

AFRICA RISK CONSULTING

Country briefing – Senegal

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Summary

President Macky Sall is building his Alliance pour la République (APR). He increased the party's influence in the 2 September 2013 government. He and the prime minister, Aminata 'Mimi' Touré delay the local and municipal elections to build more support. These moves heighten tensions in the ruling coalition Benno Bokk Yakaar (BBY). Political manoeuvring is at the expense of policy and disadvantages business. Proposed decentralisation reform can improve overall governance and increase aid, but its implementation will attract opponents. Senegal's slip in the 2014 World Bank Doing Business rankings underlines its deteriorating environment. The illicit enrichment investigations against former officials undermine the judiciary, heightening investor concerns. Sall's mining sector background and involvement means the mining sector is largely immune to the deteriorating business climate. He has good relations with the sector's key investors, although the global mining climate constrains sector growth.

President Sall seeks to strengthen his APR ...as the BBY ruling coalition fractures

President **Macky Sall** (2012 -) has taken steps to bolster his political position and that of his **Alliance pour la République (APR)**. He has:

- used a 2 September 2013 government reshuffle to promote cadres to command key positions;
- appointed loyalist **Aminata 'Mimi' Touré** to the premiership, increasing APR's power within the ruling coalition **Benno Bokk Yakaar (BBY)**;
- delayed the local and municipal elections scheduled for 16 March 2014 for “two or three months” to implement a decentralisation plan (see below)¹;
- deferred his first electoral test since he came to power in April 2012 and set the tone for the presidential elections in 2017.

¹ RFI, 9 October 2013

Sall's decision to defer is the latest attempt to improve the APR's standing after the party's failed response to recent flooding, severe water shortages, power cuts and a general lack of economic and investment activity. With the hot, rainy season over and plans to fix a broken water pipeline serving Dakar finally in motion, delaying the elections is aimed at giving the APR more time to prepare its campaign.

“The decentralisation plan is just a technical excuse. They are looking for room to strengthen the party before the elections. But as we saw with the new government, improving support for the APR in the current political and economic climate is proving difficult”².

However, the moves to strengthen the APR's position have heightened tensions within the BBY coalition. The delay created suspicions among the key members including the **Parti Socialiste**³. Two days later on 11 October, tensions escalated over the nomination of the head of the **Assemblée Nationale**, the constitutional successor on the death of the president. Ministers of parliament unanimously⁴ renewed **Moustapha Niasse**'s term by one year⁵. Niasse, a former prime minister and leader of BBY member **Alliance des Forces de Progrès (AFP)** *“has given up on his presidential ambitions but is important for Sall to have on board”⁶*. **Moustapha Diakhaté**, president of the BBY, suspended APR MP **Cheikh Diop Dione** from the BBY for three years after he challenged Niasse's candidacy. Dione's move was *“another attempt by APR cadres to exert control”⁷*. MP **Hélène Tine**, a former APR member, left the BBY coalition in protest at the lack of consultation over Dione's suspension.

The friction delayed Touré's first policy speech to parliament, eventually held on 28 October almost two months after she took office. The speech confirmed the government's social and governance objectives, but also announced wide-ranging *“priorities”* including: boosting economic activity, reducing crime, responding to social emergencies and correcting inequalities, reforming the justice department, unemployment, poverty and agriculture⁸. However, several local sources, including an entrepreneur whose agriculture project remains blocked due to a lack of promised government support, criticised the list, *“... these are pipe dreams, especially if they make life difficult for real job creators”⁹*. The activities of the new government were also slowed in October due to an extended holiday for **Tabaski** (the Muslim Eid festival) on 16-17 October as well as **Union Economique et Monétaire Ouest-Africaine (UEMOA)** and **Economic Community of West African States (ECOWAS)** summits on 24-25 October.

