also slowed partly due to the COVID-19 pandemic.** As reported by the WB and IMF<sup>12</sup>, the recent audits of the main SOEs revealed several issues. These ranged from insolvency, weak accounting systems, and overstatement of assets to conflicting commercial and socio-economic objectives, corporate governance issues, and executive interference. Moreover, fiscal risks to the budget could materialize from further losses, arrears and defaults by SOEs. NAWEC, GAMCEL and NFSPMC/GGC are particularly vulnerable, due to their operating challenges and the relative size of their liabilities. The clearance of cross-arrears started well with monthly payments initiated by several SOEs in January 2020. However, the program suffered a setback in March, reflecting both fragile public sector business continuity arrangements and revenue lost by the concerned SOEs during the pandemic.<sup>13</sup> Overall, transfers and subsidies to SOEs increased from 0.6 percent of GDP in 2019 to 1.0 percent of GDP in 2020, as the Government bailed out and cleared arrears for several enterprises.

## The SOE Portfolio

13. **A total of 12 non-financial SOEs operate as large market players or natural monopolies in the main sectors of the economy.** As reported by DPPP&PE (MOFEA), there are currently 42 decentralized entities<sup>14</sup> in The Gambia, including 12 non-financial SOEs linked to the central government, and for which the government is the majority shareholder. These 12 SOEs (see Table 1 below) will be hereafter referred to as the “SOE portfolio” or “SOE-sector” and constitute the focus of analysis throughout this iSOEF assessment. They operate as large market players in key sectors of the economy, including air and sea transport, telecommunications, agriculture, energy, water and services. Their gross revenues represented 10.5 percent of GDP in 2019.
14. **The Social Security and Housing Finance Corporation (SSHFC) is a private sector pension fund.** While the Government regards this as a SOE, it has no shares in the company. Moreover, it was not included in the SOE portfolio due to its financial nature. However, given its financial interaction with SOEs, SSHFC is covered in Chapter 3.

11 Yet, those arrears kept resurging. As of October 2021, public sector arrears to NAWEC reached USD 6 million or 0.3 percent of GDP.

12 World Bank (forthcoming) and IMF (2021a)

13 World Bank (forthcoming)

14 The decentralized entities and parastatals are not considered as SOEs, since they are not commercially oriented. (e.g., National Agency Against Trafficking, National Council for Arts and Culture, etc.)



**Table 1: SOE Sector in The Gambia**

Economic Sector	SOE Name & Acronym	Established (year)	Legal Status	State Shareholding	Total Assets*	Website
<b>Air and Sea Transport</b>	Gambia Civil Aviation Authority (GCAA)	1991	Public Enterprises Act	100%	4,602.70	<a href="http://www.gcca.gm">www.gcca.gm</a>
	Gambia International Airlines (GIA)	1996	Public Enterprises Act	100%	336.6	<a href="http://www.gia.gm">www.gia.gm</a>
	Gambia Ports Authority (GPA)	1972	Ports Act	100%	4,122.10	<a href="http://www.gamport.gm">www.gamport.gm</a>
<b>Telecom, Postal &amp; Media</b>	Gambia Telecommunication Company (GAMTEL)	1984	Parliament Act	100%	1,673.60	<a href="http://www.gamtel.gm">www.gamtel.gm</a>
	Gambia Telecommunication Cellular Company (GAMCEL)	2001	Subsidiary of GAMTEL	100%	472.4	<a href="http://www.gamcel.gm">www.gamcel.gm</a>
	Gambia Postal Service Corporation (GAMPOST)	2005	2005 Gambia Postal Services Act	100%	86.6	<a href="http://www.gampost.gm">www.gampost.gm</a>
	Gambia Printing & Publishing Corporation (GPPC)	2006	2004 The Gambia Printing and Publishing Corporation Act	100%	140.9	<a href="http://www.gppc.gm">www.gppc.gm</a>
	Gambia Radio and Television Services (GRTS)	1962	2002 Gambia Radio and Television Services Act	100%	206.3	<a href="http://www.gtrs.gm">www.gtrs.gm</a>
<b>Energy &amp; Water</b>	Gambia National Petroleum Corporation (GNPC)	2010	2014 Gambia National Petroleum Company Act	100%	1,738.30	<a href="http://www.gnpc.gm">www.gnpc.gm</a>
	National Water and Electricity Company (NAWEC)	1972	Parliament Act	100%	7,540.80	<a href="http://www.nawec.gm">www.nawec.gm</a>
<b>Agriculture &amp; Services</b>	Assets Management and Recovery Corporation (AMRC)	1992	1992 Asset Management and Recovery Corporation Act	100%	311.9	n.a.
	National Food Security, Processing and Marketing Corporation (NFSPMC/GGC)	1955	Parliament Act	100%	1,442.00	n.a.

Source: World Bank staff consolidation based on MOFEA data.

\* GMD million, 2017-2019 average



15. **SOEs play a strategic role in the energy sector through NAWEC, the country's largest SOE, and GNPC.** With operating revenues equivalent to 5 percent of GDP, one third of the entire SOE sector assets and over 40 percent of its total revenues, NAWEC is by far the largest SOE in the country. As the national provider of electricity and water, NAWEC plays a critical role for the economy and society. NAWEC also has represented a major fiscal drain over past years, calling for the implementation of several measures to improve its financial viability (see Box 1). The GNPC seeks to provide service for downstream petroleum business. It started operations in 2010 and has expanded to 6 gas stations, located at Banjul, Fajara, Brika-ma, Soma, Farafenni and Basse. GNPC has more than GMD 1,700 million in assets (2017-2019 average), equivalent to USD 36 million. Its goal is to become the most important player in oil-related downstream activities, targeting 70 percent of Government's business and 50 percent of the domestic market.

#### Box 1: NAWEC's significant fiscal drain and recent corrective measures

- In 2015 and 2016, Government fuel purchases on behalf of NAWEC cost USD 20 million per year, while the Government was also servicing about one-third of the company's debt. Despite this support, NAWEC defaulted on its debt service obligations, including payment on a GMD 2 billion bond that had been issued in 2015 to consolidate its liabilities to commercial banks. The bond was later restructured, and the Government has since cleared all arrears and assumed full responsibility for servicing it.
- A debt restructuring MOU was signed between the MOFEA and NAWEC in 2018 and went into effect in 2019. Through the signature of twelve legal agreements, 75 percent of the debt from NAWEC's balance sheets was removed (representing approximately 10 percent of 2019 GDP).
- A cross-arrears MOU was signed in 2019. Public sector customers owed 1.0 percent of GDP to NAWEC as of mid-2019. Meanwhile, NAWEC owed the Gambia Revenue Authority 0.2 percent of GDP. A cross-arrears MOU was signed with MOFEA, and these arrears have been settled since early 2020, helping NAWEC to dramatically reduce its commercial losses. This example set through NAWEC has also provided the platform for similar agreements to be reached with other SOEs.
- In 2019, World Bank staff estimated that the cost of supplying electricity in The Gambia was approximately USD 0.27 per kilowatt-hour (kWh) on a cash needs basis, but average tariffs were only USD 0.23/kWh, making full cost recovery impossible.
- To avoid public sector arrears reaccumulating, a mechanism was established in early 2020 for regular payment of bills of public agencies: (i) public sector customers have been categorized as critical and non-critical (including unbundling of non-critical facilities within the critical customers); (ii) all non-critical customers are being transitioned to prepayment meters, with a disconnection policy in place before the transition happens<sup>15</sup>; (iii) payment of electricity bills for street-lights have been centralized; and (iv) an ear-marking system was introduced for cash allocations to critical public sector customers, ensuring these entities have sufficient funding to pay electricity bills<sup>16</sup>.

15 This disconnection policy was paused in March 2020 due to the COVID 19 pandemic. The disconnection policy was re-initiated in September 2020.

16 This has faced implementation challenges. Having been wiped clean in July 2019, arrears for critical customers reached USD 6 million by October 2021.

- In 2020, a new methodology for setting electricity tariffs was developed, incorporating several important changes to ensure tariffs are fully cost-reflective. These include including a transition to a multi-year tariff model, correct treatment of long-term debt, and an automatic pass-through mechanism for fuel costs. A tariff assessment is underway following the new methodology, which is expected to be completed in 2021.
- In 2020/2021 NAWEC went through organizational restructuring which included establishing discrete business units for electricity and water, introducing performance-based contracts, building a fit-for-purpose financial team through the appointment of a new, externally recruited Group Finance Director, and revamping shared services.
- The company's information management system (IMS) is currently being modernized with financial assistance from the World Bank. A move to monthly budgeting and variance analysis by cost center should help make directors more cost aware, as will the IMS system when implemented.
- In 2021, NAWEC's financial model was integrated with the Least Cost Power Development Plan, allowing NAWEC to model the financial impacts of investment and policy changes. NAWEC is currently recruiting an official responsible for keeping the financial model updated.
- NAWEC has improved financial discipline e.g., paying ITFC obligations ahead of schedule.

Sources: The Gambia Economic Update (World Bank, 2020b). The Gambia Second Fiscal Management, Energy and Telecom Reform Development Policy Financing Program Document (World Bank, forthcoming). The Gambia energy sector briefing (World Bank, 2021)

16. **The ports and aviation authorities (GPA and GCAA) are also playing a strategic role in terms of providing basic infrastructure and driving the country's economic opportunities.** The GPA provides facilities and services for berthing of vessels, discharging and loading operations using cargo handling, and related services. It handles almost 90 percent of The Gambia's total foreign trade in weight and volume terms and is one of the most profitable SOEs in the country. As stated in the NDP, limited current capacities and increasing traffic forecasts indicate the need for expansion of infrastructure and improvement of services at the Port of Banjul, which is part of GPA's current business plan. The GCAA oversees regulating civil aviation and the air transport industry, providing navigation services, and operating and managing the Banjul International Airport (BIA). Due to the high relevance of tourism and air traffic and commerce as drivers of economic growth, the Government has been actively working on improving Banjul's airport capacities and services, with around USD 600 million invested as of end-2020.
17. **Gambia International Airlines (GIA) ceased its operations as national carrier at the BIA.** Created in 1996, GIA is a relatively small company, with an asset stock of GMD 337 million (2017-2019 average). GIA currently focuses on providing ground handling services at BIA, processing cargo for companies and individuals, and rendering travel agency services to travelers.

18. **GAMTEL is the primary provider of core telecommunication services in the country, and GAMCEL, its main subsidiary, is one of the country's mobile operators.**<sup>17</sup> Both companies have a track record of significant losses over the past decade, with clear fiscal implications. The two companies' combined tax arrears made up over 48 percent of total SOE tax arrears for June 2019. GAMCEL is insolvent, and it would take an estimated USD 15–20 million investment to upgrade its mobile network to provide the same level of service as other private mobile operators in the country.<sup>18</sup> Revenue from its former main source of income, the international voice gateway, has shrunk drastically over the years for various reasons, including the surge of alternative services. As of end-2018, the Government has assumed responsibility for servicing telecom-related loans, equivalent to 3.6 percent of GDP. In this context, the Government is considering establishing public-private partnerships to manage the essential fiber infrastructure and is also seeking options to reduce telecom SOEs' debt burden.<sup>19</sup>
19. **NFSPMC/GGC is the country's main agro-industrial processing and trading corporation.** It plays an important social role, which is sometimes in conflict with the company's commercial objectives (see Box 2) and has been exposed to financial mismanagement, requiring government bailouts over the past years. NFSPMC/GGC specializes in groundnut purchasing, processing, and exporting. It operates warehouses, a river transport fleet, and processing facilities to produce edible groundnuts, groundnut oil, groundnut cake, cashew nuts, and sesame seeds.<sup>20</sup> It is mandated to buy groundnuts from agents and private traders, and provides crop finance, for which it is dependent on an ITFC line of credit. It also provides fertilizer at subsidized prices, for which it is reimbursed by the Government. The company has experienced chronic financial difficulties in recent years, leading to government direct payment of its debts and arrears to the ITFC. The Government has recently implemented several measures to put NFSPMC/GGC on a sustainable financial footing.<sup>21</sup>

#### Box 2: NFSPMC/GGC: A case of conflict between social and commercial objectives

- There are conflicts between NFSPMC/GGC's social and commercial roles. Historically, the Government has set its selling price for fertilizer at below-market prices—for example, in 2015 it was set at 40 percent below cost. However, subsidies received from the Government have been inadequate to cover the shortfall. As a result, since 2014 the Government has had to reimburse NFSPMC/GGC's debts and arrears directly to the ITFC. In 2015, it provided USD 1.2 million for this purpose.
- Similarly, NFSPMC/GGC's purchase prices for groundnuts are often set at levels that have kept the Corporation's operating margins low or negative. Historically, its net worth has been reported as negative or close to zero.
- In 2020, the Government committed to reforming the NFSPMC/GGC's pricing and subsidy policies, including a close monitoring of its financial position. The aim is to reduce the Government's obligations related to the ITFC facility to zero by 2022. GMD350 million was included in the 2020 budget to meet NFSPMC/GGC's subsidy commitments, out of which the Corporation has reimbursed GMD156 million.

17 The main provider is Africell, with a market share of 63 percent, followed by QCell at 28 percent (Source: PURA).

18 World Bank (forthcoming). Private operators include QCell, Africell, Comium and others.

19 World Bank (2020b)

20 To improve processing efficiency, it decommissioned the old decorticating plant and hired smaller, more efficient, machinery from a private operator in 2020.

21 World Bank (2020b) and IMF (2021a).

- In June 2020, the Government directly settled USD 8.3 million (0.4 percent of GDP) in payments due from the NFSPMC/GGC to the ITFC. However, NFSPMC/GGC has paid its last obligation to ITFC in 2021Q2.
- NFSPMC/GGC engaged the services of Reliance Financial Services, a microfinance institution that helped the corporation sell 98 percent of its 2020 fertilizer stock. To help attract farmers, the groundnut price for the upcoming trading season has been increased by 15 percent and farmers will be paid, as they deliver their produce, through local banks.
- The entire senior management of the corporation has been replaced since February 2020 and was required to undertake much-needed reforms and report periodically to a new board. The internal audit and marketing departments have been created and the process of recruiting their heads is at an advanced stage.

Sources: The Gambia Economic Update (World Bank, 2020b). IMF First Review under the Extended Credit Facility (ECF) Arrangement (IMF, 2021a).

- 20. The remaining four companies included in the SOE portfolio, while considerably smaller in economic size, provide diverse important services to the community.** These companies accounted altogether for less than 3 percent of total SOE portfolio revenues on average during 2017-2019. Still, they provide key services to the national community, including national postal, radio and TV services. A description of their main activities and characteristics is provided in Box 3.

### Box 3: Small SOEs in The Gambia

- GAMPOST is the main company responsible for managing and operating postal services in the country. Created in 2005, it offers post offices located in the most important regions of the country, as well as at the BIA. Among the services offered, the most used are the national delivery and the postal money transfer service (PMT). GAMPOST faced financial problems in the recent past and has transferred some of its delivery services to other companies. However, it maintains full control of the distribution and delivery of all correspondence and letter mail services throughout the country. It also offers international services, being a member of the Universal Postal Union.
- GPPC oversees printing and publishing services targeting the needs of government, other SOEs and private sector firms. It was created in 2006, as a result of the merger of the former National Printing Stationary Corporation (NPSC) —responsible for providing all necessary printing materials such as Government Treasury receipts and other materials for government entities— and the Book Production and Material Resources Unit (BPMRU), charged with the responsibility of providing educational materials. With total assets of GDM 141 million (USD 2.9 million) on average during 2017-2019, GPPC has lately widened its marketing policy to become more active by offering its products and services to the private sector.
- Gambia Radio and Television Services (GRTS), the national radio and TV broadcasting company, was created back in 1962. With a historic record as the first broadcasting company in The Gambia, GRTS currently offers radio and TV broadcasting services in both English and native local languages. In December 1995, the company was commissioned by the Government and began testing transmissions under GAMTEL and adopted its own television channel in 1996. GRTS operates as a public service station based on the tradition of Radio Gambia, broadcasting mostly news, public service announcements, education, entertainment, and religious content.

- The Gambia's Assets Management and Recovery Corporation (AMRC) deals with land sale tenders for re-possessed plots, houses, commercial buildings and other assets on behalf of the Government. These tenders take the form of development and commercial loans, Managed Fund Portfolios, forfeited real estate and financing via The Gambia Cooperative Union. Established by a specific Act in 1992, the Corporation reported assets of GMD 312 million on average during 2017-2019.

Source: World Bank staff consolidation based on official SOE websites and credited external sources.

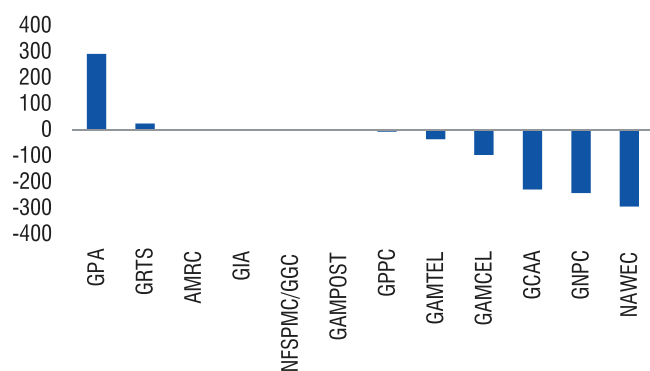
## Performance of the SOE Sector

21. **This section offers an analysis of financial and service delivery performance of the SOE sector.** The ways in which SOEs perform are closely interrelated. For example, financial stress due to fixed prices (tariffs) and operational inefficiencies may translate into poor access and quality of key services, especially in utility and infrastructure sectors, i.e., directly linked to service delivery performance. The financial performance analysis focuses on SOE profitability, based on financial data provided by DPPP&PE (MOFEA) and Ernst & Young (E&Y) audited financial statements. The analysis covers the period 2017-2019 and focuses on the SOE portfolio of 12 commercial companies, as defined in the previous section. Despite the lack of systematic information for the SOE sector in The Gambia, the results still hold. Operational performance was not considered due to data constraints. The analysis of service delivery performance refers to coverage and quality aspects related to the provision of electricity, water, telecom, and port services.

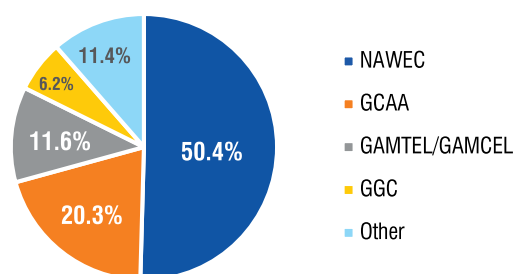
### Financial Performance

22. **On average during 2017-2019, the SOE portfolio selected for this study (12 SOEs) generated a loss (before tax) of GMD 559 million (USD 11.5 million).** However, performance varied significantly across SOEs. Overall, the aggregate SOE sector profitability was heavily influenced by a few SOEs. In particular, average SOE profits during this period were driven fundamentally by GPA (GMD 293 million), while the bulk of reported (average) losses were associated with NAWEC (GMD 292 million)<sup>22</sup>,GNPC (GMD 240 million),<sup>23</sup> GCAA (GMD 226 million), and GAMCEL (GMD 93.5 million) (Figure 2).

