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IPR

INVESTMENT POLICY REVIEW

LEBANON

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The following symbols have been used in the tables:

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

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PREFACE

UNCTAD Investment Policy Reviews (IPRs) are intended to help countries improve their investment policies with the objective of meeting the Sustainable Development Goals (SDGs) and to familiarize governments and the international private sector with an individual country's investment environment. The reviews are considered by the UNCTAD Commission on Investment, Enterprise and Development. The analysis is based on the UNCTAD Investment Policy Framework for Sustainable Development (IPFSD) and its core principles and guidelines (UNCTAD, 2015a). The recommendations of the IPR are then implemented with the technical assistance of development partners, including UNCTAD. The support to beneficiary countries is delivered through a series of activities that can span several years.

Consistent with the SDGs, IPRs encourage official development assistance and investment in countries where needs are greatest. The IPR recommendations are in line with countries' national development plans and focus on key development sectors, including agriculture, mining, manufacturing, tourism and infrastructure. By helping countries in this manner, the IPR programme contributes to:

1 NO POVERTY

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

8 DECENT WORK AND ECONOMIC GROWTH

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

10 REDUCED INEQUALITIES

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

17 PARTNERSHIPS FOR THE GOALS

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

The Investment Policy Review of Lebanon was initiated at the request of the Government. Chapter I analyzes the legal and regulatory framework for investment; chapter II was decided by the Government, which requested a focus on the strategic promotion of FDI into the information economy. The IPR is based on a fact-finding mission undertaken in September 2017 and information current at that date, as well as additional data made available to UNCTAD until June 2018. The mission received the full cooperation of the relevant ministries, departments and agencies, in particular the Investment Development Authority of Lebanon (IDAL). It also benefited from the views of the private sector, foreign and domestic, as well as development partners. The Government of Lebanon and the United Nations Development Programme (UNDP) in Lebanon provided substantive contributions as well as financial and logistical support to the IPR process. A preliminary version of this report was shared by IDAL with national stakeholders to gather inputs and suggestions. The final report reflects their comments, including those from ministries and agencies of the Government of Lebanon.

Geneva, June 2018

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ABBREVIATIONS

AIECGC	Arab Investment and Export Credit Guarantee Corporation
ABL	Association of banks in Lebanon
ALI	Association of Lebanese Industrialists
ASYCUDA	automated system for customs data
BDL	Banque du Liban
BEPS	Base Erosion and Profit Shifting
BIT	bilateral investment treaty
BLEU	Belgium-Luxembourg Economic Union
BPO	business process outsourcing
BPT	built property tax
BSE	Beirut Stock Exchange
BSU	business support unit
BTA	Beirut Traders Association
CAS	Central Administration of Statistics
CBCR	Country-by-Country Reporting
CCIA	Chamber of Commerce, Industry and Agriculture
CCIB	Chamber of Commerce, Industry and Agriculture of Beirut and Mount-Lebanon
CDIS	Coordinated Direct Investment Survey
CDR	Council for Development and Reconstruction
CIT	corporate income tax
CNRS	Conseil National de Recherche Scientifique
CPC	Civil Procedure Code
CPD	Consumer Protection Directorate
CRM	customer relationship management
CRS	Common Reporting Standard
DIAE	Division on Investment and Enterprise
DLIPS	Department of Labour Inspection, Prevention and Safety
DSPs	data service providers
DTAA	double taxation avoidance agreement
EA	environmental audit
EFTA	European Free Trade Association
EIA	environmental impact assessment
EMP	environmental management plan
ESCWA	United Nations Economic and Social for Western Asia
ETF	Education and Training Foundation
EU	European Union
FATF	Financial Action Task Force
FDI	foreign direct investment
FET	fair and equitable treatment
FTA	free trade agreement

FTTC	Fibre To The Cabinet
FTTH	Fibre To The Home
GAFTA	Greater Arab Free Trade Area
GCFC	gross fixed capital formation
GDP	gross domestic product
GSP	generalized system of preference
HBS	Household Budget Survey
ICC	International Chamber of Commerce
ICJ	International Court of Justice
ICSID	International Centre for the Settlement of Investment Disputes
ICT	information and communication technology
IDAL	Investment Development Authority of Lebanon
IEE	initial environment examination
IIA	international investment agreement
ILO	International Labour Organization
IMF	International Monetary Fund
IPA	investment promotion agency
IPFSD	Investment Policy Framework for Sustainable Development
IPR	Investment Policy Review
IPZ	investment project by zone
ISDS	investor–State dispute settlement
ISIC	international standard industrial classification of economic activities
ISPs	internet service providers
IT	information technology
ITC	International Trade Center
IXPs	internet exchange points
JSC	joint-stock company
KPI	key performance indicator
LAMC	Lebanese Arbitration and Mediation Centre
LBP	Lebanese pound
LFE	Lebanon for Entrepreneurs
LEBAP	Lebanon Environmental Pollution Abatement Project
LIRA	Lebanese Industrial Research Achievements
LLC	limited liability company
LTE	long term evolution
MAC	Convention on Mutual Administrative Assistance in Tax Matters
MBA	Master of Business Administration
MCAA	Multilateral Competent Authority Agreement
MENA	Middle East and North Africa
MERCOSUR	Southern Common Market
MICE	meetings, incentives, conferences and events
MIGA	Multilateral Investment Guarantee Agency
MNE	multinational enterprise
MoE	Ministry of Environment

MoET	Ministry of Economy and Trade
MoF	Ministry of Finance
MoL	Ministry of Labour
MoU	memoranda of understanding
NCCT	Non-Cooperative Countries and Territories
NEO	National Employment Office
NGO	Non-governmental organization
NICG	National Investment Corporation Guarantee
NSSF	National Social Security Fund
NT	national treatment
NTM	non-tariff measures
OECD	Organization for Economic Cooperation and Development
OIC	Organization of the Islamic Conference
OMT	online money transfer
OSS	one-stop-shop
PDC	Package Deal Contract
PPP	public–private partnership
SCS	*société en commandite simple*
SDGs	Sustainable Development Goals
SEA	strategic environmental assessment
SAL	*société anonyme libanaise*
SARL	*société anonyme à responsabilité limitée*
SIC	Special Investigation Commission
SMEs	small and medium-sized enterprises
SNC	*société en nom collectif*
SOE	State-owned enterprise
SOP	standard operating procedures
SPS	Sanitary and phyto-sanitary
STIP	Science, Technology and Innovation Policy
TIFA	Trade and Investment Framework Agreement
TIP	treaty with investment provisions
TORs	terms of reference
TRA	Telecommunications Regulatory Authority
UNCAC	United Nations Convention Against Corruption
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNIDO	United Nations Organization Industrial Development Organization
USAID	United States Agency for International Development
VAT	value added tax
WEF	World Economic Forum
WHT	withholding tax
WTO	World Trade Organization

KEY MESSAGES

- Since 1997, Lebanon has consistently attracted significant foreign direct investment (FDI) inflows. Despite a slowdown following the global economic crisis, the country's FDI performance has remained above that of comparator countries, including the Middle East and North Africa (MENA) region as a whole. FDI has played a key role in the development of a dynamic services sector. Other sectors, however, have attracted little FDI and the largest share of inflows originate from a limited number of countries in the region, which increases Lebanon's exposure to exogenous shocks.

- Political instability in the region, as well as a range of policy, economic and infrastructure challenges affect the prospects for FDI diversification. Among them are the crisis in neighbouring Syria and the massive inflow of refugees that resulted from it, a fragile macroeconomic situation, high unemployment, brain drain and energy supply shortages.

- Regulatory obstacles are also a deterrent to economic and FDI diversification. In particular, several restrictions on foreign investment persist, some of which contrast with the stated objectives of the Government. A series of outdated and, sometimes unusual, administrative processes affect the investment climate and business operations. The absence of a competition law and agency prevents proactive action to establish a level-playing field and, in the area of labour, a core ILO convention (Convention No. 87 on the Freedom of Association and Protection of the Right to Organise) has not been ratified. Laws to prevent and mitigate corruption, an issue that is of concern to the private sector, are also missing.

- Limited institutional capacities further affect the implementation of the regulatory framework. Even when laws are in line with modern, good practice, as is the case for commercial arbitration and environmental impact assessment, the relevant implementing authorities are affected by serious shortages of resources, including staff. Issues of capacity also affect several other institutions, including the Ministry of Labour for inspections and the national investment promotion agency – IDAL.

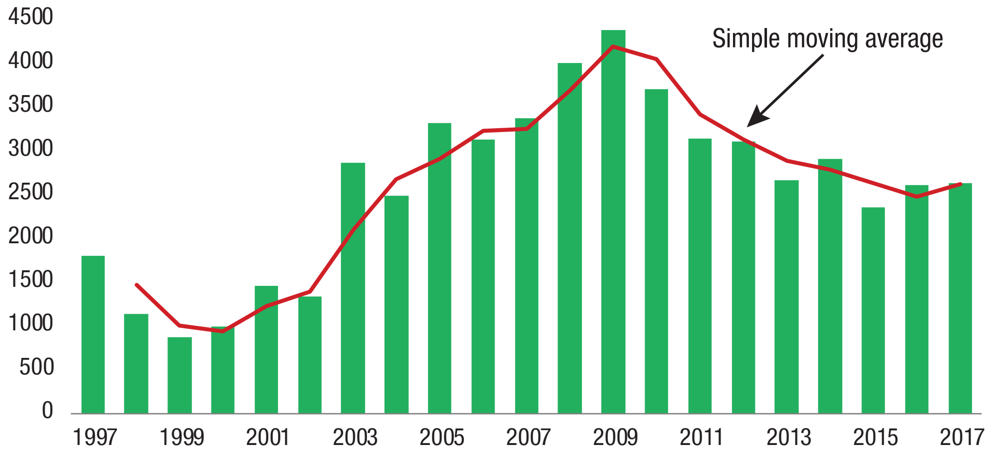
- The Government of Lebanon has recently embarked on a reform drive to improve the legal and institutional framework for investment. The Investment Policy Review of Lebanon acknowledges the Government's efforts and provides the authorities with concrete recommendations in the areas of governance, transparency and business facilitation through the adoption of eGovernment solutions. It also recommends aligning FDI regulations with the country's development objectives, streamlining business operations in the areas of business establishment, land registration and taxation, adopting a modern competition regime, and securing resources for the implementation of labour and environmental laws.

- Finally, the IPR proposes the adoption of a more strategic approach to investment promotion, aimed at attracting higher levels and more diversified FDI, which would generate increased development impact. The approach proposes a methodology to identify target sectors/subsectors and to efficiently promote them on the basis of a stronger institutional framework and a dedicated investment promotion agency free of regulatory functions. The report examines how this approach could be applied to the ICT and ICT-enabled sectors, which the Government considers high priorities for helping to achieve the sustainable development goals (SDGs)

CONTEXT

Lebanon has attracted significant amounts of FDI. From 1997 the country started to attract rising levels of FDI, with inflows consistently surpassing $2 billion per year since 2003, and reaching a record-high of $4.4 billion in 2009 (figure 1). This is a strong performance for a post-conflict, developing economy with a population of just 6 million in 2016 (UNCTAD Stats, 2017) – of which an estimated 1.5 million are refugees – with limited natural resources, and where manufacturing accounts for less than 10 per cent of gross domestic product (GDP, see World Bank Data, 2017). FDI has also played a leading role in the development of Lebanon as a services hub in the region, and has contributed significantly to employment generation. In recent years, notwithstanding a decline from their peak, FDI flows into Lebanon have shown resilience, despite several challenges affecting investment worldwide and in the region.

Figure 1.
FDI inflows to Lebanon, 1997–2017
(Millions of dollars)



Source: UNCTAD FDI/MNE database (UNCTAD, 2018a).

Four periods can be discerned from the recent history of FDI in Lebanon. First, prior to 1997, Lebanon was recovering from the civil war (1975–1990) and was effectively off the radar of foreign investors. FDI inflows over the period 1990–1996 stood at an average of $24.4 million per year. Then, starting 1997, a second phase began when FDI inflows increased rapidly, propelled by real estate projects associated with the reconstruction effort, the privatization of the postal system (Atala et al., 2016), the lifting of travel restrictions by the United States on their citizens and companies,[1] as well as the introduction of a pegged exchange rate with the dollar, which significantly reduced inflation. In 2001, Lebanon also passed a new investment law (Law 360 of 16 August), which introduced new incentives and assigned to the Investment Development Authority of Lebanon (IDAL) superseding authority to grant investment licences and permits. In the same year, some restrictions on foreigners' access to land and real estate were lifted (Law 293 of 3 April). In a third phase, from 2003 to 2009, FDI flows boomed, helped by significant FDI attraction into tourism[2] and telecommunications,[3] and the lifting of FDI restrictions for offshore companies (Law 19 of 5 September 2008 amending Decree 46 of 24 June 1983). The fourth phase, between 2010 and 2017, is characterized by multiple challenges, including the effects of the international financial and economic crisis, political instability in the region, a drop in oil prices affecting some of the traditional countries of origin of FDI to Lebanon, as well as an influx of refugees resulting from the conflict in Syria. In this context, FDI inflows declined to an average of $2.9 billion per year.

Despite the recent slowdown, the FDI performance of Lebanon remains above that of its main comparator economies in the region. While Lebanon represents 1.5 per cent of the MENA population (384 million, UNCTAD Stats, 2017), it has attracted 5 per cent of FDI inflows to the region over the period 2007–2011 and 8 per cent between 2012–2017. Average FDI inflows to the MENA region more than halved in the aftermath of the international financial and economic crisis of 2008–2009 and the start of the Arab Spring in 2010–2011. However, Lebanon's relative FDI performance continued to stand well above the regional average and comparator countries, in terms of FDI inflows per capita, per $1,000 of GDP and as a percentage of gross fixed capital formation (GCFC). In addition, Lebanon's total inward FDI stock stood above $63 billion at the end of 2017 and, as a percentage of GDP, was higher than that of all comparator economies in the region (table 1).

Data on the distribution of FDI by sector and country of origin is scarce, but points to a concentration of FDI in services… Despite IDAL's efforts to track FDI data, there is no comprehensive information on the sectoral distribution of FDI or its precise origin. The General Directorate for Real Estate Affairs collects data on foreign acquisitions of real estate, which indicates that FDI to the sector totalled $555 million, that is about 20 per cent of FDI inflows, in 2016. This figure has remained constant since at least 2010.[4] Data on greenfield projects from 2003–2015, echoes the importance of real estate: nearly 49 per cent ($7.1 billion) of FDI greenfield projects, by value, were in the real estate sector, followed by a further 30 per cent ($4.5 billion) in hotels and tourism (AIECGC, 2015). The latest available data provided by Banque du Liban (BDL) from the Coordinated Direct Investment Survey (CDIS) indicates that over the period 2011–2014, FDI to banking, insurance and financial services averaged $130 million per year. Lastly, the Ministry of Economy and Trade (MoET) data on foreign branches and representative offices registered in Lebanon in 2016 indicates that these firms are mainly concentrated in services, including financial and business services (41 per cent), followed by construction and real estate (14 per cent), media (11 per cent), pharmaceuticals and trade and retail (8 per cent), industry and information technology (5 per cent), and telecommunications, tourism and transportation (3 per cent).

…and to significant impact on the economic development of recipient sectors and job creation. Those sectors that have received most FDI are also among those which have grown the most since the mid-2000s (figure 2). Construction and real estate, hotels and trade have all seen their gross value added more than double between 2004 and 2015. The inflow of remittances, estimated by the World Bank at $7.6 billion in 2016, and FDI have also contributed to establishing Lebanon as a financial hub in the region. This has helped support a traditionally strong banking sector, which has further grown and remained profitable despite economic volatility, also demonstrating an underlying confidence in the banking system (International Monetary Fund (IMF) and World Bank, 2016). In addition to its contribution to growth, FDI created a significant number of jobs over the period 2003–2017, according to calculations based on official figures.[5]

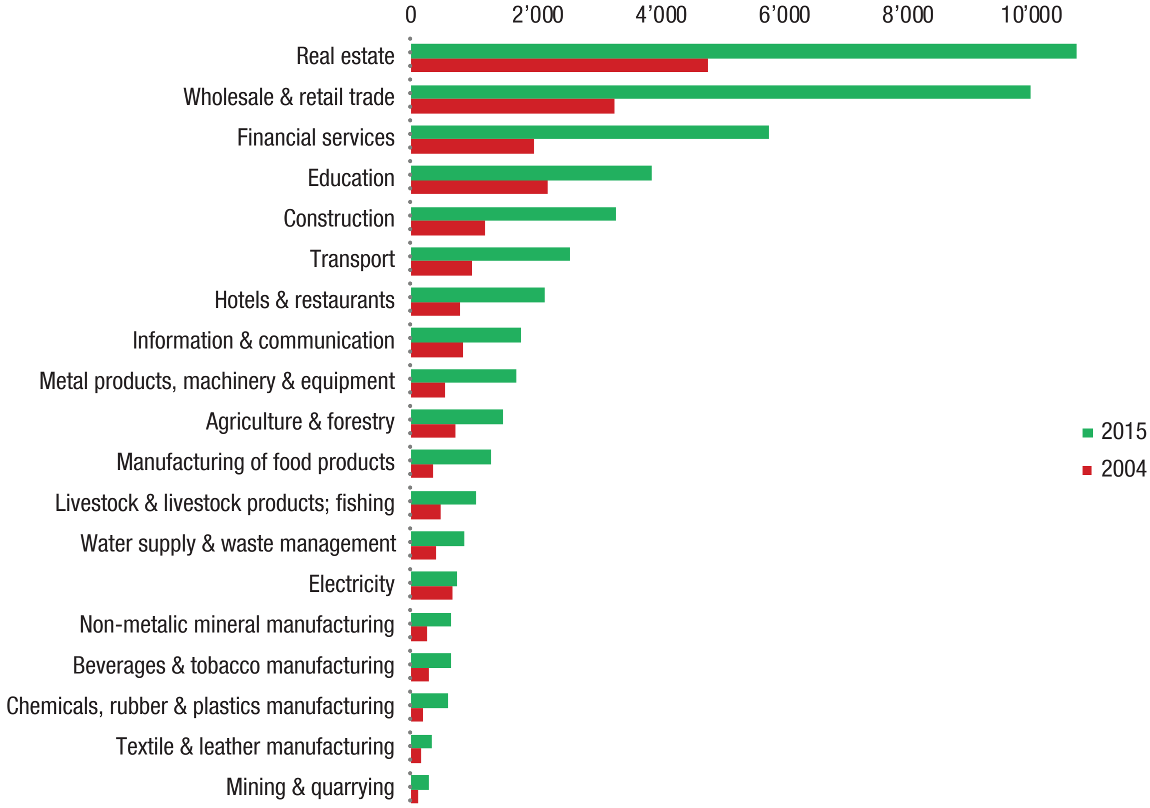
Investors from the region account for the lion's share of FDI projects, but new routes are opening up. Project data indicates that most investors over the period 2003–2015 come from the region, notably the United Arab Emirates (50 per cent), Kuwait (14 per cent) and Saudi Arabia (13 per cent) (AIECGC, 2015). Several commercial banks from Arab countries are present in Lebanon, although data provided by

Table 1.
FDI attraction performance of Lebanon and regional comparator economies

Country	Average inflows of foreign direct investment								Foreign direct investment stock		
	Millions of dollars		Per capita (dollars)		Per $1 000 gross domestic product		As percentage of gross fixed capital formation		Total millions of dollars	Per capita (dollars)	Percentage of gross domestic product
	2007–2011	2012–2017	2007–2011	2012–2017	2007–2011	2012–2017	2007–2011	2012–2017	2017		
Lebanon	3 720	2 712	873	488	112	55	43	24	63 693	10 547	118
Egypt	6 737	6 220	84	68	34	21	16	15	109 660	1 152	46
Jordan	2 207	1 749	352	235	93	49	38	24	33 886	4 302	84
Morocco	2 277	2 942	72	86	25	28	8	9	62 664	1 778	59
Tunisia	1 745	1 092	166	98	40	25	17	12	28 725	2 499	71
MENA	71 928	34 055	212	89	37	13	15	5	859 932	2 129	33

Source: UNCTAD FDI/MNE database.

Figure 2.
Gross value added by selected industry
(Billions of Lebanese pounds)



Source: UNCTAD calculations.

