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Senegal Rural Land Policy

Modernizing the Rural Land Sector

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Support to Senegal Rural Land Policy ASA

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Modernizing the rural land sector

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Acronyms

- AFD: French Development Agency / *Agence Française de Développement*
- CNRF: National Commission on Land Reform / *Commission Nationale de Réforme Foncière*
- DGID: General Directorate of Taxes and Land Administration / *Direction Générale des Impôts et Domaines*
- MAER: Ministry of Agriculture and Rural Equipment / *Ministère de l'Agriculture et de l'Équipement Rural*
- MCA: Millennium Challenge Account
- MEFP: Ministry of the Economy, Finance and Planning / *Ministère de l'Économie, des Finances et du Plan*
- NICAD: Cadastral Identification Number / *Numéro d'Identification Cadastral*
- PACR: Rural Communities Support Program / *Projet d'Appui aux Communautés Rurales*
- PAP: Priority Action Plan / *Plan d'Actions Prioritaires*
- PDIDAS: Senegal Inclusive and Sustainable Agribusiness Development Project / *Projet de Développement Inclusif et Durable de l'Agribusiness au Sénégal*
- POAS: Land Use Plan / *Plan d'Occupation et d'Affectation des Sols*
- PSE: Emerging Senegal Plan / *Plan Sénégal Emergent*
- SAED: Agency for the Development of the Senegal Delta and the Senegal and Faleme River Valleys / *Société d'Aménagement et d'Exploitation des Terres du Delta du fleuve Sénégal et des vallées du fleuve Sénégal et de la Faleme*

Abstract

Context. The National Domain Law allows Senegalese municipalities to grant simple land use rights to their members. This measure appears to be increasingly less adapted to changes in the economy and rural societies. In some regions, land access has evolved from tradition-based to market-based regulation. Yet, legislation that has been in force for over half a century ignores land transactions, and the gap between the law and land tenure practices continues to grow. This gap has led to uncertainty concerning land rights, a source of conflict and an obstacle to investments by both family-run farms and agribusinesses. Since 1996, Senegal has made efforts to implement a new land tenure policy adapted to current changes in the rural environment, but successive attempts to reform the system have not succeeded, raising questions about the methods used so far.

Aim. The Emerging Senegal Plan (PSE) announces the implementation of a land reform for the period 2019-2023 and considers a series of priority actions in the land sector. Taking the orientations of the PSE into account, the aim of this policy note is to: (i) draw attention to the gap between the law and land tenure practices; (ii) show its negative impact on the development of rural areas; (iii) confirm PSE orientations in favor of a progressively implemented land reform based on a pragmatic approach; and, finally, (iv) propose operational recommendations aimed at the generalized registration of land rights.

Expected results. This note proposes an initial global framework for the implementation of a rural cadastre specific to the Senegalese context. The suggested approach intends to bring together the knowledge of rural communities about their land resources and the technical capabilities of the Senegalese land administration (DGID) in order to establish an exhaustive registration of rural plots. Experience acquired from projects like those of the PDIDAS and of the DGID in terms of Land Bureaus and of “secure deliberations” resulting in the issue of a Certificate of Occupancy with a NICAD, can provide the foundation for the design of a rural cadastre. This note also provides for a revision of the legal framework to eventually make it possible to consider usage rights as real rights as soon as the conditions necessary to validate the property are met (site survey, mapping and registration in a land register). This note proposes a strategy for a “smooth” land reform.

I. Introduction: A land sector reform dictated by changes in the rural environment

1. The Senegalese legal and institutional framework is more than half a century old.

Land tenure management in rural Senegal is based on a legal framework established at the time of Independence¹ and on a system of customary tenure that was never eliminated by the legal system. The 1964 law contains innovative legislation for its time. Just after Independence, it introduced an original approach to the national domain with the intention of doing away with the overlapping of customary and administrative systems, while maintaining community-based land management. Thus, for over 50 years, the municipalities have been responsible, under the control of the prefectural administration, for the management of land in the national domain, i.e., the majority of land in rural Senegal. Land commissions were established to complete this framework, but no accompanying measures (tools, training) were put in place to ensure its success, and its flawed implementation led to clientelistic practices. Rural councils are therefore authorized to deliberate on land allocations that bestow a personal usage right that is neither transferable nor transmissible and that is theoretically limited to members of the rural communities alone. In other words, no direct land transaction (inheritance, sale, subdivision, rental) is authorized within the current legal framework. The granting of real rights remains a procedure exclusively reserved for the State. All persons desiring a land title or a lease must request the registration of the land in the name of the State, and then pursue a transfer of ownership (land title) or a dismemberment of the property acquired from the State (emphyteusis, surface rights). Given that the land administration has a limited number of employees, particularly in rural areas, this relatively long and costly procedure is only implemented for a limited number of plots. Consequently, the large-scale registration of land rights is severely restricted by the limited capacity of the municipalities in terms of land management and the current scope of the administration.

2. The impact of an inadequately enforced legal system on rural development.

Even though the legal framework has not changed much over the past 50 years, the countryside has nevertheless undergone deep transformations. As a result of large-scale irrigation projects, urban expansion and the development of agribusiness, the model of the 1960s, based on the granting of usage rights to community members alone, is no longer relevant. Within the current economic context, land transactions have become rife² and contribute to the development of an undocumented land market, on the periphery of the legal framework. Senegalese farmers are, in fact, in a situation of illegality when they sell, inherit or rent the land that they cultivate. Due to this gap between the legal system and land tenure practices and the limited capacity of

¹ By Law No. 64-46 of June 17, 1964, related to the national domain, Law No. 76-66 of July 2, 1976, regarding State-owned land and, more recently, by Law No. 2011-07 of March 30, 2011, concerning land ownership.

² In the region of Saint-Louis, 67% of the land was acquired through procedures that did not comply with the legislation (PACR, 2011).

institutions responsible for land tenure, rural land rights are almost never recorded despite the fact that land registration is crucial to development. The absence of clearly documented rights complicates opportunities for public and private investments. It maintains a climate of conflict: competition for access to land, disputes concerning investments often qualified as land grabbing³, conflicts of identity around land in areas where farmers and breeders co-exist. Because of the lack of information concerning land tenure, property taxes are almost non-existent, depriving municipalities of a basic resource, and compensations linked to evictions on the ground of public utility or the construction of infrastructures are very complicated and costly to implement. The land sector is one of the factors standing in the way of rural development today. It has an impact on different sectors: private investment, agriculture, energy, the environment, decentralization, land-use planning, stability and social peace, and is a detriment to the attractiveness of Senegal. Everyone agrees today on the necessity of a land reform that has been in limbo for 20 years now.

