Tax and Development **Case Study**

Fighting international tax avoidance and evasion to finance the emergence of **Senegal**

RÉPUBLIQUE DU SÉNÉGAL
Un Peuple - Un But - Une Foi
MINISTÈRE DES FINANCES ET DU BUDGET
MFB

GLOBAL FORUM ON
TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

WORLD BANK GROUP

OECD
BETTER POLICIES FOR BETTER LIVES

Context

Senegal's economy depends largely on agriculture, tourism, fishing, mining and construction. The country is also a hub of major sea and air routes thanks to its location on the westernmost edge of the African continent.

Senegal seeks to become an emerging economy by 2035. To achieve this, in 2014 it put in place a ten-year development strategy (2014-2023), the *Plan Sénégal Emergent* (PSE or Plan for an Emerging Senegal). The plan is founded on three priorities: structurally transforming the economy, improving people's living conditions and ensuring good governance.

Growth in Senegal has been above 6% under the PSE, compared to an average of 3.5% between 2011 and 2014. This makes it one of the fastest-growing countries in Sub-Saharan Africa. The exploitation of offshore oil and gas fields, which is scheduled to begin in 2022, should open up significant prospects for even faster growth.

Senegal continues working to increase revenues and contain public spending. Before the COVID-19 pandemic, GDP growth was expected at 6.9 percent and the fiscal deficit at 3 percent in 2020. However, the pandemic has derailed the economy and growth is now projected at 2.8 percent in 2020 while the fiscal deficit will significantly deteriorate to reach 5.6 percent of GDP. Domestic resource mobilisation is an essential source of finance in the PSE plan and Senegal is aiming to improve the tax-to-GDP ratio, which stood at 16.5% in 2018. With the support of the World Bank Group and the International Monetary Fund, a Medium-Term Revenue Strategy (2020-2025) was adopted in 2020 with tax policy, tax administration and institutional reforms aimed at increasing tax-to-GDP ratio to 20 percent.

Participants in the Regional Meeting of the Inclusive Framework on BEPS for Francophone Countries, October 2019, Saly, Senegal.

The OECD and the Global Forum contribute to Senegal's emergence

To mobilise domestic resources – with technical support from the OECD, the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) and other development partners – Senegal launched tax reforms as early as 2012. Building on a new climate of tax transparency, the reforms were aimed at tackling tax base erosion and profit shifting, complemented by a push to build the capacities of the tax administration to audit multinational enterprises. The country engaged in Tax Inspectors Without Borders (TIWB) programmes and began to obtain regionally and internationally comparable statistical data on government revenues to inform decisions on fiscal policy making.

Appropriate measures help to combat tax avoidance

Senegal has participated in the OECD/G20 project to tackle base erosion and profit shifting (BEPS) since 2014 and has been actively involved in drawing up concrete measures to counter tax avoidance practices. In 2016, Senegal joined the OECD/G20 Inclusive Framework (IF) on BEPS and was Deputy Chair of the IF Steering Group until 2018.

As of 2017, Senegal took further steps to protect its tax base. With the technical support of the OECD, the country began to implement BEPS measures on: limiting base erosion involving interest deductions and other financial payments (Action 4), countering harmful tax practices (Action 5), preventing tax treaty abuse (Action 6), preventing the artificial avoidance of permanent establishment status (Action 7), Country-by-Country Reporting (Action 13) and improving dispute resolution (Action 14).

In the context of the work on BEPS, Senegal carried out an extensive overhaul of its tax treaty policy and of its model tax convention. The tax treaty policy now calls for the completion of an impact assessment prior to any negotiation of a tax treaty, and the model tax convention includes anti-BEPS measures while taking into consideration the country's desire to preserve its mining and hydrocarbon resources.

Senegal's wish to play a leading role in fighting base erosion and profit shifting at the regional and sub-regional levels led to its hosting two regional meetings on BEPS for francophone countries, in February 2016 and October 2019. The meetings were co-organised by the OECD, the *Cercle de Réflexion et d'Échange des Dirigeants des Administrations Fiscales* (CREDAF) and the *Direction Générale des Impôts et des Domaines du Sénégal* (DGID).