BDL from the CDIS indicates that over the period 2011–2014 the bulk of FDI in banking, insurance and financial services came from Luxembourg (43 per cent), the United States Virgin Islands (9.8 per cent) and the United Arab Emirates (9.3 per cent). In addition, according to IDAL, in 2016 the United Kingdom became the largest source of foreign investors in Lebanon, accounting for 27 per cent of total new operating foreign companies.[6] It cites Brexit as one of the reasons for the increased interest of foreign investors from the United Kingdom, as well as a trend to explore investment opportunities in the Middle East, notably Lebanon, which features as a prominent destination in light of its low taxation, high-skills base and the ongoing reforms to improve the business environment (IDAL, 2017a; see below).

Despite Lebanon's relatively strong FDI performance to date, some obstacles constrain further FDI attraction, economic diversification and, ultimately, sustainable development. Macroeconomic stability has been eroded by persistent deficits and external shocks. In 2015, public debt stood at 138 per cent of the country's GDP, and both fiscal and trade deficits have been increasing, which threaten investors' confidence. While GDP grew at a steady average of five per cent per year between 1995 and 2010, it has slowed to about two per cent per year in the last five years. Furthermore, the influx of refugees has put pressure on the labour market, and has stretched public services, notably education and health facilities, and energy, which were already suffering from underinvestment (Ministry of Energy and Water and UNDP, 2017).

A skills mismatch has contributed to brain drain, unemployment and informality, and women's participation in the labour force is low. Youth unemployment stands at around 35 per cent (World Bank, 2012a; Education and Training Foundation (ETF), 2016). Overall, the World Bank estimated that 23,000 jobs would be required each year to integrate new entrants into the labour market, yet, between 2004 and 2007, for example, Lebanon created only 3,400 jobs per year. Additional data available for the period 2004–2009 indicates that new jobs were mainly generated in the trade sector (61 per cent), low productivity services sectors (33 per cent) and the construction sector (10 per cent) (World Bank, 2012a). In parallel, over the same period, about half of university degree holders were either unemployed or inactive and constituted almost half of total Lebanese emigrants (Central Administration of Statistics (CAS), 2011 and 2012). Consequently, the country has been exporting highly skilled labour and importing lower-skilled labour (ETF, 2015). Alternatives to emigration and unemployment are self-employment and/or informality. The gender dimension is also important. According to the Household Budget Survey 2011–2012, the overall female participation rate in the labour force is 25 per cent. The participation rate declines sharply when women reach age 34. This rate is slightly below the MENA average and one of lowest in the world (World Bank, 2015). As discussed in chapter I of this report, labour policy contributes to this phenomenon.

Energy supply shortages are an increasing impediment to economic diversification and investment. The power sector suffers from chronic inefficiencies and outages of supply that can last up to nine hours per day in some regions, and even more during peak summer months. As reported by the United Nations Development Programme (UNDP), over the past few years, the Government has worked on improving the energy supply by upgrading some power plants and purchasing electricity from temporary suppliers. However, the surge in demand for power associated with the influx of refugees has outpaced the Government's efforts to improve supply, leaving the country with an electricity gap that is double that of 2010 (Ministry of Energy and Water and UNDP, 2017). The poor state of the sector acts as an obstacle to economic diversification, particularly in manufacturing, whose share in GDP has declined from 14 per cent in 1998 to 5.2 per cent in 2016 (World Bank Data, 2017) and where several business closures were reported.

Although Lebanon has concluded a series of free trade agreements (FTAs), it struggles to overcome behind-the-border trade barriers, which limit its export potential and increase the trade deficit. The country has an "observer negotiating accession" status at the World Trade Organization (WTO), but has concluded a series of regional and bilateral FTAs, including with the European Union (EU) and with other MENA economies.[7] In 2015, the trade deficit stood at $15 billion, twice that recorded before the international economic and financial crisis. Half of this figure is with EU countries. Sanitary and phyto-sanitary (SPS), certification issues regarding animal and dairy products and a lack of integration of production chains, among other factors, prevent Lebanon from fully exploiting the potential offered by its trade agreements. This has affected the perception of the benefits of FTAs in the eyes of both the public and private sectors. As of early June 2018, 22 safeguard complaints by Lebanese industrialists were under review by the National Committee for the Protection of National Production.[8] In the absence of a national export strategy, ad hoc support measures are taken, notably by IDAL in its role of export promotion agency, as well as by the Ministry of Agriculture, the Ministry of Industry and the MoET, which contributes to the participation of Lebanese stakeholders in international trade exhibitions.[9]

Heavy administrative requirements and institutional weaknesses affect the quality of the investment climate. As discussed in chapter I of this report, while Lebanon is commonly known for its openness to trade, several restrictions on FDI persist, some of which contradict the stated objectives of fostering an innovation-led economy. While several laws are modern and in line with best practice, a series of outdated and sometimes unusual processes and regulations affect business operations (such as business establishment and liquidation or land registration), in addition to requiring a very high level of approval. In the absence of an e-signature law, the electronic payment of taxes and a series of other online business operations are affected, and the lack of a competition law prevents proactive actions to establish a level-playing field in the economy. In addition, several ministries and institutions are short-staffed, which negatively affects implementation. Finally, corruption is perceived as widespread and a significant obstacle for the private sector.

There is momentum for reform in Lebanon, and this Investment Policy Review (IPR) aims at assisting the Government in its efforts to improve the business environment and achieve the sustainable development goals (SDGs). The Government and Parliament have recently adopted several laws with the objective of enhancing the business climate. Work is also ongoing to elaborate a capital investment plan and an economic national development plan.[10] However, Lebanon still lacks a coherent long-term strategy on the role of the private sector and, more specifically, on how FDI can help achieve the national development objectives and the SDGs, most notably in terms of job creation. While this report will not specifically address the macroeconomic, infrastructure or market access issues raised above, it lays the ground for priority reforms to enhance the investment climate and develop a strategy to attract more FDI in sectors that can help alleviate unemployment and brain drain.

In particular, the IPR analyses key regulatory constraints limiting Lebanon's investment potential and provides action-oriented recommendations to address them. It examines the existing legal and institutional framework for FDI, and also several areas of the policy framework for investment that affect all investors, including business establishment, taxation, labour, environment, competition and governance. It provides concrete and phased recommendations to overcome these constraints and, ultimately, improve the investment climate (chapter I). The timeframe for the implementation of measures is envisaged in three phases: 0–18 months (short-term), 18–36 months (medium-term) and above 36 months (longer-term). Annex I summarizes the recommendations of the IPR.

The IPR also proposes a strategy to increase FDI attraction, especially in the ICT and ICT-enabled sectors. Achieving Lebanon's objective of becoming an information economy requires a targeted effort to position and promote certain sectors to foreign investors that could have a major impact on improving Lebanon's image and attracting higher investment flows. Based on a detailed analysis of the current institutional framework for investment promotion, this Review proposes a range of contemporary investment promotion tools and techniques, as well as institutional mechanisms that can be implemented in a phased approach and progressively built upon to increase the effectiveness of investment attraction efforts (chapter II).

There is momentum for business climate reform in Lebanon. A series of new laws have been adopted and almost 70 bills are being considered. This reform agenda provides an opportunity for Lebanon to rethink its approach to investment facilitation and create a level-playing field for all investors. In several regulatory areas, such as commercial arbitration or environmental permitting, Lebanon can be considered a model for other countries. However, regulations affecting business operations, including company establishment, liquidation or land registration, are out-dated and the relevant procedures are cumbersome. The use of modern technology to facilitate interactions with the public administration is limited, and policy implementation suffers from shortages of staff across the administration. In addition, public perceptions of the efficiency of the judiciary and other public institutions are low. This chapter aims to support the ongoing reform effort by offering a sequenced approach to addressing policy gaps. It analyses the regulatory and institutional framework for domestic and foreign direct investment in Lebanon and provides a series of action-oriented recommendations based on UNCTAD's Investment Policy Framework for Sustainable Development (IPFSD – UNCTAD, 2015). The recommendations, broken down into short-term, immediately actionable measures, as well as medium- and longer-term ones requiring legislative and institutional changes, provide concrete suggestions to help the Government achieve its national development and FDI attraction goals, as well as the SDGs.

Chapter 1

Investment Regulatory Framework

A. FDI-SPECIFIC REGULATORY FRAMEWORK

1. Domestic investment legislation

Lebanon does not have a comprehensive investment law. An investment law exists (Law 360 of 16 August 2001, complemented by Decrees 9311 and 9326 of 21 December 2002), but it was designed to define the mandate of IDAL and to provide incentives in priority sectors.[11] The law does not contain the provisions usually featured in an investment law, such as the core standards of treatment and protection applying to domestic and foreign investors. Nowhere does the Lebanese legislation contain references to post-establishment non-discrimination or national treatment (NT), nor does Investment Law 360 include provisions on the transfer of funds, expropriation or dispute settlement. Therefore, the ordinary regime applies in these areas, as further detailed in this section. Additional guarantees for foreign investors are contained in bilateral investment treaties (BITs) (section A.2).

Several restrictions to FDI apply. Some restrictions reflect national security considerations and are similar to those found in many countries. For instance, Lebanon does not permit foreign participation in the following sectors: defence and weapons (Legislative Decree 137 of 12 June 1959, Weapons and Ammunition Law), political newspapers, and all broadcast (television and radio stations) media (Press Law of 14 September 1962, Broadcast Law 382 of 4 November 1994).[12] However, a series of regulatory requirements also effectively restrict FDI in many other instances. These are not contained in one official document but scattered across different sources.[13] They include general and sectoral corporate requirements for joint-stock companies (JSCs), conditions on the foreign partner of a limited liability company (LLC), quota restrictions in accessing land (section C), and a prohibition for foreigners to practice legal professions (table 1.1).[14] These restrictions are not regularly reviewed. Finally, two sectors, fixed line telephony and energy transmission, are closed to domestic and foreign investors as they are currently operated by State-owned enterprises (SOEs), which have a de jure monopoly (section F).

Some restrictions may conflict with the country's FDI attraction and development objectives. Banking, insurance and organized freights, which can only operate as JSCs, are required to have a Lebanese majority on the Board, which makes them, in practice, restricted for FDI. The capital requirement for JSCs operating a public utility has an indirect impact on access by foreigners to public procurement in many areas such as waste management or water treatment. Finally, only Lebanese nationals are permitted to practice law, making legal services de facto restricted for FDI.

There are no restrictions on the transfer of capital, profits and dividends. Lebanon has liberalized its foreign exchange transactions, and there are no or insignificant restrictions on payments and transfers for international transactions (IMF, 2017a and PwC, 2015). Foreigners and non-residents can open bank accounts in the country in Lebanese pounds (LBP), or other currencies such as dollars or euros. Lebanon has also agreed to the sections of Article VIII of the IMF Agreement regarding the avoidance of restrictions on current payments and of discriminatory currency practices as well as the convertibility of foreign-held balances. The LBP is de facto pegged to the dollar, and the central bank regularly engages in financial operations to maintain its parity around a mid-point of LBP 1507.5 per dollar, with a bid-ask spread of LBP +/- 6.5 (IMF, 2017a). In recent years, the country has also adopted a set of laws to comply with the MENA-Financial Action Task Force (FATF) requirements.[15]

Expropriation is strictly regulated and rare. The Lebanese Constitution of 1926, and its amendments, and Law 58 on Expropriation (1991, amended in 2006) limit expropriation to reasons of public interest in cases provided for by the Law, and provides for prior market-value compensation. Expropriations are subject to a very detailed administrative process involving public consultations and granting the right of appeal to the owner. Construction and existing rights (leases, etc.) at the time of the decree's publication are taken into account in the determination of the compensation. Although there is no explicit mention of non-discrimination, Law 58 does not refer to the nationality of the owner. Expropriation was not mentioned as a concern by the private sector interviewed during the fact-finding mission, but other sources report that compensation is often perceived as below market value (United States Department of State, 2016).

Table 1.1.
Summary of FDI restrictions in Lebanon

Field	Restriction	Exception
Defence and weapons	Only Lebanese can obtain a licence to manufacture and trade	No
Political newspapers and broadcast media	Fully owned and managed by Lebanese nationals	No
Exclusive commercial representation	Trader - Reserved to Lebanese nationals Partnership or LLC – Lebanese majority of partners and shares + person authorized to sign on behalf of the company JSC – Lebanese 2/3 of the Board + Director General + person authorized to sign on behalf of the company[a]	No
Banking, insurance and organized freight	Lebanese majority in the Board + Lebanese participation in shares[b]	No
Public utilities (JSC)	Lebanese majority on the Board + 1/3 Lebanese shares, non-transferable to foreigners[c]	Package Deal Contract (PDC)[d]
Real estate trading (JSC)	Lebanese majority in the Board + 50 per cent of Lebanese shares[e]	No
Real estate	Foreigners cannot own more than 3 per cent of land in each caza[f] (10 per cent in Beirut) and in total in the Lebanese territory[g]	No
Legal services	Legal professions are reserved for Lebanese nationals[h]	No
Landline telephone	SOE monopoly	No
Energy transmission	SOE monopoly	No

Source: UNCTAD.
[a] Legislative Decree 34/67 of 5 August 1967.
[b] Articles 144 and 147 of the Commercial Code.
[c] Articles 144 and 78 of the Commercial Code.
[d] Article 17 of Investment Law 360, following Law 771 of 11 November 2006 waives the obligation of having a majority of Board composed of Lebanese nationals. This would only apply if the JSC operates in one of the eight sectors listed by Investment Law 360 and if a Package Deal Contract (PDC) has been concluded.
[e] AP Consulting. Middle Eastern Laws, available at: mideastlaw.com/middle_eastern_laws_lebanon.html. Accessed on 3 October 2017; CCIB. Commercial Companies in Lebanon, available at: ccib.org.lb/uploads/5164884084cbb.pdf. Accessed on 3 October 2017.
[f] There are eight muhafazah (governorate) in Lebanon, divided in 26 caza (districts).
[g] Decree 11614 of 4 January 1969, amended by Law 296 of 3 April 2001.
[h] According to the MoET, this does not however prevent arbitration and mediation by foreigners.

Lebanon has a national investment guarantee agency and is a member of the Multilateral Investment Guarantee Agency (MIGA). The Lebanese National Investment Guarantee Corporation (NICG), established by Decree-Law 3 of 15 January 1977, provides guarantees against political risks, riots, losses due to non-convertibility of currencies and transfer of profits to domestic and foreign investors in Lebanon. The premium is of 0.2 per cent of the insured amount per year.

In case of commercial dispute, domestic and foreign investors have access to local courts and to commercial arbitration. The Civil Procedure Code (CPC) does not discriminate by nationality for access to justice, although proceedings at the local courts are lengthy (section H).

Arbitration involving the State is available to foreign investors under the CPC and the BITs. The CPC authorizes the State and public law entities to engage in domestic and international arbitration,[16] provided they agree to it. Investment Law 360 also defines a specific regime for the PDC scheme (section D.2), under which arbitration in Lebanon or in an international centre are available, provided the following conditions are met: 1) the parties have made efforts to settle the dispute amicably; 2) consent by the State must have been given in advance when submitting the investment contract for access to the PDC scheme; 3) the request must have been approved by IDAL's Board of Directors and endorsed by the tutorship authority; and 4) the agreed framework governing the proceedings must be approved by a decree issued by the Council of Ministers on a proposal of its President (article 18, Investment Law 360). The BITs signed by Lebanon all grant access to investor-State arbitration (see below). The country has ratified the 1965 Convention on the Settlement of Investment Disputes between States and Investors (ICSID Convention) and the 1958 Convention on the Recognition of Foreign Arbitral Awards (New York Convention).

IDAL, the institution in charge of investment promotion and facilitation, has a concurrent regulatory role. No mandatory registration at IDAL or at any other governmental entity is required from foreign investors upon entry. The Authority's mandate is limited to the eight sectors listed in Investment Law 360 (cited above), for which it holds a promotional and a regulatory role. Indeed, in addition to promoting domestic and foreign investment, IDAL is mandated to administer incentives. IDAL also has a superseding authority over other governmental entities to grant licences and permits. The latter function is not implemented in practice, as IDAL acts more as a facilitator with focal points in each ministry. Nevertheless, having a concurrent promotion and regulatory role is not in line with good practice, as highlighted in UNCTAD's IPFSD, as conflicts of interest may arise (see chapter II).

2. International investment agreements

Lebanon has concluded 50 BITs with traditional investment protection provisions, 42 of which are in force.[17] The majority of them were signed with European countries (42 per cent), followed by countries from Asia (34 per cent), Africa (18 per cent) and the Americas (6 per cent). Half of Lebanon's BITs were concluded with developing countries, which reflects its position as the home country of a large foreign investor community. The main features are:

- A broad asset-based definition of investment, except the BIT with Turkey, which includes the definition of direct investment, and the BIT with Canada, which excludes specific assets.[18] The BIT with the Islamic Republic of Iran requires investments to first be approved by the host country's authorities to fall under the treaty.
- Few limitations for legal persons to qualify as investors. Dual natural persons are only excluded from the scope of the BITs with Canada and the Islamic Republic of Iran.

- NT and most-favoured nation clauses, including at the pre-establishment phase in the BIT with Canada, either as stand-alone clauses or in combination with a fair and equitable treatment (FET) clause. Exceptions apply in nearly half of the BITs regarding ownership rights by foreigners or measures applied by Lebanon to promote individual investment projects from Arab countries for development purposes.
- An FET provision, unqualified in most treaties and by reference to international law in 10 BITs (Benin, Canada, Chad, Cyprus, France, Gabon, Guinea, Mauritania, Spain and Sweden).
- Clauses on direct and indirect expropriation, with the exception of the BITs with Jordan and Malaysia which do not mention explicitly indirect takings or measures equivalent to indirect expropriation. The latter is defined clearly only in the BITs with Italy, Kuwait and Slovakia.
- Umbrella clauses in more than two-thirds of the BITs.
- Free transfer of any investment-related funds, with a balance of payment exception in the treaties with Iceland and Slovakia. The BIT with Canada includes an exception relating to, notably, bankruptcy, insolvency and the protection of the rights of creditors, criminal or penal offences, and ensuring the satisfaction of judgments in adjudicatory proceedings.

Access to investor-State dispute settlement (ISDS) is granted in all BITs. Arbitration is available to investors generally through the United Nations Commission on International Trade Law (UNCITRAL) Rules, under ICSID Rules or the ICSID Additional Facility Rules, and in regional fora for treaties concluded with Arab countries. Domestic courts of the host State are also an option. The ISDS scope is limited to treaty claims or to specific cases in the BITs with Austria, Bulgaria, Canada, Chile, Greece, Guinea, Malaysia and the United Kingdom. The BITs with China, France and the Islamic Republic of Iran permit both the investor and the host State to initiate arbitration. The BIT with Canada excludes from the scope of ISDS the pre-establishment operations, imposes on investors a three-year limit in submitting a request to arbitration, and includes a special mechanism for taxation and prudential measures. The BIT with China limits access to arbitration to questions related to the amount of compensation due to the investor, and is only allowed if the investor has brought a case before the domestic courts of the host State prior to submitting a notice of arbitration.

Some BITs contain sustainable development exceptions. The BITs with Canada, Chad, Czech Republic and Slovakia include exceptions to adopt, maintain or enforce any non-discriminatory measures designed for the protection of human, animal or plant life or health, the protection of the environment and of national security. The BITs with Canada and the Czech Republic also include a carve-out provision for prudential measures.[19] The BIT with Germany clarifies that measures taken for reasons of public security, public order, public health or morality do not constitute less favourable treatment. The BIT with the Belgium-Luxembourg Economic Union (BLEU) includes a public order exception to the commitments regarding full protection and security as well as the prohibition of arbitrary and discriminatory measures.

Several BITs include investment facilitation provisions. Notably, they provide that, once established, investment shall be granted all necessary approvals, including the hiring of key foreign personnel. In addition, five BITs (Benin, Kuwait, Mauritania, Spain and Syria) include investment promotion provisions encouraging the exchange of information on investment opportunities.

Lebanon is a party to seven treaties with investment provisions (TIPs).[20] The scope and depth of the investment provisions in the Lebanese TIPs range from binding substantive investment protection to best endeavour provisions on investment cooperation, including the 2006 Trade and Investment Framework

Agreement (TIFA) with the United States, the 2004 Free Trade Agreement (FTA) with the EFTA States, and the 2002 Association Agreement with the EU. Lebanon is also a party to an overlapping and aging network of regional TIPs. These include the 1981 Agreement on Promotion, Protection and Guarantee of Investments among Member States of the Organization of the Islamic Conference (OIC), the 1970 Agreement on Investment and Free Movement of Arab Capital among Arab Countries, and the 1980 Unified Agreement for the Investment of Arab Capital in the Arab States. Lebanon has not ratified the amendments adopted by the Arab economies on 22 January 2013. The provisions introduced by these amendments would benefit from refinements and clarifications.