3. The constitutional principle of parity between men and women does not apply to land access. The 2001 constitution and the legal framework created by the 1964 law reinforce equal rights between men and women for access to land. However in practice, land transfer is based on customary rules that conform to a patriarchal regime, meaning that landowners are almost always men⁴, regardless of the contribution of women to agricultural production. When women succeed in acquiring the right to a piece of land, it is often very small. Widows and divorced women can lose their right to land that they cultivate and often find themselves forced to return to their family in order to have a meager plot for themselves. The decentralization of the management of the national domain had no effect on the recognition of women's land rights: they have little representation in local land management bodies, and rural councils generally deliberate in favor of attributing land to men. Inequality in terms of land rights recognition is deeply rooted in people's minds⁵. To have access to land, women, like young people, depend either on the head of the household when it is a question of inheritance, or on an individual when it is a question of different types of land leases. In both cases, these direct transactions, which circumvent the rural council's allotment and abandonment procedures, are theoretically illegal. Accessible and transparent tools that would allow these transactions should contribute to the improvement of land access conditions and benefit the most vulnerable groups.

4. The pursuit of the land reform is clearly expressed in the orientations of the Emerging Senegal Plan (PSE, 2019-2023). The Government of Senegal recognizes that land access is one of the conditions for economic emergence and intends to reform the land sector over the next five years. Land access is one of the PSE's six planned reforms. *“Senegal will pursue reforms linked to land access. It will therefore be necessary to establish a universal cadastre, to accelerate land tenure security in rural areas through the granting of property titles,*

³ We can mention the cases of Fanaye, Mbane, Gnith, Doddel, Demette and Diokoul concerning agribusiness, or that of the Sinou coal plant for the energy sector.

⁴ The land occupancy and rights survey taken by the MCA shows that 80% of land titleholders in Podor are men (MCA, 2012)

⁵ In 2012, 43% of men and 38% of women thought that men and women should not have equal access to land. GESTES/UGB, 2012. Senegal: Rural women confronted with the dilemma of land citizenship.

*and to finalize the dematerialization of the electronic land register”*⁶. The ESP is thus considering a set of priority actions between 2019 and 2023. “*These include: (i) the gradual transformation of the current occupancy rights of rural inhabitants into real rights, which would lead to a degree of controlled land transferability, taking the need to protect pastoral, fishing and forest zones into account; (ii) investment in land management instruments by land administration services; (iii) the search for a fair balance between municipal management and the supervision of land transactions by the central government; and (iv) the pursuit of the streamlining of registration in the urban land register”*⁷. These measures should lead to an improvement of: (i) social cohesion - through the impact of the clarification and protection of property, usage and passage rights on the reduction of conflicts; and (ii) the business environment - as a result of facilitating investments. It will be necessary to create a situation favorable to investment by family-run farms and agribusinesses, to the development of credit thanks to bank guarantees in the form of land documents, and to a property tax system that will benefit municipal development. These objectives differ depending on the groups of stakeholders involved. Breeders want to maintain access to vital spaces for breeding; municipalities want to retain jurisdiction over local management as it is defined in the 1964 law; whereas the private sector hopes to have easier access to land allocated by the government and to no longer have to negotiate with local residents and initial rights holders.

5. **The major challenge** is therefore to establish a land management system that is efficient, transparent, sustainable and at a cost accessible to the government and to its users that will permit: (i) the protection of existing rights of family-run farms and breeders; (ii) the recognition of local land exchange practices; (iii) easy and secure access to land for investors, particularly within the framework of dedicated economic zones; and (iv) the strengthening and supervision of local land management capacities. The formalization of existing rights – usage and property, individual and collective – within a relatively short time and at affordable prices thanks to local land services that master the appropriate technologies make it possible to combine the interests of different groups of stakeholders. This new land management system must be capable of registering successive transactions, both simply and inexpensively, if it is not to become obsolete within the first years of its existence. It must also be consistent with current public policy orientations and the international frameworks of which Senegal is part⁸.

⁶ Republic of Senegal, 2018. Emerging Senegal Plan, Priority Action Plan and Macroeconomic Framework.

⁷ Republic of Senegal, 2018. Emerging Senegal Plan, Priority Action Plan. Strategic Aim 5: To strengthen territorial governance.

⁸ Act III of decentralization; sectoral policies concerning the fight against poverty, food safety and the promotion of investments; harmonization of sub-regional policies of the CEDEAO, UEMOA and OHADA; guidelines of the African Union Commission and the Economic Commission for Africa for land policies in Africa; Voluntary Guidelines on Responsible Governance of Tenure of Land and the Principles for Responsible Investment in Agricultural.

II. Constraints and opportunities

6. **Attempts at land reform have remained unsuccessful for the past 20 years.** The Senegalese government has attempted to reform its land tenure policy several times over the years, without any significant progress to date. In 1996, an innovative and relevant Land Action Plan proposed three land tenure policy strategies: (i) status quo; (ii) a free land market with real rights; and (iii) a mixed option (real rights and usage rights), where rural communities have the possibility to transfer land within their private domain that consists of real rights. Unfortunately, these proposals were not followed up. In 2004, Senegal's Agro-Sylvo-Pastoral Act considered the land reform as one of its strategic axes and, within two years, in May 2006, announced a new property law that has not yet been enacted. In 2005, a National Land Rights Reform Commission put forth proposals that went no further. At the end of 2012, a National Commission on Land Reform (CNRF) was created. Following a long process of nationwide consultation, it formulated land tenure policy orientations that were then presented in the Land Policy Document in October 2017 but never officially validated. To complicate matters, the CNRF was eliminated at the end of 2017.

7. **What lessons can be learned from these attempts?** The different attempts at reform met with: (i) *operational difficulties*: the number of different commissions proved to be excessive, while at the same time under-representing civil society and the private sector. Activities were focused on dialogue and reflection instead of on specific references capable of informing the debate⁹; (ii) *unresolved issues*: discussions concerning land reform became mired in complex land tenure policy questions such as the legal value of rights, the development of a land market, or the respective role of the government and the municipalities concerning the management of the national domain. These issues were never resolved and a vision shared by all the stakeholders in the land sector has yet to emerge.