**Figure 2: SOEs' Profit, 2017-2019 average (GMD million)**



**Figure 3: SOEs' Liabilities, 2017-2019 average (Percent of total)**



Source: DPPP&PE and SOE Financial Statements.

Note: The NAWEC bar/pie in the figures do not fully reflect the 2019 debt restructuring that took off liabilities from its books (see Box 1) due to data constraints with the database maintained by DPPP&PE.

- 22 The average for NAWEC partly masks the improvement in 2019 due to the 2018 debt restructuring MOU and partly data constraints with the database maintained by DPPP&PE.
- 23 The financial situation of GNPC has significantly improved recently, with annual profits registered from 2019 onwards.



23. **The Ports Authority (GPA) has been a profitable company over the years. However, this has not translated into a reliable source of dividends for the government, due to GPA's need to reinvest most of its profits to expand its capacities.** GPA services are not aligned to international standards on prices and time of processing (see Chapter 3 for details). Nevertheless, GPA, which enjoys a legal monopoly for most services at the Port of Banjul, ranked second in terms of SOE revenue collection and showed the highest SOE average profits over 2017-2019. However, most of these profits are being reinvested on GPA, which is currently involved in an ambitious expansion of its infrastructure and services. No dividends are currently distributed to the government as a shareholder except by GPA, a fact that is compounded by the lack of a dividend policy for SOEs.
24. **On the other hand, the limited financial performance of a few major SOEs has led to the accumulation of high levels of debt, significant arrears, and frequent government bailouts.** As explained in Chapter 4, the financing needs of SOEs are frequently covered through direct contracting or in some cases via on-lending where the government remains responsible for debt service payments in case of SOE insolvency. Figure 3 illustrates total liabilities reported by the SOE portfolio (2017-2019 average). NAWEC accounts for 50 percent of total liabilities, followed by GCAA (20.3 percent), GAMTEL/GAMEL (11.6 percent) and NFSPMC/GGC (6.2 percent). Both NFSPMC/GGC and NAWEC have resorted to short-term external financing (mainly from the ITFC) to fund their day-to-day operations since 2014. They were unable to service this debt on their own, and they have become reliant on the government to assume a large share of these liabilities through ex-post subsidies.<sup>24</sup>
25. **Another key indicator of the lack of financial discipline and management of SOE finances and SOE/Government relations is the recurring and persistent problem of arrears.** As of end-June 2019, official estimates showed SOE net arrears to government totaling 3.6 percent of GDP. NAWEC has the largest share, with arrears equal to 2.3 percent of GDP. However, these arrears were wiped clean under the 2019 cross-arrears MOU (see Box 1). Other SOEs with substantial net arrears are The Gambia Civil Aviation Authority (GCAA) (1.4 percent of GDP) and GAMCEL (0.4 percent of GDP).<sup>25</sup>
26. **The financial situation of NAWEC has improved in recent years following the implementation of several corrective measures but remains a major source of risk for the government.** As shown in Figure 4, NAWEC's total liabilities were significantly larger than its total assets both in 2017 and 2018—in 2018 the company reported a negative equity of GDM -4.8 billion, equivalent to USD -98.8 million. Moreover, NAWEC has become insolvent and has required direct government financial assistance to service its debt in recent years. Despite the MOU signed with the government in 2018, NAWEC's gearing (debt/equity) ratio remained very high (above 600%) in 2019, due to its still sizable debt stock<sup>26</sup> and very small equity. However, it is important to note that much effort is being made at NAWEC to improve NAWEC's operational and financial performance (see Box 1).

24 IMF (2021a).

25 World Bank (forthcoming).

26 Despite debt restructuring through the March 2018 MOU with MOFEA (see Box 1).

Figure 4: NAWEC Debt and Equity

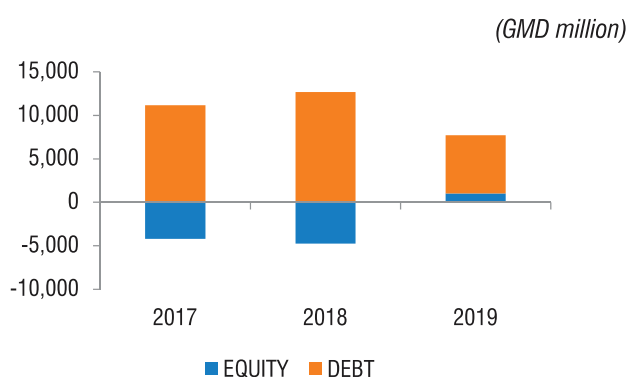
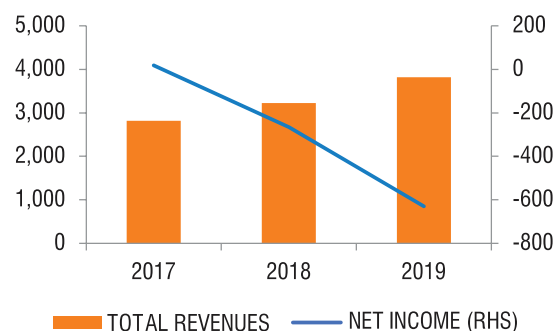


Figure 5: NAWEC Revenues and Net Income



Source: World Bank Staff calculations based on SOE financial statements from E&Y and DPPP&PE.

Note: 2019 audited financial statements for NAWEC are not publicly available, thus 2019 data is sourced from the database maintained by DPPP&PE.

### Service Delivery Performance

27. **The current inadequate supply and high cost of electricity reflect limited generation capacity as well as weaknesses in the transmission and distribution system.** The Gambia lacks a resilient electricity system, which requires sufficient generation reserve capacity that can absorb shocks from voltage fluctuations. The transmission and distribution network needs enough redundancy that a storm affecting one part of the network does not cause system-wide blackouts. Moreover, NAWEC needs to be able to rapidly respond during such events. Also, the country remains fully dependent on imported heavy fuel oil for its generation, which exposes it to exchange rate and global oil price shocks.<sup>27</sup>

Table 2: Selected Electricity and Water Indicators

Indicator	The Gambia	Senegal	SSA	Year
Access to electricity (% of population)	59.9	70.4	46.7	2019
Access to electricity, rural (% of rural population)	27.6	47.8	28.1	2019
Access to electricity, urban (% of urban population)	79.8	95.2	77.9	2019
Time required to get electricity (days)	101	68	109.6	2019
People using at least basic drinking water services (% of population)	78	80.7	60.9	2017
People using at least basic drinking water services, rural (% of rural population)	63.4	70.5	45.7	2017
People using at least basic drinking water services, urban (% of urban population)	87.5	92.3	84.1	2017
People using at least basic sanitation services (% of population)	39.2	51.5	30.9	2017
People using at least basic sanitation services, rural (% of rural population)	29.6	39.6	21.7	2017

Source: World Development Indicators.

<sup>27</sup> World Bank (2020b)

- 28. Access to and reliability of electricity remains low.** The 2018 Afrobarometer survey<sup>28</sup> data indicate that although 67 percent of Gambians are connected to the electricity grid<sup>29</sup>, complaints about poor service delivery are common. Only 42 percent of households connected to the grid reported that electricity is supplied ‘most or all the time’. According to the World Economic Forum’s 2019 Global Competitiveness Report, the Gambia’s electricity access was ranked 121 out of 141 countries surveyed. According to the World Development Indicators (WDI) database, 79.8 percent and 26.7 percent of the population had access to electricity in urban and rural areas, respectively, in 2019. These ratios are significantly below those of Senegal but very similar to the average for Sub-Saharan Africa (SSA) (Table 2). However, quality of service has steadily improved from 36 average blackouts per month in the Greater Banjul Area in 2017 to 11 by 2021, due to new generation and system management approaches.<sup>30</sup>
- 29. Most of the population faces inadequate water, sanitation, and hygiene (WASH) infrastructure.** The sewerage system is limited to tourist areas, and there is frequent discharge of raw sewage into natural receiving bodies, posing a major environmental and health risk. The water network is mostly in the Greater Banjul Area but is hampered by frequent service disruptions due to water cuts and burst pipes. These precarious conditions worsen human capital outcomes through water-borne diseases and exacerbating childhood stunting. With much of the country at or below 10 meters above sea level, rising sea levels are another risk, with salt water and sewage already contaminating the shallow aquifer serving the Greater Banjul Area. Overall, reinforcing the water supply and sewerage infrastructure are priority needs for the country, combined with better management of water resources to mitigate climate risks.<sup>31</sup> Notwithstanding these findings, as per the WDI, The Gambia ranked consistently above the SSA average in all water and sanitation indicators in 2017.
- 30. The mobile telecom sector is characterized by low broadband penetration, partial network coverage and high prices compared to global standards.** While the number of active sim cards has reached 136 per 100 inhabitants<sup>32</sup>, only 66 percent of active sim cards use data<sup>33</sup>. One estimate shows that there are only 580,000 unique internet subscribers in the country, against the background of 1.8 million active data sim cards.<sup>34</sup> For a country of over 2 million people with 60 percent of the population under the age of 25, internet use was only 20 percent at end 2019.<sup>35</sup> In addition, affordability of telecom services remains a challenge for poor households. Monthly telecommunication related expenditures (airtime and internet data) accounts for 2.6 percent of total monthly expenditure for the poorest households; compared to 1.7 percent for richest households. The issues associated with GAMTEL’s management of essential fiber optic and backbone infrastructure are hampering growth and the transition to a full-fledged broadband market, thus impairing ICT sector development.
- 31. GAMCEL is performing below its private competitors in terms of investments and quality.** GAMCEL investment in equipment upgrades and in 4G networks is below its private competitors who have started to rollout 4G/LTE networks, which has limited the performance of the SOE in terms of quality of offered services. GAMCEL was ranked in the last place among all operators by the sector regulator (PURA). In terms of the efficiency of 2G-3G spectrum used by the 4 mobile operators, GAMCEL is the least efficient, with more than 200 Hz/subscriber compared to less than 50 by Africell.

28 Jaw, S. M., & Isbell, T. (2019). Gambians with clear message to government: Focus on service delivery. Afrobarometer Dispatch No. 322. [https://afrobarometer.org/sites/default/files/publications/D%C3%A9p%C3%A4ches/ab\\_r7\\_dispatchno322\\_public\\_service\\_delivery\\_in\\_the\\_gambia-.pdf](https://afrobarometer.org/sites/default/files/publications/D%C3%A9p%C3%A4ches/ab_r7_dispatchno322_public_service_delivery_in_the_gambia-.pdf)

29 See <https://trackingsdg7.esmap.org/>

30 Implemented largely through support from the World Bank (World Bank, 2021).

31 World Bank (2020b) and World Development Indicators.

32 International Telecommunication Union, Dec 2020

33 PURA, Q1 2021

34 Global System for Mobile Communications Association (GSMA)

35 International Telecommunication Union



32. **The port of Banjul, managed by the GPA, offers limited capacity to handle current volumes of cargo, causing frequent delays and limiting access to foreign markets.** The volume of maritime trade has outgrown the port facility; ships have to wait on average 10 days (up to 22 days) to unload/load their cargo, creating uncertainty for delivery and extra costs for producers and final consumers.<sup>36</sup> As a result, exporters are experiencing shipment losses, particularly for fresh products. They also must incur extra payments for the damaged shipment and face the risk of losing potential international markets.<sup>37</sup>
33. **Although GPA is the most profitable SOE, investment has not kept up with the pace of business needs.** The Port of Banjul is strategically located to serve landlocked neighbor countries such as Mali, but the lack of capacity in port facilities is undermining the port's competitive advantage and creating extra costs for exporters. The congestion is increasing operating costs and generating significant service disruptions for the shipping lines, which have revised their tariffs and business models to adapt to the Banjul port's unpredictable situation.<sup>38</sup> Exporters are opting for the Dakar port in Senegal, even though they have to pay as much as three times the price to ensure timely delivery to foreign consumers and the quality of fresh products.

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36 Shipping companies are applying a port congestion surcharge to all cargoes bound to Banjul worldwide. <https://www.chronicle.gm/port-of-banjul-shipping-lines-to-increase-congestion-emergency-costs-on-all-containers/>

37 In 2019, the GPA submitted a new master plan to develop the port to improve capacity and expand the container capacity (GPA, 2019).

38 <https://www.chronicle.gm/port-of-banjul-shipping-lines-to-increase-congestion-emergency-costs-on-all-containers/>

## CHAPTER 3 (iSOEF Module 1): SOEs and the Market

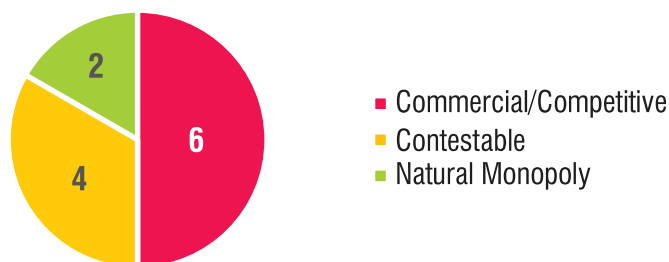
34. **The institutional framework that ensures competition on a level playing field is weak in The Gambia.** In 2007, the Competition Act was passed with the objective to foster competitive markets, and The Gambia Competition and Consumer Protection Commission (GCCPC) was established. However, perception indicators point to the need to support the effective implementation of these critical legal and institutional reforms to ensure a properly functioning competition policy framework and, particularly, competition on a level playing field. According to the latest Bertelsmann Stiftung's Transformation Index (BTI), the fundamentals of market-based competition and antimonopoly policy are perceived to be significantly less developed in The Gambia compared to regional peers.<sup>39</sup> These results reflect a weak institutional framework for market competition with issues such as potential discrimination based on ownership and a significant importance of public ownership in some sectors, both feeding into a perception of low competition in domestic markets. Results also show lack of safeguards to address these issues due, among other issues, to the rare enforcement of competition law, potentially high importance of state subsidies, and sector- or firm-specific exemptions that benefit certain firms.
35. **The private sector faces important risks associated with weak competition, which could reflect the direct intervention of the government as provider (SOEs) and through indirect interventions such as sectoral regulations (e.g., price controls).** The role of the government in the markets shapes the market incentives and the business environment that could favor or deter competition. Governments play a key role as direct market providers through SOEs, but also indirectly through regulations such as price controls that can hinder competition. Estimates of the Economist Intelligence Unit in 2019 ranked The Gambia among the top 40 percent of economies with the highest business risks for the private sector across 45 economies in SSA. Particularly, challenges related to unfair competitive practices, price controls, and vested interest seem to hinder competition and affect the development of the private sector. It is critical to level the playing field between SOEs and private companies through a review of key competitive neutrality issues in the legal and institutional framework.

### SOEs in The Gambia and their Role in the Markets<sup>40</sup>

36. **This analysis focuses on the SOE portfolio comprised of 12 SOEs, as described in Chapter 2. Some SOEs also have subsidiaries in downstream sectors.** Based on the new WBG global SOE database, it is possible to identify at least eight additional companies as subsidiaries of the 12 SOEs. For instance, GPA has three subsidiaries operating in upstream and downstream services such as warehousing, repair of ships and ferry services. Similarly, GAMCEL as a mobile operator is a subsidiary of the fiber and fixed-line network operator GAMTEL. These downstream relationships among subsidiaries of SOEs matter from the perspective of the functioning of markets and potential risks of creating distortions that can crowd-out private sector.

39 The indicators of the BTI answer the following questions based on expert judgment: (i) to what level have the fundamentals of market-based competition developed (including the low importance of administered pricing, currency convertibility, no significant entry and exit barriers in product and factor markets, freedom to launch and withdraw investments, and no discrimination based on ownership (state/private, foreign/local) or size; and (ii) to what extent do safeguards exist to prevent the development of economic monopolies and cartels, and to what extent are they enforced (including the existence of antitrust or competition laws and enforcement).

40 The World Bank global SOE methodology captures ownership relationships with at least 10 percent participation of the government at any ownership layer. This allows to trace potential indirect participation of the government across subsidiaries of the directly owned companies. In the case of The Gambia, the minimum participation found is 25 percent, which could provide blocking minority powers to the government. The full portfolio of SOEs in The Gambia includes 13 directly owned SOEs (12 non-financial and 1 financial SOE) and 8 indirect subsidiaries. For the iSOEF assessment, the 12 non-financial SOEs are diagnosed. For full overview of the presence of State in the markets in The Gambia, please refer to Goodwin et al. (forthcoming).

**Figure 6: SOEs by Sector Type (Number of total SOEs in each sector)**

Source: World Bank, Markets, Competition and Technology Global Unit based on findings of the WBG global SOE database

37. **At least 6 SOEs operate in fully commercial/competitive sectors<sup>41</sup> -which are often viable and served by (or in competition with) the private sector- but are currently operating as de facto monopolies with significant risks of creating market distortions.** Although small market size in The Gambia might limit the participation of the private sector as well as the number of firms, there are several market segments that exhibit commercial characteristics and could be served by the private sector or in competition with the SOEs but are fully served by SOEs. In the fully commercial sectors, that include economic activities such as manufacturing processing of groundnut oil, the economic rationale for state ownership is not clear.<sup>42</sup> Despite the commercial nature of these activities, they are currently operated as de facto monopolies under SOEs. Although the regulation does not establish a statutory monopoly for those activities, the direct role of the government as a market provider accompanied by indirect interventions through sectoral regulations (e.g., price controls for groundnuts, import restrictions on fertilizers) have favored a monopolistic position of the SOEs even in sectors that could be open to private participation. Additionally, there are some additional sectors of commercial nature such as the air/port cargo ground handling, the services of berthing of vessels, and warehousing that given the market size in The Gambia operate under a single entity.<sup>43</sup>

41 Fully commercial sectors refer to competitive sectors characterized by small entry barriers, mainly focused on the provision of goods and services that are private (i.e. rival and excludable), that can be provided in profitable conditions by private companies, and do not create significant externalities in their provision; contestable sectors are characterized by moderate entry barriers, public goods, or externalities; and natural monopoly sectors are those that exhibit high entry barriers, economies of scale, or sub-additivity cost structures. Economic rationales for SOE include: (i) Commercial viability: where private companies might not be able to cover the costs of service provision with user-fees since the demand is not enough for a minimum efficient scale (e.g., rural roads), (ii) Natural monopolies: in which the costs are minimized by concentrating the production in a single firm, (iii) negative externalities: in which the total cost of the provision of a good or service exceeds the private costs and imposes unintended costs on other members of the society, (iv) positive externalities: in which the social returns of providing a good or service exceed the private returns as the production benefits other members of society, and (v) public goods, such that the good or service is non-excludable (i.e., excessive high costs required for excluding some actors from accessing or using a good/service) and non-rivalrous (i.e., the use of the good or service does not limit the use or deplete the supply for other actors). In these cases, assigning exclusive rights through a concession contract under a competitive process can be the economically efficient solution to attract private investment and to mitigate risks of distorting competition.