² Source, francophone journalist, Senegal

³ RFI, 9 October 2013

⁴ Niasse received 127 votes, to Dione's 17 votes

⁵ Rewmi, 15 October 2013

⁶ Agence de Presse Senegalaise, 22 October 2013

⁷ *ibid*

⁸ Excerpts of the speech recorded in various media including AFP and RFI, 28 October 2013

⁹ Source, francophone journalist, Senegal

The new decentralisation reform drive

The government is positioning its decentralisation reform within its social and governance objectives. Sall met with political parties and civil society groups to discuss the reforms on 22 October¹⁰ after several political actors, including those in the BBY, complained about the lack of consultation. Prior to this a steering committee led by presidential adviser **Ismaila Madior Fall** presented a report to Sall on the reforms. A draft bill (**Decentralisation Act 3**) includes plans to render powers to local communities and to establish a ministry to oversee local government affairs. The draft bill and specific details of the plan have not been made public. The overall aim is to “*improve local governance and reduce the gap between rural and urban areas*”.¹¹

The Sall administration has positioned itself as a proponent of decentralisation and local government reform. It hosted the **African Local Communities’ Summit (Africities)** in **Dakar** on 4-8 December 2012. Sall reportedly wants to promote a “*territorial approach to development*”¹². The government is likely to receive significant support from development partners for the reforms, given their support for decentralisation across **Africa**. However, well-positioned bureaucrats will oppose the reforms if they are implemented correctly and their power and privileges are eroded.

Senegal has experimented with decentralisation since the 1960s to counteract the francophone legacy of strong centralisation. The current government’s plans are meant to properly implement reforms passed in 1996¹³. A **Local Government Law** in 1996 put in place 434 local governments; 11 regions, 103 communes (60 ordinary legal communes and 43 district communes) and 320 rural communes¹⁴. The communes are elected bodies with elected executives. Regional authorities are elected as well, but the president appoints their executives. In practice, communes and regions have financial autonomy and extensive responsibilities including land planning and administration, urbanisation, health education, environment, youth, sports and culture. Two funds were established for these responsibilities: a decentralisation fund (the **Fond de Dotation à la Décentralisation, FDD**) for current expenditures, and a fund for local investment (the **Fond D’équipement des Collectivités**)¹⁵. Key donors including the **World Bank**, the **Agence Française de Développement (AFD)** and **United States Agency for International Development (USAID)** supported the reforms with various programmes. However, the reforms were poorly implemented and the funds lacked

¹⁰ Agence de Presse Senegalaise, 22 October 2013

¹¹ *ibid*

¹² Le Quotidien, 24 May 2013

¹³ APA, 28 November 2012

¹⁴ World Bank, August 2003

¹⁵ World Bank, August 2003

adequate financing. In addition, “the lack of clarity in some of the provisions [of the 1996 law] has allowed central state functionaries to subvert the spirit of decentralisation”¹⁶.

The business climate deteriorates

The deterioration of the business environment is now official, despite Touré’s aims to increase economic growth to 6% during Sall’s first term (to 2017) from the current estimated growth of 4% in 2013¹⁷. Senegal fell two places in the World Bank’s “Doing Business” rankings to 178th out of 189 countries. The World Bank published its ‘Doing Business 2014: Understanding Regulations for Small and Medium-Size Enterprises’ report on 29 October 2013. The annual report ranks countries based on 10 areas of business regulation. Senegal placed below its politically fragile neighbour **Guinea** (175th) and the sub-Saharan Africa average (142nd). It dropped 16 rankings for enforcing contracts, primarily due to an increase from 26.5% to 36.4% in the cost of enforcing a contract. It also dropped four places for starting a business, dealing with construction permits and getting credit. There were no significant improvements across the 10 indicators. In response to the report, Prime Minister Touré said the government would simplify customs procedures by the end of 2013 to improve the business climate¹⁸. The following table shows Senegal’s rankings for each of the 10 areas of business regulation (indicator), as compared to the 2013 ranking.