To date, Lebanon has been a respondent in five treaty-based ISDS cases. Two cases have been decided on the merits, one in favour of Lebanon (Toto v Lebanon) and the other of the investor (France Telecom v Lebanon).[21] Two cases are currently pending, J&P-AVAX v Lebanon (filed in 2016) and El Jaouni v Lebanon (filed in 2015). For the fifth case, Eastern Company v Lebanon (filed in 2000) no data was available at the time of writing. Lebanese investors have initiated three treaty-based ISDS cases against other States, all pending at the time of writing.[22]

RECOMMENDATIONS

a. Domestic investment legal framework

Notwithstanding Lebanon's reputation as an economy open to trade and investment, several restrictions to FDI exist. Contrary to good practice, these restrictions are not regularly reviewed, they are not clearly specified in a negative list nor geared towards overall national development objectives. On the contrary, some of them constitute an impediment to the country's potential to attract FDI, and also contradict the investment attraction objectives stated in Investment Law 360. Once established, investors are offered high standards of treatment and protection even though these are not inscribed in the law. On the institutional front, best practice shows that promotional and regulatory functions are better managed when they are undertaken by two different entities. In light of the above, the Government could consider the following recommendations:

Short-term

- Publish an exhaustive list of restrictions to FDI in an official document.
- Clearly separate within IDAL the staff responsible for investment promotion and for administering incentives.

Medium-term

The Lebanese Commercial Code is currently being reformed, this could provide the opportunity to:

- Revaluate the need for some of the current investment restrictions and align them with the country's FDI attraction objectives.
- Consider the introduction of a reference to non-discrimination or NT in the domestic legislation to grant the core standards of treatment and protection to foreign investors.

Longer-term

- Revise Investment Law 360 to separate IDAL's promotional and regulatory functions (see chapter II).

b. International investment legal framework

The review of Lebanon's treaty network shows that it mainly consists of first generation international investment agreements (IIAs). In addition, Lebanon has been a respondent in five ISDS cases. These two features highlight the need for Lebanon to modernize its treaty network. Encouragingly, in 2014, Lebanon took steps to amend its model BIT to include modern provisions related to, among others, the safeguarding of public health and safety, environmental measures, human rights and labour rights, as well as restrictions on transfer of funds in case of balance of payment difficulties. To continue its efforts aimed at modernizing the investment treaty network, Lebanon could refer to UNCTAD's tools, included in the World Investment Report and in the Reform Package for the International Investment Regime (UNCTAD, 2018a and 2017a). These tools were designed in phases for the negotiation of new treaties, the modernization of existing ones and for fostering consistency between national and international investment-related provisions. UNCTAD has identified at least 10 options available to Lebanon to bring its treaties into conformity with new development policy objectives, and to meet the challenges arising from the fragmentation of the IIA regime. Among the options proposed, which are not mutually exclusive and can be used in a complementary manner, the Government of Lebanon can determine the extent to which they should be pursued and select the options that best match the country context. The reform areas aim to:

- Ensure the coherence of BITs at the bilateral and regional levels and link the related reforms to domestic policy objectives.
- Modernize the treaty network based on a careful and fact-based cost-benefit analysis. The reform efforts should be geared towards:
  - ✓ Refining and clarifying key provisions with a view to avoiding unanticipated and broad interpretations by tribunals (e.g. definition of investment, indirect expropriation, FET).
  - ✓ Safeguarding the State's right to regulate for public policy objectives, while maintaining effective investment protection (e.g. focusing treaty scope, using carve-outs, exceptions and exclusions, carefully considering the type of obligations to be included in the treaty).
  - ✓ Improving the investment dispute settlement mechanisms in IIAs (e.g. improving the arbitral process, limiting investors' access, using filters, introducing local litigation requirements) and adding new elements (e.g. building in effective alternative dispute resolution or introducing an appeals facility).
  - ✓ Strengthening investment promotion and facilitation provisions in IIAs (e.g. joint and regional investment promotion provisions, and including an ombudsperson for investment facilitation).
  - ✓ Ensuring responsible investment, e.g. including "not lowering of standards" clauses and establishing provisions on investor responsibilities, such as clauses on compliance with domestic laws and on corporate social responsibility.
  - ✓ Enhancing systemic consistency by improving the coherence of the IIA network at the bilateral and regional levels, managing the interaction between IIAs, and linking IIA reform to the domestic policy agenda.

UNCTAD stands ready to assist Lebanon in this endeavour.

B. BUSINESS ESTABLISHMENT AND LIQUIDATION

Trade registers are responsible for company establishment. Companies can be partnerships[23] or corporations,[24] with a minimum capital requirement of $3,300 and a minimum of three partners in an LLC (table 1.2). There is no single-member private limited liability company structure.[25] This type of structure is traditionally used in some countries to incentivize the formalization of businesses. Five trade registers, overseen by a magistrate, operate in the country (Beirut, Bekaa, Mount Lebanon, North and South).[26] They are in charge of company registration and incorporation, and are organized in three sections – individual traders, commercial establishments (*fonds de commerce*) and companies.

Table 1.2.
Types of corporations and requirements

Type of company	Minimum capital	Number of shareholders/partners
LLC	$3 333	3 to 20
JSC	$20 000	Minimum 3
Holding company	$20 000	Minimum 3
Offshore company	$20 000	Minimum 3

Source: IDAL/Trade Register.

Company establishment is cumbersome and costly. It takes, on average, over 15 days involving eight procedures and costing 42 per cent of (the economy's) income per capita to establish an LLC with 15 employees or more in Beirut. This is double the number of procedures in comparator countries, where no fees are charged (table 1.3). According to the 2018 Doing Business report, the country ranks 143 out of 190 in the Starting a Business indicator (World Bank, 2017b). The procedure is common for JSCs, LLCs, holding and offshore companies (IDAL, n.d.). If the articles of association are not directly signed in front of the Head Clerk at the trade register, they have to be registered by a public notary for a fee of 0.2 per cent of the company's capital, which adds to a fixed sum of $60 and around $6 per page. A fee varying between $100 and $167, along with registration fees of $233 to $333 and 0.15 per cent of the capital to the Magistrate Mutual Fund also apply. A stamp duty is paid at the Ministry of Finance (MoF), at a fixed amount ranging between $500 and $667 and 0.4 per cent of the capital, where a tax identification number is attributed. Registration at the value added tax (VAT) department is separate and can take up to a week. Registration of employees for social security benefits is done at the National Social Security Fund (NSSF) and is immediate. However, it can take up to 30 days to obtain a "confirmation" with the specific NSSF number of each staff member. When the company has 15 employees or more, the internal labour regulations have to be registered at the Ministry of Labour. Any subsequent amendment to the company's situation needs to be reported in the Trade Register within two months.

Unusual establishment requirements are imposed. The trade register appoints an additional auditor for the company and LLCs, JSCs, holding and offshore companies must appoint a lawyer who is not only responsible for the establishment process, at a fee of $2000, but must also be retained for annual services at a fee of minimum $6000 per year, as determined by the Bar Association.[27] A fixed sum of $67 and 0.1 per cent of the capital must also be paid to the Bar Association to confirm the lawyer's nomination. This results from the requirement for companies to have a legal advisor, and is duly required by public entities upon registration. However, in practice, this is an impediment to the creation of small enterprises. While this provision can be found in some countries, notably to ensure the quality of the articles of association, it is often not mandatory. In addition, lawyers can only be Lebanese nationals (section A.1).

Table 1.3.
Registering a business in Lebanon and comparator countries

Country	Ranking	Procedures	Time (days)	Cost (per cent of income per capita)	Paid-in minimum capital (per cent of income per capita)
Lebanon	143	8	15	42	42.3
Morocco[a]	35	4	9	8	0
Singapore	6	3	2.5	0.6	0

Source: World Bank, 2017b.
[a] Morocco is the best performing country in the MENA region which, like Lebanon, does not distinguish between women and men starting a business.

Online company establishment is not available, and information is scattered. The Trade Register indicated during the fact-finding mission that digitalization efforts focus, for the moment, on archiving existing information. In addition, there is no single document or website that lists the relevant steps, required documents and fees. The trade register reported that booklets were available, but due to a lack of resources, they are not produced anymore. The trade register's website provides some information, available in Arabic, and does not include an exhaustive description of the establishment procedure.[28] IDAL has produced a guide, available online in English, but there are slight discrepancies, notably regarding fees.

Foreign branches and representative offices can be partly registered online, but heavy administrative requirements remain. All foreign documents must be certified by the trade register in the company's country of incorporation and legalized by the Lebanese Embassy or Consulate.[29] This procedure is lengthy, especially as Lebanon is not a member of the 1961 Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents (Apostille Convention). In addition, all documents must be translated into Arabic prior to their submission to the Registry of foreign branches and representative offices at the MOET, and their registration at the trade register. Notification of commencement of activities must be done to the MoF, where a tax identification number is attributed. The MoET maintains a registry online of all foreign branches and representative offices.[30]

Liquidating a company is also burdensome and lengthy. Two general discharge certificates from the MoF and the NSSF proving that no payments or obligations are pending with these administrations need to be presented to the trade register. In practice, the process is described as lengthy and open to rent-seeking. When closing a business, the decision is published, thus giving creditors a right to reply and fill a claim at the commercial court if a dispute arises. However, insolvency regulations and its proceedings are outdated.[31] Indeed, throughout Book V on insolvency, the Commercial Code refers more to individual traders than to incorporated legal entities with complex structures (Hawkamah/World Bank/OECD/Insol International, 2009). Lebanon ranks 147 out of 190 in the Resolving Insolvency indicator of the 2018 Doing Business report, which estimates that it takes three years to solve insolvency at a cost of 15 per cent of the estate, with a recovery rate of 31.4 cents on the dollar (World Bank, 2017b). Private sector representatives indicated that often the overall procedure to liquidate a business takes around four years.

RECOMMENDATIONS

Business establishment and liquidation are cumbersome due to a series of requirements that could be simplified, without revising existing laws and regulations, and by introducing electronic processes.[32] In this regard, the introduction of an online OSS service is encouraged and would also support the Government's objectives of developing a strong ICT sector (see chapter II). A draft e-transaction law, allowing e-signature is also currently pending a review by Parliament. IDAL is also considering creating Business Support Units (BSUs), which would be deployed regionally to provide start-ups with the service of a legal advisor and an auditor to assist in the establishment phase. A number of additional reforms could be considered, as detailed below:

Short-term

- Conduct, as a preliminary step to the establishment of a OSS, a complete review of the existing procedures, and assess if they are legally required or were introduced through practice. The adoption of the draft law on bankruptcy and insolvency practitioners should modernize their framework, and the ongoing reform of the Commercial Code should provide an opportunity to revise the existing rules on companies' establishment in line with best practice. This would also include reviewing and, in many cases, removing the requirements for the legalization of documents, including the repetitive payments of stamp duties. UNCTAD's eRegulations programme can assist in this area.
- Adopt the draft e-transaction law, select a platform for the online OSS, which would foster effective exchange and cooperation among government agencies, and consider the ratification of the Apostille Convention of 1961.

Medium-term

- Establish e-registration procedures by interconnecting governmental services, notably the Trade Register, the MoF and the NSSF, thus reducing opportunities for corruption and red tape. UNCTAD's eRegistration programme can assist in this area.
- Publish the list of required steps to establish a business and make it legally binding, and introduce clear administrative response deadlines to foster accountability.

C. ACCESS TO LAND AND PROPERTY RIGHTS

Registering title to land is a lengthy process. Seventeen land registries operate under the MoF. The list is available on the Ministry's website, along with the required documents, a fee simulator, a transaction tracking system and a database of registered land titles.[33] Online registration, however, is not an option and the Land Registry and Cadastre Directorate has indicated that, in practice, each registry follows its own procedures. In addition, titles extracted from the database have no legal value (World Bank, 2017b). In this context, the registration process was unanimously described as cumbersome by both the domestic and the foreign private investors during the fact-finding mission. Lebanon ranks 102 out of 190 in the registering property indicator of the 2018 Doing Business report, with eight procedures taking over 34 days. The quality of land administration is rated at 16 out of 30 (World Bank, 2017b).

Land and real estate valuation is a key bottleneck. Valuations are typically delayed beyond the three days allocated to the land registry, as they are often challenged. Land valuation is based on a statement of contents by the municipality where it is located, while real estate valuation is based on the rental value, considered vis-à-vis the built property tax (BPT).[34] Given the absence of clearly established criteria, opportunities for delays and rent-seeking arise. In principle, leasing and rental contracts are also required to be registered at the municipalities, but this is not implemented in practice.

However, title registration fees are in line with the regional average. A registration fee of 5.9 per cent of the property value adds to a financial stamp fee of 0.3 per cent, a public notary fee of 0.1 per cent and a municipal charge of 0.25 per cent of the property value. Law 64 of 26 October 2017 "reforming and modernizing certain taxes and duties" introduced a transfer levy of 2 per cent of the price value of the immovable property, to be paid within 15 days of the conclusion of the contract, and considered an advance payment on the registration fees, provided registration is made within one year. Investors under the PDC scheme are exempted from the registration fees, if construction is made within five years of the registration of the land. In case of failure, the investor is required to pay three times the fees originally due. These registration fees are in line with the MENA average (World Bank, 2017b).

Once registered, property rights are secure, and the owner can freely dispose of them... Lebanon has a long tradition of respect for private property, and no private sector representative interviewed during the fact-finding mission reported security of titles as being a concern. The Lebanese Constitution and the Real Estate Law 3339 of 12 November 1930 provide the framework for ownership rights. Expropriation is regulated by Law 58 of 29 May 1991, amended on 8 December 2006, and is in practice rare (section A.1). The transfer of property is operated by a sales contract at the Public Notary and registration at the Land Registry. This registration gives the right to the owner, women and men, to dispose of the land, notably by way of rent and mortgage, and banks accept land as collateral.

…unless the acquirer is foreigner. Foreigners can access land and built property under a quota and a nationality condition. Decree 11614 of 4 January 1969, as amended by Law 296 of 3 April 2001, governs the acquisition of property rights by foreigners. Ownership of land and built property is only available to foreigners holding the nationality of a recognized country. Land and built property owned by a foreigner can never exceed

3 per cent of the total surface of the Lebanese territory and 3 per cent of the total surface of a particular caza (10 per cent in Beirut). The Land Registry and Cadastre Directorate publishes monthly statistics on land and built property acquired by foreigners in each caza, and has indicated that these percentages are not strictly followed. It implies, however, that in order to register a deed, foreigners have to add to the registration documents an "ownership affidavit" detailing the surface they already own.[35]

The definition of foreigner in the law is very broad. It includes "any Lebanese entity with at least one foreign-owned share and any fully-owned and managed Lebanese entity, which did not prohibit in its articles of association the transfer of shares to foreigners or non-Lebanese traded companies". In the case of an LLC or a JSC, in which Lebanese partners hold the majority participation, only 50 per cent of the land or real estate acquired is counted towards the quota.

A licence must be obtained for foreigners to acquire land over 3000 square meters. The license is granted by a decree of the Council of Ministers on the proposal of the MoF. Foreign private investors interviewed during the fact-finding mission reported that the procedure is clear, but lengthy due to the high-level of authorization needed to obtain the licence. It can take over a year and can fluctuate depending on the political situation of the country.

Strict conditions for obtaining, maintaining and transferring a licence apply. If the licence is not used to acquire property rights within one year of its publication in the Official Gazette, it is cancelled. This period is interrupted in the case of a judicial dispute between the licensee and the previous owner, or any external legal factor. When building property is involved, the project should be completed within five years of the registration, renewable once by a decision of the Council of Ministers.[36] Finally, the owner must abide by the use for which the licence was granted, under penalty of cancellation of the licence and sale of the property by the MoF, which retains the capital gains. Finally, foreign legal persons cannot, except in the case of a death of a shareholder, increase foreign participation in the shares in replacement of the Lebanese partner, under penalty of criminal sanctions and a fine up to three times the price of the property. Property rights can be inherited by legal heirs, most notably ascendants, spouse and descendants, and can be transferred to Lebanese citizens without a licence. However, the transfer of ownership to any other foreigner, including the partner/shareholder in the case of a company dissolution, requires the latter to also obtain a licence.

Acquisition by foreigners of use-rights can also be subject to a licence. Specific rules also apply when foreigners acquire use-rights, such as leasehold. Concession contracts can be unlimited and do not require a licence. The same is true for usufruct, rent, mortgage, sale by fulfilment or exploitation, provided the duration for their exploitation is below 10 years, and for long-term lease (bail emphythéotique) below 20 years. If the contracts exceed these time limits, a licence is required, and the procedures to obtain it are those described above. The law is silent regarding the duration of the licence and the procedure for its potential renewal or transfer. Finally, foreign creditors holding a debt without a licence on a mortgage, a sale by fulfilment or by exploitation, an insurance or a concession can only acquire property rights by way of public auction and provided no Lebanese is able to fulfil the debt. This acquisition is only temporary, and property rights must be sold within two years.[37]

RECOMMENDATIONS

The title registration process should be simplified, and based on clear criteria, thus reducing red tape and the scope for rent-seeking. It is encouraging, in this regard, that a project to modernize land administration is in preparation, with the assistance of the World Bank. It will aim at improving access to land use, valuation and property rights data, as well as geospatial information by upgrading the land and land registry system. Regarding access to property rights by foreigners, it is not unusual for host countries to adopt restrictions. However, these are typically focused on ownership, rather than leasehold or other in-kind rights, especially since the wide definition of foreigner in the law means that these restrictions are also likely to apply to many companies owned and managed by Lebanese citizens. The compound result of these restrictions hinders the efficiency of the land market and creates difficulties not only for the establishment of FDI but also Lebanese projects in agriculture, agri-business or other activities that rely on long-term access to sizable parcels of land. In this regard, even if the restrictions on ownership were to be maintained, the relevant procedures should be streamlined and long-term leasehold provisions should be revised. The Government could thus consider:

Medium-term

- Establishing an e-registration platform for land and built property titles, subject to the adoption of the e-transaction law. This platform could be integrated in the OSS to further simplify business registration processes.
- Increasing the time limits for access of in-kind rights by foreigners without a licence, and clarify the conditions for the transfer of leasehold rights.
- Determining clear criteria for granting the licence in line with the development objectives of the country, which could then be granted automatically by authorization of the MoF provided the fulfilment of pre-established and objective requirements.

D. TAXATION

1. *General regime*

Fiscal revenues are low, while public spending pressure is increasing. In 2015, tax revenues represented 13.5 per cent of GDP, which constitutes a drop of four percentage points since 2010 (IMF, 2017a).[38] In parallel, public spending is increasing, due to the impact of migration flows, the consequent strain on public utilities, and the recent adoption of a law increasing public salaries and wages (see context). In this context, on 19 October 2017, Lebanon ratified its first budget since 2005 and Law 64 of 26 October 2017 increased, among others, stamp duty, corporate income taxes (CIT) and VAT. In this section, the analysis will focus on taxation affecting corporations.[39]

The general CIT rate increased from 15 to 17 per cent. The implementation date of this new rate was yet to be clarified as of 1 November 2017. For tax purposes, residency in Lebanon for any legal person is broadly defined as incorporation or having an office space in the country, thus including permanent establishments of foreign corporations.[40] Non-residents are taxed by way of a final withholding tax (WHT), as Lebanon follows the principle of territoriality and companies are taxed regarding their Lebanese-source income. In addition to the net profit from activities in Lebanon or allocated to the country under a double taxation avoidance agreement (DTAA), any income not already taxed is subject to CIT, including royalties, dividends and interests by banks and financial institutions. In general, the tax year for CIT purposes is the calendar year, except specific accountancy rules for the parent company. The assessment is based on the income derived the previous tax year. Profits remitted abroad are subject to a 10 per cent WHT, in addition to the CIT.