42 Economic rationales for SOE include: (i) Commercial viability: where private companies might not be able to cover the costs of service provision with user-fees since the demand is not enough for a minimum efficient scale (e.g., rural roads), (ii) Natural monopolies: in which the costs are minimized by concentrating the production in a single firm, (iii) negative externalities: in which the total cost of the provision of a good or service exceeds the private costs and imposes unintended costs on other members of the society, (iv) positive externalities: in which the social returns of providing a good or service exceed the private returns as the production benefits other members of society, and (v) public goods, such that the good or service is non-excludable (i.e., excessive high costs required for excluding some actors from accessing or using a good/service) and non-rivalrous (i.e., the use of the good or service does not limit the use or deplete the supply for other actors).

43 In these cases, assigning exclusive rights through a concession contract under a competitive process can be the economically efficient solution to attract private investment and to mitigate risks of distorting competition.

38. **These SOEs in commercial/competitive sectors are key market players.** The GPA enjoys de facto a monopolistic position and is the largest commercial/competitive SOE in The Gambia. Other large companies operating in the commercial segment include the GIA. The latter no longer acts as a national carrier and currently provides ground handling services and the sale of air tickets through other airlines.
39. **Additionally, at least 4 SOEs operate in contestable sectors (Figure 6).** These sectors are characterized by barriers to entry (e.g., large investment requirements), and may be served efficiently by more than one firm depending on market conditions such as demand structure and market size (e.g., mobile services). These sectors are often served under a reduced number of market players, and risks for anticompetitive practices and market distortions could be exacerbated by the presence of SOEs. Examples of SOEs in these sectors include the GNPC, the telecom companies (GAMTEL and GAMCEL), and the GRTS.
40. **Finally, only 2 SOEs operate in natural monopoly sectors providing postal services and utilities (e.g., water, electricity), including some market segments that could be unbundled to crowd-in private investment.** This is the case of the GAMPOST and NAWEC. Even though most of the economic activities provided by these SOEs can be characterized by subadditivity costs, where the minimum costs of the production of a good or service are achieved by having a monopolistic producer, some market segments of a commercial nature could be served by the private sector and under market competition.<sup>44</sup>

## Regulatory Framework for the Role of SOEs in the Market

41. **Neither the Constitution of the Republic of The Gambia nor the 1990 Public Enterprises Act<sup>45</sup> provide explicit limits to the role of SOEs in the market.** The 1997 Constitution<sup>46</sup> does not explicitly establish limits for the role of SOEs in the market nor does it define a test, procedure, justification, or requirement for their creation. However, the Constitution does not reserve any sector to SOEs, and favors policies to encourage private sector development<sup>47</sup> along with efficient SOEs.<sup>48</sup> In turn, the Public Enterprises Act indicates that corporations can be established “where the Government considers it necessary (...) for the purpose of (...) setting up and carrying any undertaking” through the issuance of an incorporation order by the President followed by approval of the National Assembly.<sup>49</sup>
42. **The Public Enterprise Act and the Public Finance Act (2014)<sup>50</sup> explicitly enables the Government to cover the costs of SOEs from public service obligations, and to lend funds and issue guarantees in favor of SOEs.** According to the act, public enterprises shall, among other requirements, be profitable, efficient and “operate in accordance with Government’s objectives for a given sector”. However, costs associated with “non-commercial activities” defined as “services which may not be in line with the financial objectives of the public enterprise” (i.e., public service obligations) are subject to reimbursement by the State<sup>51</sup> according to terms defined in an agreement between the SOE and the Government. The scope and terms of commercial and non-commercial activities could be regulated in a performance contract.<sup>52</sup> In turn, the Public Finance Act enables the State to borrow for the purpose of lending funds to public en-

44 For instance, private companies could serve the electricity generation segment, and this could be unbundled from the electricity distribution under NAWEC which is a natural monopoly. This separation and engagement of private sector investment could boost competition, improve performance, attract further private investment, and foster the development of the sector.

45 Public Enterprises Act of 1990, Chapter 87:01

46 The Constitution of the Republic of The Gambia of 1997. Available at: [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=&p\\_isn=48490&p\\_country=GMB&p\\_count=44](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=&p_isn=48490&p_country=GMB&p_count=44)

47 The Constitution explicitly includes as an underlying principle of the economy the “ample and equal economic opportunity for all citizens and a pronounced role for the private sector, and the encouragement of private initiative”. The Constitution, 215 Section 3 (a).

48 The Constitution, 175 Section 4.

49 Public Enterprise Act, Part IV, Section 14.

50 Public Finance Act of 2014.

51 Public Enterprises Act, Part II, Section 6.

52 Public Enterprise Act, Part II, Section 10.

terprises<sup>53</sup> and regulates borrowing by public enterprises.<sup>54</sup> Public enterprises may borrow up to the annual borrowing limit determined by the Minister of Finance for each enterprise or seek a waiver.<sup>55</sup> The MOFEA also has the authority to lend State funds and to issue State guarantees, including loan guarantees.<sup>56</sup>

## Understanding Potential Risks of Unequal Treatment towards SOEs through the Lens of the Competition Neutrality Principles

- 43. Neither the number of SOEs nor their footprint in the economy is per se conducive or harmful for competition.** However, there are a wide variety of policies typically associated with SOEs that can potentially distort the functioning of the markets and have significant implications for the viability and profitability of private companies. Policies that tilt the playing field in favor of specific market players, particularly between SOEs and their private peers, can create undue competitive advantages and hinder competition. These policies can take different forms such as preferential access to financing (e.g., reduced-interest loans), reduced-fees for accessing essential facilities, subsidies or compensation mechanisms that are not available under similar conditions to the private sector. Distortions can also emerge from the regulatory framework (e.g., price regulation), from situations where SOEs are not subject to the same market discipline as the private operators, and when SOEs perform simultaneous functions as market providers and as regulators. This section assesses to what extent the SOEs in The Gambia are subject to the same set of rules and market conditions as the private operators using the competitive neutrality principles (see Annex 1 and 2).

### Firm-level Competitive Neutrality Principles

#### a. Separation of commercial and non-commercial activities of SOEs

- 44. Some risks for competition are found in the lack of separation of commercial and non-commercial activities of SOEs.** In The Gambia, there is no legal requirement or systematic separation between commercial and non-commercial activities of SOEs. This means that some SOEs are in charge of providing ‘public service’ obligations for which they get a compensation from the government, while they operate simultaneously in commercial activities under market conditions. For instance, the NFSPMC/GCC has two different roles. First, it is in charge of providing fertilizers and technical assistance to farmers under subsidized prices for which it is reimbursed by the government under a non-commercial role.<sup>57</sup> In addition, it operates as an agro-industrial processing and trading corporation, that specializes in groundnut purchasing, processing, and exporting.<sup>58</sup> Although with a legitimate social objective to protect farmers and foster the use of fertilizers, the lack of separation between these two roles might distort the market and pricing mechanism for the commercial segments and deter private operators from participating in the competitive segments (e.g., groundnut processing).<sup>59</sup>

53 Public Finance Act, Part VI, Section 36 (1) (c).

54 Public Finance Act, Part VI, Section 53.

55 Public Finance Act, Part VI, Section 56.

56 Public Finance Act, Part VI, Sections 46 & 47.

57 As of 2020, the price of fertilizer provided by NFSPMC/GGC was at least 51 percent lower than the market average based on the information provided by the NFSPMC/GGC.

58 The company also operates warehouses, processing facilities to produce edible groundnuts, groundnut oil, cake, cashew nuts, sesame seeds.

59 Interviews with farmers associations highlighted that they face large risks for importing fertilizers at the international price, since they acquire loans with banks to purchase enough volumes of products, but when they sell in the market, the price set by the government can be 40-50 percent lower than the prices they paid, making it difficult to commercialize even for industrial purposes with larger companies. Agribusiness also mentioned most of the time there is not enough provision of fertilizers by the government, and fertilizers are distributed following a specific quota per user.



## b. Identifying the cost of commercial or non-commercial activities

45. **Although the compensation of SOEs for performing non-commercial functions or public obligations may be well-justified, without the separation and limited identification of the costs and revenues related to each activity (commercial vis-à-vis non-commercial), goods and services might not be correctly priced and as a result can distort competition.** In The Gambia, SOEs are not required (legally or in practice) to have separate accounts nor disclose the revenues and costs associated to each activity.<sup>60</sup> This does not only impact the ability to supervise the allocation of costs and capital return to commercial activities but might distort the structure of costs and the prices of goods and services provided by the SOEs vis-à-vis private peers, which ultimately undermines competition. For example, the NFSP-MC/GCC is authorized to directly purchase groundnuts from farmers. Private companies that intend to purchase directly should register through the SOE and acquire groundnuts at regulated prices authorized by the government (with recommendation of the SOE).<sup>61, 62</sup> The SOE also receives subsidies from the government for the purchase of the groundnuts from farmers. In addition to this role, the SOE extracts vegetable oils and exports groundnuts, where it competes with other private companies that do not receive similar subsidies or compensation. Since there is no separation in the allocation of costs and funds for each activity, there is a risk of cross subsidizing the commercial products (e.g., groundnut oil, cake) with the resources allocated for other non-commercial activities, which can distort the prices at which the SOE competes with other private firms in domestic and foreign markets.

## c. Ensuring a commercial rate of return

46. **In The Gambia, SOEs are not systematically required to achieve a market rate of return, except in the context of contract programs negotiated on a case-by-case basis, and their transactions are not generally benchmarked against private peers.** There are no requirements (legal or in practice) in the operation of the SOEs to achieve a certain rate of return or to achieve a market-comparable rate of return vis-à-vis private peers, which could operate as a key safeguard against cross-subsidization. The Public Enterprise Act broadly requires SOEs to be profitable and efficient, but only the GPA has an explicit obligation to achieve a “reasonable rate of return”. There are no regulations that set a benchmark or define what a “reasonable” rate is, which makes setting the rate and assessing final performance difficult. The case of NAWEC appears as an exception, due to the signing in 2020 of a performance contract with MOFEA that includes specific targets for the SOE’s rate of return.

## Cross-cutting Competitive Neutrality Principles

## a. Regulatory neutrality, tax neutrality, and public procurement

47. **The legislation in The Gambia does not exempt SOEs from the application of the general legal framework (e.g., antitrust, or public procurement) but SOEs benefit from some regulatory advantages over private competitors.** The Gambia Public Procurement Act of 2001, as amended in 2014, applies to SOEs, with no exceptions.<sup>63</sup> The new GPPA bill, however, exempts some public services currently provided by SOEs (see Chapter 5 for details). In turn, the Competition Act of 2007 includes any entity wholly or partially owned by the State within its scope of application to the extent that it carries on a business that is lawfully carried on or is capable of being carried on in The Gambia by any other enterprise.<sup>64</sup> However, activities of statutory monopolies (i.e. activities conducted by an entity on the basis of statutory provisions that preclude other entities from conducting the same activity) are excluded from the scope of

60 With the exemption of NAWEC, where in the tariff methodology guidelines is requested to separate the cost of supplying each activity (e.g., electricity generation, electricity distribution). The tariff methodology also mentions that cross-subsidies between electricity and water/sewerage should be avoided to the extent possible.

61 There are also different fees for the registration of Gambian traders vis-à-vis non-Gambian traders.

62 <https://foroyaa.net/groundnut-buyers-urged-to-register-with-the-national-food-security-processing-and-marketing-corporation/>

63 Public Procurement Act, Part 1, Section 2.

64 Competition Act, Part 1, Section 2 (1).

application of the law.<sup>65</sup> The Government is explicitly enabled to grant exclusive right for the operation of port facilities,<sup>66</sup> and for the transmission and distribution of electricity,<sup>67</sup> all of which are currently de facto monopolies from a legal angle.<sup>68</sup>

48. **Although SOEs are subject to the same set of rules as private firms are regarding the tax law, procurement law, and competition act, some exemptions remain with potential risks of creating an unlevel playing field.** In general, SOEs are subject to the same tax law as private companies. However, some important SOEs are exempted from certain taxes, including GPA (income tax and import duties). Other SOEs could potentially benefit from exemptions, such as the GCAA where the President can exempt it from taxes according to its enabling law. Even though SOEs are not exempted from the competition law, if a statutory monopoly is granted to an SOEs (e.g., GPA) its conduct would be exempted from antitrust scrutiny (see Annex 3). SOEs also face challenges to compete in commercial sectors as they follow the public procurement process for their day-to-day operations, which limit their ability to respond timely to the acquisition of goods/services compared to their private competitors.
49. **In terms of enforcement, some SOEs might have received a different treatment in comparison to their private peers.** For instance, during 2014, GAMCEL received a waiver from the government from paying corporate taxes that represented USD 4 million in exemptions, which was later annulled. As of June 2019, tax arrears for GAMTEL/GAMCEL represented 48 percent of the total SOE arrears to the government. Furthermore, although all telecom operators are required to pay regulatory fees to the sectoral regulator (PURA) of 1.2 percent of the operators' turnover, the telecom SOEs, namely GAMTEL and GAMCEL, often pay with considerable delays. According to PURA, these obligations represented an outstanding payable balance in 2017 of USD 256,000 for GAMTEL and USD 50,000 for GAMCEL.<sup>69</sup> Although these SOEs are currently in arrangements to comply with these payments with PURA, private operators have to comply in full terms with these payments annually. Thus, the ability to avoid or delay compliance provides a differential treatment in favor of SOEs.
50. **Despite progress in the separation between the role of SOEs as market players and as regulators, some SOEs still have this dual role.** Most sectors with operations of SOEs have independent regulators. For example, PURA is the regulator for broadcasting, electricity, telecommunications, petroleum, water and sewage, the economic sectors where SOEs such as NAWEC, GAMTEL, GAMCEL, GNPC, GRTS operate. Similarly, in 2014 all regulatory functions related to maritime administration and port services were transferred from the GPA to the Gambia Maritime Administration. These functions included the provision of licenses, definition of tariffs and oversight of security and environmental policies. However, effective implementation of the full scope of its mandate is still pending.<sup>70</sup> On the other hand, several SOEs have regulatory functions over the markets they participate in. For example, the GCAA still acts as the aviation sector regulator,<sup>71</sup> while providing services to SOEs and private operators related to navigation services and enjoying access to the infrastructure and facilities at the BIA.<sup>72</sup>

65 Competition Act, Schedule 1. The Act also excludes practices or agreements expressly required or authorized by law, including under the terms of a license issued pursuant to a regulatory regime established by law for the purpose of economic or prudential regulation. It also excludes agreements or conducts related to activities within a Free Zone under the control of GIPA.

66 Ports Act of 1972, Section 7 (2).

67 Electricity Act of 2005, Sections 15 (1) and 17 (1).

68 The Competition Act would be the only framework to avoid abuse of dominance in those sectors that are not independently regulated by the respective sector regulators.

69 [http://www.pura.gm/wp-content/uploads/2019/04/Annual-Report\\_2017.pdf](http://www.pura.gm/wp-content/uploads/2019/04/Annual-Report_2017.pdf)

70 For example, the Administration is yet to introduce a registry and licensing framework for maritime service providers, among others, due to the lack of technical and financial resources. Also note that the Ports Act of 1972 still indicates that GPA regulates, among others, the use of the Port of Banjul and any other port facilities, as well as inland water transport, environmental issues, and other related to water transport in general (Section 7 (1)).

71 Regulatory functions include overseeing safety and security of civil aviation in The Gambia, including, among others, navigation security and air navigation in general (The Gambia Civil Aviation Act of 2018 section 19 (1) & (2))

72 Gambia Civil Aviation Act 2018.

## b. Debt neutrality and outright subsidies

51. **SOEs benefit from concessionary terms on loans that are not available to the private sector.** SOEs often receive state support through different channels, such as preferential financing (not always linked to public obligations) for covering operational losses, day-to-day operations and working capital, or for investment. The government might have a legitimate interest in supporting the SOEs, especially when fulfilling public service obligations. Still, there are imminent risks of distorting market competition and crowding out private investment related to the preferential access to loans and essential facilities to SOEs. Over the last decades, several SOEs have received concessionary loans through the pension fund (SSHFC) with reduced-interest rates and extended repayment periods.
52. **These preferential terms and conditions are not available to the private sector.** If a private company would apply for financing even to the SSHFC, it would be assessed on a market basis and provided a loan under commercial terms. Hence, this access to financing in concessionary terms might create undue comparative advantages for SOEs vis-à-vis potential and existing competitors.
53. **Although SOEs benefit from preferential access to financing, they often default on their loans due to their financial situation and rely on loans provided by other SOEs.** For example, GAMCEL received a loan from the pension fund, SSHFC, to finance its 3G project, but due to financial constraints the SOE was not servicing its loan to the SSHFC and had an outstanding balance of USD 1.6 million as of 2020. Similarly, the Government is currently servicing GAMTEL's USD 58 million external debt contracted for the development of the broadband infrastructure and services.<sup>73</sup> Furthermore, under the difficult financial situation of NAWEC, the SSHFC stepped in to settle payments owed to external creditors. An example is the SSHFC repayment (on behalf of NAWEC) of a loan from the ITFC, which is now captured as a loan to NAWEC with no repayment schedules and no interest.<sup>74</sup> In addition to loans from the SSHFC, SOEs receive loans from other SOEs following government and executive directives rather than market assessment for those investments. For instance, despite its financial constraints, GAMCEL provided loans to other SOEs such as the GIA following government directives. This practice not only created asymmetrical access to credit to SOEs vis-à-vis private peers, but also affected GAMCEL's financial situation.

## Some Examples of Potential Distortions associated with the Presence of SOEs in the Markets

54. **Some of the issues identified in the competitive neutrality assessment, which might create an undue comparative advantage for SOEs, explain the limited presence of the private sector in some commercial sectors.** The competitive neutrality assessment highlighted where SOEs might access essential facilities, enjoy preferential access to capital, and receive tax relief not available to the private sector. Additionally, there is a lack of separation between commercial and non-commercial functions, and most SOEs are not required to achieve a market-based rate of return. These advantages might affect the economic incentives of SOEs to compete, as well as their financial performance. They may also deter private investors from participating in key markets, particularly in those segments of a commercial nature, and affect the profitability and viability of the existing private sector. This section shows how the interaction of those issues might impact the incentives of private companies to enter and affect the development of key enabling sectors.

73 The provisions for the payment of these loans amount up to 3 percent of the GDP in payments that will be required for the next 2 decades.