With technical support from OECD and World Bank Group experts, Senegal was able to improve its legal and administrative transfer pricing framework, aligning

> *Senegal's adherence to the Inclusive Framework on BEPS as of 2016, the adoption of the standards and tools resulting from the new rules on international taxation, and the capacity building within its tax administration have enabled the country to regain its fiscal sovereignty and better address international tax evasion and avoidance.*
>
> **Amadou Abdoulaye Badiane,**
> Director of Legislation and International Co-operation at the *Direction Générale des Impôts et des Domaines (DGID)*

"Senegal's active participation in the decision-making process of the BEPS Project enabled quick and successful implementation of anti-BEPS measures to underpin domestic resource mobilisation."

it with international standards and practices. In particular, the country strengthened its transfer pricing documentation requirements in light of Action 13 of the OECD/G20 BEPS Project; created a transfer pricing reporting obligation with a view to facilitating the selection of cases for on-site tax audits; and limited the excessive deduction of interests, which were eroding its tax base. These legislative amendments were accompanied by a ministerial decree to provide legal certainty for taxpayers which is expected to be published in 2021.

To protect the country's mining and hydrocarbon resources, Senegal also amended its legislation on the indirect transfer of assets. It based the amendments on recommendations from a toolkit on taxation of offshore indirect transfers, drawn up by the Platform for Collaboration on Tax.

The capacity of Senegalese tax auditors to audit multinational enterprises was also strengthened through practical training on transfer pricing and BEPS issues in workshops, conducted in Senegal by experts from the OECD and the World Bank Group.

Box 1: **Senegal terminates its tax treaty with Mauritius to combat treaty shopping**

On 17 April 2002, the Republic of Senegal and the Republic of Mauritius signed a tax treaty in Port Louis. The main objective of the treaty was to establish economic and commercial exchanges free from the restrictive effects that double taxation was having on the income of the residents of both states.

Under the 2002 tax treaty, income generated in either of the two countries was taxed solely in the taxpayer's country of residence. This meant that if the investor's country of residence was Mauritius, any dividends, interest, royalties and capital gains originating in Senegal were not taxable in that country.

In practice, the treaty proved to be a major source of tax base erosion and indirect profit shifting. The Senegalese tax administration uncovered numerous tax optimisation schemes in the extractive sector. Multinational enterprises were creating entities in Mauritius and using them to carry out mining investments in Senegal while benefiting from the advantages of the treaty. These tax avoidance practices were resulting in a significant loss of revenue for Senegal's public finances. They also constituted a serious potential threat in view of the revenues that were expected to be generated, beginning in 2022, by the exploitation of the large oil and gas fields that had been discovered off the Senegalese coast. For these reasons, Senegal decided to terminate the tax treaty with Mauritius.

The finalisation of the treaty entered into force 1 July 2019 for Mauritius and 1 January 2020 for Senegal.

Tax Inspectors Without Borders supports domestic resource mobilisation

As part of its action to tackle BEPS, Senegal facilitated the emergence of a competitive environment in which it was hoped that taxpayers would voluntarily pay their fair share of taxes. To this end, in 2014 Senegal requested a pilot TIWB programme (prior to the official launch, in July 2015, of this joint initiative by the OECD and the United Nations Development Programme, UNDP).

The programme, which ran from 2014 to 2015 and covered the agriculture and transport sectors, produced very positive outcomes for the Senegalese tax administration. It made it possible to raise **USD 18.6 million in additional tax revenues, meaning that every US dollar spent on the programme had returns of more than USD 1 000**. It also enabled Senegalese tax auditors to strengthen their expertise on the international tax issues they encountered in the audits of multinational enterprises.