Indicator	Doing Business 2014	Doing Business 2013
Starting a business	110	106
Dealing with construction permits	165	161
Getting Electricity	182	183
Registering property	174	175
Getting credit	130	126
Protecting investors	170	169
Paying taxes	182	182
Trading across borders	80	80
Enforcing contracts	167	151
Resolving insolvency	122	128

¹⁶ World Bank, August 2003

¹⁷ Announced by Prime Minister Toure, Reuters, 29 October 2013

¹⁸ Bloomberg, 28 October 2013

...as the illicit enrichment investigations undermine the judiciary

In the above context, Sall moved to eliminate **Karim Wade**, the former number two in his father, **Abdoulaye Wade**'s, government (2000 – 2012), from the political scene in the near term. As part of the illicit enrichment investigations into former officials, on 16 October the **Cour de Répression de l'Enrichissement Illicite (CREI)** extended Wade's detention without trial for another six months. Wade allegedly refused to answer questions from investigators during a 16-hour hearing on 15 October¹⁹. The CREI based its decision on a second notice involving inquiries into **Monaco** bank accounts at **Julius Baer**, a Swiss-based private bank. The expected move immediately followed the expiration of Wade's first six-month notice after his arrest on 15 April based on a flawed \$1.37 billion (CFA 694 billion) asset list²⁰. The investigators have yet to obtain documented evidence of impropriety against Wade. The CREI was unable to bring him to trial based on the allegations of the first notice. Wade's legal team claims that the second notice "*has no legal basis since there is no new element*"²¹. The president of the prominent human rights body **Ligue Sénégalaise des Droits de l'Homme (LSDH)** agreed. He urged the government to follow the rule of law in the illicit enrichment investigations²². Sall brought the judicial process further into question on 22 October by overturning the **Supreme Court** decision cancelling the appointment of **Antoine Diom** as deputy special prosecutor of the CREI²³.

...but the mining sector is unaffected under Sall's control

Sall's administration has pursued good relations with the leading mining investors and has achieved progress on key projects and legal disputes. Upon coming to power in April 2012 Sall implemented a mining revenue tax which reduced investor confidence in the sector. However, since then projects have been immune from the economic stagnation affecting other sectors. Mining companies also avoided considerable scrutiny in the illicit enrichment investigations around former officials.

Sall remains personally involved in developing the mining sector. Leading mining investors are awarding audiences with the president²⁴. He was both mines minister and mining advisor to former president Wade between 2001 and 2003. Sall oversaw the 2003 mining code and the launch of important projects, including

¹⁹ CheikhIbraFall.com, 24 October 2013

²⁰ See ARC Senegal March 2013 Briefing

²¹ Quoted in RFI, 14 October 2013

²² Jeune Afrique, 15 October 2013

²³ Setal, 22 October 2013

²⁴ Source, mining executive, Senegal

the **Grande Côte Mineral Sands Project**, also in 2003. After his term as mines minister he was appointed prime minister in 2004.

The government has placed the **Faleme** iron ore project for sale after winning an international arbitration case²⁵. On 6 September the **International Chamber of Commerce (ICC)** in **Paris, France** ruled that the government had the right to cancel a 2007 deal with **ArcelorMittal** worth a potential \$2.2 billion. The court ruled that the company failed to honour its commitments by suspending work in 2010²⁶. ArcelorMittal planned a 750 kilometre rail line and new port near Dakar.

*“The only interest we know about is from the **Chinese** [no specific names]. They are the only one interested in this climate given that the government wants someone to come in and finance the port and rail line. The sensible option is for the government to plan the infrastructure in conjunction with **Mali**”²⁷.*

Kumba Iron Ore previously held the rights to Faleme, however the former Wade government cancelled their contract and re-awarded the concession to ArcelorMittal in 2007, “*on the eve of the [presidential] election*”²⁸. In 2010 the government agreed to pay Kumba \$75m compensation over five years for terminating the contract²⁹. A longstanding mining executive in the country says that there are several “*rumours*” around the transfer of ownership of the **Faleme** concession from Kumba to ArcelorMittal.

“They [Sall government] had a quick look at it...nothing came of it. To my knowledge everything was above board for the rest of the projects, in gold, mineral sands and phosphates”.