74 Audited financial statements of the SSHFC for 2018.



## Energy: The Gambia consumers (households and industry) require better and more affordable power to boost the engine of development

55. **Despite some improvements over the last decade, the bundling of commercial and service activities under NAWEC, combined with licensing issues and interconnection rules remain an obstacle for the private sector.** In line with public service objectives, NAWEC provides electricity, water, and sewage services. NAWEC participates in segments of the electricity value chain that can typically be served by the private sector, particularly electricity generation. Regulatory changes since 2005 have opened room for private sector participation in electricity generation and distribution. However, some risks for market distortions associated with the lack of separation between NAWEC's business operations remain. The lack of separation (cost and revenues allocation) in services such as water and electricity results in cross-subsidies and undermines the ability of NAWEC to provide reliable electricity services to consumers.<sup>75,76</sup> Moreover, despite improvements and streamlined procedures led by the sector regulator (PURA), small renewable energy producers still find the licensing procedures costly and complex. This, combined with a potential conflict of interest with the SOE, can deter the entry of potential operators.<sup>77</sup> For instance, NAWEC sits jointly with the regulator PURA to review the applications on license for entry of potential competitors and also participates in the review of essential requirements. Two independent power producers entered after the liberalization of the market. Nevertheless, the interconnection rules, particularly the interconnection of third parties to the national grid -managed by NAWEC- are still unclear.
56. **Despite receiving transfers from the government to compensate for public service obligations, NAWEC's operating costs are high and the SOE reports losses.** In 2017, the government liberalized fuel imports for NAWEC, allowing it to buy its own fuel (NAWEC was formerly instructed by Presidential order to procure fuel from GNPC--another SOE). This reduced NAWEC's input costs by 15 percent.<sup>78</sup> As of 2021, at least 40 percent of NAWEC's costs are associated with the purchase of fuel, as most power systems in The Gambia run on heavy fuel oil (HFO).<sup>79</sup> In addition, despite significant progress in the last five years<sup>80</sup>, the SOE still faces power losses in the transmission and distribution (T&D) segments. High input costs and power losses leave the SOE with little financial room for system maintenance, investment, and equipment upgrading. This, in turn, limits productivity improvements, increases prices, and therefore operates as a vicious cycle. To avoid pass through to consumers, the prices are regulated by PURA based on the cost structure of NAWEC.
57. **As a result, almost half of The Gambians lack access to electricity, and consumers face frequent blackouts, intermittent services, and one of the highest prices in SSA.** The electricity price in The Gambia is estimated at USD 0.27 per kWh vis-à-vis the average tariff of USD 0.23 per kWh as of 2019, one of the highest in the SSA region. These high prices and low coverage impact the development and competitiveness of the industrial sector. For instance, companies manufacturing fresh products argue that energy prices explain most of their costs, and in combination with intermittent services make the production process difficult.
58. **Although NAWEC has improved in the last years (see Box 1), a deep transformation is essential.** The private sector could play a strategic role through expanding electricity generation capacity and developing renewable solutions. These could reduce the dependency on fuels and diminish costs, therefore reduc-

75 NAWEC is implementing separation under the new IMS, expected by the Q3 2021.

76 <https://pubs.naruc.org/pub.cfm?pid=538EDBDD-2354-D714-5175-7D8B183110BD>

77 In the 2012 National Forum on Renewable Energy, private sector representatives raised concerns of unclear process and timelines for government approval of licenses. PURA produced a new streamlined procedure of 7 steps for independent power producers (IPP), with some remaining limitations for smaller producers to enter in the market.

78 World Bank (2018).

79 <https://2012-2017.usaid.gov/powerafrica/gambia>

80 T&D losses reduced from 28 percent in 2015 to 20 percent in 2020 which is on par with utility performance in the sub-region. The target is 15 percent by 2025.

ing electricity prices and improving coverage and quality. However, it would require regulatory reforms so that private competitors compete under a similar set of rules. SOEs should no longer benefit from preferential credits and should be required to separate their commercial functions from public service obligations. As a result, commercial activities would be priced based on market conditions.

### Telecom: The Gambian consumers and firms require better connections for stronger businesses

- 59. Despite the presence of private operators in the telecom sector in some contestable segments, some opportunities for improvement remain to level the playing field.** GAMTEL is a fully owned SOE that has a de facto monopoly for the provision of the fixed line network and fixed broadband services, regulated by PURA. Through GAMTEL, the government controls the main telecommunication assets holding 49 percent of the fiber-optic cable that connects the country with the African undersea cable. These facilities, including the ECOWAN network, are essential to extend broadband and high-quality services. GAMTEL also held the monopoly of the international call gateway until 2019, which is now open to all operators. This company also provides universal service obligations operating in non-profitable areas, although with no compensation from the government for the provision of the service. In addition, its subsidiary, GAMCEL, competes with the 3 private operators in the mobile service segment and is the second largest company based on the number of total subscribers (GSMA, 2019). GAMCEL as a subsidiary of GAMTEL can de facto access to the fiber network, while private operators are required to obtain leasing licenses and pay interconnection fees. This is an implicit subsidy that is not available for private competitors and can hinder competition<sup>81</sup>.
- 60. Developments in telecom regulation have improved the interconnection and sharing rules to favor competition in the sector despite the presence of the SOEs.** Over the last years, the regulatory environment has favored the entry of new operators (e.g., the liberalization of the international gateway).<sup>82</sup> The regulator has provided interconnection rules to foster sharing infrastructure, and tariffs for those services are regulated. Prices for mobile services are defined by competition among all operators. However, SOEs benefit from different enforcement of certain rules, such as delayed payment of interconnection fees to the regulator, and access to preferential interest rates for loans towards infrastructure investments to GAMTEL/GAMCEL granted by the government. These advantages can deter private investors from developing services and impact the performance of the sector.

### Air/Ports: The Gambians require more capacity for more competitive industries

- 61. SOEs operate in two essential services for connecting The Gambian products with foreign consumers.** The GPA and GIA are fully state-owned companies that operate as de facto monopolies in commercial sectors. GPA is the only provider in the Port of Banjul that serves as entry and exit point for 80 percent of the country's international trade, and 60 percent of imports from neighboring countries.<sup>83</sup>
- 62. There is no cargo capacity to export by air in The Gambia.** In 2021, no cargo flights came to the country and all exports depend on tourist flights and rely heavily on the tourist season. The shipments by air are costly and several routes and destinations are not available except during the peak tourist season. Hence, exporters are opting for moving their cargo to Dakar airport, which offers frequent and direct flights to key destinations in Europe. However, this increases substantially the costs and time, as producers have to move

81 In addition, most of the GAMCEL equipment is housed within GAMTEL infrastructure and usage is shared between the two entities. As usage cannot always be clearly measured, it is never billed to GAMCEL and is accounted as an intercompany transaction.

82 Some issues regarding spectrum allocation remain, though, between two private operators.

83 In addition, the GPA has several subsidiaries including the Gambia Ferry Services Company Ltd (GFSC), which provides cross-river services for both passengers and goods at crossing points along the River Gambia; the Banjul shipyard for ship building, repairs and maintenance of vessels in various categories, and the Banjul Fisheries Jetty, which provides berthage and fish landing services to fishing vessels and handles vessels with a draft of up to 5 meters.

the cargo by road to Dakar to be able to ship their merchandise by air.

- 63. Improved logistics are essential for competitiveness in The Gambia and could attract more private investment.** Transportation services by air and sea are critical to connect Gambian products with customers around the world. Exporters and importers face significant delays, costly services, and frequent interruption, which is weakening their ability to compete internationally. Important investments are required to expand the capacity of the port and the international airport, but this will require bringing in the private sector as a partner to fill the investment gaps. For this, it is key to open these sectors to market-based competition and enable the regulatory environment to mitigate the risks for private investors. Private investment and increased competition can only occur when investors expect they will not be driven out of business due to the potential distorting and preferential financing granted to their public competitors. For instance, removing concessionary access to GIA for the use of airport facilities and delegating services to open competition can help attract private investors.

## CHAPTER 4 (iSOEF Module 2): Assessment of Fiscal Costs and Risks from the SOE Sector

64. **The objective of this module is to provide an assessment of the fiscal costs and risks posed by the SOE sector in The Gambia and the potential fiscal benefits of proposed SOE reforms to improve the financial performance of the SOEs.** A fiscal impact assessment of the SOE sector is relevant for two reasons. First, the overall fiscal position is very vulnerable. Throughout most of the 2010s overall fiscal deficits were large, and possibly underestimated<sup>84</sup>. Hence the public debt to GDP ratio doubled, from 43 percent in 2010 to 87 percent in 2017. In the latest DSA of December 2021, The Gambia is assessed at high risk of public debt distress. Long term fiscal sustainability requires a marked reduction in public debt ratios, which will only be possible if overall fiscal deficits are constrained to moderate levels. Second, the financial performance of most of the larger SOEs has been very weak for a long time. Consequently, they have incurred substantial quasi-fiscal deficits (QFDs) and therefore pose significant fiscal risks.<sup>85</sup>
65. **The analysis presented in this chapter covers the SOE sector, as defined in chapter 2, and focuses on energy and telecom SOEs, due to their significant fiscal impact in The Gambia.** The organisation of this chapter is as follows. Section 2 identifies and provides estimates of the fiscal costs of SOEs over 2016-2020. Section 3 evaluates the fiscal risks posed by the SOEs using the framework of the fiscal risk matrix and provides quantitative estimates of the different categories of risks where possible. Section 4 provides a long-term forecast of the fiscal resources required by the SOEs to maintain delivery of their services under two scenarios: a no reform scenario and a baseline reform scenario in which reforms are implemented to improve the financial performance of the SOEs.

### Fiscal Costs of SOEs

66. **This section looks at the fiscal costs of SOEs by quantifying transactions between the Government and SOEs.** Direct transfers from the Government to SOEs include subsidies and equity injections. Indirect state support includes deferred taxes, tax credits or tax arrears, non-payment of dividends and any other kind of preferential treatment. Capturing both direct and indirect state support is equally important for measuring fiscal costs of SOEs. However, this section covers only direct transfers, due to a lack of data on indirect support.
67. **There are important financial transactions between the budget and SOEs, some of which are transparent and explicit while others are not.** Three components of the budget involve transactions with, or related to, the SOEs. These are: i) taxes and other revenues paid by SOEs; ii) explicit subsidies paid to SOEs, and iii) debt service paid from the budget on loans contracted by the Government for SOEs or by the SOEs but guaranteed by Government.. It is critical that SOEs' relationship with the budget is systematized to properly calculate and compensate them for implementing public policy objectives.

84 The overall fiscal balance during 2010-19 averaged -4.4 percent of GDP.

85 The magnitude of these QFDs has been masked by a lack of accurate and timely financial statements and by opaque and often informal financial relationships through the budget. These QFDs are financed through a variety of channels: i) explicit budget subsidies, ii) implicit subsidies such as tax exemptions, iii) the accumulation of payment arrears to suppliers and arrears on tax and social security contributions, iv) the failure of SOEs to service their loans, which are mostly on-lent loans from the Government, and the utilization of loans contracted by the Government without any formal obligation to service them, and v) the deferring of essential maintenance and repair, thereby depleting their capital assets.

68. **According to available data, SOEs have made a minor contribution to budget revenues in recent years.** SOEs paid only GMD 174 million (USD 3.6 million) per annum in taxes on average during 2016-19 (0.22 percent of GDP) for three reasons. First, they have been granted extensive tax exemptions, mostly on customs duties and value-added tax.<sup>86</sup> Second, even after the exemptions, many of the SOEs failed to meet their tax liabilities due to financial difficulties. At end-2020, SOEs had accumulated tax arrears amounting to GMD 699 million (equivalent to USD 13.3 million and 0.7 percent of GDP), a figure which would be larger had not some of the tax arrears been written off by the Government. Third, most of the larger SOEs, except GPA, are not profitable and so are not liable to pay corporate income tax. This also means that dividend payments from SOEs to the Government are small, except by GPA (Table 3).
69. **Explicit budget subsidies are paid to SOEs, mainly NFSPMC/GGC and NAWEC, which are intended to reimburse the SOEs for the costs they incur in providing social benefits.** For the NF-SPMC/GGC, the subsidies are intended to reduce the cost of fertilizer to farmers and to support the farm gate price of groundnuts. These subsidies averaged around GMD 460 million per year (USD 9.1 million and 0.5 percent of GDP) during 2018-20. NAWEC receives subsidies to compensate for the losses it incurs on selling water and electricity to consumers at less than cost price. The subsidy paid to NAWEC has been relatively modest in recent years: around GMD 150 million a year during 2018-20 (USD 3.1 million and 0.2 percent of GDP).<sup>87,88</sup>
70. **A major component of the fiscal costs emanates from the use by SOEs of external loans contracted by the Government.** The projects financed by these loans are implemented by SOEs, and the capital assets acquired through these projects, with a few exceptions, are held on the balance sheets of the SOEs.<sup>89</sup> Some of the external loans were on-lent by the Government, with a formal agreement signed with the SOE and the liability recorded on the SOE balance sheet, but for several loans there is no formal on-lending agreement. The debt servicing of these loans has been made directly from the budget, with only minimal reimbursements from the SOEs, even when a formal lending agreement was in place.
71. **The outstanding external loans contracted by the Government for SOEs amounted to GMD 14.6 billion (USD 284 million) at end-2020 (Table 5).** 60 percent of these loans are in the energy sector, 18 percent are for the airport, 11 percent for telecoms and 10 percent for the groundnut sector. The annual debt service cost to the budget of the SOE-related external loans averaged 0.45 percent of GDP during 2016-20, but, as discussed below, this is projected to increase markedly during the 2020s.

86 In 2019, SOEs were exempted from GMD 1,008 million of taxes (USD 20 million and 1.1 percent of GDP) (World Bank, 2020a).

87 There are much larger implicit subsidies paid by the Government to NAWEC arising from NAWEC's inability to service its liabilities to Government for on-lent funds and the assumption by the Government of NAWEC's liabilities to third parties.

88 NAWEC did not require operational subsidies during 2019-2020. The data in lieu of subsidies represent payment of outstanding arrears.

89 The most prominent exception is the ECOWAN wholesale fiber optic backbone project. This is operated by GAMTEL which generates revenue from it. But the ECOWAN assets are not on GAMTEL's balance sheet.

**Box 4: Recording of SOE loan related transactions in the budget**

The recording in the budget of loan-related transactions with the SOEs appears to be incomplete. The on-lending by the Government of external finance to the SOEs is policy-based lending. Under the 1986 Government Finance Statistics Manual (GFSM), policy-based lending is recorded above the line as net lending; a positive number for on-lending or purchase of equity and a negative number for loan repayments by the SOEs. The 2020 and 2021 Budgets show on-lending or equity participation over 2019-2021 that are too small to fully capture all the loans contracted by the Government and on-lent to the SOEs.<sup>90</sup> However, some of the loans utilized by the SOEs appear to be recorded directly as Government's development expenditure.<sup>91</sup> The budget does record debt service payments on the loans that have been contracted by the Government and on-lent to the SOEs. The budget also lacks the recording of an appropriate expenditure item pertaining to the Government's assumption of the liability for an SOE debt, such as the NAWEC debts it took over in 2019.

**Table 3: Fiscal Transfers between the Budget and SOEs 1/, GMD million and (percent of GDP)**

	2016	2017	2018	2019	2020
<b>Tax revenues</b>	173 (0.3)	155 (0.2)	152 (0.2)	216 (0.2)	N/A
<b>Dividends</b>	0	0	0	0	50 (0.1)
<b>Subsidies 2/</b>	N/A	N/A	403 (0.5)	510 (0.6)	935 (1.0)
<b>Of which: NFSPMC/GGC</b>	N/A	N/A	150 (0.2)	450 (0.5)	785 (0.8)
<b>Of which: NAWEC</b>	N/A	N/A	253 (0.3)	60* (0.1)	150* (0.2)
<b>Debt service on loans contracted by Government for SOEs</b>	317 (0.5)	339 (0.5)	355 (0.4)	392 (0.4)	393 (0.4)
<b>Bailouts 3/</b>	N/A	N/A	N/A	7,200 (7.9)	

Source: MOFEA, Gambia Revenue Authority and World Bank.

Notes: 1/ The tax revenues and dividends are payments by SOEs to the Government budget; the subsidies and debt service are payments from the budget to, or on behalf of, SOEs. 2/ In 2020, Government made debt service payments to external lenders on behalf of SOEs which are recorded as subsidies. 3/ The bailout in 2019 comprises the total amount of NAWEC debt taken over or written off by the Government, some of which will entail subsequent debt service payments from the budget. \* NAWEC did not require operational subsidies during 2019-2020. The data in lieu of subsidies represent payment of outstanding arrears.

**72. The aggregate fiscal burden of SOEs is large in comparison to budget expenditures on essential public services.** During 2018-2020, budget resources spent on, or on behalf of, SOEs were more than three-fourth of the health expenditure and one-third of the spending on education (Table 4), indicating that the need to provide fiscal support to SOEs is potentially crowding out spending on services which are critical for welfare and poverty reduction.

90 The estimates of repayments are GMD 60 million, 50 million and 15 million in 2019, 2020 and 2021 respectively.

91 The 2021 approved budget estimates list seven externally financed projects related to power, water and the airport. These amount to GMD 662 million (USD12.9 million) in 2020 and GMD 1,122 million (USD21.5 million) in 2021.



**Table 4: Fiscal cost of SOEs relative to the Budget (percent)**

	2018	2019	2020
Expenditures on SOEs (GMD million)	758	902	1,328
As share of total revenue	6.2	4.7	6.2
As share of total expenditure	4.5	4.2	5.7
-As share of education expenditure	39.8	35.4	28.3
-As share of health expenditure	88.3	84.8	60.2

Source: MOFEA and World Bank.

Notes: 1/ Expenditures on SOEs comprise the subsidies and debt service payments shown in Table 3. 2/ Total revenue and expenditures are actual data for 2018-19 and projections for 2020. Education and health expenditures are from the departmental overview table of the approved budgets. They comprise both recurrent and development expenditures.

**73. The failure to make debt service payments by SOEs has been a burden on the budget. This pertains to mainly the ITFC facility, guaranteed by the Government, because the borrowers (NAWEC and NFSPMC/GGC) have not had the resources to repay their loans themselves.** In 2020, the Government made payments of USD 17 million (GMD 885 million) to ITFC on behalf of NAWEC and NFSPMC/GGC.<sup>92</sup> Moreover, in 2019, the Government took over GMD 2.5 billion (USD 49.7 million) of NAWEC's debt to third parties (bond holders and the SSHFC) and converted around GMD 5.1 billion (USD 101.4 million) of debts owed to itself (mainly pertaining to on-lent external loans) into capital, under the 2018 MOU.

**Table 5: Government Direct Liabilities with Respect to Loans Utilized by SOEs (GMD billion)**

	Outstanding stock	Percent of GDP
Loans from external creditors	14.6	15.5
<b>Of which: disbursed value</b>	10.3	10.9
<b>Of which: undisbursed value</b>	4.3	4.6
<b>Of which: accompanied with on-lending agreements with SOEs</b>	4.9	5.2
NAWEC bonds	1.2	1.3
Loans from SSHFC	0.8	0.8
<b>Total</b>	<b>16.6</b>	<b>17.6</b>

Source: MOFEA and World Bank.

92 World Bank (2020b).

## Fiscal Risks from SOEs

**74. The SOE sector poses fiscal risks, as it lacks financial viability.** The major SOEs – NAWEC, GAMTEL/GAMCEL and GCAA - are not financially viable and cannot become financially viable without major structural reforms, which would likely take several years to implement. Most of the SOEs depend entirely on borrowing to finance their capital investment expenditures because their own resources are insufficient. As they lack creditworthiness, any borrowing they incur entails loans either directly contracted, or guaranteed, by the Government. The fiscal risks posed by the SOEs are summarised in Table 6. In this section we set out the different forms of fiscal risk posed by the SOEs and, where possible given data availability, quantify these risks.