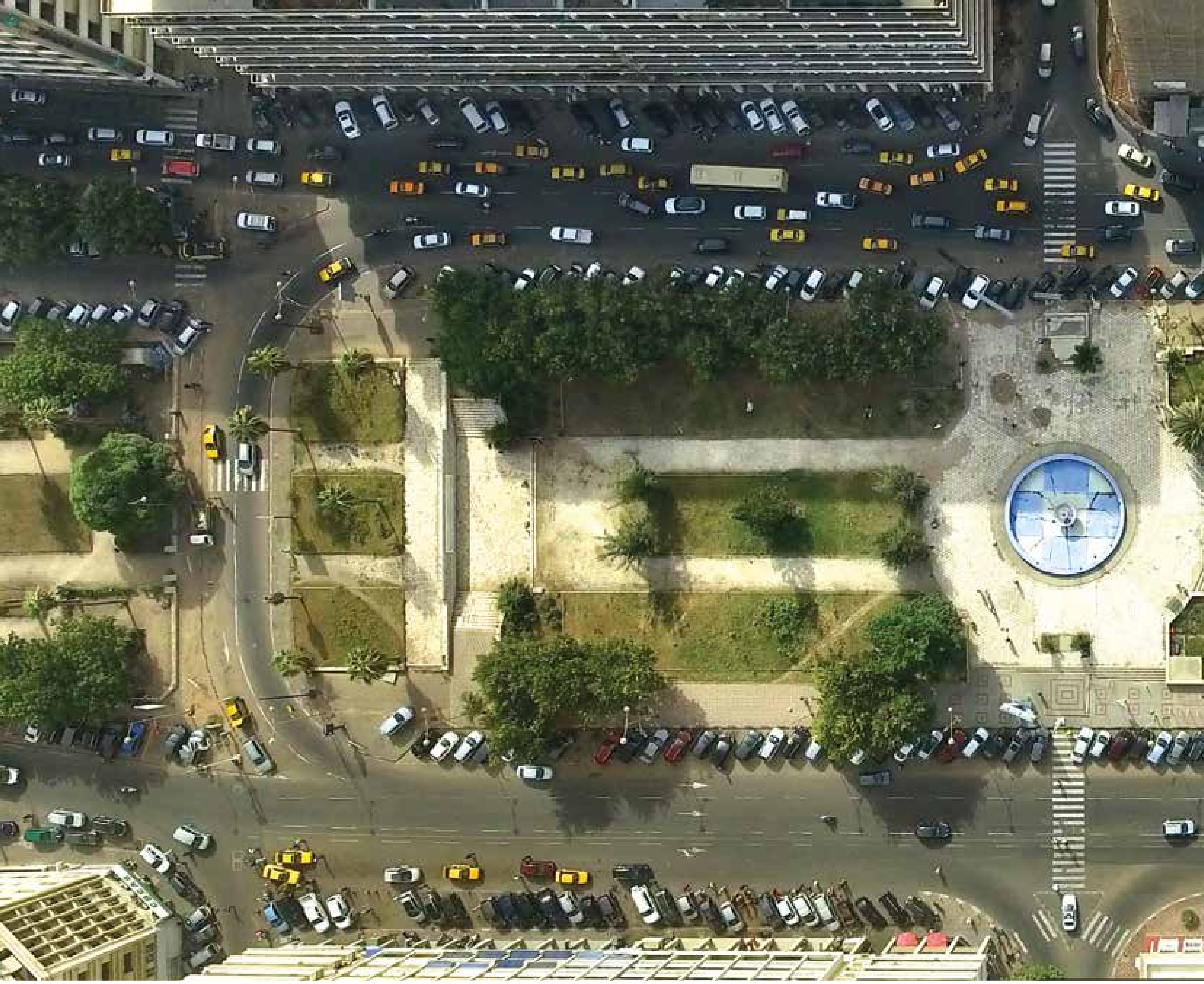
In 2017 Senegal requested a second TIWB programme, this time to strengthen its auditors' expertise in dealing with the extractive industries. The programme helped generate **additional tax revenues of USD 30 million** and also contributed to building knowledge on tax audits of multinational enterprises operating in the mining sector, which has become a high-stake sector for the country.

In 2019, keen to strengthen the expertise of the auditors working in the DGID's Large Taxpayers Unit – dealing with banks and insurance companies – Senegal requested a third TIWB programme. This new programme, to be launched in 2021, includes technical support from Morocco, an example of South-South co-operation.

The success story of Senegal's TIWB experience is told in a video available here.

> *The TIWB programmes have given us a new way of analysing the taxation of international transactions. The cases that we worked on with the TIWB expert have had immediate financial benefits and we are hopeful that in the not-too-distant future, they will encourage taxpayers to change their behaviour. That's the main challenge.*

Omar Diop Diagne, Senior inspector at the DGID



International standards help to limit tax evasion and avoidance

When Senegal became a member of the Global Forum in 2012, the country committed to implementing international standards of transparency and exchange of information for tax purposes. The Global Forum provided technical assistance, in collaboration with other partners such as the African Tax Administration Forum (ATAF), and financing was provided by development partners, notably the French Ministry for Europe and Foreign Affairs.

Senegal has made significant progress, particularly in terms of transparency and exchange of information (EOI) on request, by:

- bringing its legal framework in line with international standards of tax transparency to ensure the availability of and access to the ownership, accounting and banking information of companies established in, or with close ties to its territory;
- creating an Exchange of Information Unit in the DGID with the necessary organisational structure, administrative procedures and human resources to deal with requests for information;
- significantly increasing the number of countries with which it shares an international legal instrument for exchange of information (notably through the signature and ratification, in 2016, of the Convention on Mutual Administrative Assistance in Tax Matters (MAAC), which has 141 participating jurisdictions). Senegal is one of the six leading African countries in exchange of information networks.