8. This chain of events demonstrates that **reform processes based on administrative commissions, long consultation procedures, studies and successive workshops did not succeed.** Instead, it would be preferable to draw on past experiences and current field practices to rekindle the debate on the basis of innovations tested and evaluated by the stakeholders. A land reform does not necessarily require a new land policy document. An ongoing process based on concrete actions, accompanied by adjustments to the legal and institutional framework, would appear to be more effective.

9. **Senegal has obvious opportunities to acquire a cadastre with the participation of the municipalities.** In Senegal, like in many other African countries, land status is evolving at different speeds and depending on local contexts, from a common good to a transferable capital. In some regions where agricultural production systems tend to be individualized and where the land market is active, a social demand to document land transactions and to represent plots at the local level exists. This trend towards the recording and mapping of land rights is carried out with

⁹ With the notable exception of the POAS (Land Use Plans).

the help of local technicians and the validation of the municipality. In this new context of land commodification, the challenge is to have the documents necessary to prove the right to the land to the closest administrative authority. Several African countries have developed land policies to accompany this evolution and have initiated massive land rights registration campaigns that involve both the communities and the municipalities.

Table 1: Number of registered plots in several sub-Saharan African countries

	Registered plots (2018)	Objectives
Ethiopia	14,000,000	
Rwanda	10,000,000	National coverage
Mozambique	500,000	5,000,000, revised to 2,500,000 before 2024
Madagascar	260,000	2,500,000 before 2023
Côte d’Ivoire	4,000	1,000,000 before 2023

10. **A new land tenure policy must satisfy the need to document a land market** in the process of development but ignored from a legal point of view. It should be recalled that since 1964, the municipalities have the recognized competence to validate usage rights and that Act III of decentralization maintains measures favorable to municipal land tenure management. For the municipalities, land jurisdiction is a guarantee of the protection of existing rights. For others, it is risky to entrust the management of the national domain to the municipalities alone, given the many cases of spoliation and the need for the State to maintain a degree of control over rural lands. Both of these positions are legitimate and a solution would be for the decentralized technical services and the municipalities to implement a single and unique system, i.e., a rural cadastre created in tandem by the municipalities and the competent government services. The institutional framework is favorable to the implementation of this solution: (i) the DGID is looking for ways and means to establish a national cadastre; (ii) a Local Government Directorate recently created within the Ministry of Finance and Planning (MEFP) helps municipalities to manage their land and to promote their financial autonomy; and (iii) the experience gained from the different operations including that of the PDIDAS in terms of Land Bureaus and secure deliberations that result in the issue of a Certificate of Occupancy with a NICAD ¹⁰, provides the essential elements for a rural cadaster.

¹⁰ Cadastral Identification Number (Numéro d’Identification Cadastrale), attributed by the technical services of the DGID.

11. **The experience of the PDIDAS in terms of land tenure: Land Bureaus and secure deliberations.** Since 2016, the PDIDAS has developed pilot actions that provide the foundation of a rural cadastre¹¹. Nine Land Bureaus were established in the municipalities around Saint-Louis and Lake Guiers. They are responsible for issuing “Certificates of Occupancy” in accordance with current legislation for the national domain. This operation, undertaken in 2017 and inspired by preceding operations¹², corresponds to a demand to better formalize usage rights. These rights, normally granted by simple deliberation of the rural council, are now the object of a more rigorous procedure with a systematic land survey, mapping of the plots, control by an ad hoc commission, registration in a specific register, quality control, integration into the Land Information System (LIS) and attribution of a NICAD. This operation has been widely successful: 23,000 demands were submitted to nine municipalities in less than a year. In October 2018, 7,000 plots for a total of 28,000 ha were surveyed, and half of them were registered in the municipal register. Some 3,000 plots have already been subject to a “secure” deliberation, known as such because of the different levels of control – by the DGID and the prefectural services – linked to this new procedure. At the same time, the DGID and its regional services in Saint-Louis have begun a breakdown of municipal lands into cadastral divisions in order to be able to attribute a NICAD. This operation therefore contributes to a cadastral operation in rural areas, bringing together the local intervention capacity of the municipalities with the technical competence of the services of the DGIS. Other mayors, elected in municipalities outside of the PDIDAS intervention zone, also expressed the desire to be equipped with a Land Bureau.

III. Policy options: preliminary proposals to improve the rural land sector

12. **Two options to improve the rural land sector.** The first option is to set up a new commission responsible for the reshaping of land policy¹³, consultation with stakeholders and the formulation of legal adjustments to be submitted to the government, followed by a sectoral action plan. A second option would focus on the improvement of existing tools and, on the basis of lessons learned, the adjustment of the legal and regulatory framework. The first option is risky: experience has shown (i) the fragile nature of a process based on dialogue alone, and (ii) the need to supplement dialogue with practical and proven experience. The creation and institutional anchoring of a commission are also issues with high stakes that can lead to additional delays, slowing down the implementation of a new land tenure policy. On the other hand, Option 2, of a more pragmatic nature, can be implemented immediately because it can develop in accordance with the current legal framework and requires no immediate modification of existing legislation. Moreover, this option is consistent with the orientations of the PAP of the ESP in favor of a universal cadastre¹⁴. Its implementation does not require the creation of an actual commission. However, the creation of a dedicated operational task force will facilitate the coordination of activities.

¹¹ See Appendix 3.

¹² Rural Communities Support Program (PACR); financing: AFD and MCA land project.

¹³ Taking account of the work of previous commissions and especially the CNRF.

¹⁴ PSE/PAP, p. 106.