**Table 6: Fiscal Risk Matrix**

Liabilities	Direct	Contingent
Explicit Obligations	– External Debt contracted by Government and on-lent to SOEs	– Debt contracted by SOEs and guaranteed by Government
Implicit Obligations	– SOE arrears to: Gambia Revenue Authority (GRA), SSHFC, private suppliers	– Operating losses of SOEs – SOE loans to third parties not guaranteed by Government – Capital investment required by SOEs – Cross-arrears between SOEs

Source: World Bank staff consolidation.

**75. The Government has a contractual liability (a direct, explicit obligation) for debts contracted from external lenders for projects implemented and operated by SOEs.** Only a third of outstanding loans<sup>93</sup> are on-lent through a formal agreement. The Government has also assumed liability for the NAWEC domestic currency bonds, with an outstanding balance of GMD 1.2 billion (USD 23.3 million) at end-2020 and for GMD 800 million (USD 15.6 million) of NAWEC debts to SSHFC, which are to be repaid over six years. The annual cost to the budget of servicing all SOE loans is GMD 1,526 million (USD 29 million and 1.5 percent of GDP) in 2021 (Table 7). The Government has on-lending agreements with NAWEC, GCAA and GAMTEL under which it is to be repaid GMD 146 million (USD 2.8 million) in 2021, less than a tenth of its SOE-related debt servicing in that year. However, GCAA and GAMTEL may not have the financial resources to service their debts, given both are making losses, and NAWEC's capacity to service its debts will depend on the implementation of reforms (see Annex 5).

**Table 7: Debt Service due on SOE-related Loans in 2021 (GMD million)**

	Principal	Interest	Total
External loans	887	156	1,043
<i>Of which: repayment by SOEs</i>	103	43	146
NAWEC bond	241	90	331
SSHFC loan	152		152
<b>Total</b>	<b>1,280</b>	<b>256</b>	<b>1,526</b>
<i>Total net of repayment by SOEs</i>	<i>1,177</i>	<i>203</i>	<i>1,380</i>

Source: Budget estimates and MOFEA data.

93 By value.

76. **Contingent explicit fiscal risks arise because, in addition to the loans borrowed by the Government and on-lent to SOEs, some of the SOEs have also contracted loans directly from lenders with a government guarantee.** These are mostly short-term trade credits from the ITFC. However, fiscal risks from this credit facility are likely to decline, because NFSPMC/GGC has exited the facility after paying its last obligation due in 2021Q2<sup>94</sup>; NAWEC renewed the facility in late 2020 for two years but is now honouring its obligations up to six months ahead of schedule.<sup>95</sup>
77. **A major source of implicit direct obligations is the arrears owed by SOEs, to other SOEs, the private sector and the Government.** The Government does not have a legal liability to pay these arrears. Nevertheless, it will clearly incur the fiscal cost of arrears in the form of unpaid taxes and is likely to provide budgetary resources to clear arrears to some of the creditors. The Government will have to ensure that SOE arrears to SSHFC, in respect of their employee pension contributions, estimated at GMD 1,530 million (USD 31.6 million) as of January 2018, are paid. Otherwise, the financial capacity of SSHFC to meet future pension obligations to its members will be undermined, with serious social and political consequences.<sup>96</sup> For the same reason, the Government may also have to reimburse the SSHFC for loans it extended to SOEs which are not being serviced by them, amounting to GMD 550 million (USD 10.7 million).<sup>97</sup>
78. **The Government completed the validation of audited domestic arrears between SOEs and devised a clearance strategy in 2019.** The E&Y audits revealed inter-SOE debtor balances that inflate the net asset position of the relevant SOEs and are not recognized as debts by the counterparty SOE and hence, are not recoverable. The reconciliation of the cross-arrears between SOEs completed the validation of audited domestic arrears. Payment plans were signed between most of the affected SOEs. However, those plans had briefly halted during the pandemic before reinitiating last year. The outstanding arrears amount to 2.1 percent of GDP at end-2021.
79. **Implicit contingent obligations include the obligations on Government, for social and economic reasons, to ensure that SOEs can maintain essential services.** These obligations are contingent because the magnitude of fiscal resources required is uncertain and dependent upon future events, including the outcome of policy reforms in the SOE sector and macroeconomic shocks. GAMTEL/GAMCEL is a major potential source of implicit contingent liabilities, with a combined post-tax loss of GMD 265 million (USD 5.3 million) in 2019. McMillan Keck (2019) estimates that the costs to the Government of GAMCEL continuing to operate under public ownership would involve a capital injection of USD 15 million and the repayment of third-party debt of almost USD 11 million, as well as debt forgiveness of related party debt (e.g., to other SOEs) of USD 7.5 million<sup>98</sup>. A potential divestiture of GAMCEL to a private investor or its liquidation would reduce the fiscal risk. However, these options would not be costless for the Government, as it would have to assume liability for some of GAMCEL's debts as well as fund redundancy compensation for its workforce.

94 IMF (2021a)

95 IMF (2021b)

96 In addition to the arrears owed to SSHFC by the SOEs, Government had arrears of GMD 422 million to SSHFC in June 2019. The total arrears owed to SSHFC by Government and the SOEs amounted to 2 percent of GDP.

97 In the 2020 financial statements of the SSHFC, there are loans and loan guarantees to SOEs of GMD 1.35 billion, for which it has made provisions of GMD 1.2 billion. Most of these loans are on the books of the Provident Fund. The Government has assumed direct liability for GMD 0.8 billion of these loans (from NAWEC), hence the SOEs retain liability for the remaining GMD 550 million.

98 These are one-off potential costs to the budget but could be spread over years.

**Table 8: Required Capital Investments by SOEs, Medium to Long Term (USD million)**

SOE	Project	Cost	Time Horizon
NAWEC		510	2021-30
(electricity only)	Power Generation	350	
	Transmission and distribution	160	
GPA		180	
	Port Expansion Phase 1	100	2021-23
	Port Expansion Phase 2	80	Up to 2038
NFSPMC/GGC		16	4 years
	Refinery	6.4	
	Packing Plant	4.4	
	Cashew Plant	3.5	
	Briquetting Plant	1.5	
	Blanching Plant	0.3	
<b>Total</b>		<b>706</b>	

Source: NAWEC, ECA Norconsult Waya Gambia Energy Roadmap Updates, T&D Master Plan and Universal Access Study, Final Report and Least-cost Power Development Plan Report (2021a, b and c). GGC Business Model Draft 2 (GGC, 2021). GPA Master Plan (GPA, 2019).

Note: The estimates for NAWEC electricity generation are the base case scenario involving a mix of domestic energy generation and electricity imports: investment costs will be lower if the import share of electricity consumption is larger and higher if the import share is lower.

**80. Major SOEs lack financial resources to fund their required capital investments, as they do not make operating profits.** Capital investment expenditures required by the SOEs over the medium to long term are large, partly because of past under-investment and partly because demand for services is projected to grow rapidly. Table 8 sets out the capital investment requirements of the major SOEs, <sup>99</sup>totalling around USD 700 million to be implemented within 10 years. This amounts to around 2.5 percent of GDP per annum over the 2021-30 period. It is possible that some of the required investments could be undertaken by the private sector, such as independent power producers (IPPs) for electricity generation. It may also be possible to attract private sector investment into the port. Nevertheless, it is likely that the bulk of the investments will have to be financed with sovereign debt and, therefore, will have to be accommodated within the Government's annual borrowing plan.

## Forecasting the Long-term Fiscal Impact of SOEs

**81. In this section we provide projections of the potential long-term costs of the SOE sector that will be borne by the budget.** We make projections under two scenarios: first, a no reform scenario and second, a scenario in which reforms are implemented in the energy sector to, inter alia, improve the financial performance of the NAWEC and lessen its fiscal burden (baseline). We make projections of the fiscal costs, i.e., the annual demand for financial resources that the SOEs will require from the budget to enable them to continue functioning and delivering their services. In principle, the shortfall between the costs

<sup>99</sup> We have not included GAMTEL/GAMCEL because their investment requirements are much more uncertain, while cost estimates for the airport are not available. The table also excludes NAWEC's investment requirements for the water sector, because of lack of data.

incurred by the SOEs of providing their services and the revenue earned from their customers, must eventually be funded from the budget, even if temporarily funded from another source.

### No Reform Scenario

- 82. The no reform scenario envisages fiscal demands from the SOEs emanating from five sources:**
- i. The scheduled debt service (interest and amortisation) of external loans already contracted by the Government and utilised by SOEs, and the NAWEC debts to bond holders and SSHFC which have been taken over by the Government (Table 5 and 7). We assume that, without reforms, none of the scheduled debt service payments will be made by the SOEs to the budget.
  - ii. The fertilizer and groundnut subsidies to farmers which are provided through the NFSPMC/GGC. These costs arise because of a Government policy decision to subsidise the cost of fertilizer and the farmgate price of groundnuts, which is independent of the financial performance of the NFSPMC/GGC.
  - iii. The operating losses of NAWEC, GCAA and GAMCEL.
  - iv. The capital investment requirements of NAWEC, GPA, NFSPMC/GGC and GAMCEL, almost all of which will have to be funded by sovereign borrowing.
  - v. The assumption by the Government of SOE debt to third parties (e.g., SSHFC) and the repayment of that debt (shown under capital transfers in Table 9).
- 83. The projections of the fiscal costs are unavoidably very tentative, for two reasons.** First, the annual financial outturns of many SOEs have been very volatile which makes it difficult to extrapolate from recent performances, even when data on these performances are available and reliable. Second, a plausible “no reform scenario” is not simply an extension of the status quo over the forecast horizon, because the status quo for most SOEs is not sustainable over the long term. Major changes to the status quo must occur even if there are no reforms. For example, NAWEC must undertake major investments in power generation, transmission and distribution to meet rising demand and replace power plants which are scheduled to be decommissioned in the 2020s. How NAWEC sources its power, alongside other factors such as staffing levels, has a crucial impact on its costs and therefore its surpluses or deficits. Consequently, the no reform scenario is at best an illustration of what might happen if no reforms are implemented, it is not a forecast of what would happen.

**Table 9: Projections of SOE Fiscal Costs, No Reform Scenario, 2021-30 (percent of GDP)**

	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2021-30 avg.
<b>Total Expenditure</b>	<b>5.3</b>	<b>5.1</b>	<b>4.6</b>	<b>4.3</b>	<b>4</b>	<b>3.8</b>	<b>3.7</b>	<b>3.6</b>	<b>3.5</b>	<b>3.4</b>	<b>4.1</b>
<b>Interest</b>	0.3	0.2	0.2	0.2	0.1	0.1	0.1	0.1	0.1	0	0.1
<b>Subsidies</b>	1.3	1.4	1.2	1.1	1	1	1.1	1.1	1.1	1.1	1.1
<b>NFSPMC/GGC</b>	0.4	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.2	0.3
<b>NAWEC</b>	0.4	0.5	0.4	0.4	0.3	0.3	0.3	0.3	0.4	0.4	0.4
<b>GCAA</b>	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.1	0.2
<b>GAMCEL</b>	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.4	0.3
<b>Capital Investment</b>	3.6	3.3	3	2.8	2.7	2.6	2.5	2.3	2.2	2.1	2.7
<b>Capital Transfers</b>	0.2	0.2	0.2	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
<b>Amortization</b>	<b>1.2</b>	<b>1.1</b>	<b>1</b>	<b>1</b>	<b>0.9</b>	<b>0.8</b>	<b>0.7</b>	<b>0.5</b>	<b>0.5</b>	<b>0.5</b>	<b>0.8</b>

Source: World Bank staff estimates.

84. **These projections likely underestimate the total fiscal cost of the SOE sector in a no reform scenario (Table 9).** Annex 6 provides details of the methods and data sources used to make these estimates. The projections are organized into (i) above the line budget expenditure categories (interest payments, subsidies, investment and capital transfers), which contribute to the fiscal deficit and thus the Government's borrowing requirement, and (ii) a below the line payment (amortization) which does not affect the fiscal deficit or the level of public debt. The projections are preliminary and there are some significant omissions due to lack of data. These include projections for GAMTEL's operating losses and the capital investment requirements of GCAA. Capital transfers could be larger if the Government assumes liability for substantial SOE arrears. Also, the debt service forecasts only cover existing loans, for which the payment schedules are known; it does not include new loans. However, new loans will mostly be used to finance SOE capital expenditures which are included under capital investment in Table 9; including both the capital expenditures and the related debt repayments would be double counting the fiscal burden.
85. **Over 2021-30, the projected fiscal costs of the SOE sector average 4.1 percent of GDP in above the line expenditures and 0.8 percent of GDP in amortization of debt.**<sup>100</sup> The above the line fiscal costs are dominated by the capital investment requirements of the SOEs, which are, for the most part, essential to replace obsolete equipment and meet growing demand.<sup>101</sup> The investments will be funded by concessional loans, which will eventually have to be serviced. Even in a no reform scenario, the GPA will probably be able to reimburse the Government for the costs of servicing the debt contracted to finance the port expansion, but it is unclear if NAWEC would have the resources to do the same for the debt required to finance power sector investments. The other major above the line cost comprises subsidies, which average

100 As a share of GDP, these costs decline over the forecast period because GDP itself is projected to grow strongly (by a cumulative 60 percent in real terms over the next 10 years), whereas some of the main cost components are roughly constant (debt servicing) or assumed to be constant (investment) in real terms.

101 In Table 9 we have smoothed the real costs of capital investment over the forecast period, but the actual timing of these investments is very uncertain.



1.1 percent of GDP over the forecast period. The Government has formalized its obligations to subsidize NAWEC if needed through a compensation mechanism (see Annex 5).

### Baseline Reform Scenario

86. **The baseline scenario incorporates the reforms to the energy sector which are set out in the Energy Sector Roadmap 2021 (see Annex 5).** The Roadmap aims to provide The Gambia with universal access to power, reduce the unit cost of power and thereby enable Gambians to pay lower tariffs, while ensuring that NAWEC becomes financially viable. Unit cost reductions will be achieved primarily by shifting the sources of power supply to a combination of domestic solar generation and power imports from Senegal (and eventually Guinea and Côte d'Ivoire) through the West African Power Pool (WAPP). Imports and domestic solar are cheaper sources of power than thermal generation with HFO, which currently dominates supply. Additional cost reductions will be achieved by lowering NAWEC's technical and commercial losses and improving its operating efficiency.
87. **We assume that power tariffs will be set by PURA to cover NAWEC's required revenue, as described in the new 2019 Tariff Methodology.** The required revenue will allow NAWEC to avoid operating losses, allocate adequate funds for repair and maintenance of its capital assets and also service its debts. In principle, the Government can subsidize power tariffs through the budget, under the Revenue Compensation Mechanism. However, in our projections we assume that it will not do so because, even when fully covering NAWEC's required revenue, average power tariffs in the least cost power expansion plan are projected to fall by 27-46 percent in real terms between 2020 and 2025-30.<sup>102</sup>

**Table 10: Projections of SOE Fiscal Costs, Baseline Reform Scenario, 2021-30 (percent of GDP).**

	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2021-30 avg.
<b>Total Expenditure</b>	3.8	3.5	3.2	3	2.8	2.7	2.6	2.5	2.5	2.4	2.9
<b>Interest</b>	0.3	0.2	0.2	0.2	0.1	0.1	0.1	0.1	0.1	0	0.1
<b>Subsidies</b>	0.7	0.8	0.8	0.7	0.7	0.7	0.7	0.7	0.7	0.7	0.7
<b>NFSPMC/GGC</b>	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.2	0.2	0.2	0.3
<b>NAWEC</b>	0	0	0	0	0	0	0	0	0	0	0
<b>GCAA</b>	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.1	0.2
<b>GAMCEL</b>	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.4	0.3
<b>Capital Investment</b>	2.7	2.5	2.3	2.1	2	1.9	1.9	1.8	1.7	1.6	2
<b>Capital Transfers</b>	0.2	0.2	0.2	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
<b>NAWEC Debt Payments</b>	-0.1	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.1	-0.1	-0.1	-0.2
<b>Amortization</b>	1.2	1.1	1	1	0.9	0.8	0.7	0.6	0.5	0.5	0.8

Source: World Bank staff estimates.

102 World Bank (2021).

- 88. Compared to the no reform scenario, the NAWEC reforms have three significant fiscal effects.** First, NAWEC does not incur operating losses and thus does not require explicit subsidies from the budget. Second, NAWEC is able to fully pay the scheduled debt servicing to the Government in respect of external loans contracted before 2021 (which were not part of the 2018 debt restructuring). Third, a substantial share of the new domestic investments in power generation will be implemented and financed by IPPs, and thus will not need to be financed by sovereign borrowing. In our projections we have assumed that 50 percent of domestic investment in new generation capacity will be implemented by IPPs with 50 percent implemented by NAWEC and financed with sovereign debt. How large a share of the new investment required in generation which can be mobilized through IPPs will depend on the credibility of reforms to the financial position of NAWEC to mitigate the risk to IPPs that they will not be paid in a timely manner for their power supplies. However, all investments in transmission and distribution will have to be financed with sovereign debt.
- 89. The NAWEC reforms reduce above the line fiscal costs of the SOEs by around 30 percent, on average over the 2021-30 period (Table 10).** Average annual above the line net costs fall to 2.9 percent of GDP, compared to 4.1 percent of GDP in the no reform scenario. More than half of the savings emanate from lower investment costs, because of the shift of investments in generation to IPPs. Subsidies are lower by an average of 0.4 percent of GDP while NAWEC debt service payments to Government contribute an average of 0.2 percent of GDP over the period. Amortization payments by the Government are not affected. It is possible that the net budgetary savings will be larger than those shown in Table 10 because, with an improved financial performance, NAWEC should be able to make larger tax payments or attract more private investment into IPPs.

## CHAPTER 5: iSOEF Module 4: Corporate Governance and Accountability Mechanisms

90. **Good corporate governance is the foundation for stable, financially healthy SOEs.** Compared with private sector companies, SOEs face distinct governance challenges that directly affect their performance. These challenges include multiple principals, competing goals and objectives, excessive protection from competition, undue political interference, and low levels of transparency and accountability. Facing such challenges and considering their strategic role in providing key infrastructure and public services, it is vital to ensure that SOEs follow good corporate governance practices.
91. **Following the iSOEF methodology, this chapter assesses six dimensions of corporate governance for the SOE sector of The Gambia:** (i) legal and regulatory framework; (ii) ownership and oversight function; (iii) performance monitoring; (iv) boards of directors; (v) transparency and disclosure; and (vi) procurement.