In the 2016 peer review of Senegal's implementation of the standard of transparency and exchange of information on request, the Global Forum acknowledged the country's progress, rating Senegal as "overall largely compliant".

In 2018 Senegal hosted the first training seminar for francophone countries on the transparency of beneficial ownership information, organised by the Global Forum in collaboration with the World Bank Group.

> *In Senegal, the Global Forum shattered the legislative, technical and administrative glass ceiling suspended above our heads, which was hindering the exchange of information for tax purposes.*

Abdoulaye Daouda Diallo, Minister for Finance and Budget

Reliable revenue statistics inform tax policies

Since 2016, the OECD, ATAF and the African Union Commission (AUC) have worked together to help the Senegalese tax authorities gather statistical data on tax and non-tax revenues on an annual basis. This information is showcased in the annual *Revenue Statistics in Africa* publication, which for the 2020 edition compiled data from 30 African countries. Senegal's involvement in this initiative gives it access to harmonised data that are comparable at the regional and international levels. Senegalese policymakers use these data for tax policies and reforms.

Since 2016, Senegal's officials and experts working on tax policy and statistics have attended four technical workshops in Africa, organised by the OECD and partner organisations. The workshops foster regional communities of practice, offering the officials and experts from Senegal and other African countries an opportunity to share their experiences, pool good practices in the production of high-quality tax statistics, and discuss the challenges they face. At the workshops, OECD experts provide insights on the classification and use of revenue data and hold in-depth discussions with African experts on the latest trends in government revenues and domestic resource mobilisation.

Outcomes

Senegal's active involvement in the decision-making process of the OECD/G20 BEPS Project, and later in the Steering Group of the IF on BEPS, has facilitated the quick and successful implementation of measures to combat tax avoidance practices and protect the country's tax base.

The support of the OECD, the Global Forum and other development partners has contributed to improving Senegal's legislative, administrative and organisational frameworks regarding international taxation; aligning these frameworks with international standards and best practices; and building capacity among Senegalese

Senegal's participation in international tax initiatives and instruments

2012

Becomes a member of the Global Forum.

2014

Joins the BEPS Project.

2015

Adheres to the Global Forum's **Africa Initiative**,[9] which promotes tax transparency to combat tax evasion and other IFFs in Africa.

Undergoes Phase 1 of the Senegal **Peer Review Report**[10] on EOI, which finds that the country's legal and regulatory framework is 'in place'.

2016

Becomes a member of the IF on BEPS; acts as Deputy Chair of the IF Steering Group.

Signs the **Multilateral Convention on Mutual Administrative Assistance in Tax Matters** (MAAC);[11] it enters into force.

Signs the **Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports**.[12]

Participates in the **Revenue Statistics in Africa**[13] initiative.

Undergoes **Phase 2 of the Senegal peer review** on EOI which finds the practical implementation of the standard to be 'overall largely compliant'.[14]

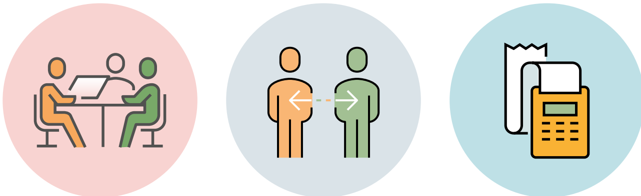
2017

Signs the **Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS**.[15]

2018

Signs the **Yaoundé Declaration**,[16] calling for stronger action to tackle IFFs in Africa through international tax co-operation.

tax administration officials. In turn, all of this has helped to mobilise more domestic resources for growth and development, while improving legal certainty for taxpayers.



Senegal strengthens its legislative and administrative framework

2014-2018
Dematerialises the Commercial and Movable Property Register (RCCM) through nationwide implementation of an electronic platform (e-RCCM), whereby companies can be created and their information stored

2014
Creates obligation to dematerialise shares, including bearer shares.

2015
Creates an Exchange of Information Unit within the DGID.

Provides training for EOI Unit staff.

The Minister of Finance delegates power of competent authority for international EOI to the Director of the DGID.

Adopts provisions for the reporting obligations of trusts.

2018
Strengthens transfer pricing legislation.

Introduces transfer pricing reporting and documentation requirements.

Conducts in-depth revision of model tax convention.

2019
Strengthens legislation on indirect transfers of assets.

2020
Creates register of beneficial owners of companies and other entities in the extractive sector.

The main impacts

Box 2: **Senegal translates progress in tax transparency into additional tax revenues**

The implementation of international standards of tax transparency has enabled the Senegalese tax administration to access information that supports the application of its tax laws on cross-border transactions, and by doing so to increase tax revenues.