13. This second option includes two successive steps: (i) first, *the progressive implementation of a rural cadastre*, which will take place in successive stages depending on the regional contexts and the available resources; (ii) second, *a reform of the legal framework* developed as a function of the results of the rural cadastre, in view of an evolution of usage rights towards real rights if the registration procedures turn out to be sufficiently reliable for a guarantee of rights by the State. These two steps are detailed in the matrix below:

Table 2: Reform matrix

Objectives	Chronology	Indicators
Creation of a task force dedicated to the development of a National Plan for a Rural Cadastre	Month 1	Ordinance or circular for the creation of a task force dedicated to the development of a National Plan for a Rural Cadastre, with representatives from civil society.
Presentation of a National Plan for a Rural Cadastre	Year 1	Document available, presented to the stakeholders, validated.
Training of a Land Engineer	Year 1	Launch of a first curriculum
Creation of a Land Observatory	Year 1	Ordinance or circular for the creation of a Land Observatory, with representatives from civil society. The Observatory will be primarily responsible for the capitalization of the first actions in the field.
Establishment of Land Bureaus	Year 2	120 Land Bureaus established
Land Information System	Year 2	LIS operational in two regional offices
New orientation law	Year 3	Draft of the reform of the 1964 law
Land regularization campaign	Year 2 to 5	300,000 Certificates of Occupancy with a NICAD

1. National Plan for a Rural Cadastre – Year 1

14. **Creation of a task force.** The establishment of a rural cadastre is national in scope and requires the development of a plan by a dedicated task force. This technical team, of limited size and under the authority of the MEFP¹⁵, could consist of the directors of the concerned technical services, representatives of municipalities with experience in land tenure, and national land experts. It would be responsible for producing a National Plan for a Rural Cadastre within six months.

15. **Plan contents.** This plan is a document that presents:

¹⁵ Ministry of the Economy, Finance and Planning.

- i. *The general principles of a rural cadastre*, specifically, the implementation of a national Land Information System designed and managed by the DGID, operating on data from the secure deliberations of the municipalities equipped with a Land Bureau, with attribution of a NICAD for each plot;
- ii. *Operating modes*, determining the implementation steps, the operating procedures and the sustainability of the cadastre, the tools and the technologies adapted to the rural Senegalese context. The plan must determine a financial and taxation model that will cover the operating costs of the Land Bureau;
- iii. *Expected results*;
- iv. *Identification of needs, constraints and risks*, with particular emphasis on the design of measures favorable to the recognition of the land rights of women and nomad populations. The plan must determine orientations related to the cost of registration and transfers so as to allow the poorest individuals to be able to take advantage of it;
- v. *Accompanying measures*, related to legal adjustments, training and the strengthening of the capacities of the DGID in terms of support and advice, as well as the technical supervision of the municipalities;
- vi. *Assessment framework*, both of the performance of the tool and of the impact of land tenure security on agricultural development, on private investment and on the protection of the most vulnerable elements of the population, i.e., women;
- vii. *Budget and provisional timetable*.

After six months of preparation, this plan could be ready for: (i) a presentation to the stakeholders in the sector; and (ii) a policy validation at the highest level of the State.

2. Development of a Rural Cadastre – first phase from 2 to 5 years

16. The National Plan for a Rural Cadastre could be based on five key actions to be carried out at the same time:

Action 1: Establishment of Municipal Land Bureaus and land regularization campaigns

17. **Objectives.** To equip municipalities with a Land Bureau¹⁶, i.e., sustainable, local land services supported by the municipality, responsible for (i) the registration of usage rights according to reliable **procedures**, particularly during systematic land right regularization campaigns; (ii) the registration of subsequent transactions and the updating of the municipal land database; (iii) the resolution of the initial stage of conflicts; (iv) the transfer of land information to the DGID in order to attribute a NICAD and to develop the national land database; and (v) relationships with the prefectural body and land-use planning organizations on land issues.

18. **Operating procedures.** This operation will be carried out under the responsibility of the MEFP and its concerned administrations, with the establishment of a joint technical committee¹⁷ responsible for the follow-up of the Plan. It is recommended to begin the implementation of the

¹⁶ The initial model provides for a Land Bureau per municipality. Depending on the local contexts, the social demand in terms of land tenure security and available resources, the investment could be limited to a Land Bureau covering two or several municipalities. Inter-municipal operating mechanisms have not yet been clarified.

¹⁷ Open to other concerned ministries and representatives of civil society organizations.

rural cadastre on a limited number of municipalities (less than 120), after an information campaign and the selection of municipalities on the basis of transparent criteria. It also goes without saying that these community project support operations for the establishment of Land Bureaus and for land right regularization campaigns will require the training of municipal employees and perhaps even the recruitment of additional ones, as well as the strengthening of mapping and archiving capabilities.

19. **Specific actions to promote women's land rights.** An outreach program based on information and awareness should be implemented to accompany the regularization of land rights, which would include a series of actions aimed at ensuring consistency between constitutional principles of equality and land tenure practices. These actions could focus on national awareness campaigns for women's rights, on information and training operations within municipalities to promote the recognition of women's rights, and on land deliberations in favor of women.

Action 2: Modernization of infrastructures and strengthening of the capacities of institutions responsible for rural land tenure

20. **The modernization of infrastructures and tools.** The establishment of a rural cadastre requires investments for certain key infrastructures, in particular:

- i. *The establishment of an original Land Information System* that would allow (i) the migration of data between the municipalities and the competent technical services; (ii) depending on the level of connectivity and electrification, entry of land and topographic data into the system as of the land survey phase, using tablets; and (iii) the integration of spatial data concerning land development (POAS, water development project, etc.);
- ii. *The acquisition of satellite images* or aerial photographs with a resolution sufficient for fieldwork.

A feasibility study specific to tools and infrastructures will be necessary to take account of the most recent technological advances and their suitability to the Senegalese context.

21. **Strengthening of the capacities of the administrative services.** The use of new technologies and the implementation of more rigorous procedures imply the development of advisory/consulting and supervision capacities within the DGID and the prefectural authorities. These services must have the equipment and training necessary to be able to assist the community project in terms of land matters, the quality control of procedures and the development of the cadastre. The respective roles of the different administrations, land development companies and other public stakeholders should also be clarified from the outset. The question of the materialization of inter-municipal limits among the support activities for land tenure security is still up for debate.

Action 3: Training Plan for Land-Related Professions

22. **Overview of key issues.** The National Plan for a Rural Cadastre must anticipate a strong increase in human resource requirements for the design, implementation and follow-up of the project. The simultaneous support for several hundred communities and the strengthening of the administrations in charge of land tenure will involve hundreds of agents in different regions. The human resources currently available are not sufficient and an extension of the job market in the land sector should be anticipated. Moreover, the prospect of a rural cadastre must include a Training Plan for Land-Related Professions in order to satisfy the needs of the public and private sectors in the different professions: property law, information technologies, social sciences, topography and geodesy.