### Legal and Regulatory Framework

92. **The Gambia’s SOE legal and regulatory framework currently relies on the Public Enterprises Act (PEA) of 1990, the 1997 Constitution, the Companies Act of 2013, and specific statutory and financial legislations.** Six SOEs —GAMCEL, GAMTEL, NFSPMC/GGC, GIA, GNPC and NAWEC— were incorporated under the Companies Act of 2013. Other SOEs have their own statutory acts, including AMRC, GAMPOST, GCAA, GPA, GPPC and GRTS. SOEs’ financial reporting requirements are governed by the Constitution, the PEA, the Public Finance Act 2014, Companies Act of 2013, and the SOEs’ Financial Reporting Act of 2014.
93. **The 1990 PEA provides a definition for SOEs and some aspects related to their financial oversight and corporate governance.** According to the PEA, a public enterprise (SOE) is defined as “a corporation or any company whose equity is wholly owned by Government or partially owned by Government together with another Government institution or wholly owned by a Government institution”. The PEA includes some provisions aimed at promoting good corporate governance of SOEs, such as performance monitoring. However, the 1990 PEA does not cover areas such as board composition and nomination, separation of responsibilities between board and management, conflicts of interests and many other issues relevant for the governance of SOEs. Section 175 of the 1997 Constitution fills in some gaps regarding board nomination and Chief Executive Officer (CEO) selection, but it is very limited and can be strengthened.
94. **A corporate governance code was adopted in 2016 to serve as a guiding tool for SOEs.** It stipulates, on a voluntary basis, many important aspects of good corporate governance such as board composition, a board nomination process, as well as recommended committees. The Code also recommends that a majority of directors on the audit committee be independent. It does not, however, include a definition of what constitutes independence or conflict of interest, and the separation of roles between board and management is not emphasized.
95. **A new draft SOE bill was prepared in 2019 and the approval process is underway.** The bill defines a governance framework more in line with international standards, allowing for proper monitoring and oversight. It is expected that the provisions under the SOE bill shall prevail over any similar provisions of SOEs. The SOE bill was provisionally approved by the President in September 2020. However, given the rejection of the new Constitution by the National Assembly and the bill’s conflict with the existing (1997) Constitution, the authorities have aligned the draft SOE bill to the existing Constitution and submitted it

to the National Assembly in April 2022.<sup>103</sup> The proposed SOE bill would be a major improvement from a governance perspective by establishing a dedicated SOE Commission with clearly defined powers, including more detail on the composition of the board and duties of directors, and providing a clearly defined format for performance contracts.

96. **Specific constitutional provisions on SOE corporate governance may serve as an impediment for the Government’s SOE reform agenda.** Specific corporate governance provisions —e.g., appointment of board of directors or CEOs, SOE reporting requirements (Box 5)— are codified in the Constitution of The Gambia, which could make it harder for the Government to make necessary updates or amendments. It would be more natural to see these types of provisions in an SOE Law or Corporate Governance Code, with a general reference in the Constitution.

#### Box 5: Constitutional provisions on SOE corporate governance

- **SOE definition:** “Public enterprise means anybody corporate or other body or institution, wholly owned or controlled by the Government”.
- **Board member appointment:** “The members of the Board of directors or other governing body of a Public Enterprise shall be appointed by the President after consultation with the Public Service Commission and shall be selected from amongst persons of integrity, competence and maturity of judgment. A member of the National Assembly, the holder of a political office or an office of a political party shall not be qualified to be appointed to the Board of Directors or other governing body of a Public Enterprise”.
- **CEO appointment:** “The Chief Executive of a Public Enterprise shall be appointed by the President after consultation with the Board of Directors or other governing body of the Public Enterprise and the Public Service Commission”.
- **SOE staff appointment:** “All other appointments to the staff of a public enterprise shall be made by the Board of Directors or governing body, or by some member of the staff of the public Enterprise appointed by the Board or governing body”.
- **SOE monitoring/oversight:** “... an Act of the National Assembly shall establish a committee to monitor the operations of Public Enterprises, and shall prescribe the manner in which such enterprises shall be accountable to the National Assembly and shall conduct their affairs in order to promote efficiency, transparency and probity in all their undertakings”.
- **SOE financial reporting:** “A Public Enterprise shall, within three months of the end of its financial year submit an annual report to the National Assembly on its business and operations during the preceding year”.

Source: National Constitution, 1997.

103 The submission of new SOE bill to the National Assembly is a prior action for the Fourth ECF Review.

## Ownership and Oversight Function

97. **Institutional arrangements for SOE ownership and oversight have undergone multiple changes over the past decades.** Prior to 1994, a National Investment Board was responsible for SOE ownership functions. In 2001, The Gambia Divestiture Agency was created to carry out the government's divestiture program in various sectors. This agency, together with its responsibility of financial oversight, was absorbed by MOFEA in 2009. The government took further steps as part of the comprehensive SOE reform program that included the issuance of the SOE Corporate Governance Code in 2016. Responsibility for monitoring the performance of SOEs was transferred to the Directorate of Public-Private Partnerships and Public Enterprises (DPPP&PE) within the MOFEA to enhance monitoring and evaluation of SOE performance and assess fiscal risks.
98. **The current institutional set-up for SOE ownership and oversight is dispersed among several entities.** Line ministries are charged with key ownership functions such as the nomination of SOE board members and the approval of major capital expenditures. In turn, the DPPP&PE —on behalf of MOFEA—operates as an oversight unit in charge of SOE financial performance monitoring and evaluation.<sup>104</sup> All commercially-oriented SOEs are expected to submit monthly cashflows and quarterly activity reports, as well as their annual audited financial statements to DPPP&PE, which compiles an updated aggregated SOE financial database.<sup>105</sup> DPPP&PE also provides an opinion on major SOE board decisions. In addition, the Department of Strategic Policy and Delivery at the OP plays an SOE ownership role on at least three levels. Within its coordination unit, the OP sets goals for specific sectors, including SOEs where relevant. Its policy analysis unit reviews board decisions —after the DPPP&PE — for final approval and consistency with overall government policy and guidelines, —e.g., preventing the issuance of commercial loans to SOEs, unless specifically approved. Lastly, the OP plays a critical role in the rather unstructured SOE board nomination process, via the approval of proposed candidates by responsible line ministries.
99. **A new Directorate for SOE Oversight has been established within the MOFEA, which has taken over SOE related responsibilities carried out by the DPPP&PE.** The Directorate for SOE Oversight aims to strengthen the monitoring and oversight of SOE performance. It will focus on monitoring performance of SOEs and performance agreements, consolidating SOE information, ensuring publication of annual audited financial statements, and promoting good corporate governance, among other responsibilities. For this, a letter from MOFEA to departments and SOEs announcing the establishment of this new Directorate was issued in April 2021. The unit also needs to be fully staffed by civil servants who are specialists (sector, financial, legal, audit, etc.), and other key staff. They would need to be trained by DPPP&PE staff on SOE matters. It is critical that the institutional arrangements for SOE financial oversight is strengthened.
100. **The draft SOE bill proposes the establishment of a new stand-alone SOE Commission to exercise a more centralized ownership function over SOEs.** The Commission would be composed of five members who cannot be part of a political institution, are appointed by the President, and confirmed by the National Assembly. The Commission would meet twice a month and have wide ranging powers and responsibilities, including coordinating and monitoring the operations of SOEs, and managing the board nomination process. If the bill gets approved as planned, this Directorate would be converted into a centralized SOE oversight unit, under the authority of the new SOE Commission, and would perform its secretariat role.

104 As of June 2021, DPPP&PE had a staff of 11.

105 SOE financial dataset is maintained by DPPP &PE up to year 2019 for all major commercial SOEs and was used as a basis for the analysis offered in Chapter 2.

## Box 6: New Directorate for SOE Oversight (within the MOFEA) and SOE Commission

Many countries do not have centralized bodies that track SOEs as a whole or produce consolidated SOE reports. Where such data exist, they are often outdated or incomplete. These constraints are especially severe in low-income countries with little capacity to collect and analyze data.<sup>106</sup>

In this context, the Government of The Gambia has created a new Directorate for SOE Oversight within the MOFEA, which will be provided with the authority and specialized technical capacity to ensure effective financial oversight of SOEs in The Gambia, while also keeping track of SOE corporate governance, fiscal and financial management, and service delivery performance aspects. The new Directorate has taken over SOE-related responsibilities under the DPPP&PE, is headed by a seasoned civil servant as Director since January 2021, comprises of four staff transferred from DPPP&PE and is expected to be fully staffed by qualified sector, financial, audit, and legal specialists by 2022.

The mandate of this new Directorate includes:

- Consolidate all SOE information already available in different MOFEA departments and line ministries.
- Regularly collect SOE information in a standardized format for all SOEs.
- Compile a comprehensive SOE database including data on SOE financial performance, government transfers to SOEs, taxes and dividends, guaranteed and unguaranteed SOE debt, and SOE employment.
- Publish an annual aggregate report on the performance of the SOE portfolio.
- Put in place robust monitoring mechanisms to track compliance of Performance Contracts signed by individual SOEs with the Government on a quarterly and yearly basis.
- Keep track of regular publication of audited annual financial statements for all SOEs.
- Follow up on recommendations from SOEs financial audit reports.
- Monitor SOE service delivery performance.

The draft SOE Bill will establish the SOE Commission to exercise rights of ownership over SOEs, monitor and provide oversight of SOEs, and where applicable, oversee the reorganization and liquidation of SOEs. The Commission will consist of a Chair and four members appointed by the President and subject to confirmation by the National Assembly. The Commission will submit quarterly and annual reports to the National Assembly, Cabinet and the relevant Ministry.

## Performance Monitoring

**101. Performance monitoring has been part of the legal framework for SOEs in The Gambia since the 1990 PEA, but the Government has only recently begun efforts to implement this mechanism.** In 2020, a pilot Performance Contract (PC) was launched with NAWEC, given its strategic relevance and the fiscal risks it poses. The contract was developed in collaboration with DPPP&PE, the Ministry of Energy, and NAWEC's board and management, with the assistance of an external consultant financed by the World Bank. The PC was initially signed in 2020 for five years, but in March 2021, it was replaced by an updated version valid for three years. The government plans to roll this initiative out to more SOEs, and discussions have been initiated with GNPC, GPA and SSHFC.

<sup>106</sup> Corporate Governance of State-Owned Enterprises: A Toolkit. World Bank Report No. 91347 (2014).



- 102. NAWEC's 2021 PC updates the existing Key Performance Indicators (KPIs) by adding input indicators to the previously existing financial and operational ones.** The 12 KPIs are divided into three categories: financial (profit after tax, return on assets, current ratio); operational (debtor days, total losses electricity, training days, new electricity connection days, electricity outage numbers); and input (execute engine maintenance plan, third party fuel monitoring, develop a water efficiency KPI, develop a water quality KPI). All 12 KPIs carry weights adding up to 100%, a baseline and ambitious targets for 2021 through 2023. The executive team can earn bonuses up to 35% if their measured performance exceeds 140% of expected targets but can also lose 15% of their compensation if performance is below 60% of expected targets. The PC was signed by the Minister of Finance, NAWEC's Managing Director and Chairman of the Board, as well as the Minister of Energy.
- 103. The contract assigns MOFEA—with the support of PURA—the responsibility of monitoring compliance by NAWEC and the government.** To date monitoring has been limited by several factors: (i) a lack of current and reliable management information; (ii) limited institutional mechanisms to track performance against KPIs and to allow for in-year course corrections; and (iii) the impact from the COVID-19 pandemic. To overcome monitoring difficulties, MOFEA has contracted an external audit firm to evaluate performance against agreed KPIs and associated targets.

## Boards of Directors and Management

- 104. Boards are the governing bodies of all SOEs in The Gambia per the PEA and the Constitution.** The Code of Corporate Governance, as well as the new SOE draft bill, sets the maximum number of board members at seven. The SOE bill goes further stipulating that the seven members should include the CEO, one ministry representative, four members selected for their expertise and one member from the general public appointed by the SOE Commission.
- 105. As a result of a lack of binding guidance, board composition and director background and qualifications currently vary widely among SOEs.** While NAWEC's board, for example, consists of 6 private sector members and 3 representatives from government, the board of NFSPMC/GGC is constituted by 2 government representatives and 4 private sector members.
- 106. The board nomination process can be strengthened to improve selection of professional, qualified directors.** Per the constitution, Board members are appointed by the President in consultation with the line ministry and the Public Service Commission. The Code of Corporate Governance proposes a nomination committee comprised of the OP, MOFEA, the relevant line ministry and the SOE. Board appointments are currently handled by the OP without an apparent coordinated process to select the most qualified directors. The SOE draft bill sets out a more coordinated step-by-step skills-based process, where the respective line minister would ultimately approve the candidate nominated by the SOE Commission.
- 107. Most boards currently do not play the expected strategic oversight role.** This is in large part because members are not selected based on a clearly defined, coherent policy including their qualifications, sector or technical knowledge relevant to the particular SOE. Moreover, key functions and responsibilities of the board, like appointing the Managing Director/CEO or approving the operating budget of the SOE are mostly exercised by OP and/or DPPP&PE. This practice undermines the authority of the board. Independently acting SOE boards are also not common.

108. **Committees do not play a substantive role in the governance of SOEs.** The Corporate Governance Code calls for three committees on Audit and Risk, Finance, and Board Nomination. In practice, while several SOEs have an Audit committee, others have committees on different topics such as HR and IT. The new SOE draft bill establishes three committees for each SOE, namely, a by-law committee, an Audit & Finance committee, and a Quality Assurance & Safety committee.
109. **Most SOEs do not have Board Charters and reference the Code of Corporate Governance for their Board Charter, although NAWEC has made progress recently.** Charters for the board and committees are critical tools to ensure board members understand their duties and responsibilities and board processes are well defined, but most SOEs in the Gambia do not have their own Board Charter. NAWEC, however, has recently introduced a comprehensive Board Charter detailing important responsibilities and processes. It also includes induction guidelines for new board members, a director code of conduct and a detailed conflict of interest and related party transactions policy.
110. **Board evaluation and trainings are important mechanisms to increase the efficiency and effectiveness of boards, but neither is currently being conducted in The Gambia SOE-sector.** In March 2021, the Gambian Institute of Directors (IOD) was inaugurated with the mission to start filling this gap. The IOD will be privately financed and aims to provide director training, offer director certification, build a pool of directors from their membership, and eventually offer SOE board evaluations

## Transparency, Reporting and Disclosure

111. **The evaluation of SOEs is impeded by the quality of financial information and significant delays in the preparation and disclosure of annual financial statements.** It is critical that SOE transparency, reporting and disclosure are strengthened. The 1990 PEA contains no requirements for annual financial statements, but per the 1997 Constitution, a “Public Enterprise shall, within three months of the end of its financial year submit an annual report to the National Assembly on its business and operations during the preceding year.” In practice, public disclosure of annual financial statements was often delayed by years. There has been recent improvement and as of June 2021, the 2019 financial statements for most SOEs are available on the MOFEA’s website. For this assessment, the team relied on information aggregated by DPPP&PE, which is not publicly available.
112. **The application of accounting standards by SOEs in The Gambia is inconsistent, making it difficult to compare financial information across SOEs and over time.** While some SOEs are applying International Financial Reporting Standards (IFRSs), a few others are in transition to IFRSs and the rest apply national accounting standards. The Government aims to migrate all SOEs to IFRSs to achieve comparability. However, the E&Y Special Audit report notes that the adoption of IFRS would not be achievable in the short term, since the current financial position of each SOE is not yet based on a common set of accounting principles.
113. **Since the E&Y Special Audit reports were issued in August 2019 for seven SOEs and in December 2020 for another six enterprises, SOEs have been working to address the recommendations issued.** The initially audited seven SOEs showed progress on executing implementation agreements which aim to address the main shortcomings highlighted in the audits. One of the strategic steps focuses on creating a clean opening balance sheet from 2018 onwards. Most of the initially audited SOEs are submitting periodic progress reports addressing the specific issues identified in the audits.

- 114. The majority of SOEs have a basic internal control structure in place.** This structure consists of Audit Committees, which most SOEs have established, and a corresponding Audit Committee charter, which either exists or is under development. It also includes an Internal Audit position that reports directly to the Audit Committee and only administratively to the CEO. It is difficult to judge how well these internal control structures are implemented in practice, however, without conducting in-depth individual governance assessments for SOEs.
- 115. SOEs' financial statements are audited by independent external auditors, rotating every 5 years.** The National Audit Office (NAO) was established under the Constitution to assist the Auditor General in the performance of its functions. The Auditor General has the responsibility to audit the accounts of all Government institutions, including local governments and other public bodies.<sup>107</sup> However, the external audit of SOEs has been outsourced due to challenges in technical and personnel capacity in NAO to conduct audits, which is generating a significant backlog in annual financial audits.<sup>108</sup> Furthermore, currently, NAO is tasked with extensive COVID-19 related spending auditing, exacerbating capacity constraints. The Office is in the process of establishing a quality assurance unit to train staff to perform audits of SOEs.
- 116. Independent external monitoring of financial information of SOEs is also provided through parliamentary oversight carried out by the Public Enterprises Committee (PEC).** Parliamentary oversight of SOEs was established by the 1997 Constitution, and the PEC replaced the previous Public Accounts Committee in April 2017. The PEC has six members and has the power to subpoena information. It meets regularly with subject matter specialists in attendance, including the Director of DPPP&PE, the Auditor General and others as required to review activity for individual SOEs. The review and adoption or rejection of the activity report and financial statements usually culminates in a public event for each SOE. In practice these events are often delayed because of late submission by SOEs. The current PEC aims to clear the significant backlog of three years of published SOE financial statements by the end of 2021, which marks the end of the term of the current members of the committee. In highlighting these delays, the PEC has been an active force to increase accountability and transparency at SOEs.<sup>109</sup>

## Public Procurement and SOEs

- 117. Public procurement, a crucial component of an SOE institutional framework, is paramount to SOE financial accountability and transparency.** SOEs often receive different treatment in terms of public procurement. In some countries, fully or majority state-owned enterprises are covered by the same public procurement rules as other State entities (e.g., central and local governments). In other countries, SOE procurement rules are defined as a separate category, and thus subject to specific legislation.
- 118. The Gambia Public Procurement Authority (GPPA) Act of 2014 defines the procurement process.** The national public procurement and regulation framework applies to all procuring organizations as defined by sub-section 2 of the GPPA Act of 2014. Procuring organization “means a Ministry, Department, Agency or Organ of the State, Public Enterprises, local Government, subvented institution or any subdivision thereof engaging in procurement.”

107 The functions of the Auditor General and the NAO are described in section 160 of the 1997 Constitution. NAO was granted autonomous status by the National Assembly through the National Audit Office Act 2015 to strengthen its mandate and expand its scope of work.

108 NAO is facing challenges to attract and retain competent staff. It now has 40 technical staff, 10 less than it had in 2015.

109 In November 2017, the PEC issued a statement to all SOE Boards expressing strong concern about the widespread practice of late submission of SOE activity reports and audited financial statements.