As an example, in 2019 Senegal raised additional tax revenues of USD 264 260 as a direct result of one request for information. Even though this amount may seem symbolic, it reflects the fact that Senegal is in the process of developing a sustainable culture of exchange of information.

Between 2014 and 2019, Senegal submitted 43 requests for information to its partner countries; it received 32. This is significant if you consider that in the past, while Senegal received and processed numerous requests from its partners, the country itself never submitted any. The revenues gained thanks to information exchange are expected to increase over time, providing important income for Senegal's emergence.

The progress Senegal has made in recent years and the reforms it has carried out have been widely recognised. Today the country is acknowledged as a reliable partner, which ensures its access to information held in other countries. In the area of exchange of information, the measures taken since 2014 have enabled Senegal to implement a tax transparency framework that in 2016 was estimated to be largely compliant with the international standard.

The country has begun to build a new culture within its tax administration and its tax auditors and investigators are making systematic use of exchange of information. Between 2014 and 2019, Senegal sent 43 requests for information to partner countries in the context of tax audits. Although the country has not yet put in place a tool to measure the impact of such requests on tax adjustments, the potential of exchange of information is real. In 2019, responses to a single information request yielded tax revenues of more than USD 260 000.

With its extensive treaty network, Senegal's forthcoming ratification of the Multilateral Convention for the Implementation of Tax Treaty Measures to Prevent BEPS should enable it to put an end to treaty shopping and other tax avoidance practices. This will afford increased protection of its tax base while strengthening dispute resolution mechanisms.

Finally, Senegal has been able to improve its tax audits of multinational enterprises thanks to a strengthened legal and administrative transfer pricing framework, as well as to the support provided by Tax Inspectors Without Borders, which has built capacities among its tax officials.

Outlook

Senegal intends to continue its efforts to fight international tax evasion and avoidance so as to better protect its tax base and achieve the mobilisation of domestic resources required for the country's emergence by 2035.

Yet challenges remain. Senegal will focus, in particular, on indirect taxation of foreign digital products; capacity building in the mining and hydrocarbon sectors (in view of the unique opportunity for financing the Senegalese economy through the exploitation of gas and oil); and ongoing work towards tax transparency.

To meet this last challenge, Senegal's full implementation of the standard on automatic exchange of information will be important; the standard is already implemented by some one-hundred jurisdictions. By receiving, without prior request, information on financial assets held by Senegalese tax residents in financial institutions abroad, Senegal will be able to ensure that the corresponding taxes are paid. Tax transparency also involves having information on the beneficial owners of all companies and legal arrangements created in Senegal, or with a sufficient nexus to the country; this area of action will be subject to a peer review by the Global Forum in 2022.

In Senegal, the impact of exchange of information on tax revenue mobilisation still needs to be strengthened. To meet this last challenge, the country will receive technical assistance from the Global Forum and financial support from the African Development Bank (AfDB).

Key figures

USD 48 million
in additional tax revenues raised through TIWB-related measures.

More than 350
Senegalese tax officials trained since 2015.

12 training workshops
on international taxation delivered by the OECD in Senegal.

Box 3: **The AfDB and the Global Forum help Senegal implement automatic exchange of information**

In 2019, the AfDB agreed to provide Senegal with budgetary support to increase its domestic resource mobilisation. To contribute to advances in the automatic exchange of information (AEOI), it designed a three-year Resource Mobilisation and Reform Effectiveness Support Programme (PAMRER) in collaboration with the Global Forum.

The partners prepared specific policy measures to:

- establish an automatic exchange of information system
- ensure compliance with legal, operational and technical frameworks for data protection and confidentiality
- ensure transparency regarding beneficial owners.

The AfDB and the Global Forum also pledged to provide tailor-made technical assistance to Senegal through a Resource Mobilisation and Investment Attractiveness Support Project approved by the AfDB Board of Directors in 2019. The assistance includes a review of the current legal framework, as well as a report with concrete proposals on how to improve it. Tailor-made training on the AEOI standard is also planned. The collaboration between the AfDB and the Global Forum is a pilot project and is expected to grow in the years to come.

Notes

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16. https://www.oecd.org/tax/transparency/what-we-do/technical-assistance/Yaounde-Declaration-with-Signatories.pdf.

For more information:

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Global Forum: **https://oe.cd/tax-transparency**
OECD: **https://oe.cd/tax4dev-studies**
Senegal Ministry of Finance and Budget:
www.finances.gouv.sn/
Senegal Revenue Authority:
www.impotsetdomaines.gouv.sn/
World Bank Group:
www.worldbank.org/globaltaxprogram

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