23. **Operating procedures.** This program aims at developing training programs for land technicians, designed and implemented by existing training institutions (universities, engineering schools, professional schools). The aim of the modules is to provide administrations and enterprises with young professionals qualified in the new land professions. Continuing education should be provided to facilitate the recycling of more experienced, currently active technicians. Benchmark actions (visits to other countries with similar experiences¹⁸, knowledge-sharing workshops, participation in land-related events) can also be considered to encourage the sharing of experiences for the benefit of educators and operators.

Action 4: Update of the legal framework

24. **On the short term, no change is necessary.** The establishment of a rural cadastre does not normally require immediate legal changes, only implementation decrees to determine operating procedures and to clarify institutional responsibilities for the establishment of the cadastre.

25. **On the medium term, a land rights reform is feasible (3 years).** A new framework law would make it possible to update the legal principles inherited from the 1964 law in the spirit of the ESP, which aims at “*the gradual transformation of the current occupancy rights of rural inhabitants into real rights*”. The basic idea of this new law would be to validate the evolution of usage rights towards real rights after they are recorded in a mapped register and assigned a NICAD. It would then be necessary to consider the allotments granted by the municipalities, not as a recognition of usage rights but as the validation of real rights as of the time that the operating procedure for deliberations by the municipalities takes on all of the requirements of a real right: (i) a field survey; (ii) mapping of the plot; (iii) registration in a land register, and when the

¹⁸ The case of Côte d’Ivoire in terms of training for land-related professions is interesting. Several technical training establishments (National Institute for Professional Agricultural Training (INFPA), National Polytechnic Institute (ENA)) are mobilized to provide administrations and private operators with young technicians and supervisors responsible for the implementation of rural land policy. Côte d’Ivoire, like Senegal, is in the process of becoming part of a network of land training and research centers (Network of Excellence on Land Governance in Africa – NELGA <https://nelga.org/>).

procedures require a triple control, by the local authorities, by the prefectural authorities and by the technical authorities. The first Land Bureaus and Certificates of Occupancy with a NICAD will provide decision-makers and lawmakers with the actual experience necessary to then modify the legislation. This evolution towards a real right will allow the law to recognize land tenure practices already at work and to open new prospects, particularly in terms of the formalization of the land market and access to credit.

Action 5: Establishment of an institutional framework

26. **Coordination.** The implementation of the National Plan for a Rural Cadastre must be coordinated by the ministry in charge of land tenure, in this case, the MEFP. Its operational capacity must cover the implantation and follow-up of field operations as well as the coordination of eventual outside financial support. It is recommended to create a specific unit responsible for coordinating these operations. Taking the scale of this national undertaking into account, it would be advisable to entrust the field operations to qualified providers chosen on a competitive basis.

27. **Capacity for analysis and follow-up.** The capitalization of field operations, the follow-up of the performance of activities and the evaluation of impacts are essential for determining the directions of the plan and for measuring its effects. This capacity for analysis and follow-up can be entrusted to an existing research center or university or a specific entity like a Land Observatory.

IV. Conclusion: A pragmatic strategy for a “smooth” land reform

28. The need to modernize the rural land sector and to effectively manage the national domain are no longer a matter of debate. On the other hand, how to do it and the resulting land policy model have been at the core of discussions for over 20 years now. Given the aborted attempts at land reform and the new land tenure orientations formulated by the ESP, it seems like a more pragmatic approach would be preferable. Thus, the launch of the first stage of the rural cadastre in some 100 municipalities would allow the massive formalization of land rights, in accordance with the constitutional and legal framework in force, using tools that would promote a higher degree of precision, transparency and reliability. On the basis of this evolution, a policy decision will authorize the legislature to revise some of the foundations of the 1964 law in order to document the land market and to make the legal framework consistent with legitimate practices.

Appendices

Appendix 1: International experiences with the massive registration of rural land rights

The emblematic experience of Rwanda¹⁹: 11.3 million plots registered in 7 years

Land shortage and land tenure insecurity contributed to the Rwanda genocide in 1994. The Rwandan authorities subsequently considered it to be a priority to deal with the land issue by adopting an inheritance law in 1999 that would recognize the land rights of women, followed in 2004 by a new land policy made into organic law in 2005, and by the creation of *District Land Bureaus* (DLBs), a new institution responsible for land management at the level of the districts and municipalities.

With no previous experience, a first pilot operation was launched to register 15,000 plots from 2007 to 2010 in four zones representative of the geographic diversity of the country. At that time, an innovative procedure for establishing boundaries and the registration of rights, based on systematic operations using satellite images, was implemented by village surveyors who received pre-job training. In the presence of neighbors and local authorities, these surveyors traced the limits of the plots on images, established a specific numbering system and recorded rights claims. These data were digitalized and displayed locally for a month so as to take account of eventual appeals before titles and leases could be established at the central level. Assessment of this pilot operation revealed an improvement in the recognition of married women's rights as well as an increase in investments favorable to soil conservation. The formalization of rights did not lead to an increase in distress sales.

As a result of these pilot operations, the intervention method was improved in preparation for a large-scale operation led by the Rwanda Natural Resource Authority (RNRA). In less than three years, the RNRA succeeded in establishing the boundaries, in a participatory manner, of 11.3 million plots (out of the 11.5 million in Rwanda) at an average cost of \$6/plot, thus creating an emblematic reference in terms of land rights registration. Assessments made after this operation revealed a clear improvement in land tenure security for men as well as for women, and a greater reliability concerning land leases and transfers. Land investments did not immediately increase, but this program provided the bases for a rise in medium-term agricultural investments. The regular registration of transactions remains a challenge if the gap between land information and the reality of land occupancy is to be reduced.

Decentralized land management in Madagascar: 500 municipalities equipped with Municipal Land Bureaus and massive land certification

A brief history of land reform in Madagascar – For several decades, Madagascar underwent a land crisis that largely contributed to its economic difficulties and current social tensions. A land administration with few resources, an antiquated legal framework inherited from colonial times and a loss of user confidence in national public institutions led to the collapse of public land management services. For the past 15 years, the 36 land districts have had problems issuing 4,000 land titles per year for a country that counts some ten million plots. Moreover, land services have serious difficulties maintaining updated land archives and are no longer capable of recording transactions, whereas the information that exists often has nothing to do with the reality

¹⁹ Ali, Deininger K., Duponchel M., 2016. Using Administrative Data to Assess the Impact and Sustainability of Rwanda's Land Tenure Regularization. Policy Research Working Paper 7705. The World Bank. 33 p.

of titled land occupancies. This land crisis situation weighs heavily on the investment climate and on social peace. Aware of this situation, the government of Madagascar undertook a land reform in 2005, based on the modernization of the administration and on the decentralization of land management.