- 119. The GPPA exercises the control and assurance function through ex ante and ex post reviews of the procurement proceedings.** The GPPA is an autonomous agency of the Government under the administrative umbrella of MOFEA and responsible for the regulation and monitoring of public procurement in The Gambia. As such, a procuring organization shall not engage in a procurement above such amount as may be specified in the regulations, without obtaining the approval of the Authority at every stage of the procurement. This requirement is applicable to SOEs as, according to the PPA Act 2014, they are subject to the Act (section 2 of the PPA, 2014). GPPA is also responsible for Procurement Audits, which includes SOEs as procuring organizations. Other relevant actors include 203 procuring organizations embedded in the spending agencies, which are responsible for conducting public procurement, and the Complaints Review Board, a seven-member autonomous body responsible for promoting fairness in public procurement by managing complaints.
- 120. The GPPA regulations are intended to ensure a competitive market for suppliers and a transparent process which stands the test of public scrutiny.** However, the challenge is to ensure that the procurement process is efficient to enable SOEs to respond in a timely manner to market conditions. For example, per the E&Y Special Audit report, board minutes and management discussions at GAMCEL cited the impact of the slow procurement process on their operational implementation capacity relative to their competitors.
- 121. The GPPA Act is currently under revision.** A revised bill was approved by the Cabinet in March 2020 and is pending approval by the National Assembly. The definition of procuring entities remains the same but in the revised bill it would not apply to “public utilities services as far as they are provided under a national monopoly e.g., water, electricity, gas, and waste-water disposal”, and other public services if they represent a national monopoly (public transportation for persons, landline communication, national postal services, and others), which may apply to some SOEs. These entities will however need to adopt specific procurement procedures in line with the procurement principles stated in the act. The revised bill also provides a five-year timeframe to separate the regulation of the system from control of procurement processes, both currently in the hands of GPPA. Other major updates include (i) the introduction of Electronic Government Procurement, (ii) stricter application of the single source procurement method, (iii) tight use of the emergency clause, (iv) application of the act to all agencies procuring with public funds, and (v) sustainable procurement to ensure environmental protection and positive social results.

## CHAPTER 6: Options for Reform

122. **Recognizing the Government’s commitment to SOE reform, this iSOEF proposes recommendations to improve SOEs governance and performance, while limiting their fiscal costs and risks.** SOE reforms are multidimensional and require a holistic and integrated approach. As such, this iSOEF focuses on four main intertwined options for reform. Other reform options are also explored in this chapter, and a detailed Action Plan is offered in Table 10.

### Main Options for SOE Reform

- **Strengthen institutional arrangements for SOE financial oversight.** The government could use the ongoing process for establishing a new Directorate for SOE Oversight at MOFEA to increase SOE financial oversight effectiveness. The new Directorate would strengthen the monitoring of SOE performance and should expand and build on DPPP&PE’s SOE oversight responsibilities by carrying out the following functions: i) strengthen MOFEA-SOEs links by convening quarterly meetings with SOE leadership teams and corresponding line ministries; ii) ensure that SOE financial information is timely and comprehensively collected from SOE audited financial statements; iii) build capacity for periodic financial analysis and elaborate a standardized set of key financial SOE statistics and ratios for both individual SOEs and the SOE portfolio<sup>110</sup>; iv) produce and maintain an updated annual record of the net fiscal impact of SOEs on the budget; v) build capacity for quarterly performance monitoring and evaluation of SOEs that signed PCs with the Government; and vi) build capacity for periodic assessments of fiscal risks associated with individual SOEs.
- **Systematize SOEs’ relationship with the budget to properly calculate and compensate them for implementing public policy objectives.** First, it is necessary to make the financial relationships between the Government and the SOEs fully transparent, so that the magnitude of these transactions can be properly recorded and understood. That is a prerequisite for managing the fiscal risks from SOEs. The recent formalization of financial relationships with NAWEC could be extended to the overall SOE portfolio. Second, where there is a public policy rationale for subsidizing services provided by SOEs, such as the fertilizer subsidy provided by NFSPMC/GGC, this should be made explicit in the budget with NFSPMC/GGC fully reimbursed for the cost of providing the subsidy. This compensation should be separated from the revenues derived by SOEs from commercial activities to avoid risks of cross-subsidization.
- **Strengthen SOE transparency, reporting and disclosure.** The following should be disclosed through the MOFEA website: (i) regular and updated audited annual financial statements (including the last completed fiscal year) for the 12 SOEs defined in the SOE portfolio; and (ii) annual SOE aggregate reporting, specifying main SOE financial performance trends, as well as government sector policy and reforms under way within six months of a fiscal year. The 2020 Consolidated SOE Financial Performance Report prepared in April 2022 by the Directorate for SOE Oversight is a good start towards aggregate reporting and should be continued annually. Other measures that could help to reinforce SOE transparency and accountability include: (i) ensuring that annual audited financial statements reflect the consolidation of each major SOE (parent company) and its subsidiaries; (ii) migrating to IFRS for at least the top five SOEs by 2019 annual gross revenues; and (iii) allowing MOFEA to participate in the selection of auditors for SOEs, addressing cases where a given SOE audited financial statement contains qualified opinions and conducting effective follow-up of auditor recommendations.

<sup>110</sup> in line with the Credit Risk Assessment proposed in the 2021 Framework for the Management of Government Guarantees



- **Level the playing field among SOEs and private companies through a review of key competitive neutrality issues in the legal and institutional framework.** Most of the SOEs participate in commercial and contestable sectors where The Gambia could attract private investment and foster competition in sectors with presence of SOEs, if mechanisms were in place to ensure that the private sector (existing and potential entrants) receive similar treatment and are exposed to the same market discipline. This process might involve ownership transformation (e.g., divestiture) but is not necessarily limited to it in the short term. Key reforms include (i) restricting preferential access of SOEs to credit<sup>111</sup>, (ii) limiting access to essential facilities free of charge or under different conditions to SOEs vis-à-vis private peers<sup>112</sup>, (iii) addressing the lack of separation between commercial and non-commercial functions including the design of proper compensation mechanisms, and (iv) promoting independence of the regulatory bodies from the SOEs.

## Other Reform Options

- **Performance Monitoring & Evaluation.** Promote the signing of multi-year performance contracts between individual SOEs, MOFEA and corresponding line ministries structured around relevant and measurable KPIs and associated targets. Focus on top five SOEs: NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC.
- **Fiscal Impact.** i) Bring several of the SOEs to financial viability (e.g., NAWEC, GAMTEL, GAMCEL and NFSPMC/GGC). This would involve a combination of cost reductions (e.g., in staffing levels) and adjustments to prices. ii) Formalize external borrowing for the SOE sector through on-lending agreements and sign subsidiary loan agreements with SOEs to bind them legally to service those debts. iii) Include the SOE-sector in the 2020 new project selection and appraisal procedure to assess their investment projects, with the aim to rationalize the public investment program and to anchor debt sustainability.
- **Boards of Directors.** i) Apply the board nomination and appointment procedures required by the Corporate Governance Code —ensuring the participation of OP, MOFEA and corresponding line ministries (focus on the top five SOEs in the first phase: NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC); ii) Empower the SOE Commission to nominate and appoint board members, once the new SOE bill is enacted; iii) Empower SOE boards —using further legislation, training, and other relevant tools, as required— so they can fully exercise their functions of strategic SOE oversight and management supervision; and iv) Promote adequate training programs, peer exchanges and learning opportunities for potential candidates and existing SOE board members (for instance, leverage on the recent creation of the IOD in The Gambia for such purposes).
- **Private sector’s involvement in SOE markets.** i) Develop a strategy to attract private investors to SOE markets, opening competitive segments where SOEs operate as de facto monopolies to full competition; ii) Consider ownership and management transformation methods to attract private investors (e.g., temporal concession of the GPA) as well as temporal or permanent ownership transformation for SOEs in competitive sectors where there is no clear economic rationale (e.g., GIA can be part of a temporal concession, GAMTEL can be part of a full divestiture option); and iii) Design a system for selecting projects of high priority for the Government, considering a range of instruments: PPPs, concessions, management contracts with private sector, minority stake equity participation, rather than direct SOE participation (see Annex 4).

111 SOEs should have access under market-based interest rates rather than concessional terms with the state. If specific type of support is provided for a sector, both private and state companies should be eligible in similar terms to those resources.

112 SOEs competing vis-a-vis private peers should not benefit from any preferential terms (or reduced prices) to access essential facilities, even in cases where the SOE has a parent company holding key infrastructure.



**Table 11: Matrix of proposed options for SOE reform****Legend:**

ST: Short term – 6 months

MT: Medium term – 6-24 months

**Key:**

DAC – Directorate of Aid Coordination

DLDM – Directorate of Loans and Debt Management

DPPP – Directorate of Public Private Partnerships

DSOE – Directorate of SOE Oversight

DOB – Directorate of Budget

GCCPC – Gambia Competition and Consumer Protection Commission

MPAU – Directorate of Economic Policy and Research

MOJ – Ministry of Justice

NAO – National Audit Office

OP – Office of the President

PS – Permanent Secretary

PURA – Public Utilities Regulatory Authority

Reform Area	Recommendation	Time Horizon	Responsible Agency
<b>1. Priority Recommendations</b>			
<b>SOE Corporate Governance: Ownership and Oversight Function</b>	<b>1. Strengthen institutional arrangements for SOE financial oversight</b>		
	<ul style="list-style-type: none"> <li>Recruit a specialists' team in the new Directorate for SOE Oversight at MOFEA.</li> </ul>	ST	DSOE
	<ul style="list-style-type: none"> <li>Ensure that the new Directorate is held as a centralized SOE oversight unit at MOFEA and operates as the secretariat (executing branch) of the SOE Commission after the new SOE bill is enacted.</li> </ul>	MT	PS, MOFEA
	<ul style="list-style-type: none"> <li>Strengthen MOFEA-SOEs links by convening meetings (initially biannually, but on a quarterly basis over time) with SOE leadership and corresponding line ministries.</li> </ul>	ST	DSOE
	<ul style="list-style-type: none"> <li>Ensure that SOE financial information is timely and comprehensively collected by the new Directorate from SOE audited financial statements.</li> </ul>	ST	DSOE
	<ul style="list-style-type: none"> <li>Build capacity for periodic financial analysis and elaborate a standardized set of key financial SOE statistics and ratios for both individual SOEs and the SOE portfolio in line with the Credit Risk Assessment proposed in the 2021 Framework for the Management of Government Guarantees.</li> </ul>	ST	DLDM and DSOE
	<ul style="list-style-type: none"> <li>Elaborate and keep an updated annual record of the net fiscal impact of SOEs on the budget.</li> </ul>	ST	MPAU
	<ul style="list-style-type: none"> <li>Build capacity for quarterly performance monitoring and evaluation of SOEs that signed performance contracts with the Government. Start with NAWEC and follow up with other potential SOEs.</li> </ul>	ST to MT	DSOE
	<ul style="list-style-type: none"> <li>Build capacity for periodic assessment of major fiscal risks associated to SOEs.</li> </ul>	ST to MT	DSOE
<b>SOE Fiscal Impact</b>	<b>2. Systematize SOEs' relationship with the budget to properly calculate and compensate them for their quasi-fiscal activities to make them financially viable.</b>		
	<ul style="list-style-type: none"> <li>Make the financial relationships between the Government and SOEs fully transparent, so that the magnitude of these transactions can be properly recorded in the budget.</li> </ul>	ST	MPAU, DOB and DSOE

	<ul style="list-style-type: none"> <li>Duly compensate SOEs —through explicit budget transfers— for the actual cost of their public service obligations (profitable or non-profitable) (e.g., NFSPMC/GGC on fertilizer subsidy, NAWEC on tariff subsidy through the RCM).</li> </ul>	ST	MPAU and DOB
<b>SOE Corporate Governance: Transparency, Reporting, and Disclosure</b>	<b>3. Strengthen SOE transparency, reporting and disclosure</b>		
	<ul style="list-style-type: none"> <li>Publish audited annual SOE financial statements on MOFEA’s website regularly.</li> </ul>	ST	DSOE
	<ul style="list-style-type: none"> <li>Prepare SOE report annually and publish on MOFEA’s website, including: (i) a standardized set of key financial statistics and ratios for the SOE portfolio; (ii) annual net fiscal impact of SOEs on the budget; (iii) progress update on KPIs and associated targets for all SOEs signing a PC with the Government; (iv) an assessment of SOE-related fiscal risks focused on largest/financially troubled SOEs; and (v) list of audited SOE financial statements containing qualified opinions and corresponding auditor recommendations.</li> </ul>	MT	DSOE
	<ul style="list-style-type: none"> <li>Ensure that annual audited financial statements reflect the consolidation of each major SOE (parent company) and its subsidiaries (such as GAMTEL and GAMCEL).</li> </ul>	MT	DSOE
	<ul style="list-style-type: none"> <li>Migrate to IFRS for at least top five SOEs by 2019 annual gross revenues: NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC.</li> </ul>	MT	DSOE, NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC
	<ul style="list-style-type: none"> <li>Allow MOFEA to participate in the selection of auditors for SOEs.</li> </ul>	MT	OP/NAO
<b>SOE and the Markets</b>	<b>4. Level the playing field between SOEs and private companies to attract investment</b>		
	<ul style="list-style-type: none"> <li>Separate commercial and non-commercial functions to prevent distortions in pricing and cross-subsidization, either through the implementation of accounting practices or separating the functions into different legal entities.</li> </ul>	ST	DSOE
	<ul style="list-style-type: none"> <li>Introduce competitive neutrality principles in the Competition Act and eliminate regulatory provisions that allow the preferential access to credit (e.g., concessionary loans), essential facilities and key inputs to SOEs below market prices. Eliminate exclusions of statutory monopolies from the Competition Act and subject SOEs to similar market rules as the private peers to improve performance and service delivery.</li> </ul>	ST	GCCPC
	<ul style="list-style-type: none"> <li>Create mechanisms that enable private access to essential facilities on equal terms to those offered to SOEs. For instance, review the PURA regulation to ensure the access to essential facilities operate under the same rules (with respect to price, timeline, coverage, etc.) for private companies and SOEs.</li> </ul>	ST	PURA
	<ul style="list-style-type: none"> <li>Introduce policy instruments to enable competition in certain market segments (e.g., access and interconnection to energy grid coupled with tariff regulation) as an alternative to SOE direct operation.</li> </ul>	ST	PURA
	<ul style="list-style-type: none"> <li>Explore the option to remove the price regulations in fully commercial sectors, where SOEs are present, and implement less distortive targeted compensation mechanisms or other approaches to support vulnerable populations (e.g., vouchers, subsidies on demand), while creating incentives for the private sector to enter.</li> </ul>	ST	DOB, MPAU

	<ul style="list-style-type: none"> <li>Review and adjust regulatory provisions that might inhibit the entry of the private sector in competitive segments and any mechanisms that can shield SOEs from competition (e.g., import bans).</li> </ul>	ST	GCCPC
	<ul style="list-style-type: none"> <li>Review the PPP framework to explore the possibility to open concessions for SOEs operating in contestable sectors (e.g., ports) to attract private investment and improve service delivery.</li> </ul>	ST	DPPP
<b>II. Other Recommendations</b>			
<b>SOE Corporate Governance: Performance Monitoring</b>	<ul style="list-style-type: none"> <li>Promote the signing of multi-year Performance Contracts between individual SOEs, MOFEA and corresponding line ministries structured around relevant and measurable KPIs and associated targets. Focus on top five SOEs: NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC.</li> <li>Include timely submission of audited financial statements a mandatory requirement in performance agreements and for the performance evaluation of CEOs and Boards.</li> </ul>	ST to MT	DSEO, NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC
<b>SOE Fiscal Impact</b>	<ul style="list-style-type: none"> <li>Bring several of the SOEs to financial viability (e.g., NAWEC, GAMTEL, GAMCEL and NFSPMC/GGC). This would involve a combination of cost reductions (e.g., in staffing levels) and adjustments to prices.</li> <li>Formalize external borrowing for the SOE-sector through on-lending agreements. Sign subsidiary loan agreements with SOEs to bind them legally to service those debts.</li> <li>Legally prohibit direct lending among SOEs and by SSHFC (legacy issue) through the new SOE bill/revised Public Finance bill.</li> <li>Include the SOE sector in the 2020 new project selection and appraisal procedure to assess their investment projects with the aim to rationalize the public investment program and to anchor debt sustainability.</li> <li>Replace policy-based subsidies with subsidies paid directly to the beneficiaries (targeting based on means-testing or other policy criteria) to support SOEs' ability to recover their costs, while strengthening their incentives to improve efficiency by removing the 'moral hazard' of subsidies covering their operational losses.</li> </ul>	ST to MT	MPAU, DSEO and SOEs
		ST	DLDM and DSEO
		ST	DSEO and MOJ
		MT	DAC and DPPP&PE/DSEO
		MT	MPAU, DSEO, SOEs

<p><b>SOE Corporate Governance: Boards of Directors</b></p>	<ul style="list-style-type: none"> <li>• Apply the board nomination and appointment procedures required by the Corporate Governance Code —ensuring the participation of OP, MOFEA and corresponding line ministries. Focus on top five SOEs in the first phase: NAWEC, GPA, GNPC, GAMTEL and NFSPMC/GGC.</li> <li>• Empower the SOE Commission to nominate and appoint board members, once the new SOE bill is enacted.</li> <li>• Develop an ownership policy outlining the objectives of state ownership, as well as expectations for individual companies in terms of their performance and adherence to general corporate governance principles.             <ul style="list-style-type: none"> <li>◦</li> </ul> </li> <li>• Empower SOE boards —using further legislation, training, and other relevant tools, as required— so they can fully exercise their functions of strategic SOE oversight and management supervision.</li> <li>• Promote adequate training programs, peer exchanges and learning opportunities for potential candidates and existing SOE board members (for instance, leverage on the recent creation of the Institute of Directors in The Gambia for such purposes).</li> </ul>	<p>MT</p>	<p>DSOE</p>
<p><b>SOE and the Market: Ownership transformation and other alternatives for private sector participation</b></p>	<ul style="list-style-type: none"> <li>• Develop a strategy to attract private investors to SOE markets, opening competitive segments where SOEs operate as de facto monopolies to full competition.</li> <li>• Consider ownership and management transformation methods to attract private investors (e.g., temporal concession of the GPA) as well as temporal or permanent ownership transformation (i.e., divestiture) for SOEs in competitive sectors where there is no clear economic rationale (e.g., GIA can be part of a temporal concession, GAMTEL can be part of a full divestiture option).</li> <li>• Design a system for selecting projects of high priority for the Government, considering a range of instruments: PPPs, concessions, management contracts with private sector, minority stake equity participation, rather than direct SOE participation.</li> <li>• Strengthen the surveillance capacity of sectoral regulators as well as enforcement tools from the competition agency to monitor SOEs and apply similar market rules as for private peers.</li> </ul>	<p>MT</p>	<p>DSOE</p>

## ANNEXES

### Annex 1: Concept and Elements for an Effective Competitive Neutrality Framework

SOEs can enjoy privileges and immunities not available to their private-owned rivals which may distort competition in the market potentially crowding out the private sector. Competitive neutrality (CN) is a set of principles according to which all enterprises, public or private, domestic or foreign, should face the same set of rules, and where government's contact, ownership or involvement in the marketplace - in fact or in law - does not confer an undue competitive advantage on any actual or potential market participant. In this sense, CN is a critical element of an effective competition policy framework. CN policy assumes that markets that are competitively neutral foster a level playing field, which allows resources to flow to efficient producers, regardless of whether they are privately owned or government owned. CN enables competition in the market and results in a more effective use of resources within the economy, thus achieving growth and development.