CIT is subject to deductions, exemptions and depreciation. Deductions are allowed, provided they are necessary for the company's activities and are not specifically excluded by the Law. In addition, a maximum of 50 per cent (75 per cent in certain regions of the country) of the net profits reinvested to increase the production capacity are exempted in the year in which they occurred. The same applies to the net profits reinvested in dwellings for personnel, provided they meet three cumulative conditions.[41] The profits generated from the revaluation of fixed assets are tax exempt, provided they are accounted for separately and used to offset operating losses. Finally, an exemption of 50 per cent of the CIT applies to profits derived from industrial exports of products considered Lebanese as per the terms of the Customs Code.[42] Depreciation is computed using the straight-line method.[43] The revaluation of assets, allowed every five years, determines their basis for depreciation. Losses may be carried forward for three years. Double taxation relief is only granted through DTAA. Lebanon has signed and ratified 32 DTAAs, and 29 of them are in force.[44] In addition, foreign WHT on income from dividends and interests is deductible from the taxable base.

Lebanon also offers a series of incentives to offshore and holding companies. There are no restrictions on foreign capital participation or management, but activities of holding and offshore companies are strictly confined by law.[45] They are exempted from CIT and WHT on dividends, with few exceptions (table 1.4.). Holding companies are subject to a degressive annual tax on capital and reserves, due from the first financial year and calculated based on three income brackets.[46] The tax should not exceed $3,333. Offshore companies are subject to a lump-sum tax of $667 from the first financial year and there is no stamp duty on their contracts concluded abroad.

Key predictability mechanisms are missing. There is no advance ruling mechanism. Although taxpayers may consult the authorities, these consultations are not legally binding. The Income Tax Law contains a provision on transfer pricing, whereby the profits resulting from the increase or decrease of a transaction's consideration, or any other method, will be added to the taxable base. The arm's length principle is applied, but there are no clear guidelines or other anti-avoidance rules. The administration can reassess related-party transactions and adjust their value to reflect the taxable amount, which creates uncertainties and provides opportunities for rent-seeking. Tax avoidance is subject to a fine, imprisonment or both. Administrative appeal is possible against the decisions of the tax authorities through an independent appeal committee within the Tax Department, which must issue a decision within six months (World Bank, 2016).

Lebanon is working towards increasing transparency. Law 43 of 2015, repealed and replaced by Law 55 of 27 October 2016, allows exchange of information for tax purposes with the countries which have concluded a DTAA, and which contain related provisions, with Lebanon. It also gave a mandate to the MoF to sign and ratify the OECD Convention on Mutual Administrative Assistance in Tax Matters (MAC)[47] and the Common Reporting Standard Multilateral Competent Authority Agreement (CRS MCAA), which was done on 12 May 2017. The MAC entered into force on 1 September 2017 and the first exchange of information under the CRS MCAA is expected on 1 September 2018. The country has also committed to signing the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.[48] Lebanon obtained a "provisionally" largely compliant overall rating in June 2017, after a fast-track review procedure by the OECD Global Forum on Transparency and Exchange of Information on Tax Purposes first peer review process.[49] Finally, Law 60 of 27 October 2016 introduced the mandatory registration by companies with the tax authorities.

The VAT is applied at 11 per cent, with several exceptions. The rate increased from 10 per cent in Law 64 of 2017 and has been effective since 1 January 2018. The registration threshold is $100,000 of annual turnover, except for importers and non-residents, for whom there is no minimum amount. VAT is applied to the supply of goods and services by a taxable person in Lebanon, and to imports, with an exception for goods which are exempted from VAT in Lebanon and military vehicles, weapons and ammunition. Exports of goods and services abroad or in free zones, and international transport of goods and persons are zero-rated. Services related to international transport and by intermediaries in cross-border transactions are exempted. Within Lebanon, a substantive list of goods and activities is also exempted.[50] It includes basic agricultural products, agricultural and medical tools, and yachts and sailboats above 15 metres owned by foreigners, as well as medical services, education, insurance, banking and financial services,[51] collective transport of persons, sale of real estate and agriculture supplies by farmers.[52] VAT has not been collected on diesel since March 2012 (IMF, 2017b).

The VAT refund time is increasing. Submissions for VAT refund can be done on a bi-yearly basis in general, and quarterly by exporters (Freifer et al., n.d.). As per the terms of the VAT Law, the excess input VAT can be carried forward to the next refund period. The tax authorities must pay the amount due within four months, after which they pay an interest rate per month of delay.[53] According to the 2018 Doing Business report, it takes 47 hours for a company to comply with the VAT refund requirements, and almost 10 months to obtain it. Investors interviewed during the fact-finding mission reported that, while VAT refunds used to take only three months, the duration has increased up to 12 months in recent years.

Efforts to simplify online declaration and payment of taxes are ongoing. E-declaration is available to natural and legal persons for payroll tax, VAT[54] and BPT,[55] in Arabic. E-payment for these taxes is available via LibanPost, OMT[56] and approved banks. CIT filing is currently available through LibanPost and e-declaration is being expanded to include it, according to the information provided by the MoF. The country ranks 113 out of 190 in the Paying Taxes indicator of the 2018 Doing Business report, with 20 payments per year, taking 181 hours and costing 30.3 per cent of total profits (World Bank, 2017b).

Table 1.4.
Summary of corporate taxes in Lebanon

Type of tax	Tax base	Rate
CIT	Net profit from Lebanese-source income or allocated to the country under a DTAA	17 per cent 7.5 per cent for construction and sale to third parties of domestic buildings and buildings divided into apartments
Capital gains	Disposal of fixed assets[a]	15 per cent on profits
Withholding taxes (WHT)	Dividends, interests and royalties[b] Payments to non-residents for services and management fees Income from movable capital	10 per cent final WHT for dividends and interests 7.5 per cent final WHT for royalties paid to non-residents 7.5 per cent; reduced to 2.25 per cent for specific activities, e.g. sale of goods[c] 7 per cent
VAT	Supply of goods and services and imports Recharge of expenses from an entity in Lebanon to another entity abroad Transactions by financial institutions and holding companies not connected with the VAT-exempt activities	11 per cent
Municipality tax	Property value	8.5 per cent
Stamp duty	LLCs, JSCs, holding and offshore companies Written or implied contracts and deeds mentioning sums of money[d]	Lump sum fee: $500 (LLC) or $667 (others) + 0.4 per cent of the capital (TBC) 0.4 per cent of value
Payroll tax	Wages and salaries in Lebanon (includes overtime and fringe benefits, after deduction of family allowances)[e]	Temporary employees: 3 per cent Full-time and daily employees: 2 to 20 per cent
Social security taxes	Wages and salaries (includes overtime and fringe benefits, after deduction of family allowances)[f]	N/A for temporary employees 23.5 per cent [g] ❍ Sickness and maternity: 8 per cent on employer/3 per cent on employee (maximum annual salary considered $20 000) ❍ Family allowances: 6 per cent ❍ Old-age, disability and death (no maximum salary): 8.5 per cent
Built property tax (BPT)	Net profit derived from developed land[h]	4 per cent up to $13 333 to 14 per cent up to $66 666

Source: UNCTAD; IBFD, 2017; IDAL website; IMF, 2017a; Deloitte, 2017; PwC, 2015; World Bank, 2016.

a. Except for holding and offshore companies, provided the assets have been acquired more than 2 years before the sale, 8 per cent relief on profits for each year the fixed assets were owned and exemption after 12 years. Exemption when profits are reinvested within one year in flats for company staff and offsetting losses.

b. Exemption for dividends distributed by holding and offshore companies, and intercompany dividends, except for holding companies when the maturity of a loan to Lebanese company is less than 3 years.

c. 5 per cent on the management fees charged to Lebanese subsidiaries by holding companies, provided they do not exceed 2 per cent of the subsidiary's revenues.

d. Offshore companies are exempt from this stamp duty on contracts concluded abroad.

e. Foreign employees of offshore companies working in Lebanon benefit from a 30 per cent reduction of the taxable base.

f. Exemptions include ambassadors and staff of foreign states (subject to reciprocity), disablement pensions, agricultural laborers, nurses and cleaners in hospitals, orphanages, asylums and other medical and first aid institutions, foreign employees in the Union of Arab Capital and Financial Markets.

g. Non-resident Lebanese and foreigners benefitting from the equivalent in their country are exempted. Foreign employees of offshore companies working in Lebanon benefit from a 30 per cent reduction of the taxable base.

h. Properties used by the company and recorded as corporate assets on the balance sheet are exempted.

Despite these efforts, tax collection and compliance are weak. The IMF estimates that tax collection is 50 per cent of estimated capacity,[57] due to compliance issues and policy challenges. The VAT gap between expected and actual receipts alone represented 7.4 per cent of GDP in 2013 according to the Fund's calculations. In practice, adding to the shortage of staff in the MoF and the importance of the informal sector, are the series of exemptions applied, notably on fuel since 2011–2012, which makes the tax regime difficult to administer. In addition, the excise duty on gasoline was cut by 50 per cent in May 2011 (IMF, 2017b).

2. Incentive schemes

Investors can benefit from two incentive schemes under the Investment Law. The investor is defined as a natural or legal person, Lebanese, Arab or foreign. To benefit from the incentives, the investor must operate in one of the eight sectors listed by the Investment Law,[58] and respect minimum thresholds of capital investment and job creation. The first scheme, the Investment Project by Zone (IPZ), is based on regions and sectors, and targets smaller-scale companies than the PDC. Under this scheme, the country is classified in three zones (A, B and C), delineated in the Annex of Investment Law 360 taking into account regional socio-economic disparities.[59] Progressively important incentives are applied (annex II), with few exceptions. Selected IT and technology projects, regardless of their location, and tourism and marine resource projects in zone A (see article 10, Investment Law) can benefit from the exemptions and reductions conferred to the projects established within zones C and B, respectively, provided they are on a list approved by the Council of Ministers. The second scheme, the PDC, is an investment contract between IDAL and the investor, which defines the rights and obligations of each party and is reserved for large-scale projects.

Table 1.5.
Eligibility criteria for IPZ and PDC

Sector	IPZ			PDC - Lebanon	
	Minimum capital (dollars)			Minimum capital (dollars)	Job creation (employees)
	Zone A	Zone B	Zone C		
Agriculture	1 500 000	1 000 000	500 000	2 000 000	50
Agro-industry	2 000 000	1 500 000	1 000 000	3 000 000	60
Industry	5 000 000	3 000 000	1 000 000	10 000 000	100
IT	200 000	200 000	200 000	400 000	25
Media	200 000	200 000	200 000	400 000	25
Technology	200 000	200 000	200 000	400 000	25
Telecommunication	200 000	200 000	200 000	400 000	25
Tourism	10 000 000	4 000 000	1 000 000	15 000 000	200

Source: IDAL.

Beyond the set requirements for incentives, subjective criteria and high-level approval apply. In addition to the criteria (table 1.5), the decision regarding the granting of IPZ and PDC incentives also takes into consideration criteria such as: socio-economic impact (notably potential on job creation and impact on local labour force), compatibility with national government priorities and development policies, extent of transfer of technology and provision of technical training, environmental impact and extent of natural resources preservation, impact on similar industries (linkages) and on consumers. While these are legitimate concerns for the country, they are not based on clear, pre-determined and objective indicators, as was done for the technology and IT sectors in decrees 8709 of 2012 and 3158 of 2016. Incentives for a project under IPZ must be approved by the IDAL's Board of Directors and the PDC is subject to the approval of the Council of Ministers on a proposal of its President.

Ongoing reform aims to adjust the thresholds for incentives and amend the geographical zones. The reform will lower the threshold criteria to include more companies, especially small and medium-sized enterprises (SMEs) under the IPZ scheme, and to amend the zones, notably reducing zone A only to Beirut and its area. As per the terms of the revision decrees to Investment Law 360, industrial areas in zone A would be considered zone B, and those in zone B would be considered C. The approach is also more specific and takes into account categories of eligible projects within each sector, and adds explicit job creation requirements in certain cases (for example in the technology and IT sectors).

RECOMMENDATIONS

Lebanon has adopted a corporate tax regime based on a low corporate income tax and a multiplicity of exemptions and exceptions. In addition to its tax revenue implications, this regime makes tax administration difficult, and compliance by investors a challenge. In addition, incentive schemes are not developed on the basis of a systematic analysis and no ex-post cost-benefit assessment is conducted. The sectors, zones and thresholds are determined based on the authorities' knowledge, experience of the country and aspirations for regional development, rather than on a needs assessment. Recent efforts aiming to increase transparency and tax revenue are encouraging, notably those raising the rates of CIT, VAT, social security contributions and stamp duties. Their impact, however, may be limited in the absence of a more comprehensive review of the fiscal regime, which also includes the way incentives are determined and administered. In light of these elements, the Government should consider:

Short-term

- Pursuing efforts to establish and use e-declaration and e-payment, notably after the adoption of the e-transaction law.
- Interconnecting the Trade Register and the MoF. This would not only simplify the tax authorities' follow up, but also cut opportunities for rent-seeking.
- Reducing the list of VAT exceptions, e.g. for gas and oil.

Medium-term

- Conducting a cost-benefit analysis to assess the relevance, for sustainable development, of incentives, and measure the impact of the regimes for holding and offshore companies and of the IPZ and PDC schemes.
- Introducing clear guidelines on transfer pricing and a framework for anti-avoidance.
- Increasing the resources allocated to inspections and follow-up actions.
- Amending the Investment Law 360 decrees to make incentives automatic based on pre-determined, clear and objective criteria. This would contribute to simplifying the process for investors, thus making incentives more attractive, and also avoid IDAL's conflict of interest as both investment promotion agency and incentives' administrator (section A.1 and chapter II).

E. LABOUR

1. General regime

The Labour Code of 1946, as amended, contains traditional features, but its coverage is limited. Leave, working hours, conditions of work, including hygiene and security, and dismissal are regulated by the Code. The Code does not distinguish work contracts by their duration, but the Ministry of Labour (MoL) indicated, during the fact-finding mission, that a short-term contract can only be renewed once for a maximum duration of 24 months, before becoming a long-term contract. As per the Code, work contracts are automatically transferred with the company when the legal situation of the employer changes (e.g. merger, sale, etc.). The minimum wage is supposed to be sufficient to meet the employees and workers' essential needs. It is set by the Council of Ministers, in principle on the basis of the recommendations of the Price Index Committee, a tripartite body created under Decree 4206 of 1981. However, its recommendation can be bypassed. Certain sectors or activities are excluded from the scope of the Labour Code, which does not apply to public servants, seasonal workers in agriculture, domestic services and enterprises limited to family members. While public servants have their own regime, the three latter categories, which include some of the most vulnerable workers, are in practice not covered by any specific legislation beyond the coverage of the contractual relationship by the Code des obligations et des contrats.

Gender discrimination is prohibited, but women's participation in the labour force is very low. As per the terms of the Code, it is illegal for the employer to discriminate between men and women regarding type of work and remuneration. There is no reference to work of equal value, employment, promotion and professional qualifications. Other types of discrimination, notably based on ethnicity and nationality, are not mentioned. Employment of women is forbidden in industries considered "arduous".[60] Women are entitled to 10 weeks of fully-paid maternity leave (Law 267 of 15 April 2014). On 19 December 2017, the Council of Ministers approved a draft law introducing three days of paternity leave. This text still needs to be adopted by the Parliament. Dismissal of pregnant women or women on maternity leave is prohibited. The Labour Code does not explicitly provide protection against sexual harassment and marriage is one of the situations where women can benefit from anticipated end-of-service indemnity (see below). Finally, when both husband and wife work, the family allowances are primarily paid to the former. According to the Household Budget Survey (HBS) 2011–2012, the female participation rate in the labour force is 25 per cent – one of the lowest rates in the world, with a sharp reduction starting age 34. In 2009, CAS estimated the gender pay gap at 6 per cent (CAS, 2011).

Both the employer and the employee have the right to terminate the work contract for a standard range of reasons. The Code indicates the notice periods applicable and lists a series of situations where a misuse or an abuse might be suspected. In the case of the employer's misuse or abuse of rights, an indemnity is owed to the employee, in addition to reinstatement. The Labour Code also provides for force majeure, as well as compelling economic and technical reasons, where notification and consultation of MoL to determine a termination programme is required. The dismissal can be challenged at the MoL, which plays a mediation role, and otherwise referred to the Labour Arbitration Board, composed of a magistrate, an employees' representative and an employers' representative.[61] Specific provisions apply for trade union members. Lebanon does not however have an indemnity fund in case of difficulty to find work, or loss of employment.

The social security system contains unusually cumbersome provisions. Decree 13955 of 26 July 1963 and its amendments define the regime for social security, which is managed by the NSSF. It covers maternity and sick leave, family allowances and end-of-service indemnity, which is provided upon retirement at minimum 60 and maximum 64 years of age (section D.1 for rates). Work injuries and sickness resulting from work activities are paid for at the time of the incident. The end-of-service indemnity is the sum of two components: the first equivalent to one month of salary per year of contribution with the last employer, and the second equivalent to the accumulation of contributions with previous employers, including interest. In practice, when the latest employers' pay is higher, they must compensate the differential between the two components, which can constitute a significant financial burden (World Bank, 2012a).

Unionization is strictly regulated, and Lebanon has not ratified the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organize Convention. Although protection is provided against abusive dismissal to the members of trade unions and the procedure before the Labour Arbitration Board is reduced to one month, their work contract may be suspended immediately without a notice period. The constitution of trade unions is subject to the authorization of the MoL, after consultation with the Ministry of Interior. The Government can dissolve them if it considers that they have not met their incumbent obligations or have performed acts exceeding their competence. Unions cannot engage in political activities and must be specialized. Adherence to a trade union is open to nationals and foreigners, but only Lebanese have voting and election rights. Nine complaints have been filed against Lebanon at the ILO, notably regarding procedures for establishing the minimum wage and interference by the Government in the election processes of trade unions.[62]

Human resource capacities at the MoL affect its ability to enforce the implementation of the Labour Code. A series of regulations govern the framework for labour inspections, which are the responsibility of the Department of Labour Inspection, Prevention and Safety (DLIPS).[63] An ILO study reported in 2008 that there are less than 100 labour inspectors, 30 of which are doctors and engineers focusing on health and safety (ILO, 2008). No recruitment has been conducted since, according to the information provided by the MoL. Their mandate includes controls over the other employment conditions, notably health and safety, investigation of labour disputes and control of foreigners' work permits. In practice however, they often intervene in response to complaints.[64]

The constraints on the National Employment Office (NEO) prevent it from fully implementing its mandate. The Office is the public employment agency and its mandate includes research, analysis and strategy for the country's labour policies. Its effectiveness, however, is limited in practice because of staff and financial constraints. The NEO's budget is $1.3 million, spread among three offices (Beirut, Tripoli and Sidon). It has a current staff of 29 employees, but some estimates indicate that the structure would require 120 (ETF, 2015). Private employment offices are also authorized in Lebanon, provided they use terms such as agency, according to the information provided by the NEO. In practice, CAS statistics show that only 2 per cent of jobseekers make use of the NEO or private employment offices (CAS, 2011).

2. Employing foreigners

Foreign hire is subject to several restrictions. The provisions of Law of 10 July 1962, as amended by Law 173 of 14 February 2000, and Decree 15761[65] apply when no more favourable conditions are granted by international agreements. The MoL publishes a decision annually containing an extensive list of jobs reserved for nationals and imposes quotas and conditions on foreign hire for certain categories of jobs.[66] In addition, foreigners can only be recruited when they have a specific expertise not available in Lebanon. Prior approval must be granted by the MoL before the foreigner's entry to the country. The MoL can require a memo issued by the NEO proving that despite the publication of the job advertisement in at least three newspapers for 15 days, no suitable Lebanese candidate could be identified (Memo 99/2 of 17 May 1999). The employer is also required to submit to the MoL an application wherein it declares approval to receive the foreign worker and the contract must be certified by a public notary or by the Lebanese embassy or consulate.

In practice, the low skilled end of the labour market has traditionally been dominated by foreign workers and there is no regular labour market survey. The most recent Labour Force Survey was published by the NEO in 2000[67] and several observers reported that the list of restricted jobs is based on the lobbying of the different professional associations. Decision 1/49 of 2 February 2017 indicates that the recruitment of foreign technical employees and workers (categories 2 and 3) is subject to maintaining a ratio of 10 Lebanese for each foreigner, with the exception of domestic services where the proportion is reversed and in construction where a foreigner can be recruited for each Lebanese worker. It also acknowledges that these quotas can be adapted depending on the specific situations of companies.

Local hire and training obligations can be imposed. Mandatory training of nationals can be a condition for granting approval for foreign hire. A decision must be made within 15 days of the authorities receiving the file.[68] Foreign business owners are subject to additional conditions, namely a proof of the professional activity from the country of origin and the relevant Lebanese Chamber of Commerce, Industry and Agriculture (CCIA) and a commitment to recruit nationals (section A.1 for LLCs). Upon arrival, which must be within three months of the approval, the foreigner has 10 days to apply for the work permit at the MoL, except in the event of force majeure. The work permit may be granted for a maximum period of three years and is renewable. The work permit is personal and does not allow family members to work.