Main innovations – The 2005 reform introduced deep changes with the main one undoubtedly being the elimination of the presumption of State ownership. Until then, occupied but untitled land was considered as belonging to the State. New laws now consider it as private property, formalized by the municipalities recently equipped with Land Bureaus, which issue not land titles but land certificates according to a local and contradictory procedure. The legal value of land certificates is almost identical to that of land titles, and Madagascar now has two systems of land management. The land administration is in charge of the management of government lands and titled private property, whereas the municipalities are responsible for the management of untitled private property. The originality of the Malagasy model is due to the following features:

- Certified rights are ownership rights and not usage rights. It is legally possible to do the same things with a certificate as with a land title (sale, division, lease, etc.).
- Land rights are managed locally by a local entity, the Municipal Land Bureau.
- Land rights are mapped using highly accurate aerial photographs, based on a consensus between neighbors and in accordance with a new legal framework, without the services of professional surveyors, making it possible to keep registration costs very low.

Initial results of the land reform – Decentralized land management has led to encouraging results. Since 2006 and with the support of the international community, 546 municipalities out of 1,550 have been equipped with a Municipal Land Bureau. They have received almost 400,000 demands and issued more than 250,000 certificates. This new untitled private land rights recognition procedure by local commissions and without officials from the national domain or surveyors provides considerable savings in terms of time and cost to officially guarantee an ownership right. According to the method used (registration upon request or systematic), the average cost of a land certificate varies from \$6 to \$14 and the average time is approximately 7 months, compared to an average of \$500 and 6 to 10 years required to establish a land title.

The Rural Land Agency of Côte d'Ivoire: a new institution responsible for the implementation of the 1998 land law

The difficult implementation of the law concerning rural lands – The Government of Côte d'Ivoire expressed a genuine political will to improve land governance without significantly enforcing current legislation, namely, Law No. 98-750 of December 23, 1998, relative to the rural land domain. It was hoped that this law would lead to the formalization of customary land rights in less than 10 years and their transformation into ownership rights throughout the country. This recognition of rights was supposed to lead to a land certificate, which would then be converted into a land title within the following three years. This law was only very partially enforced. It gave rise to many controversies in that it makes a clear distinction between locals and migrants, and its enforcement is so complicated and costly that its application at the national scale is still pending. Enacted 20 years ago, its implementation today is limited to pilot projects carried out with the assistance of development agencies and whose quantitative results are limited in scope.

In 2018, only 4,000 land certificates were issued in a country that counts some 1,000,000 rural plots, i.e., only 0.4% of certifiable plots have been formalized.

These figures are partially due to objective causes, especially the civil war years during which land actions were not possible. The poor results nevertheless force us to take a closer look at the procedure whose complexity is at the root of the weak dynamics observed. The current certification procedure is proof of the major concern for precision and reliability in the prospect of issuing an irrefutable document capable of guaranteeing full ownership. The result is that the complexity of this procedure, the provisions that limit access to property to Côte d'Ivoire nationals, the high number of stakeholders involved and the cost make the certificate and, even more so, the title, inaccessible to the large majority of farmers in the country.

The Rural Land Agency (AFOR), an institutional innovation in favor of mass certification – In 2016, the Government of Côte d'Ivoire created a Rural Land Agency²⁰ for the purpose of meeting the challenge of a massive registration of customary rights in the rural land sector. This challenge consists of limiting the number of stakeholders involved and of having a task force responsible for the implementation of a land law. AFOR, attached to the Ministry of Agriculture, is a financially-independent public establishment responsible for the coordination of all activities related to the security of rural land, namely, operations linked to certification, contractualization, delimitation of village territories, implementation of a Land Information System and archiving. AFOR's management is required to report to an ad hoc supervisory council. It is financed by the Côte d'Ivoire government's own resources and by several development agencies (European Union, World Bank, AFD). AFOR began its activities at the end of 2017. It has its own work program, coordinates international aid and implements all of the trust and technical activities linked to rural land security operations (operation design, procurement procedures, quality control of interventions entrusted to private service providers, relations with the territorial and technical administration, follow-up/assessment, etc.). Its staff consists of consultants and civil servants on loan from other administrations that are recruited on a competitive basis.

When it created AFOR, the Government of Côte d'Ivoire transformed the rural land landscape. The agency makes it possible to adapt approaches to national tools (e.g., one operations manual for all users) and to coordinate financial backing with a national rural land tenure security policy. It is assumed that it will become the major interlocutor for stakeholders in the rural land sector. This structure, still very recent, should be closely watched in order to draw lessons about the importance of rural land agencies in sub-Saharan Africa.

²⁰ Decree No. 2016-590 of August 3, 2016.