The government has good relations with **Teranga Gold Corporation**, which operates the country’s only producing gold mine, the **Sabodala** mine in the eastern **Kedougou** region. According to a contract signed on 31 May 2013 the government extended Teranga’s mining concession to 2022 and awarded the company new exploration licences³⁰. Teranga agreed to increase its mining royalties from 3 to 5% in 2013 and invest \$840,000 (CFA400m) per year in local communities³¹. The Grande Côte Mineral Sands Project, owned by **Australian Securities Exchange (ASX)**-listed **Mineral Deposits**, is also progressing. Production is

²⁵ Announced by Prime Minister Tour, Reuters, 29 October 2013

²⁶ Reuters, 10 September 2013

²⁷ Source, mining executive, Senegal

²⁸ Mines minister **Aly Ngouille Ndiaye** quoted in Le Soleil, 29 July 2013

²⁹ Mining Weekly, 6 August 2013; the figure confirmed by current mines minister Aly Ngouille Ndiaye in Le Soleil, 29 July 2013

³⁰ Sud Quotidien, 16 August 2013

³¹ Sud Quotidien, 16 August 2013

planned to start by the end of 2013³². Mineral Deposits had invested \$324m in the project up until December 2012³³.

The **Chambre des Mines du Sénégal (Cmds)** was launched on 3 October 2013 to assist the development of the sector. **Macoumba Diop** was appointed president of the Cmds. He is the Senegal general manager of Teranga Gold Corporation. Diop is a former technical officer for ArcelorMittal in Senegal³⁴ and chief of geology for **MIFERSO**, previously in charge of exploration of the Faleme iron ore mine³⁵. He is described as “reputable” and “competent”³⁶.

Mines minister **Aly Ngouille Ndiaye** retained the portfolio in the government formed on 2 September. He also held the energy portfolio in the first Sall government (April 2012 – September 2013). “*He was more interested in the energy sector, which is relevant since it is the main bottleneck to growth in the mining sector*”³⁷. Ndiaye is the son of **Ibra Ndiatté Ndiaye**, the former mayor of **Linguère** in northern Senegal³⁸. He supported Sall in the 2012 presidential election, delivering the Linguère constituency against the PDS. He is a US-trained civil engineer with experience in finance and property construction. **Ousmane Cissé**, Director of Mines and Geology, is responsible for the government’s day-to-day running of the sector³⁹.

Implications

The delay of the important local and municipal elections is an admission from Sall of his deteriorating standing among the electorate. Despite the installment of the political and media savvy Touré as prime minister on 2 September, the government and the APR has failed to improve his position. The president and Touré hope that discontent will ease in the coming months due to the end of the flooding season; a fall in electricity demand leading to less power cuts as the hot weather passes; and the restoration of water supply. However, Sall’s moves to strengthen the APR is increasing tensions within the BBY ruling coalition – and further disrupting the functioning of government. The business climate has deteriorated and discontent among the electorate is growing due to the lack of economic activity. The Doing Business report reflects the increasing grievances of the business community. The conduct of the illicit enrichment investigations,

³² Africa Intelligence, 29 January 2013

³³ Africa Intelligence, 29 January 2013

³⁴ Linked In profile (<http://www.linkedin.com/pub/macoumba-diop/13/28b/a35>)

³⁵ <http://www.terangagold.com/English/AboutTeranga/Management-and-Board/default.aspx>

³⁶ Source, mining executive, Senegal

³⁷ Source, mining executive, Senegal

³⁸ Leral, 5 April 2012

³⁹ Source, mining executive, Senegal

notable the annulment of a Supreme Court ruling by presidential decree, also concerns the business community.

The decentralisation reform is a long-overdue attempt to reform governance and improve development in the regions and rural areas. However, several previous attempts have faced considerable opposition from the political elite. The fractious political environment will further complicate its implementation.

The mining sector is small compared to most other West African countries but benefits from Senegal's overall political stability and adequate government support. Sall's background and interest in the sector is placing mining investment on a good footing. However, the downturn in the iron ore demand is likely to detract potential investors in the Faleme concession in the near term.