Certain categories of foreigners are excluded from social security, though they still contribute to it. Foreigners holding a work permit can only benefit from social security on condition of reciprocity (except for Palestinian citizens),[69] which limits coverage to employees from Belgium, France, Italy, Syria and the United Kingdom according to the information of the MoL. Foreigners not covered by a reciprocity agreement must nevertheless contribute to maternity, sick leave and family allowances, even if they do not benefit from them.

Exceptions apply for key personnel and employees with personal ties to the country. Foreigners who are considered key personnel (defined as a representative of a foreign company with no direct contact with the customers, and managers, assistants to the manager and heads of accounting), or who have been married to a Lebanese citizen for at least one year,[70] born to a Lebanese mother, and Palestinians registered as refugees and born in Lebanon are not subject to the above-mentioned testing requirements, and can obtain the work permits automatically. Foreign employees of offshore companies are exempted from the requirement to have a work permit provided the annual balance sheet is not below $666,666.

Residency permits are granted separately. Employees are divided into four categories and the fees differ per category. Also, the possibility to extend the residency permit to the family of the employee depends on the category. It is automatic for categories 1 and 2 (managers and technical employees), but not for categories 3 and 4 (workers and domestic services). The residency permit can be temporary (one year) or permanent (three years), depending on the validity of the work permit of the category. Permanent residency can only be granted to categories 1 and 2, business owners, and prospective Arab businesspersons and investors. The latter category requires a certificate from IDAL evidencing the intention to invest in the country and a proof of the professional activity from the country of origin and the relevant CCIA. An exemption of 50 per cent of the residency permits fees is granted to investors benefiting from incentives under Investment Law 360. An exit visa is required when the foreigner extends the period of his/her stay after the expiry of the residency permit. The General Directorate for General Security indicated, during the fact-finding mission, that the procedure to obtain the residency permit requires around 10 days, however foreign investors interviewed by UNCTAD reported waiting for two months.

RECOMMENDATIONS

The Labour Code contains standard provisions regarding labour protection, contract types and working conditions. However, it excludes from its scope several groups of vulnerable workers. The minimum wage is not decided by tripartite negotiation, and the Council of Ministers can bypass the Price Index Committee. The provisions governing freedom of association are not in line with international standards. In addition, insufficient capacity at the DLIPS can have negative consequences on the implementation of existing legislation. Despite several restrictions, foreigners effectively dominate the low skilled labour market (see chapter II for job and skills mismatches), while their exclusion from social security benefits in the absence of reciprocity deprives them of protection. In light of these elements, the Government should consider:

Medium-term

- Signing and ratifying the ILO Convention on Freedom of Association and Protection of the Right to Organize.
- Using the recommendations of the Price Index Committee to set the minimum wage, thus ensuring that it considers the views of the employers and employees.
- Conducting a labour market survey to assess the country's skills needs and any mismatches.
- Adopting measures to promote women's participation in the labour force and close the gender pay gap by, among other things, extending paternity leave or introducing parental leave.

Longer-term

- Reviewing the continuous need for restrictions on foreigners, based on the results of the labour market survey, and ensuring that national curricula reflect the needs identified in the survey.
- Lifting the restrictions on the access of foreigners to social security benefits.
- Strengthening the resources of the NEO to allow it to implement its mandate.

F. ENVIRONMENT

The legal framework for environmental impact assessments (EIAs) is modern and comprehensive. Law 444 of 29 July 2002 on Environmental Protection sets the general framework and is complemented by a series of decrees and ministerial decisions, notably Decree 8633/2012 on the fundamentals of EIAs.[71] The Ministry of Environment has 15 days to decide in which category a project falls after the submission of a screening application. There are three categories as per annexes of the Decree:

1. Requiring an EIA;
2. Requiring an initial environment examination (IEE);
3. Not requiring an EIA or an IEE.

The Ministry of Environment (MoE) can provide a list of pre-selected consultants and the cost of the EIA or IEE is borne by the investor. The requirements for the EIA and IEE reports are listed and the detailed procedure is explained. In the case of an EIA, a scoping report is prepared by the investor, which the MoE has 15 days to accept, accept with modifications or request additional information. Once the EIA report is submitted, the MoE has two months to approve or request amendments. This period is 30 days in the case of an IEE. As part of the EIA process, the public consultation is conducted by the investor. In both cases, the implementation of an Environmental Management Plan (EMP) is required throughout the life of the project.

The EMP is an integral part of the EIA and the IEE. Silence is consent, and the projects are considered approved by the MoE if no reply has been received within the allocated timeframe. The clearance for the EIA is granted by the MoE for two years. After this period, if the construction has not started, the investor is required to examine the need for a new EIA with the MoE. Environmental Audits (EA) are required for a compliance certificate issued by the MoE and are renewed every three years as regulated by Decree 8471/2012. The EIA and IEE can be published, with due care given to confidential information. EAs also apply to projects established prior to the entry into force of these regulations. Public policy, programmes and plans are also required to undergo a strategic environmental assessment (SEA) regulated by Decree 8213/2012. The sanctions as per Law 44/2002 consist of fines and imprisonment.

The environmental agency faces awareness issues and severe resource constraints. The MoE indicated during the fact-finding mission that an evaluation conducted in 2016 showed that investors had little awareness of the need to conduct an EIA and, among those that had actually undergone it, few followed up on the implementation of the EMPs. A report commissioned by the MoE on the implementation of the EMPs showed that compliance was very low, with the exception of "category 1" projects (cement and fertilizers), which produce a monthly report. This lack of awareness also affects the public sector, as some entities do not require the environmental permit before issuing other licences and permits. In addition, although software has been developed to help follow-up on EIAs, IEEs and EAs, the process has not been fully automatized. This makes it difficult to track the processes and ensure that the EMPs are implemented. This is compounded by a shortage of staff, which the MoE indicated during the fact-finding mission. While it should have 215 employees, based on the Government staffing plan, the MoE currently has around 100 employees, which includes around 65 professionals. The Ministry stressed that it is difficult to recruit qualified professionals, due to heavy administrative procedures, and to retain them as they often transfer to the private sector once they have acquired some experience. In principle, seven regional departments should have been established, but in practice only three are operational (North, South and Bekaa). This has had an impact on the ability of the MoE to assess the EIAs and IEEs in the timeframes allocated by the Decrees, and to follow up on the implementation of the EMPs. The situation also has an impact on the investor, who is required to travel to undergo the environmental permitting process. Finally, the sanctions prescribed by Law 44/2002 require the adoption of a costly criminal procedure.

The donor community and some private sector associations are stepping in to assist the Government. The MoE, in partnership with public sector entities, notably Banque du Liban, the MoF, the Ministry of Industry and the Council for Development and Reconstruction (CDR), international partners, including the World Bank, the UNDP and the Italian Development Agency, and private sector actors, notably the Association of Banks in Lebanon and the Association of Lebanese Industrialists (ALI), provide, through the Lebanon Environmental Pollution Abatement Project (LEBAP), technical assistance and subsidized loans to industrial establishments to implement environmental investments. In addition, ALI has conducted activities to raise awareness of its membership on the importance of EIAs and EAs, thus setting up a “green helpdesk” in partnership with the United Nations Economic and Social Commission for Western Asia (ESCWA),[72] and has negotiated a $200,000 grant agreement with USAID for water recycling by granite and marble companies.

RECOMMENDATIONS

The legal framework for EIAs is comprehensive, however its implementation suffers from a shortage of staff and resources, and a lack of awareness by the concerned stakeholders. Efforts are being made, but a long-term strategy is required to ensure compliance. In light of this, the Government should consider:

Short-term

- Carrying out advocacy activities and an information campaign for public and private stakeholders.
- Building partnerships with entities to develop training activities to raise awareness of the importance of environmental issues in the public and private sectors.
- Authorizing, temporarily, the MoE to contract externally to overcome its problem of insufficient resources to implement the mandate in terms of EIAs, IEEs and EAs.

Medium-term

- Allocating sufficient staff to the MoE to implement its mandate.
- Establishing the missing regional departments to bring them closer to projects.

G. COMPETITION

Lebanon does not have a comprehensive competitive policy nor a competition law. In the absence of a dedicated law, Decree Law 73/83 on Ownership of Products, Materials and Goods and their Trade of 9 September 1983, as amended by Laws 72/91 and 490/96, as well as the law on exclusive commercial representation and on e-commerce constitute the legal framework for competition. The country has also adopted a Consumer Protection Law (Law 659 of 4 February 2005). At the institutional level, Decree 6821/73 entrusts the MoET with the competition mandate, in particular the Technical Centre for Prices at the MoET produces reports on market shares, marketing margins and anti-competitive practices and field investigations done by the Consumer Protection Directorate (CPD). Lebanon ranks 120 out of 137 in the effectiveness of anti-monopoly policy index of the 2017–2018 Global Competitiveness Report of the World Economic Forum (WEF) and 63 out of 137 in the extent of market dominance index.

The current legislation is reactive rather than proactive. Indeed, the focus is not on the prevention of monopolistic market structures, but on the resulting price setting. Article 14 of Decree Law 73/83 specifically prohibits market structure and actions that would result in "artificially rising prices or preventing the decrease of such price" or affecting "the normal rule of supply and demand". The approach is reactive, and the targeted actions are difficult to prove in practice, especially in the case of a potential price decrease.

The Lebanese market is characterized by high levels of market concentration, which constitute a structural weakness for the economy. In 2002, a joint EU/MoET study on competition was published, although not endorsed by the Ministry. The report found the Lebanese economy to be largely oligopolistic and prone to abuse of dominant positions. Other reports, since then, have stressed the widespread resort to agreements between sellers, the absence of price competition in the market, as well as product discrimination practices. The relatively small size of the Lebanese market is one of the factors explaining the high levels of market concentration, the monopolistic and oligopolistic behaviour and their impact on prices and investment (CUTS, 2006).

The MoET, with the assistance of the EU, prepared a draft competition law, which has not yet been adopted. A first draft competition law was submitted to the Parliament in 2007 and later updated with a latest version dated 20 July 2012. The MoET indicated during the fact-finding mission that, due to the legislative process in the country, it was unable to substitute the 2007 draft with the 2012 version at the Parliament. While the text is confidential, the MoET reported the inability of the Competition Authority to start investigations by itself, thus affecting its ability to effectively apply its mandate.

RECOMMENDATIONS

High levels of market concentration and distortions in Lebanon have a detrimental impact on consumers as well as on the entry of new domestic and foreign investors. The adoption of a comprehensive competition law and strategy, and the establishment of a credible competition agency, should be a policy priority. In light of this, the Government should consider:

Short-term

- Launching an awareness campaign on the impact of anti-competitive behaviour on consumers and investors, and start a policy dialogue with the public, including parliamentarians, and private stakeholders on the need to complete the competition strategy and adopt a competition law. Lebanon is one of the eight beneficiaries of the UNCTAD MENA Programme, which aims to promote regional integration through competition and consumer protection policies and encompasses the strengthening of capacities and advocacy in the field of competition. Its activities provide a good opportunity to share experiences with other MENA countries and learn from international best practices.

Medium-term

- Adopting a comprehensive competition strategy for the country, based on a review of existing market practices, including abuse of dominant positions, monopolies, collusions and cartels.
- Reviewing the draft Competition Law. The UNCTAD Model Competition Law can provide guidance on essential mechanisms preventing interferences in the activities of a competition authority.

Longer-term

- Adopting the Competition Law and establish a competition authority.
- Conducting training for the staff of the Authority to ensure that they have the skills and tools required to implement the Law.
- Concluding memoranda of understanding (MoUs) between the Authority and sector regulators.
- Expanding the MoUs to foreign competition authorities, beyond regional partners, to develop cooperation mechanisms, which can assist the competition authority in dealing with cross-border anti-competitive practices and share best practices.

UNCTAD has helped many countries adopt a competition regime and provided capacity-building to the staff of the competition agencies. Currently, it assists countries in the MENA region, including Lebanon, through its MENA Programme, in drafting or revising competition laws and provides training workshops on competition law enforcement to staff of competition authorities or officials of relevant Ministries, sector regulators, business and civil society representatives. Lebanon, along with Algeria, Egypt, Jordan, Morocco, Tunisia and Palestine, has been benefitting from this technical cooperation since 2015. One of the objectives of this Programme is to improve the business environment in the MENA region for private sector development. For this purpose, UNCTAD disseminated competitive neutrality principles, which play an important role in creating a level playing field for the private sector, during a regional workshop held in Tunis in December 2017.

H. GOVERNANCE

Corruption is perceived by the private sector as one of the most significant deterrents for business in the country. An enterprise survey of 2013 reported that 61.4 per cent of the interviewed firms operating in Lebanon identified corruption as a major constraint (World Bank Group, 2013). More recently, the WEF Global Competitiveness Report 2017–2018 reports that corruption is the second most problematic factor for doing business in Lebanon (14.5 per cent). Finally, the Transparency International Corruption Perception Index ranked Lebanon 136 out of 176 in 2016, with a score of 28 out of 100 (100 being uncorrupt). As discussed below, corruption affects several business-related areas and the authorities are aware of the need to step up the fight against corruption, and have been taking steps in this direction.

Understaffing and lack of transparency affect the enforcement of contracts. In principle, strict deadlines are in place to address contract enforcement claims. In practice, however, the private sector reported that a judgment requires at least three years. The Lebanese Constitution guarantees the independence of the judiciary, specialized commercial chambers exist, and magistrates are well-trained. However, the institutions are understaffed and perceived as subject to political interference and corruption, which results in a large judicial backlog (United States Department of State, 2016; EU, 2011).[74] The 2013 enterprise survey also showed that 8.7 per cent of the interviewed firms in Lebanon identified the court system as a major constraint (World Bank Group, 2013). Lebanon ranks 105 out of 137 in the judicial independence index and 126 out of 137 in the favouritism index of the WEF Global Competitiveness Report 2017-2018. Finally, the country ranks 134 out of 190 in the Enforcing Contracts indicator of the 2018 Doing Business report, with 721 days to enforce a contract at a cost of 30.8 per cent of the claim.

Arbitration and other alternative dispute resolution mechanisms are available. A comprehensive arbitration framework is in place, based on the French system, and although arbitral awards need to be given enforceability (force exécutoire) through a court exequatur, overall, the courts are favourable to arbitration. Indeed, multi-tier arbitration clauses are being introduced and courts have allowed arbitration agreements to bind non-signatories in certain circumstances. The Lebanese Arbitration and Mediation Centre (LAMC), established in 1995 by the CCIB,[75] operates on the basis of statutes similar to the International Chamber of Commerce (ICC). Other alternative dispute resolution mechanisms are also available. Although there is no explicit reference to conciliation and mediation in a legal text, they can be set by contractual agreements on the basis of the Code des obligations et des contrats.

Reforms are underway to address governance issues at customs posts. Lebanon uses NAJM, an automated information system designed to facilitate compliance with existing regulations, and is implementing an automated system for customs data (ASYCUDA World, an UNCTAD computerized customs management system covering most procedures). In principle, the NAJM separates imports and exports in two tracks: red (to be controlled) and green, based on type of product, value, country of origin, importer and customs broker (*transitaire en douanes*). However, the customs administration reported that the majority of products are inspected, not only in compliance with non-tariff measures (NTMs), but also as this provides opportunities for rent-seeking. In addition, the use of intermediaries such as clearance agents, is mandatory, which further delays the procedure, according to the information gathered during the fact-finding mission. Finally, payments cannot be made online. Lebanon ranks 140 out of 190 in the Trading Across Borders indicator of the 2018 Doing Business report. The Customs Code is currently being reviewed with the assistance of Italian Customs and funding from the EU, and the new text should be aligned with the EU Customs Code and be WTO-compatible. In addition, the customs administration is working towards the establishment of a single window. In the process, 138 administrative requirements have been removed, according to the Beirut Traders Association (BTA).

Public procurement is particularly sensitive to corruption. Tendering is governed by Decree 2866 of 16 December 1959, as amended by Decree 8703 of 10 February 1962 and Decree 13221 of 28 June 1963, except for defence. The framework is outdated and there are no provisions against potential conflict of interest (U4, 2012). The Court of Account intervenes at two stages: pre-approval of the tendering to verify prices, and at the end of the process. However, the Court indicated that the Council of Ministers can cancel its decision. After this stage, the Court of Account only intervenes on the basis of a complaint or when a case is referred by the General Inspection Body. The penalty is a maximum three salaries. Firms from the United States have identified corruption as a clear obstacle to FDI, including in public procurement and award of contracts (United States Department of State, 2016). According to the information provided by the Council for Development and Reconstruction (CDR), a draft public procurement law is in preparation.

The legal and institutional framework to fight corruption is incomplete. Lebanon ratified the United Nations Convention against Corruption (UNCAC) in 2009.[76] The legal framework for the fight against corruption[77] covers active and passive bribery by natural and legal persons of/by public officials, embezzlement, abuse of functions and passive trading-in-influence for monetary advantages. However, bribery of/by foreign and international organizations of public officials and the indirect commission of the act are not encompassed by the legislation. Also, there is no reference to active trading-in-influence and to indirect commission, and the misappropriation and misuse of public funds does not cover all public officials. Law 54 of 1999 on Illicit enrichment includes a requirement for senior public officials and members of their political bodies to disclose their financial and non-financial assets. The public is required to pay to have access to this information. There is currently no law on whistleblowing and a claim proven false will result in a fine or imprisonment for the claimant. In the absence of an ad-hoc independent anti-corruption institution, different entities, often ill-equipped, deal with different aspects of the fight against corruption.

Public and civil society stakeholders are actively engaged, and new tools and initiatives to address corruption are being adopted. An awareness campaign was launched in 2014 by the Ministry of Public Health, the MoET, the MoF and the Customs Administration. In addition, a number of civil society associations have undertaken joint initiatives with the public sector to promote transparency. In 2015, what had started as demonstrations against the accumulation of waste in Beirut and Mount Lebanon after the closure of the Naameh waste site, known as the “garbage crisis”, culminated in protests against public sector corruption and resulted in the emergence of a new political movement in the country. A strong signal was sent in 2016 when the Ministry for the Fight Against Corruption was established for the first time to initiate key reforms. The Minister indicated during the fact-finding mission that the Council of Ministers has approved the draft laws on the High Authority on Anti-corruption, whistleblowers’ protection, public procurement and illicit enrichment. A by-law is being prepared to establish the criteria of “quality contractor” in public procurement, thus facilitating the access of pre-approved companies. The High Authority has been based on examples from France, Sweden and Singapore. It is envisaged as an independent authority from the executive and legislative powers, and will have investigative and sanctioning powers. Finally, a National Strategy Against Corruption is also being examined by the Council of Ministers.

Laws are available online on an official website, but drafts are not shared for public comments, with the exception of ad hoc consultations. The Official Gazette, published every Thursday, has also been uploaded on the Presidency of the Council of Ministers' website since 2006.[78] It contains the adopted laws, decrees and ministerial decisions, as well as judgments, among other information. The Ministries and BDL publish on their websites the applicable regulations within their competencies. The Lebanese University also has a database of regulations. Finally, on 19 January 2017, Lebanon adopted a Law on the Freedom of Access to Information, which allows nationals and foreigners to address requests for information to public and some private sector entities, notably those providing a public service, with an exception for confidential information (mostly national security and industrial secrets). Currently however, only the Ministry of Justice provides access to the draft laws and decrees, and they are not open to public comments. In practice, consultations taking place on law-making are only on an *ad hoc* basis. The private sector played an important role in the elaboration and adoption of the legislation against money laundering and of the recent PPP Law.

Lebanon has made efforts in recent years to combat money laundering. The country was removed from the list of Non-Cooperative Countries and Territories (NCCTs) by the MENA-FATF in 2002 after the adoption of Law 318 of 20 April 2001 on the fight against money laundering, later completed by Law 44 of 24 November of 2015 on the fight against money laundering and terrorism financing. At the institutional level, the Special Investigation Commission (SIC) is the financial unit responsible for the application of the law and was the first of its kind established in the MENA region. It has the exclusive power to freeze bank accounts and lift bank secrecy, and deals with cases of forgery, embezzlement of funds, and the laundering of organized crime proceeds. Its competencies were extended by Law 38 of 16 October 2008 to include corruption. According to its President, SIC is adequately staffed with 45 staff members, 36 of which are professionals.