Appendix 2: Observations: a major gap between law and practices

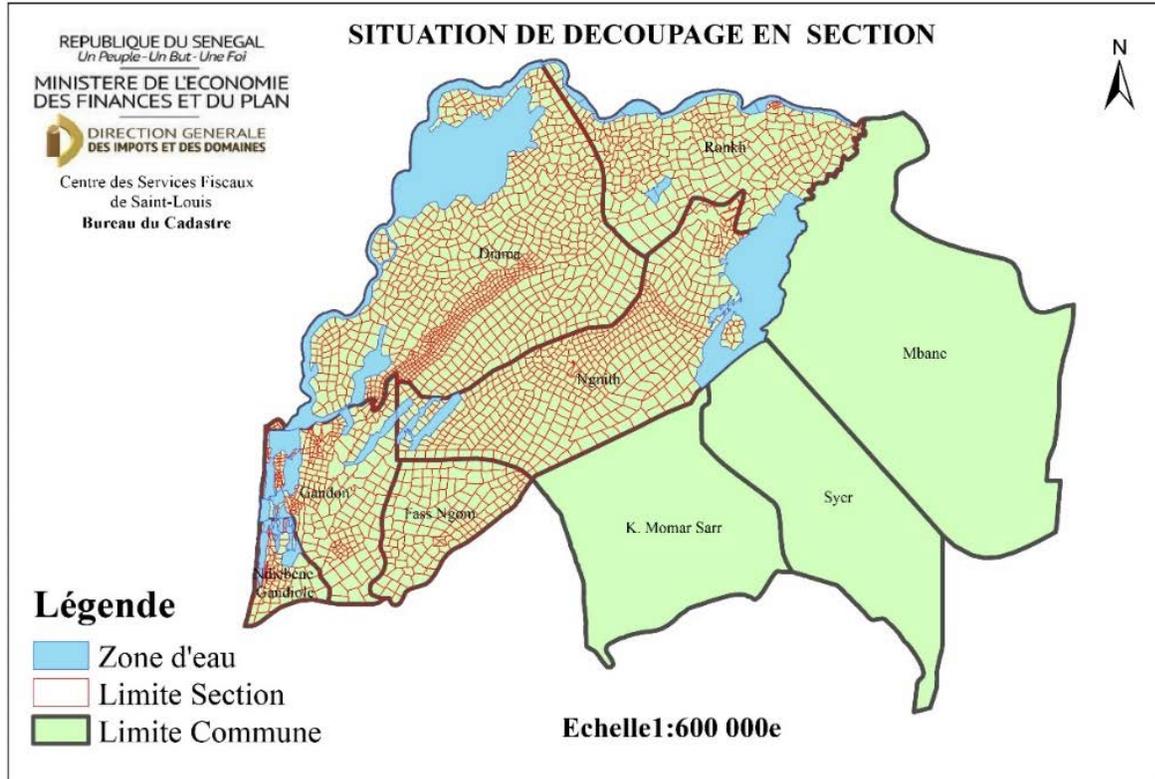
The 1964 law on the national domain and its implementing decree are only very partially respected. Its strict application could even stand in the way of economic development. Users, mayors and community leaders alike bemoan the lack of skills and equipment necessary to manage land rights at the local level. They recognize having adapted standards and procedures to the point that they are no longer consistent with the legal framework:

Principles of the 1964 law	Legal reference	Local practices and interpretations
Land use is reserved for community members	<i>Art. 8: Agricultural land can only be used by community members.</i>	Land is allotted without taking the origin of the claimant into account. Notions of community and community membership are unclear, especially in the case of recently subdivided rural communities.
It is forbidden to lease land	<i>Art. 18 (decree): Land abandonment may be declared (...) if the interested party stops cultivating it himself/herself.</i>	Leases are frequent within families or with third parties, and necessary in the case of a temporary inability to develop the land.
The sale of land is prohibited	<i>Art. 19 (decree): Land use is personal (...). It cannot be subjected to any transaction.</i>	The ban on selling land is well known but a land market nevertheless exists. Rural land has a selling price. The communities regularize sales after the fact by deliberation.
Inheritances are controlled	<i>Art. 20 (decree): Land use terminates with the death of the physical person. Art. 22 (decree): Heirs obtain the use of the land to their benefit (...) within the limit of their ability to cultivate it and (...) provided that it does not result in the formation of excessively small plots.</i>	In the case of death, the family agrees to the new titleholder. The family manages transmission issues. Land remains within the family and is not reallocated. If necessary, the community regularizes inheritances through deliberation.

These few observations show to what extent some of the basic provisions of the 1964 law are not applicable and not applied. In fact, if they were strictly applicable, they would have a negative impact on development by standing in the way of agricultural enhancement.

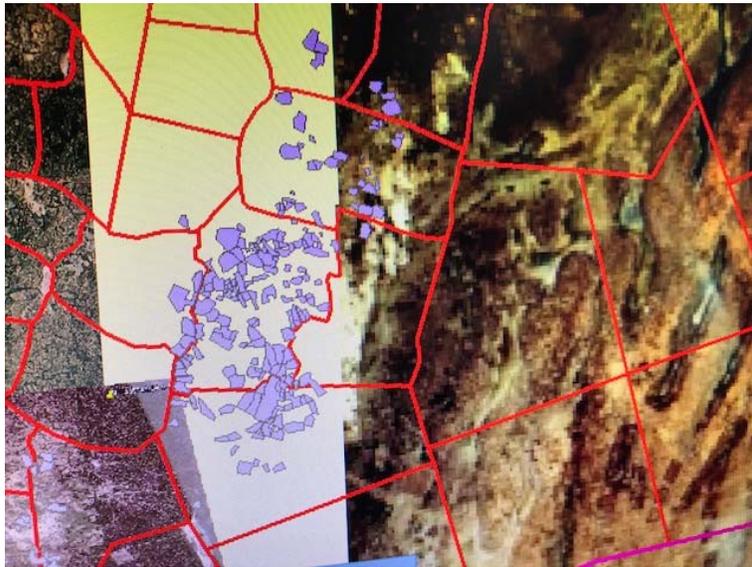
Appendix 3: Several illustrations of the PDIDAS' experience in terms of rural land tenure

Work in progress on the breakdown of the land into cadastral divisions by the regional DGID services in Saint-Louis.



The regional DGID services in Saint-Louis began an initial division of the territory under their jurisdiction. This division will make it possible to establish NICAD numbers for plots identified by the municipalities.

Cadastral divisions (red) and secure deliberations resulting in a Certificate of Occupancy (blue) on an orthophotoplan



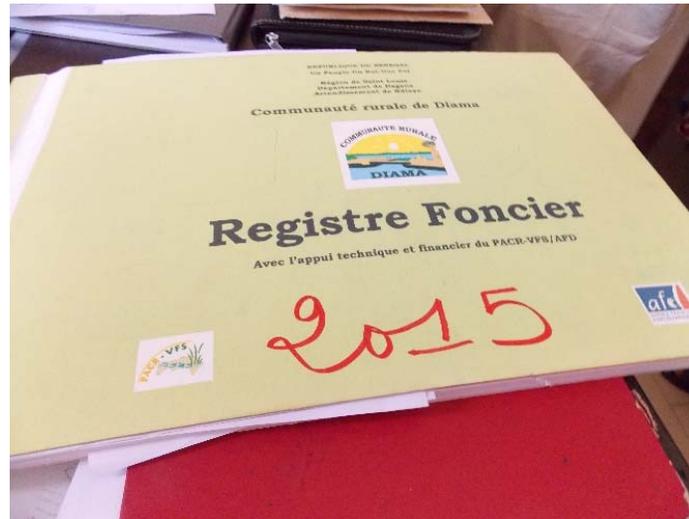
This image represents the boundaries of the cadastral divisions and subdivisions designated by the DGID in red, and the plots identified and mapped by the municipalities in blue.