The extent and effectiveness of CN can be assessed in terms of (i) subsidiarity, (ii) firm-level principles and (iii) economy-wide principles. CN policy provides a regulatory framework within which: (i) public and private enterprises face the same set of rules and (ii) contact with the State does not bring competitive advantage to any market participant. Key analytical elements sustain the implementation of an effective competitive neutrality policy. The competitive neutrality building blocks include: i) the control of state support measures to SOEs in order to minimize anti-competitive market distortions; and ii) specific measures to level the playing field between public and private operators, such as the implementation of regulatory neutrality or the need for SOEs to achieve a commercial rate of return.

## Annex 2: The Gambia: Competitive Neutrality Gap Analysis

### Competitive neutrality gap analysis and benchmarking

#### The subsidiary role of the State in the economy: no economic criteria for setting up or retaining SOEs

##### Firm-level principles: Separation of SOE commercial and non-commercial activities

	1 Streamlining the operational form of government business	2 Identifying the costs of any given function	3 Achieving a commercial rate of return
The Gambia	<ul style="list-style-type: none"> <li>There is no legal or in practice separation of SOEs performing commercial and non-commercial functions.</li> </ul>	<ul style="list-style-type: none"> <li>No cross-cutting rules for separating commercial and non-commercial activities of SOEs.</li> <li>Often, SOEs provide commercial goods/services and public service obligations without structural/accounting separation.</li> </ul>	<ul style="list-style-type: none"> <li>No cross-cutting rules for achieving a specific rate of return, with exception of some SOEs (e.g., NAWEC) with recent performance contracts.</li> <li>No ownership policy requiring a rate of return.</li> </ul>
Benchmark	<ul style="list-style-type: none"> <li>Legislation requires business separation of SOEs when performing activities of public obligations vis-à-vis commercial (profit-making) functions under market conditions.</li> </ul>	<ul style="list-style-type: none"> <li>Accountancy for separating commercial and non-commercial activities of SOEs</li> <li>Clear allocation of competencies exists to monitor and control SOEs</li> </ul>	<ul style="list-style-type: none"> <li>SOEs' commercial operations and investments are required to have positive NPV, market consistent rate of returns and to be measured based on private sector performance</li> </ul>

##### Principles embedded in cross-cutting regulatory frameworks and sectoral policies

	4 Regulatory neutrality	5 Public procurement	6 Tax neutrality	7 Debt neutrality and outright subsidies
The Gambia	<ul style="list-style-type: none"> <li>SOEs are subject to the competition law and public procurement law.</li> <li>However, there are some limitations in enforcement of sector and market regulations (e.g., telecom fees)</li> <li>Certain sectors have independent regulators, but some SOEs still have regulatory functions.</li> </ul>	<ul style="list-style-type: none"> <li>SOEs follow the procurement law and procedures as the private sector.</li> </ul>	<ul style="list-style-type: none"> <li>Majority of SOEs are subject to the same tax law and corporate rates as the private entities.</li> <li>Some SOEs benefit from tax law exemptions</li> </ul>	<ul style="list-style-type: none"> <li>SOEs benefit from concessionary terms to access loans through other SOEs that are not available to the private sector.</li> <li>SOEs benefit from State links to access to essential facilities de facto free of charge.</li> </ul>
Benchmark	<ul style="list-style-type: none"> <li>Companies compete on a level playing field.</li> <li>Sectors where competition is feasible are open to private investment.</li> <li>There are independent regulators</li> </ul>	<ul style="list-style-type: none"> <li>Market based competition in public procurement</li> <li>Bids / auctions designed to reduce the risks of bid rigging</li> </ul>	<ul style="list-style-type: none"> <li>Tax exemptions, subsidies and debt guarantees granted following competitive neutrality principles and transparent</li> </ul>	

#### Control of state support measures to SOEs and private sector operators

#### Level playing field in the market between SOEs and privately-owned operators



## Annex 3: Regimes of SOEs Incorporated through Special Enabling Acts (Statutory Corporations)

The Gambia has both SOEs incorporated under company law (five SOEs: Gambia International Airlines, GAMTEL, GAMCEL, Gambia Groundnut Corporation/National Food Security Processing and Marketing Corporation, and NAWEC) and those created and governed by specific enabling acts (eight SOEs listed below). The enabling acts regulate the SOE's role in its respective market or markets. Notably, none of the enabling acts establish explicit limits to SOE's business activities. However, they do provide for specific exceptions on the application of the legal framework, other regulatory advantages over actual or potential private competitors, and/or grant SOEs regulatory functions over their respective markets.

- **Gambia Civil Aviation Authority.** The Gambia Civil Aviation Act of 2018 includes the following provisions:
  - The authority oversees the safety and security of civil aviation in The Gambia, including regulatory functions of, among others, navigation security and air navigation in general (section 19 (1) & (2))
  - The Government may give or guarantee loans and grants to the Authority for its capital expenditure (Section 27 (1)).
  - The President can exempt the authority from taxes (section 31).
  - The Act does not apply to aircraft belonging to or exclusively employed in the services of the Government (Section 137).
  
- **Gambia Port Authority.** The Gambia Ports Act of 1972 includes the following provisions:
  - The authority regulates, among others, the use of the Port of Banjul and any other port facilities, as well as inland water transport, environmental issues, and other issues related to water transport in general (Section 7 (1)).
  - The authority has an exclusive right to provide and operate port facilities, except under a license granted under the Act (Section 7 (2)).
  - The authority has an ample scope of to carry on businesses associated or ancillary to maritime transport services (Section 8 (1))
  - The Government may guarantee the performance of any obligation undertaken by the authority (Section 18 (4)).
  - The authority has the duty to ensure its revenues are sufficient to produce on the fair value of its assets a reasonable rate of return as determined by the Minister (Section 20 (1) & (2))
  - When required to provide public service obligations (“unremunerative services”) the authority is entitled to receive grants from the Ministry of Finance (Section 21 (1) & (2))
  - The authority is exempt from income tax and import duties, and from other taxes determined by the Ministry of Finance (section 26).
  - The authority has a special civil liability regime when providing goods/services in connection with its activities (Sections 59-69) and a special framework for legal proceedings which includes, among other things, restrictions of execution against its property (Sections 70-78).

## Annex 4: Policy Recommendations to Level the Playing Field between SOEs and Private Companies

Competitive neutrality principle	Benchmark Description of the best practices to minimize market distortions in sectors with presence of SOEs	Main findings in The Gambia	Policy Recommendations
Separation of commercial and non-commercial activities	Legislation requires separation of commercial and non-commercial activities (e.g., obligations for providing universal services, community services, public services).	<ul style="list-style-type: none"> <li>– SOEs participate both in non-commercial and commercial segments and exploit this position to exclude private competitors in the latter (e.g., NFSPMC/GGC, GAMTEL).</li> </ul>	<ul style="list-style-type: none"> <li>– Unbundle commercial and non-commercial functions through separated legal entities. It can be done through accounting practices to separate the revenues and assets from different business lines or by creating legally separated entities for the commercial segment (open to private investors), while the non-commercial functions can be performed by SOEs.</li> </ul>
Cost allocation	Rigorous cost allocation methods are followed to avoid cross-subsidies between commercial and non-commercial activities, and SOE performance is objectively assessed based on financial indicators.	<ul style="list-style-type: none"> <li>– SOEs can cross-subsidize costs and activities to offer prices below private competitors in the commercial segment (e.g., NFSPMC/GGC, GAMTEL)</li> </ul>	<ul style="list-style-type: none"> <li>– If legal separation is not possible, at least apply accounting practices to separate and allocate resources and costs to commercial and non-commercial activities.</li> </ul>
Achieving a commercial rate of return	SOE commercial operations are required to earn a market-consistent rate of return of their assets and investments (positive NPV) that justify the retention of assets in the business and pay commercial dividends.	<ul style="list-style-type: none"> <li>– SOEs are not required to have positive NPV in investments (GCAA, GIA, GPA, GNPC, GPPC). Only some case-by-case SOEs have performance contracts including specific targets (e.g., NAWEC).</li> </ul>	<ul style="list-style-type: none"> <li>– Establish clear requirements on benchmarked rate of return on the assets held by the government in contestable and commercial sectors.</li> <li>– Review regulations in commercial sectors to allow competition such as licensing requirements and mitigate the use of regulated prices in commercial sectors.</li> </ul>

Regulatory neutrality	<p>Government and private sector businesses should as close as possible comply with equivalent regulations and legal obligations. In case of remaining differences, the legal requirements do not affect the ability to compete of the private sector.</p>	<ul style="list-style-type: none"> <li>– SOEs subject to similar rules in terms of competition law, procurement law.</li> <li>– Differences in enforcement of certain sectoral regulations might benefit SOEs vis-à-vis private competitors.</li> </ul>	<ul style="list-style-type: none"> <li>– Review the regulatory framework in sectors where competition is viable and open commercial market segments to private investment.</li> <li>– Level the playing field, so SOEs are also subject to antitrust law, bankruptcy law and equivalent quality requirements as private peers.</li> <li>– Separate regulatory functions in independent entities from SOEs (board members should also differ).</li> </ul>
Debt neutrality	<p>Government business is subject to similar borrowing costs and access to credit versus private peers.</p>	<ul style="list-style-type: none"> <li>– SOEs enjoy preferential access to reduced-interest loans and extended repayment periods through other SOEs.</li> </ul>	<ul style="list-style-type: none"> <li>– Implement hard budget constraints, ensure that the rates charged on public sector loans are similar to those faced by private investors in competitive sectors.</li> </ul>
Tax neutrality	<p>Government business and private businesses are treated equally or at least equivalently under the tax law such that SOEs do not receive tax exemptions or benefits that are not available under the same conditions to private competitors.</p>	<ul style="list-style-type: none"> <li>– Some SOEs have received waivers for tax payments even when carrying out commercial activities.</li> </ul>	<ul style="list-style-type: none"> <li>– Ensure any tax exemptions, subsidies and debt guarantees are granted in similar conditions to both SOEs and private investors.</li> <li>– Ensure commercial activities of SOEs are subject to equivalent VAT and income tax as private competitors.</li> </ul>

Public procurement	<p>Procurement law and procedures are applicable independently of the ownership of the provider.</p> <p>Open, transparent, and competitive bidding procedures are in place to level the playing field between private companies and SOEs.</p>	<ul style="list-style-type: none"> <li>– SOEs are subject to the same procurement law and provisions as private firms.</li> </ul>	<ul style="list-style-type: none"> <li>– Ensure equivalent conditions, and legal and technological requirements, are applied to SOEs and private providers.</li> </ul>
Access to state-aid	<p>SOEs and private companies face similar costs of capital, labor, access conditions to inputs and infrastructure.</p>	<ul style="list-style-type: none"> <li>– SOEs benefit from below-market prices for access to infrastructure or essential inputs.</li> </ul>	<ul style="list-style-type: none"> <li>– Ensure time-bound SOE access to state-aid under clear and transparent criteria. Include that criteria in the revised Public Finance Act</li> </ul>

Source: World Bank staff consolidation.

## Annex 5: Fiscal Implications of Planned and Proposed SOE Reforms

**Reducing the fiscal burden of the SOE sector will only be possible if there are major structural reforms to the sector.** In this annex we examine the reforms that are planned and/or currently being implemented and those that are under consideration and assess their potential impact on the Government budget. We focus on reforms that have the potential to make a substantial difference in terms of raising revenue and/or reducing costs.

### NAWEC

**Although its financial performance has improved since 2016, NAWEC still poses substantial fiscal risks, given its size, strategic importance in the economy and very large investment requirements.** As such, reforms to improve its financial performance are a priority for the Government. The reforms that are likely to have a substantial financial impact are the following.

1. 1. NAWEC's balance sheet has been restructured, with approximately three quarters of its debt either written off or assumed by the Government.
2. 2. A new tariff methodology has been developed by the Public Utilities Regulatory Authority (PURA). The new methodology will aim to align average power tariffs with cost recovery levels, including debt service costs. The methodology incorporates automatic adjustments for changes in fuel prices and exchange rates. It has not been implemented yet.
3. 3. The Government will put in place a Revenue Compensation Mechanism (RCM). This will provide subsidies from the budget to compensate NAWEC for any shortfall between the tariff required to cover the full cost of supply computed under the PURA methodology and the actual tariff approved by the Government. The subsidy will be capped at 7.5 percent of the required revenue.
4. 4. NAWEC's commercial losses due to the non-payment of utility bills by the Government and public agencies are being addressed. Public sector arrears to NAWEC were paid in 2020. To prevent future arrears from being incurred, MOFEA is putting in place a mechanism to ensure that adequate budgetary funds are allocated and ear-marked to enable critical public sector facilities to pay their utility bills. Facilities categorised as non-critical will install pre-payment meters.
5. 5. NAWEC is being restructured and will establish new Treasury and Investment Appraisal functions to improve its financial management.
6. 6. Over the medium to long term, NAWEC aims to shift the sources of its power supplies to reduce its current dependence on heavy fuel oil (HFO) generation. All existing power generation plants use HFO, but many of them, comprising around two thirds of existing generating capacity, are scheduled to be de-commissioned in the 2020s. New sources of power will include generation by renewables (e.g. solar power) and imports from the West African Power Pool (WAPP). These sources will be cheaper and less environmentally damaging than HFO generation. Power connections will be made to Senegal in 2021 and Guinea in 2023 to enable The Gambia to access the WAPP.

**The fiscal risks posed by NAWEC mainly arise because it cannot cover the full cost of service from the revenues it earns from its customers, hence it incurs a QFD.** The reforms to NAWEC aim to reduce substantially the average cost of supply per unit of power, mainly by replacing high-cost sources of domestic power generation with a combination of cheaper domestic sources and power imports, and by reducing technical and commercial losses. The long term least cost power generation expansion plan being developed for NAWEC includes a base case in which the average real cost of power generation is reduced by 30 percent between 2020 and 2030.<sup>113</sup> By reducing average costs of supply, NAWEC should be able to fund the full cost of supply from its revenues, plus any income it receives through the RCM, while still allowing tariffs to be lowered in real terms over

113 ECA/Norconsult/Waya (2021b).

the long term. Furthermore, by purchasing power from the WAPP or IPPs, NAWEC's need to invest in its own generating capacity is reduced and thus the need to contract public debt to finance this investment is reduced.

## Telecoms

**The reforms to the telecoms SOEs are still in their very early stages.** Options for reform have been prepared by MacMillan Keck (2019) in a study funded by the World Bank. The MacMillan Keck study organizes the reform options into the four areas of the telecoms business in which GAMTEL/GAMCEL operate: i) the wholesale national fibre infrastructure, ii) GAMCEL's core mobile voice and data retail business, iii) GAMTEL's core fixed voice and data retail business, and iv) the Gambia Submarine Cable Company's wholesale international bandwidth business. The Government has, so far, initiated two reforms.

**First, the Government has decided to establish, as a special purpose vehicle (SPV), the Gambia Fibre Optic Company.** This will eventually take over and operate the terrestrial national fibre network (which mainly comprises the ECOWAS Regional Backbone Infrastructure (ECOWAN) and the National Broadband Network (NBN)) and which is currently operated by GAMTEL. The SPV is designed to allow private sector participation, and a financial transaction advisor has been hired to provide advice on implementation. The primary motivation for the reform is to attract more private operators to use the terrestrial national fibre network and thereby earn more income from these assets.

**The Government has invested around USD 58 million in the ECOWAN and NBN assets, using funds from external lenders.** It has to service this debt over the next 20 years, making debt service payments averaging around USD 5 million annually. In principle, the cost of debt service could be recouped from fees charged to telecoms operators for using the network, but utilization by private sector telecoms operators has been low; instead, some of them have invested in competing facilities. Consequently, the fees earned from the network cover only a fraction of the Government's costs of servicing the network related external debt and GAMTEL's costs of operating the network. In 2017, GAMTEL received only USD 360,000 in revenues from the use of ECOWAN, which was less than a tenth of the annual debt service costs on the ECOWAN loan and the annual operating and maintenance costs.<sup>114</sup> Hopefully, the SPV can attract greater private sector use of the terrestrial fibre optic network. If so, the higher incomes earned can be used to reimburse the Government for at least part of the budgetary costs of servicing the ECOWAN and NBN related debts over the next two decades. However, it would also mean that GAMTEL would incur a further loss of income, worsening its already very weak financial position. Nevertheless, the net fiscal impact will be positive if more income can be earned from private sector use of the network.

**Second, the Government has drawn up a Social Plan for retrenchment of GAMTEL/GAMCEL staff which aims to cut operating costs of these SOEs and to prepare these SOEs for a possible divestment.** The Social Plan entails reducing total staff of the two SOEs by 875 at an estimated total cost, in 2019, of GMD 287 million. The cost will be funded by Government with World Bank support.

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114 MacMillan Keck (2018 and 2019).



## Annex 6: Methodologies and Data Sources for Long-term Projections of the Fiscal Costs of SOE Reforms

- The projections of debt servicing costs (interest and amortization) are from MOFEA and budget estimates. Scheduled debt payments by SOEs to Government are from MOFEA (these are only included in the baseline reform scenario with NAWEC reforms).
- The NFSPMC/GGC fertilizer subsidies are projected by assuming that subsidies per kilogram will be equal in real terms to their 2018-20 average and that the quantities of subsidized fertilizer sold to farmers will increase at the same rate as real growth of agricultural value added.
- The NFSPMC/GGC groundnut subsidy is projected by assuming that the volume of groundnuts purchased will equal the average of 2018-20 and that the subsidy per metric ton will be constant in real terms and equal to the average level during 2018-20.
- The NAWEC operating loss in the no reform scenario is projected by assuming that power supplies will increase over the forecast horizon in line with the projections in the NAWEC financial model but that the average costs of supply (per unit of powder generated) will remain at the level of GMD 8.59 per kWh in real terms (the projected level in 2021 in the NAWEC model). Technical and commercial losses are projected to be constant at 22 percent and 7 percent respectively. We have adjusted the NAWEC loss to remove depreciation and interest payments to avoid double counting the cost of its capital, which is also a component of Government interest payments and the capital investment requirements of NAWEC. Power tariffs are assumed to be constant in real terms at 2021 levels.
- The GAMCEL and GCAA operating losses are taken directly from the projections in the 2021 budget annex. These cover the period 2020-25. The projections for 2026-30 are extrapolations of those in the budget annex.
- Capital investments are based on the estimates in Table 7. We have also included USD 15 million of investments for GAMCEL. The investment spending, in real terms, in each year of the forecast period, is set at one tenth of the total investment expenditure over the 10-year forecast period.
- Capital transfers entail the assumption by the Government of SOE debt. We assume that the Government will have to take over all the GAMCEL debt and all the remaining SOE debt to the SSHFC that is in arrears.
- In the baseline reform scenario, we assume that NAWEC will implement the least cost power expansion plan and that tariffs will be set by PURA to fully cover required revenue, which includes all operating and capital costs. We have used the projections in the NAWEC financial model, which estimates required revenue and the associated average tariff.

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