RECOMMENDATIONS

Both the public authorities and civil society have stepped up efforts in recent years to fight corruption, which is among the greatest constraints on competitiveness in Lebanon. The participation of the private sector, especially in Lebanon where it is well organized, can be a key factor in supporting public efforts to improve governance, but requires regular and inclusive consultations. The Government could thus consider the following measures:

Short-term

- Promote arbitration, mediation and conciliation, and raise awareness about them with the cooperation of business associations and existing centres. This would help unclog the courts system.
- Effectively implement the physical single window for customs administration.
- Provide high-level political support to the fight against corruption and follow through with the adoption of the National Strategy Against Corruption and the pending draft laws.
- Introduce anti-corruption provisions in the draft public procurement law, including on conflict of interest.

Medium-term

- Pursue efforts to upgrade the automation of customs' procedures. This would limit the opportunities for red tape and rent-seeking.
- Establish the High Anti-Corruption Authority and provide it with sufficient human and financial resources.
- Adopt the draft public procurement law.

- Complete the legal framework for the fight against corruption in line with the recommendations stemming from the review mechanism of the UNCAC.[79]
- Create a public-private dialogue mechanism to involve the private sector in the law-making process and in the implementation phase, notably to raise awareness.

Longer-term

- Conduct a review of the available human and financial resources in the judiciary to assess the gaps and identify areas of improvement.

This chapter proposes a methodology to develop an FDI promotion strategy for Lebanon and provide IDAL with the means to implement it effectively. The goal is to provide the Government with the tools to attract and promote the type of FDI that will have the highest development impact and help it achieve the SDGs. The investment promotion mandate of IDAL lists eight priority sectors that the Government expects it to promote. These are agriculture, agro-industry, industry, tourism, IT, media, technology and telecommunications. For the purpose of this report, the last four are grouped into two larger sectors – ICT and ICT-enabled, including content and media, which together comprise the "information economy". IDAL's mandate, in contrast with good practice, is spread across investment promotion, export promotion, regulation (although it is not implemented in practice), and the administration of investment incentives – all delivered with limited human and financial resources. One objective of this chapter, therefore, is to propose a more focussed approach to FDI promotion, in line with the country's development objectives (section A). It also recommends pragmatic adjustments to the structure and functions of the Authority to enable it to effectively implement this new approach within the existing staff and financial resource constraints, at least in the short term (section B).

Chapter 2

Strategic Approach to FDI Promotion and Application to ICT and Related Sectors

Investment policy is the sum of the government's attitudes, objectives, decisions and actions affecting the investment climate. At its best, investment policy is proactive, comprehensive and effective at realizing a country's development goals. If this is not the case, investment policy can be counter-productive and result in indecision and inaction. When effectively designed and implemented, investment policy strengthens a country's economic characteristics relative to competing locations. Chapter I of this report analyzed the key regulatory aspects of investment policy in Lebanon and recommended some improvements geared to facilitating investment, ensuring the protection of the public interest, and aligning the regime to good practice. It recommended that the Government should give specific attention to infrastructure (see context), intellectual property protection, data security and privacy, taxation and customs regulations, as well as dedicated financing facilities.

Investment promotion complements policy. Promotional activities ensure that investors likely to be attracted to the country are aware of its competitiveness, obtain the information they need to select it over other locations, have their projects facilitated and receive ongoing support during the lifetime of their operations. Investment promotion activities can also ensure that constraints on promising sectors or subsectors are removed or resolved. Investment promotion can take many forms and be managed across multiple institutions, but is often led by a national-level investment promotion agency (IPA), such as the one mandated by Investment Law 360 – the Investment Development Authority of Lebanon (IDAL).

To increase effectiveness, investment policy and investment promotion should be guided by an explicit and attainable vision, and translated into strategy for attracting FDI. The vision should be supported by an objective assessment of the location's competitiveness and operationalized through a set of coherent and coordinated policies. These are often guided by a national development plan, which determines the required public and private investments, a private sector development strategy and an investment promotion strategy that seeks to integrate FDI into the achievement of the vision. This planning process is typically bound by long-term timelines and intermediate milestones. It involves many public and private stakeholders, notably for its design, financing purposes and monitoring, and includes foundational elements such as the legal framework, infrastructure upgrading, labour force development, land use and international cooperation.

In elaborating an FDI strategy, attention should be paid to the achievement of the SDGs. UNCTAD advocates for a new generation of investment promotion that takes into consideration the achievement of the SDGs as guidelines when elaborating FDI strategies (UNCTAD, 2014, 2015 and 2017b). In Lebanon, Investment Law 360 and its decrees, and IDAL as the implementing agency, already take into account some of the elements typically associated with the SDGs (such as employment generation or the enhancement of local productive capacities) in their decisions on incentives, notably in the IT and technology sectors (chapter I). Scrutiny of development impacts could be further increased if IDAL's FDI strategy encompassed these goals at all stages, from the selection of priority sectors to defining activities such as lead generation, investment targeting and policy advocacy, to assessing impact.

Given the stated objective of the Government of Lebanon to develop the information economy, this chapter illustrates how the suggested approach could be successfully applied to the ICT and related sectors to maximize the benefits for the country. While the vision to make Lebanon a global innovation hub has been clearly stated,[80] no national development plan, private sector or FDI strategy exists to provide indications as to how this objective can be reached. Section C contains ideas on how the proposed approach to investment promotion could be used to foster the development of these sectors.

A. DEVELOPING AN INVESTMENT PROMOTION STRATEGY

Best practice FDI promotion strategies share several common characteristics. Investment attraction is very challenging, particularly for locations that investors are less familiar with or for environments that are perceived as more difficult to operate in. An FDI strategy provides institutions involved in investment promotion activities with the tools to market the country as a place to do business. It also helps deliver facilitation services in support of companies' establishment and long-term success. A strategy helps focus the IPA's activities and align them to national development objectives, as well as ensure they are implemented professionally with measurable impacts. Figure 2.1 illustrates the key elements of a successful FDI promotion strategy, which are presented in greater details in this section (elements 1 to 4) and in section B (element 5).

Figure 2.1.
The elements of a successful FDI promotion strategy

1. Secure stakeholders' participation to develop an FDI strategy
2. Identify subsectors where the IPA can have the greatest impact
3. Design policy and promotion activities specific to the needs of each priority sector or subsector
4. Set impact indicators to measure success and revise the strategy if needed
5. Plan the structure, systems and resources needed for implementation

Source: UNCTAD.

1. Secure stakeholders' participation to develop an FDI strategy

Lebanon has not yet formulated a long-term strategy or plan for its social and economic development objectives. Generally, such a document serves as a basis for the investment promotion strategy. If clear and realistic, it helps the IPA to determine its goals, and to identify the impact indicators to assess its successes and/or failures (see below). In Lebanon, the sectoral focus of the IPA is determined by Investment Law 360 and, at the time of the adoption of the Law in 2001, the eight priority sectors were not selected on the basis of an in-depth competitiveness assessment. Furthermore, no updating exercise has been conducted since then to review the strengths and weaknesses of these sectors for FDI attraction and how they fit with the overall approach of the Government towards development. In January 2018, the Government has however commissioned a consulting firm to assist in the development of a five-year economic strategy for the country.

Line ministries and specialized agencies have adopted their own sectoral plans, but these often lack coordination and do not contain a specific role for FDI. Collectively, the existing plans cover the full range of productive sectors and all of them touch upon different aspects of investment promotion.[81] However, without the guidance of high-level development plans and explicit legal mandates, the various plans and strategies often contain mixed messages as to the expected role of foreign investment or the policies required to promote investment in the priority sectors. As a result, the institutions that should have an interest in stimulating private sector investment are not as effective as they could be (see annex III for more details).

A coordinated and participatory approach to developing an FDI strategy is needed, including shared objectives and clearly defined roles. Developing such a strategy would involve consultations with ministries and agencies involved in planning or addressing sectoral and cross-sectoral issues, as well as with institutions responsible for data collection. These consultations would be particularly relevant given the composition of the Board of IDAL, which is composed exclusively of private sector representation (section B). In addition, the success of an IPA depends greatly on the buy-in by all stakeholders having responsibilities for investment and it is important to keep them involved not only in the design stage but also in the implementation of the strategy, including sharing credit for results.

2. Identify subsectors where the IPA can have the greatest impact – benchmarking

The identification of priorities for FDI promotion should involve a benchmarking exercise of the country's competitive and comparative advantages. Investment promotion should focus on the sectors and subsectors that are more likely to generate positive impact in achieving the country's vision and objectives (UNCTAD, 2014). While the list of sectors in Investment Law 360 excludes most services, it still encompasses broad economic activities, without specifying promising subsectors, except for the technology and IT sectors, for which incentives criteria are detailed under decrees 8709 of 2012 and 3158 of 2016.[82] The benchmarking process would thus define the subsectors of focus for the IPA's promotional activities. It would determine what Lebanon can offer to potential investors and which economic activities are the most internationally competitive. The economic variables to consider include high-volume production, high quality, low prices, good growth and profitability prospects, and/or other characteristics viewed as being especially marketable.

This process would also establish FDI targets for different segments of the value chain within each subsector. The value chain of an industry generally includes a very diverse set of investors of all sizes, with a combination of domestic and foreign companies, international research organizations, NGOs and academic institutions. By mapping the existing value chains and production ecosystems, notably by identifying their size, nationality, outreach, location and support systems, the IPA will be able to determine the type of investors, domestic and/or foreign, who would be attracted to Lebanon and how to build linkages with local firms to help them grow. This will later help the IPA focus its investment targeting efforts. A different set of questions apply to the identification of the relevant activities, including whether there are subsectors that would be better served by domestic investors and how would they integrate with FDI.

Initially, IDAL may find it useful to conduct a "high-level" competitiveness analysis to identify a long list of subsectors to promote in the short-term. This would enable the IPA to: (1) list the subsectors that already attract FDI without investment promotion efforts; (2) single out the subsectors which are more suitable for domestic investors, but could grow if linked to FDI, and map the potential value chain (see below); (3) set aside the subsectors which are much less likely to attract FDI in the short term and explain to stakeholders the reasons behind the decision of not promoting them right away; and (4) highlight promising subsectors where reforms are required to reinforce competitiveness and list these sectors for medium to longer-term promotion efforts (section A.3). Following this approach, table 2.1 presents a tentative list of subsectors, within the priority sectors covered by Investment Law 360, where immediate investment promotion efforts could lead to positive results. These are subsectors identified as potential candidates for FDI attraction in the short term by stakeholders in the private and public sectors, during UNCTAD's fact-finding mission. IDAL has already conducted this type of exercise for industrial subsectors and should build on this experience to update its analysis and potentially further expand the list.

Discriminating criteria for retention on the list include world trends as well as domestic conditions and policies. Energy and access to land are essential criteria considered by domestic and foreign investors, but which pose challenges in Lebanon. To successfully attract FDI, these challenges will need to be addressed in the medium to long term (see context and chapter I). In agriculture, primary crop and livestock production are sectors which see, globally, relatively little FDI by number of projects. In Lebanon, over the last 15 years, according to available data, there have been no crop or livestock FDI projects. The country's small market size means that foreign investors in the sector are likely looking at the export market, requiring agricultural goods to be competitive enough. Yet certification issues and high production costs affect competitiveness and hence the prospects for FDI promotion in the short term. Similarly, sectors in which FDI is known to be largely driven by market-seeking motives, such as manufacturing of fast-moving consumer goods, are less likely to be drawn to Lebanon in the short term given the country's relatively small population and the impact of the current regional context on trade.

Table 2.1.
Tentative list of candidate subsectors for FDI promotion in Lebanon

Industry	Agriculture	Agro-industry	Tourism	ICT and ICT-enabled sectors[a]
❍ Pharmaceutical products ❍ Basic chemicals ❍ Fertilizer ❍ Construction materials ❍ High-tech manufacturing ❍ Furniture ❍ Jewellery ❍ Perfumes ❍ Cosmetics	❍ Sugar ❍ Potatoes ❍ Tobacco ❍ Apples ❍ Wine leaves	❍ Processed nuts ❍ Processed vegetables ❍ Processed foods, including local specialties ❍ Jams and jellies ❍ Dried bananas ❍ Olive oil ❍ Wine	❍ Hotels (4 and 5 stars) ❍ Convention centres ❍ Medical tourism ❍ Eco-tourism	❍ Software publishing ❍ Business process outsourcing ❍ Data processing and hosting ❍ Movie production ❍ Animation ❍ Music publishing ❍ Movie post-production

Source: UNCTAD during the fact-finding mission and ITC, 2017.
[a] ICT and ICT-enabled sectors also comprise content and media.

Depending on the content of its initial list, IDAL might need to undertake a second, lower-level analysis. A more detailed analysis would make it easier to identify concrete opportunities, including within sub-sectors which, prima facie, are less attractive to FDI. Promotional opportunities for IDAL will likely be found in niches within value chains. In agri-business, for instance, processed local specialties offer potential for domestic investors, and could be marketed to both the local and international markets. In tourism, FDI has already contributed to the establishment of major international hotel chains. Eco-tourism is a niche that could be further developed by individual investors, domestic and foreign, given its small scale. With appropriate regulatory adjustments, medical tourism, could also attract increased FDI inflows. In ICT, the subsectors could be further broken down into video games, e-payment software and enterprise software instead of just software. Indeed, providing more details on subsectors' potential would enhance the precision of IDAL's efforts and yield valuable information for the work to be done when preparing sector pitches and business cases to target investors (section B). It is important to note however that a longer list will require more time and financial resources to complete a thorough competitiveness assessment.

IDAL will need to determine criteria to score the subsectors against each other. To identify priority subsectors, typical criteria include the availability of FDI determinants, FDI trends and the expected development impact for the country (table 2.2). These criteria are examples that might be expanded and should be agreed upon by IDAL and its stakeholders. Using relevant sectoral data (see below), IDAL would assign each subsector a score. In this exercise, the focus should be on the relative score of each subsector. For this reason, all scoring should be done according to detailed guidelines in order to ensure consistency. When scoring subsectors against the selected criteria, IDAL and its stakeholders may choose to weight criteria by importance. The results of the sector competitiveness assessment and the consequent prioritization of sectors for investment promotion should be validated by IDAL's stakeholders at a strategy-setting workshop. Ultimately, the scoring table would determine immediately promotable sectors, as well as those requiring prior policy attention (see annex IV for an example of scoring table in selected ICT sectors).

Table 2.2.
Examples of criteria to score the subsectors

FDI determinants	FDI trends	Expected impact
❍ Skilled labour force ❍ Cost of labour force ❍ Natural resources ❍ Access to land ❍ Energy availability ❍ Status of other infrastructure ❍ Access to markets ❍ Investment climate ❍ Accessible market (size) ❍ Market (growth)	❍ Global flows ❍ Regional flows ❍ Track record[a]	❍ Decent employment and job creation ❍ Employment of women (with comparable pay) and of disadvantaged groups ❍ Enterprise development in eco-sectors ❍ Export growth ❍ Fiscal revenues ❍ Development of value chain, including indirect sectors ❍ Moving up the development ladder within sectors[b], including transfer of knowledge and innovation ❍ Greening economic activities

Source: UNCTAD.
[a] Investor inquiries, actual investments and retention.
[b] For example, research and development over manufacturing, manufacturing over assembly, assembly over a sales office.

Reliable statistics and data are essential for an effective scoring exercise. IDAL will have to strike a balance between thoroughness and the associated time and cost requirements to complete the benchmarking exercise. Government institutions, international organizations, donor agencies, universities and NGOs generate a wealth of sector-specific reports and data, often across regions, which can be used to establish a baseline understanding of the sectors and complete a scorecard of the different subsectors in line with the criteria identified above.[83] In addition, IDAL should also take advantage of having organized sectoral (e.g. traders – Beirut Traders Association, industry – ALI, and banking – ABL) and cross-sectoral (i.e. Chambers of Commerce, Industry and Agriculture – CCIA) business associations, which regularly publish information on companies' operations in the country. Interviews would also need to be conducted by IDAL with subsector stakeholders and, when possible, potential investors and business associations outside of Lebanon, to get current, practical investor views of the subsector's potential and actual company interest in investing. As mentioned above, this is also an opportunity to map the value chain and identify where FDI could bring benefits to existing domestic companies. At a later stage, the collected information will be the basis of the promotional pitch for targeted investors (section C).

FDI statistics are particularly difficult to obtain, with consequences for the adoption of data-driven policy decisions. Despite IDAL's efforts to track FDI data, there is no comprehensive or consistent information on FDI in Lebanon, notably disaggregated by sector and country of origin, nor any data to assess the impact of FDI on exports, fiscal revenue, employment and skills. BDL collects general FDI data and sectoral data for banking, financial services and insurance through a specific survey, the CDIS. In addition, the General Directorate for Land Registry and Cadastre at the MoF compiles statistics about land and real estate acquisitions by foreigners, and the MoET regularly publishes information on registered foreign branches and representative offices. However, the Central Administration of Statistics (CAS), the national statistical office under the Presidency of the Council of Ministers, is short of staff, with four full-time statisticians in the National Accounts Department, including the Head. It often receives information with long delays and has difficulties obtaining data for all sectors, with a direct consequence on its ability to produce accurate figures.

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

The value chain and gap analysis discussed in the previous section is a foundation for identifying policy interventions. Value-chain mapping and gap analysis are effective ways of creating "clear blue water" around the value propositions for investors. Beyond addressing key bottlenecks that affect all investors, as discussed in chapter I, the benchmarking presented in this chapter would ensure that the business and investment climate specific to the targeted subsectors and niches is internationally competitive, particularly with regard to infrastructure and skills quality and availability. The scoring would help determine the weaknesses and highlight the areas where reforms are required. IDAL would then have a role, based on its mandate, to advocate for the reforms to be undertaken. This can be done as part of its promotional activities but should also be an integral component of the investment promotion strategy and its implementation.

The investment promotion strategy should envisage short-term, and also medium to longer-term priority subsectors. A country's attributes are constantly evolving as a result of domestic developments and changes in the external environment. Taking this into account, the IPA must play its part in continuously improving the location's competitiveness and anticipate the impact of changes. For example, improvements in infrastructure or the legal framework can be assessed vis-à-vis their potential to attract future investment. Such efforts allow the expansion and diversification of existing sectors, and the development of new sectors, as new investors start considering the country as an investment destination.

Periodic updates to the list of subsectors can include new targets. For example, with the country seeking to exploit maritime oil and gas reserves for the first time, manufacturing in downstream sectors, such as petrochemicals and plastics could become attractive to FDI in the future. In addition to the core industry, a web of industries aimed at servicing these companies could be developed. Furthermore, while the Lebanese Petroleum Association, within the Ministry of Energy and Water, might be the more natural lead for the promotion of oil and gas exploitation, at some point in the downstream value chain, IDAL would become the more natural lead for FDI promotion, as investment structures shift from extractive concessions or PPPs to market- or efficiency-driven enterprises.

Beyond the relevant policy support, the strategy should outline the activities required to attract FDI and generate the desired development impact. Activities such as producing brochures, holding investment conferences and hosting site visits are ineffective if not done within a coherent and targeted plan. A feature of the world's best performing IPAs is that many projects come from their own direct marketing efforts. IPAs that only adopt an investment facilitation position do little, in practice, to generate maximum development benefits or foster future sectoral growth. Indeed, goals such as attracting "10 companies" or "$100 million of investment" cannot be reached simply by responding to investor inquiries or reactively trouble-shooting. To successfully meet these sorts of targets, usually calls for the employment of a wide range of tools. These include: lead generation and inquiry-handling (investment targeting); tailored approaches to supporting planned projects become operational and helping them to grow (investment facilitation and aftercare); assisting them diversify and link to the local economy over time (business linkages); and advocating for the necessary reforms to increase competitiveness (policy advocacy), particularly when it comes to fragile and conflict-affected situations (box 2.1). Section B discusses how to equip IDAL to perform such activities for the effective implementation of the strategy.

Box 2.1.