Municipal Land Bureau



Investment of the PDIDAS project to house the Municipal Land Bureau, its reception facilities and its land documents.

Municipal land register established by the PACR



This register, created in 2015 with the support of a project financed by the French Development Agency (AFD), contains information concerning each plot identified by the municipality.

References

- APIX, 2011. Check list pour l'accès au foncier. 13 p.
- Benkahla A., Faye J., Touré O., Seck S.M., Ba C.O., 2011. Les organisations paysannes sénégalaises dans le processus de réforme foncière. Initiative Prospective Agricole et Rurale, 69 p.
- Benkahla A., Seck S.M., 2011. Pour une véritable concertation sur les enjeux et objectifs d'une réforme foncière au Sénégal. IPAR / AFD / Inter-Réseaux. 5 p.
- Bourgoin J., Diop D., Dia D., 2017. Accès et usages de l'information foncière. Cas des POAS. Les notes politiques de l'ISRA-BAME n°5. 7 p.
- Bourgoin J., Diop D., Dia D., 2017. Réalités et enjeux de l'acquisition massive des terres par l'agro-industrie au Sénégal. Les notes politiques de l'ISRA-BAME n°6. 6 p.
- Boutilier J. L., 1989. Irrigation et problématique foncière dans la vallée du fleuve Sénégal. ORSTOM. Cahiers Sciences Humaines 25 (4), :469-488.
- Commission chargée de la Réforme du Droit de la Terre, 2005. Quelques propositions de réforme sur la gestion foncière en milieu rural. 26 p.
- Commission Nationale de Réforme Foncière, 2016. Document de Politique Foncière. République du Sénégal. 35 p.
- Comité Technique Foncier & Développement, 2015. La réforme foncière au Sénégal : bilan d'étape et défis. Note de synthèse n°18. Juillet 2015. 9 p.
- CONGAD, 2012. Rapport de l'étude sur la gouvernance du foncier agro-sylvo-pastoral dans les régions de Louga, Saint-Louis et Matam. 187 p.
- CRAF, 2016. Document de synthèse des réflexions du Cadre de Réflexion et d'Actions sur le Foncier dans le cadre du processus de réforme foncière au Sénégal. 8 p.
- D'Aquino P., Seck S., 2015. Au Sud, formaliser ou sécuriser les droits locaux sur la terre ? Leçons de l'expérience sénégalaise dans la vallée du fleuve Sénégal. 16 p.
- D'Aquino P., 2015. Elaboration participative de règles collectives de gestion des ressources naturelles et du foncier. Des effets durables, de l'échelle locale jusqu'à l'échelle nationale. Cirad. Perspectives n°33. 4 p.
- Diagne S., 1996. Plan d'Action Foncier du Sénégal. Ministère de l'Agriculture / Synergie Consulting. 121 p.
- ENDA PRONAT, 2011. Rapport scientifique. Amélioration et sécurisation de l'accès des femmes au foncier au Sénégal. CRDI, 107 p.
- Fall M., Ngaido M., 2016. Investissements fonciers, redevabilité et cadre légal. IIED / IED. 20 p.
- Faye I. M., Benkahla A., Touré O., Seck S.M., Ba C.O., 2011, Les acquisitions de terres à grande échelle au Sénégal : description d'un nouveau phénomène. IPAR, 45 p.
- Faye I. M., 2016. Améliorer l'accès aux ressources pastorales : un défi pour les réformes en cours au Sénégal. APESS / GRET, 4 p.
- Faye J., 2008. Foncier et décentralisation. L'expérience du Sénégal. IIED, 13 p.
- Gauthier J. P., 2015. Diagnostic du cadre juridique et institutionnel du projet de plateforme intégrée de Diamniadio. ONUDI, 105 p.
- GESTES, 2012. Sénégal : les femmes rurales à l'épreuve d'une citoyenneté foncière. Université Gaston Berger.
- IPAR, 2013. Gouvernance foncière au Sénégal : Promouvoir la transparence et l'équité pour que la terre ne soit plus une source de conflits. (Synthèse LGAF) Banque mondiale. 5 p.
- Jokkale, 2016. Les enjeux de la sécurisation foncière et de l'accès des femmes au foncier dans la sécurité alimentaire et nutritionnelle au Sénégal. Plateforme des ONG européennes au Sénégal / UE. 18 p.

- Koffi M., Galpin C., 2012. Vers la mise en place d'une gestion foncière communale dans la vallée du fleuve Sénégal. Grain de Sel n°57, : 33-34.
- Koffi M., Galpin C., 2012. Quelle place pour les outils dans le processus de sécurisation du foncier rural au Sénégal ? PACR. 3 p.
- MCA Senegal, 2012. Inventaire de l'occupation et des droits sur les terres à Podor.
- Ministère de l'Economie, des Finances et du Plan, 2018. Plan Sénégal Emergent. Plan d'Actions Prioritaires. 144 p.
- Niang A., Knapman C., 2017. Au Sénégal, l'accès aux terres des exploitants familiaux menacés. Briefing IIED, IPAR, Janvier 2017. 4 p.
- Plançon C., Ndiaye I., 2010. Une piste de solution pour la réforme foncière au Sénégal. La fiducie comme mode d'appropriation de la terre. LAJP / CTFD. 102 p.
- Rohegude A., Plançon C., 2009. Décentralisation, foncier et acteurs locaux - Fiche pays Sénégal. CTFD, AFD / MAE. 26 p.
- Seck S., Neu D., Traoré S., 2012. Evaluation à mi-parcours du PACR. GRET / e-Sud Consulting, 133 p.
- Touré O., Seck S., 2013. Amélioration de la gouvernance foncière au Sénégal : enjeux actuels et défis pour l'avenir. AFD / Ministère des Affaires Etrangères. Comité Technique Foncier & Développement 23 p.
- Touré O. et al., 2012. Rapport de synthèse des ateliers paysans sur la réforme foncière et les enjeux de sécurisation foncière des exploitations familiales au Sénégal. CNCR / IPAR. 21 p.
- Traoré S., 2004. La fille aînée de l'Etat du Sénégal cherche prétendant. Enjeux fonciers environnementaux. : 173-184.
- USAID, 2011. Property rights and resource governance. Senegal Country profile. 28 p.