Investors who are more likely to invest in fragile and conflict-affected situations

Investors may have special reasons for investing in fragile and conflict-affected situations and should be given special consideration when investment promoters establish their prospect lists. The four main types of investors are:

Accustomed investors. They often look for large concessions to extract natural resources or develop major infrastructure, such as deep-sea ports and hydroelectric dams. Their business growth depends on getting access to untapped resource reserves or filling large infrastructure gaps, opportunities more prevalent in the less developed markets of fragile and conflict-affected situations. The projects usually come with high risks and also high returns. A relatively small number of companies from a few countries dominate these projects, given their high-capital, high-technology and high-risk characteristics. For example, the majority of extractive projects have come from five countries: Australia, Canada, China, the United Kingdom and the United States. Outside the usual extractive and financial sectors, some companies employ strategies to seize new markets, and they have developed business models to manage the associated risks. Companies with sales offices in a fragile or recovering State or actively trading with domestic business partners have shown good capacity to deal with the risks. They are good candidates for investor outreach activities, as are pre-conflict investors waiting for the right time to re-engage. The most cost-efficient way to generate new FDI flows may also be to encourage established investors to expand, deepen or diversify their operations, although this group is relatively small in most situations.

Regional investors. They tend to have better knowledge of the realities on the ground because of proximity, information, historical and/or personal connections and cultural understanding or affinity. Investors from countries with former colonial relationships often share these characteristics and should be included in this group. Excluding extraction projects, 59 per cent of all FDI projects in the analyzed database came from countries with a shared border, a capital within a three-hour flight, a past colonial or wartime relationship. This argues for non-extractive investor outreach activities to carefully consider regional prospects before looking further abroad. For example, post-conflict Kosovo* used this approach to attract the manufacture of Bulgarian steel products.

Diaspora. Former or displaced citizens may have capital, foreign business experience and a personal desire to return, or at least to participate as the economy recovers and grows. Remittances are increasingly seen as a resource to be harnessed for investment. The Liberian Diaspora Fund is one such example, with remittances from Liberians abroad pooled and matched to small and medium-sized enterprises in sectors the investors want to support. The entrepreneurs are provided basic business training and ongoing mentoring. The beneficiaries of such programmes typically operate small enterprises, but the organizations that run the programmes can offer them useful connections to citizens abroad and opportunities for collaboration. For example, in a country where most agricultural land holdings are small, a microfinance programme that helps farmers upgrade machinery and agricultural practices could give a large contract farmer the confidence to invest.

Investors with additional, non-financial motives for investing. This group includes State-owned enterprises (SOEs), sovereign wealth funds – which are increasingly attracted to infrastructure projects – and socially concerned investment funds. These investors, while still needing to show economic returns, may have longer-time horizons and ability to accept higher risk and lower returns to achieve political or social aims. For example, the "Go Out" policy of China encourages competitive domestic enterprises to invest abroad to create strong Chinese multinational corporations and recognition of Chinese brands, and secure the supply of raw materials that are fuelling the country's long-term growth. In this context, a Chinese SOE, in exchange for long-term access to critical raw materials, might accept short-term losses that would be unacceptable to other commercial enterprises.

Source: Whyte and Griffin, 2014.

* United Nations Administrative Region, Security Council resolution 1244 (1999).

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

The performance monitoring and evaluation framework would link objectives, activities, output and impact indicators, and should be made public to increase the IPA's accountability. The current key performance indicators (KPIs) of IDAL are measurable. They are thoroughly tracked and its annual performance, as measured against these KPIs, is made public in its annual report. However, it has shortcomings. In IDAL's Strategic Plan for 2018, activities are mixed with strategies, and performance is measured in terms of output indicators, without knowing whether they produce meaningful development impact (IDAL, 2017e). For instance, one of IDAL's seven strategies in 2018 is to "identify concrete investment opportunities across all regions of Lebanon and actively promote them locally and internationally among Diaspora members". The corresponding output-based KPI indicates that at least eight missions and seminars should have been conducted by the end of 2018. Best practice, however, would call for output and impact indicators to also be identified.[84]

Table 2.3.
Indicators to measure the impact of investment

Areas	Impact indicators	Details and examples
Economic value added	1. Total value added	❍ Gross output (GDP contribution) of the new/additional economic activity resulting from the investment (direct and induced)
	2. Value of capital formation	❍ Contribution to gross fixed capital formation
	3. Total and net export generation	❍ Total export generation; to some extent, net export generation (net of imports) is also captured by the local value-added indicator
	4. Number of formal business entities	❍ Number of businesses in the value chain supported by the investment; this is a proxy for entrepreneurial development and expansion of the formal (tax-paying) economy
	5. Total fiscal revenues	❍ Total fiscal take from the economic activity resulting from the investment, through all forms of taxation
Job creation	6. Employment (number)	❍ Total number of jobs generated by the investment, both direct and induced (value chain view), dependent and self-employed
	7. Wages	❍ Total household income generated, direct and induced
	8. Typologies of employee skill levels	❍ Number of jobs generated, by ILO job type, as a proxy for job quality and technology levels, including technology dissemination
Sustainable development	9. Labour	❍ Employment of women (with comparable pay) and of disadvantaged groups ❍ Skills upgrading, training provided ❍ Health and safety effects, occupational injuries
	10. Social	❍ Number of families lifted out of poverty, wages above subsistence level ❍ Expansion of goods and services offered, access to and affordability of basic goods and services
	11. Environmental	❍ Greenhouse gas emissions, carbon offset/credits, carbon credit revenues ❍ Energy and water consumption/efficiency hazardous materials ❍ Enterprise development in eco-sectors
	12. Development	❍ Development of local resources ❍ Technology dissemination

Source: UNCTAD, 2012.

Considering the multi-year timelines that are typical of investment projects, output indicators should be regularly measured and the IPA's activities adjusted accordingly. The time horizon of an investment strategy's initial results is typically between three and five years. Consequently, its focus should not only be on the short term, but also on the medium and long term in order to include any shortcomings, changes in circumstances and improvements, that could be addressed through policy advocacy efforts. Effective IPAs will review progress towards the objectives vis-à-vis output indicators on an annual basis and adjust as needed.

The strategy should also provide a framework for measuring the impact of investment vis-à-vis the objectives of the government's vision. Attracting investment per se is not the ultimate objective: its positive spillovers are. Therefore, the strategy should contain a framework for assessing whether such investment is contributing to the desired outcomes, e.g. the country's development objectives and the SDGs. UNCTAD has identified a range of indicators that can assist governments assess the impact of investment on sustainable development. Table 2.3 provides examples of impact indicators that could be considered in the FDI strategy for Lebanon. This type of assessment, linking objectives, activities, outputs and impact, also provides a strong rationale for an IPA's continued or expanded funding and promotes cooperation from other stakeholders who see it as an effective agency. Budget expenditures can be measured against impact indicators, and the indicators offer a methodology for attributing new investments and their benefits to IDAL's work. This, in turn, enables the Government to analyze the annual costs and benefits of investment promotion in Lebanon using concrete metrics (i.e. budget expenditure per job attracted, number of FDI dollars attracted per promotion dollar spent and dollars of domestic procurement generated by IDAL-attracted companies).

Finally, the monitoring and evaluation framework would ensure the continued relevance of the strategy. Investment policymaking is a dynamic process, and so is investment promotion. Economies change, economic and policy objectives evolve, and promotion tools need to adapt. The monitoring and evaluation framework would help finetune and adjust the targets, policy measures and activities of the strategy (and as a consequence, the resources of the IPA) to ensure their effectiveness vis-à-vis existing objectives. It would also help to revise the objectives themselves, should the policy or economic conditions so require.

RECOMMENDATIONS

To increase the efficiency of its investment promotion activities, IDAL should adopt a strategy focussing on sectors and subsectors that can foster development results in terms of economic, social and environmental impact. In the absence of a national development plan and competitiveness assessment of sectors and subsectors, IDAL has a key role to play in forging a consensus, among all stakeholders regarding the focus of its promotion efforts. In light of this, the Government could consider the following actions:

a. Secure stakeholders' participation to develop an FDI strategy

- Organize consultations with investment stakeholders to identify the objectives of the strategy. This includes line ministries and government agencies, including those overseeing domestic value chain development in the areas of industry, telecommunications, agriculture, energy and tourism, but also the local and international private sector.
- Secure consensus around the objectives of the strategy, and ensure their coherence with existing sectoral strategies and plans.

- Launch the collection of the data required to benchmark sector competitiveness and identify FDI targets: This would entail concluding memoranda of understanding (MoUs) between CAS and the other governmental institutions involved with FDI data collection, e.g. BDL, MoET, MoF (including the General Directory for Land Registry and Cadastre), Ministry of Justice (Trade Registers) to facilitate the exchange of statistics and data.[85] In addition, in order to ensure that data are comparable, technical protocols would be required.
- Adopt the sector scoring guidelines relevant to the benchmarking methodology through a participatory process.

b. Identify subsectors where the IPA can have the greatest impact

- Apply the benchmarking methodology to score the sectors/subsectors and identify the immediately promotable ones. The investors' perception survey conducted with the assistance of UNCTAD could provide useful inputs to this process.
- Establish a list of the selected priority subsectors and validate it during a strategy-setting national workshop.

c. Design policy and promotion activities specific to the needs of each priority sector

- Identify the policy measures necessary to improve the attractiveness of the target sectors/subsectors and reflect them in the strategy, including a timeline for their implementation.
- Engage in the necessary policy advocacy efforts for the selected priority subsectors.
- Launch a pilot market outreach programme on a priority subsector. As discussed in section C, the ICT and ICT-enabled sectors are good candidates for the pilot programme, which would introduce a range of new tools, from lead generation and inquiry-handling (investment targeting) to supporting planned projects become operational and helping them to grow (investment facilitation and aftercare), assist them diversify and link to the local economy over time (business linkages).

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

- Establish a monitoring and evaluation framework for IDAL, linking objectives and activities, and make it public to increase the IPA's accountability.
- Evaluate IDAL's performance against the framework and adjust its workplan accordingly. This evaluation should be conducted by IDAL's Board (section B) on an annual basis.
- Determine suitable indicators to assess the impact of FDI inflows vis-à-vis the Government objectives and targets set in the strategy and utilize them to review the effectiveness of the FDI strategy every 3 to 5 years.

B. ENABLING IDAL TO IMPLEMENT THE INVESTMENT PROMOTION STRATEGY

IDAL is the lead government institution tasked with investment promotion and, as such, it has the responsibility for setting and implementing the strategy. This section assesses the IPA's readiness to perform this role based on international good practices in investment promotion. The assessment reviews the agency's mandate, governance and reporting lines, organizational structure, human and financial resources as well as coordination with other government agencies that have responsibilities for investment.

1. Institutional mandate

The mandate of effective IPAs typically focuses on four core functions: targeting, facilitation, aftercare and policy advocacy, while excluding regulatory functions. IPAs provide assistance to potential and existing investors to boost FDI inflows and enhance spillover effects. Their mandate usually indicates the types of activities to be performed and the objectives pursued. Generally, the mandate is not overly prescriptive so as to maintain the ability to adjust the strategy, structure and staffing based on ongoing and emerging needs. Where IPAs operate effectively, they are dedicated promotional bodies free from administrative and regulatory functions (Whyte et al, 2011). A study of 105 national-level IPAs split them into two categories: 40 per cent "promoter-regulators," which had some form of FDI regulation (e.g. approving investments, managing incentives, issuing licences and permits) among their three main functions, and the other 60 per cent "pure promoters," which did not deal with any regulatory functions (Whyte et al, 2011). The results of the study showed that none of the promoter-regulator IPAs were in the group of "best-practice IPAs" while only 6 per cent of "good IPAs" were promoter-regulator (the top two tiers in a five-tier rating system applied in the study).

Article 6 of Investment Law 360 sets out 12 distinct functions for IDAL, several of which are not in line with international good practice. IDAL is tasked with the preparation of information on the Lebanese investment climate and sector-specific investment opportunities, proactive identification and pursuit of foreign investors, and proposing needed investment climate reforms, all functions within the realm of good practice. However, the Law also extends the IPA's mandate to cover export promotion, SME development and the administration of incentives. It grants IDAL superseding authority to issue administrative permits and licences (see chapter I), and administer government investment funds in incubators and projects co-financed with international organizations.[86] In addition, as discussed in section A, Investment Law 360 sets a very broad sector scope for the IPA's promotion targets, which makes specialization difficult.

From interviews with investors, IDAL is seen first as an administrator of incentives, then as a generator of valuable intelligence on Lebanon's promising sectors and also an ad hoc facilitator of investment projects. IDAL has the legal authority it needs to be an effective promoter, but its additional roles spread it too thin, instead of allowing it to focus on areas where it can have the most impact in attracting FDI. The fact that many of the non-investment promotion tasks in IDAL's mandate have yet to be operational does not diminish the risk they pose to its effectiveness. At the time of writing this report, IDAL was, for the first time since its establishment, preparing for a formal initiative to provide business counselling services, primarily to domestic SMEs with "Business Support Units" (BSUs). As currently conceived, this will further diffuse IDAL's ostensible focus on FDI and there is no systemic safeguard against any of its other dormant mandates being activated at any time (section C).

2. Governance and reporting lines

IPAs perform best when they are autonomous, have a well-functioning board and report directly to the highest level of government. This has been consistently shown in studies by UNCTAD and others during the last quarter century (Wells and Wint, 1990; UNCTAD, 2001 and 2008; Ortega and Griffin, 2009; ECORYS, 2013). Lack of autonomy can put pressure on IPAs, which become susceptible to influence from line ministries and other government institutions to act outside of their strategy. This can lead to a focus on short-term outputs at the expense of long-term impacts, and to take on additional non-complementary mandates. In addition, it can also impact budgetary flexibility and staffing rules, for example by restricting the hiring of staff to a civil service pool. An effective board will be composed of representatives from the private and public sectors, and will be responsible for approving the strategy, overseeing financial accounts, periodically reviewing the IPA and management performance, approving appointments, providing advice to management on strategically important matters, and supporting the IPA's policy advocacy efforts. Furthermore, reporting to the highest level of government helps by giving the IPA the visibility required to effectively discharge its policy advocacy function as well as the cross-sectoral breadth needed to promote a country, in coordination with line ministries and other government agencies.

IDAL has optimal reporting lines, but its Board does not include public sector members. IDAL reports to the Presidency of the Council of Ministers. In principle, the IPA's tutorship should give it a stronger voice in investment-related policies and greater support from the Council. However, IDAL's low budget and difficulty in getting government support for even relatively simple, specific and potentially high-impact actions is illustrative of the difficulties encountered by the IPA. A potential explanation is the Government's limited stake in the Board of IDAL. Indeed, while the Board has strong private sector representation, it lacks government participation and, most critically, the only official function of the seven members of the board is to approve incentives applications.[87] This affects the ability of the IPA to achieve a shared vision and institutionalize cooperation with public sector stakeholders. In addition, given its status as a public institution and its functions, a more balanced representation towards the public sector would shield the Board from the risk, or the perception, of conflict of interest.

3. Organizational structure

Organizational structures vary considerably among high-performing IPAs, due to differences in mandate, strategy and priority sectors, but there are shared characteristics. These comprise notably the presence of key staff, such as sector specialists, account managers, research staff and formal points of contact with partners and stakeholders. The transfer of client accounts should be done in a way that emphasizes follow-up actions and is seamless from the investor's perspective, for example from a "promotion unit" to an "aftercare unit". Investment and export promotion can often be complementary functions, but they each require well-coordinated and adequate resources in dedicated teams, with a clear strategy and appropriate systems.

Best-practice IPAs tend to organize their work around priority sectors and seek to build sector expertise among their staff. They do this either by hiring staff with sector experience or assigning inexperienced staff to work on specific sectors, thereby allowing them to build expertise through exposure. CzechInvest, which has a long-standing reputation as a best-practice IPA, has historically hired young, talented staff members with degrees from top universities and a couple of years of private sector experience. They are then assigned to work on specific sectors, where they are exposed daily to the workings of established investors through aftercare work and quickly build knowledge that can be leveraged to better influence new investors.

IDAL's structure should flow out of its strategy rather than the law. As per the terms of Investment Law 360, the IPA is currently organized around four directorates: financial and administrative affairs, studies, planning and statistics, marketing (information and promotion), and the one-stop-shop for licences and permits. This leaves IDAL with two directorates in charge of all its substantive work: the studies, planning, and statistics department generates IDAL's sector and economic information, while the information and promotion directorate is responsible for marketing and undertaking promotional efforts and events, in addition to being in charge of export promotion programmes.

4. Human and financial resources

A small staff does not prevent successful investment promotion. National IPAs widely regarded as best-practice in Austria, Nicaragua and Serbia, for example, perform well with about 15 staff members dedicated to investment promotion, while Cyprus Investment Promotion Agency's has only eight staff. This is possible when IPA tasks are focused, they have professional staff with soft skills and private sector experience, are proactive, adhere strongly to sound standard operating procedures (SOPs) and are equipped with quality information and customer relationship management (CRM) systems.

IDAL has a staff complement that is within the range of well-performing IPAs. It was indicated, during the fact-finding mission, that while the total staff should be about 75 people, in 2017 it had only 24 staff members. Out of those, 16 were professional staff members working on promotion, incentives, facilitation and, to some extent, the new SME-oriented BSUs (which are expected to integrate new staff). IDAL's staff is not formally recruited for, or organized according to sector priorities. The value that the IPA can bring to bear on the due diligence of potential investors and the operational success of established investors is thus reduced. Despite these constraints, IDAL has a well-organized research staff, good communication channels with partners and stakeholders, has established an Investor Tracking System, similar to a CRM system, and, according to investors' feedback during the fact-finding mission, good account management practices.

By international standards, IDAL is underfunded. The IPA's total operating budget, slightly over $2 million for the three-year period 2017–2019, is inadequate to achieve its many mandates. Many top IPAs, with a much narrower mandate than IDAL, have annual investment promotion budgets of more than $5 million (including several across Europe). The IPA of Cyprus has historically had a budget in the $1 to 2 million range per year and eight people dedicated to investment promotion. Nicaragua's IPA normally has a budget of slightly more than $1 million per year, can count on about 15 staff for its investment promotion activities, and manages to achieve world-class performance, which earned it recognition in the World Bank Group's last edition of *Global Investment Promotion Best Practices* as the world's best investment facilitator (World Bank Group, 2012). In addition, charging investors for services, a practice allowed by Investment Law 360, has the potential to seriously derail the IPA's focus. Revenue generation and public good generation, such as investment promotion, are not well-aligned objectives. Lastly, few IPAs are able to outcompete professional consulting firms for the sorts of information and assistance services that they might consider charging for.

A narrower focus on investment promotion functions would increase the effectiveness of IDAL's limited resources. Only through better focus and efficiency in the allocation of existing resources to investment promotion functions, can IDAL aim to successfully implement the FDI strategy recommended in this report. Reserving IDAL's fullest services and support for the highest value potential investors should allow the IPA to spend its time more cost-effectively, while still allowing for just enough attention and support to be given to all investors, so that they feel adequately attended to. Having staff specialize by function – processing incentive applications, coordinating with other government partners to resolve investor issues, managing IDAL's procurement and capacity-building projects – would also bring immediate efficiencies. Crucially, these specializations would include subsectors, as IDAL shifts its work towards adopting the investment promotion strategy (section A). A CRM system that incentivizes the dogged pursuit of investment leads until fruition and good inquiry-handling SOPs will be critical to moving from an activity-driven work plan to an impact-oriented strategy, handling increased numbers of potential investors, and following up effectively on all leads.

5. Interagency coordination and collaboration

The most effective IPAs act as a friendly intermediary between the public and private sectors, and operate with several partners. These IPAs do not consolidate all investment-related responsibilities. They rely on other entities, which include sectoral ministries, regulators, local government and public service providers, such as utilities, business associations, outward investment agencies and development partners to source good information (section A) and the prompt and transparent facilitation of investment procedures (UNCTAD, 2017c). This cooperation works best when both sides have laid out their needs and respective wishes in a MoU. The MoU usually specifies the working details of the cooperation in a service-level agreement, including points of contact, types of information to be provided, expected response times as well as processes in place for escalating issues.

The cooperation between IDAL and other investment stakeholders can be enhanced. IDAL generally has good relationships with key stakeholders, but its mandate is not always fully understood, due also to its broad nature. Some entities indicated during the fact-finding mission that the IPA, in its role as export development agency for instance, is overlapping with their functions. Therefore, the support they could provide might not be adequate, and, in turn, they do not always use the IPA as their spokesperson. In particular, there is little to no collaboration on promotion, and cooperation on information-gathering and project facilitation remains *ad hoc*. As indicated in section A, several ministries have adopted strategies involving private investment, but there is no coordinated vision on its role and the potential linkages between domestic and foreign investment. Here, IDAL could play an essential role. A formalization of cooperation through MoUs with other government agencies, e.g. on project facilitation, could be one of IDAL's most promising channels to exert a positive influence on Lebanon's investment climate.

RECOMMENDATIONS

IDAL is making important efforts to gather intelligence, strategize and report on its activities, but its overly broad mandate, which includes regulatory functions and the administration of incentives, spread its staff and financial resources thin. The absence of a fully-fledged investment promotion strategy contributes to its lack of promotional focus and affects its efficiency. It also results in limited coordination with sectoral ministries, sometimes leading to an overlap and duplication of functions and efforts. A narrower mandate on investment promotion, supported by a focused promotion strategy such as that discussed in section A, would enable IDAL to operate more efficiently within the scope of its current staffing and financial constraints. Recognizing that any revision to Investment Law 360 may require a long time at the expenses of the efficiency and development impact gains of adopting a leaner and more focused structure for IDAL, the following recommendations call for the Government of Lebanon to adopt a pragmatic approach. Hence, the new structure and functions could be tested in a staged process and within the limits imposed by the existing law, until a revision is made possible.

Short-term

- Separate the regulatory and promotional functions within the IPA. This could be done in two stages. In the short-term, the teams allocated to regulatory and promotion functions within IDAL should be clearly separated.
- Restructure IDAL to prepare it for the implementation of the investment promotion strategy. The following suggests a structure with five departments and units, requiring a minimum of 15-16 dedicated professional staff members:

  ✓ *Investment Promotion Department:* With the largest number of professional staff, this department would be organized by selected priority subsector. The staff would act as account managers in charge of activities involving facing investors: investment targeting, facilitation of due diligence and establishment, and aftercare, thus putting specialists in a good position to foster strong relationships and accumulate subsector knowledge. Sector-focused account managers would forward investors' problems requiring IDAL's intervention with third parties to the Investment Support Department.

  Number of staff required: 4 to 6 (3 to 4 subsector-focused account managers and 1 to 2 staff to handle incoming inquiries from non-priority subsectors).

  ✓ *Investment Support Department:* This department would serve as the back office for the Promotion Department, with staff receiving requests for procedural assistance, not directly from investors but through the account managers. They would be specialized in all the government procedures located within two or three government bodies (e.g. immigration, customs, energy, construction permits). These staff would have well-established relationships and regular contacts with counterparts in their assigned government bodies.

  Number of staff required: 3.

  ✓ *Policy Unit:* This unit would consult regularly with the other departments to gather data and stakeholders' views on persistent, high-impact problems and policy options for further strengthening the selected priority subsectors and the investment climate generally. The Policy Unit would lead on IDAL-driven policy advocacy and represent the IPA in public-private fora. It would publish an annual report on the state of the investment climate, thus setting the policy advocacy agenda for the next year.

  Number of staff required: at least 2.

  ✓ *Research Unit:* This unit would be staffed by researchers proactively building and maintaining an investors' information system, including collecting raw data, adding promotional value to it and putting it into a useful format for dissemination among investors. Information priorities and formats would be suggested mostly by the subsector account managers, who would also provide guidance on the promotional language to be used. The Communications and Events Unit would advise the Research Unit on the uniformity of branding, style and tone across all publicly disseminated materials. The Research Unit would also manage the IDAL website's content, in coordination with the IT manager.

Number of staff required: 3–4.

✓ *Communications and Events Unit:* This unit would support the rest of IDAL in organizing events, framing policy advocacy, branding informational products for dissemination and effectively communicating content through the website.

Number of staff required: 2.

- Require that IDAL's board of directors includes representatives of the public sector at the highest level.
- Empower the board to be responsible for:
  - ✓ The approval of the investment promotion strategy;
  - ✓ Financial oversight of the agency and review of IPA and management performance;
  - ✓ Approval of management appointments, providing advice to management on strategically important matters; and
  - ✓ Support of the IPA's policy advocacy efforts.

Medium-term

- Devise a charter and terms of reference (TORs) for IDAL's board of directors; provide corporate governance training to board members and the IPA's senior management.
- Mandate IDAL to host FDI seminars for high-level public officials, and include private speakers, to raise awareness within government of the importance of FDI to Lebanon's future economic growth and best practices in government-wide initiatives to win FDI.
- Conclude MoUs and service-level agreements between IDAL and each of the public and private stakeholders essential to the promotion and regulation of its anticipated investors. These would include coordinated promotion, mutual service standards, investor facilitation standards, information-sharing plans, and mechanisms for investment policy review and reform.

Longer-term

- Revise Investment Law 360 to transfer the regulatory functions to a dedicated government institution or an already established ministry (for instance the MoF for incentives). This would establish IDAL as a dedicated promoter free of regulatory or administrative responsibilities, and reflect the new functions and structure, including the revised Board.
- Have the Council of Ministers and IDAL's board of directors monitor and evaluate IDAL against the framework adopted in the strategy.
- Consider the establishment of separate export and SME development agencies.
- Increase IDAL's budget for investment promotion (i.e. excluding incentive administration, SME development, export support, etc.) to bring it in line with the lowest funded good-practice IPAs.

C. AN APPLICATION OF THE PROPOSED STRATEGY TO LEBANON'S ICT AND ICT-ENABLED SECTORS

This section proposes an example of how to apply a strategic approach to FDI promotion to a sector prioritized by the Government of Lebanon – the information economy. The terms "information economy" and "knowledge economy" are generally used interchangeably and refer to "economies which are directly based on the production, distribution and use of knowledge and information" (OECD, 1996). The information economy acts as the enabler of the "digital economy", which is defined by UNCTAD as "the application of internet-based digital technologies to the production and trade of goods and services" (UNCTAD, 2017b). For this chapter and in line with IDAL's mandate as defined by Investment Law 360, the scope of analysis is limited to the ICT and the ICT-enabled sectors, including content and media.

1. Secure stakeholders' participation to define objectives and roles

Several initiatives have been taken to promote the development of the ICT and ICT-enabled sectors. Based on the vision expressed at the highest level of the Government of Lebanon, the information economy is expected to play a key role in the country's development. Several institutions have adopted initiatives to foster the development of ICT and ICT-enabled sectors, including in 2013 the Circular 331 of the BDL to simplify access to finance for companies involved in the knowledge economy.[88] The Ministry of Post and Telecommunications has launched, in 2015, the Lebanon 2020 Digital Telecom Vision. In addition, programmes linking academia and research with industries involved in research and development purposes, including in the information economy sectors, are in place. This comprises the Lebanese Industrial Research Achievements (LIRA) programme by the Ministry of Industry, the Conseil National de Recherche Scientifique (CNRS), BDL and ALI, and the Innovation Voucher Project, driven by the Centre for Innovation and Technology[89] with co-funding from the European Union. Finally, IDAL is tasked with promoting investment, including FDI, in ICT and related sectors.

The effective development of the ICT and ICT-enabled sectors relies on a conducive framework that fosters interactions and institutional synergies. Coordinated efforts by all stakeholders involved will be even more important as the sectors grow and become more sophisticated (UNCTAD, 2017b). Since the process will likely be accompanied by emerging opportunities and a host of challenges, notably complex and internet-specific regulatory issues, there will be a need to address them in a coherent and coordinated manner (UNCTAD, 2018b). Furthermore, the relative novelty and rapid change of the platforms and technologies mean that success depends disproportionately on start-ups, academic and research institutions as well as innovative worker training programmes (e.g. software boot camps). In addition, specialized (and sometimes shared) infrastructure, specific intellectual property protection,[90] data security and privacy, taxation and customs regulations as well as dedicated financing facilities are also required (figure 2.2).

Figure 2.2.

Policy framework for investment in the digital economy

Policy checklist

Strategic investment policy considerations

- ➢ Review competitive advantages for the attraction of investment from digital MNEs, assess potential challenges and risks, and identify strategic opportunities (e.g. niche industries, digital content or services industries, app development).
- ➢ Review and prepare for changing investment determinants and investor profiles in other industries as they adopt digital technologies in global supply chains.

Embedding digital development in investment policies

National

- ➢ Formulate a strategic response to ensure investment policy remains geared towards sustainable development and inclusive growth.
- ➢ Assess the extent to which existing investment regulations are affected by digital operating models.
- ➢ Modernize investment regulations where needed, balancing investment promotion and facilitation with measures to mitigate risks associated with digital operating models.

International

- ➢ Review the coverage and treatment of new digital industries in IIAs.
- ➢ Take into account the digital investment dimension of evolving international rules, such as those on e-commerce and services trade.

Embedding investment policy in digital development strategies

Invest in digital infrastructure

- ➢ Conduct a detailed assessment of infrastructure investment needs in digital development strategies, including broadband coverage and internet infrastructure (e.g. data centres, IXPs).
- ➢ Build the right conditions for private investment in digital infrastructure, including to promote public service and universal connectivity objectives.
- ➢ Engage in regional cooperation, promoting multi-country infrastructure investments for scale.

Invest in digital firm

- ➢ Ensure that content rules and regulations remain conducive to investment in the digital sector, while safeguarding public policy objectives.
- ➢ Support local enterprise development in the digital economy, through clusters and hubs, facilitation of innovative financing approaches, and conducive regulations in non-digital industries.

Invest in digitalization

- ➢ Promote investments by firms across all sectors in ICTs and in related skills, and access to low cost digital services (e.g. cloud services).
- ➢ Build and improve e-government services to lead the way, to create demand for local developers, and to lower the cost of doing business.

Policy interactions and institutional synergies

- ➢ Manage interactions with related policy areas to address public concerns, through up-to-date regulations (e.g. data security, privacy, intellectual property protection, competition, consumer protection, national security, safeguarding of cultural values).
- ➢ Manage interactions with sectoral and social policies to mitigate potential negative social and economic impacts of digital transformation (e.g. job losses in traditional sectors).
- ➢ Ensure an effective whole-of-government approach, establishing coordination processes.

Source: UNCTAD, 2017b.

Box 2.2.

A success story in ICT: the case of Rwanda

Rwanda is the best example of a small country that has successfully achieved regional leadership and global renown in ICT, and this in less than a generation following a civil war. In 2000, the country's GDP per capita was $216, and average annual FDI inflows were about $4 million. The Government adopted a 20-year, four-phase socio-economic development plan that put ICT at the centre of its strategy. The plan included an explicit goal, "transform[ing] Rwanda into an information-rich, knowledge-based society and economy within 20 years."

By 2015, GDP per capita was more than triple its 2000 level, and annual FDI inflows were approaching half a billion $. That same year, the WEF's Global Information Technology Report ranked Rwanda first in the world for "government success in ICT promotion" and the country had achieved regional leadership and global standing as an ICT hub. In 2017, in its Science, Technology and Innovation Policy (STIP) Review of the country, UNCTAD noted the success of Rwanda's policies in developing the sector, and the positive impact ICT has had on the growth of all other sectors of the economy (UNCTAD, 2017d).

Eric Schmidt, the Executive Chairman of Alphabet describes it as "feel[ing] like Singapore, an island inside of Africa whose small size allows great focus and a dynamic, stable government." Some of Rwanda's measures for its transformation are summarized below.

Area	Objective measures
Government adoption of ICT and support for innovation	95 per cent of government services transacted online $100 million fund for seed-to-growth funding of tech companies Stimulation of the sector's growth through the establishment of Kigali Innovation City, a special economic zone to concentrate the training institutions, specialized infrastructure, subsidized innovation space, and additional incentives in a single, synergetic site #1 in Africa for laws relating to ICT #1 in Africa for intellectual property protection World's first drone port, delivering medical supplies to an area of more than 30,000 square km Hosts headquarters of 53-country Smart Africa Alliance
Infrastructure	4G LTE penetration to 95 per cent of population Fibre optic cable to all of the country's 30 districts Tier III data centre, with dedicated hosting and cloud computing services to both private and public sectors #1 in Africa for networked readiness
Markets and value chains	The average annual value of government procurement of ICT products and services exceeds $50 million. A major market exists in the maintenance and regular upgrading of Rwanda's 24/7 self-service government, continued improvement of infrastructure, and expansion of publicly provided services, such as smart cards and free wifi on public transportation An ecosystem of 7 tech incubators giving rise to hundreds of local tech companies, capable of servicing and partnering with the largest ICT companies #1 in Africa for availability of latest technologies #2 in Africa for firm-level technology absorption #2 in Africa for venture capital availability
Skills	2,000 science, technology, engineering and mathematics post-graduates and MBAs per year from the Harvard-affiliated African Leadership University, the Kigali branches of Carnegie Mellon and the International Centre for Theoretical Physics, and the African Institute of Mathematical Sciences 20,000 workers trained in ICT-related skills in 2015 alone Moving towards the goal of providing every primary and secondary student in the country with a laptop

Source: Adapted by UNCTAD from Rwandan Ministry of Youth and ICT, Rwandan Development Board, International Trade Centre (ITC), World Economic Forum 2015, World Bank 2017d and UNCTAD 2017d.

The ICT and ICT-enabled sectors can play an important role in achieving the SDGs. Beyond directly supporting industry, innovation and infrastructure (Goal 9), they can also be catalysts to end hunger (Goal 2) and promote good health and well-being (Goal 3), quality education (Goal 4), gender equality (Goal 5), decent work and economic growth (Goal 8) and climate action (Goal 13) (UNCTAD, 2017b).

The role of the government can go beyond enabling and promoting actions. There are hundreds of start-ups, several incubators and accelerators operating in Lebanon. Their establishment was driven by the private sector, with the support of selected policy initiatives such as the incentives of Investment Law 360 and access to finance which was facilitated by the BDL. A strategic and well-coordinated policy framework to advance the sector in the medium to long-term could have a major impact on Lebanon's emerging IT cluster. In addition, the Government can also become a consumer of ICT solutions and products to further move the sectors forward. An example of such strategic government support to ICT is provided by Rwanda (box 2.2).

Consultations can help determine shared goals and objectives for the development of the ICT and ICT-enabled sectors. While several institutions in Lebanon have taken actions to promote the development of these sectors, there is a need to foster a coordinated promotion approach to define the investment attraction objectives as well as the roles and responsibilities of various entities involved. This calls for a whole-of-government approach with clear coordination processes and communication channels among institutions, including the IPA. Based on the vision of the Government and an analysis of Lebanon's competitiveness, a five-year goal is proposed: "Make Lebanon a pre-eminent hub in the Middle East for ICT". Consultations should be held with stakeholders to get the buy-in for the suggested approach and the following objectives:

- Grow the Lebanese ICT and ICT-enabled sectors through FDI attraction and business support;
- Attract FDI in outsourced finance and accounting services (BPO);
- Link the ICT sector with domestic manufacturers in creative industries, through e-commerce and IT services;
- Stimulate government reforms needed to create a best-practice institutional landscape for private sector development and investment promotion.

2. Identify subsectors where the IPA can have the greatest impact – understanding the supply side in the ICT and ICT-enabled sectors

Digitalization has many dimensions that include manufacturing, services and trading activities. The activities range from economic transactions (e-commerce), sometimes revolutionizing previously well-established industries (e.g. Netflix and Uber), to new technologies in everyday life (e.g. e-health, e-education, the internet of things) and the adoption of digital technologies in business (e.g. robotics, big data) (UNCTAD, 2017b). IDAL has collected a wealth of information, based on which a detailed mapping of the ICT and ICT-enabled sectors can be done. Available data show that:

- ***Size of the sector***. Lebanese IT companies are growing quickly and competing regionally. More than 200 of them employ about 5,000 employees. As many as 600 SMEs are active in distribution activities, some of which could provide basic IT services in the form of maintenance, repair and networking. Among the companies registered with IDAL, approximately 4 in 8 are software companies, 3 in 8 provide web-based solutions and 1 in 8 deal with mobile services and applications (IDAL, 2017b and 2017c).

- ***Nationality***. Among the 190 IT companies whose countries of origin are known by IDAL, 91 per cent are Lebanese. Out of the 18 that are not, eight are from France. The remaining ones are from Ireland (1), Kuwait (1), Saudi Arabia (1), Switzerland (2), the United Arab Emirates (1), the United Kingdom (2) and the United States (2) (IDAL, 2017b). Anecdotal evidence suggests that many of these enterprises are foreign investments that may have been undertaken by Lebanese members of the Diaspora, for whom national affinity is a decision-making factor. The data also provide strategic insight regarding countries of origin for potential foreign ICT projects. Indeed, a majority originated in francophone countries, suggesting that one of Lebanon's salient advantages over regional competitors is its pool of French-speaking workers. This could give enterprises from francophone countries an entry point to the Middle East market. Investors from the MENA region are also present.

- ***Outreach***. About 80 per cent of IT firms are exporting their products, which generate a large proportion of their revenues. Their activities also account for nearly a quarter of the country's service exports. The Gulf region is the main export destination, followed by other Middle East countries, Africa and Europe. With respect to growth perspectives, according to Business Monitor International, the Lebanese market for IT goods and services was estimated at nearly half a billion dollars in 2016, and it is expected to grow by nearly 10 per cent per year until at least 2019 (IDAL, 2017d). At the regional level, according to the International Data Corporation, a company providing market analysis and advisory services to the ICT sector, 2016 sales were estimated at $260 billion in the Middle East, Turkey and Africa (IDC, 2017). Prospects for the near future remain bright, in particular in some niche services.

- ***Location***. The IT companies are concentrated around emerging growth clusters. At least 114 companies are located in Beirut, primarily in the neighbourhoods of Downtown, Sodeco and Hamra. Another 76 of them are based in Mount Lebanon, just outside of Beirut and concentrated in Dbayeh. Dbayeh is home to some of Lebanon's best-known ICT companies, such as the music streaming service Anghami, the application development company Tedmob, the heart-monitoring software developer and medical device manufacturer CardioDiagnostics, and digital image technology developer and photo-sharing application Dermandar. Energy24, a generation and storage provider, Bookwitty, a customer-tailored e-books' retailer and Instabeat, which produces waterproof heart monitors for swimmers, are also located in or near Beirut. Although much smaller, another cluster is emerging around Tripoli, where at least nine IT start-ups are active as well as several associations and initiatives supporting the more general start-up community. These include the Tripoli Entrepreneurship Club, with about 100 members, a co-working space and a start-up acceleration programme.[91]

- ***Support systems***. Along with the emergence of IT companies, several incubators and accelerators have established themselves in these regions. The seven incubators and accelerators in the cluster around Beirut include ICT and, in a few cases, technology more generally. They have been driven by private interests, a signal of the sector's dynamism and sustainability.[92] Outside of Beirut however, while different incubators were established in several areas, including in the North, Saida, Nabatieh and Tyre in the South and Nabatieh regions, only the ones in Tripoli and Akkar (North) remain, which reflects a general trend that again highlights the importance of an enabling environment with coherent policies as the core of an effective innovation system (UNCTAD, 2018b).

This mapping shows that Lebanon has significant potential in several IT subsectors, a potential that could be further enhanced through FDI and policy reforms. Using the international standard industrial classification of economic activities (ISIC), table 2.4 identifies several subsectors of the ICT and ICT-enabled sectors, for which targeted investment promotion efforts could lead to positive results. IDAL could choose to exploit this initial list, and possibly expand it, to come up with a FDI promotion plan that would target investors in countries that already have activities in Lebanon and highlight the policy reforms that would make these subsectors even more attractive to investors (see annex IV for an example of scoring table in selected ICT sectors). In 2015, IDAL, in partnership with LIRA), had conducted a study analysing the development opportunities for the country's ICT subsectors (IDAL and LFE, 2015). This study provides a basis to expand the mapping and identify specific "niches" for the country.

Table 2.4.
ICT and ICT-enabled sectors in the ISIC classification

ISIC, Rev 4[a]	Subsectors
ICT manufacturing industries	
2610	Manufacture of electronic components and boards
2620	Manufacture of computers and peripheral equipment
2630	Manufacture of communication equipment
2640	Manufacture of consumer electronics
2680	Manufacture of magnetic and optical media
ICT trade industries	
4651	Wholesale of computers, computer peripheral equipment and software
4652	Wholesale of electronic and telecommunications equipment and parts
ICT service industries	
5820	Software publishing (incl. video games)
6110	Wired telecommunications activities
6120	Wireless telecommunications activities[b]
6130	Satellite telecommunications activities
6190	Other telecommunications activities
6201	Computer programming activities
6202	Computer consultancy and computer facilities management activities
6311	Data processing, hosting and related activities
6312	Web portals
9511	Repair of computers and peripheral equipment
9512	Repair of communication equipment
Content and media	
5811	Book publishing
5812	Publishing of directories and mailing lists
5813	Publishing of newspapers, journals and periodicals
5911	Motion picture, video and television programme production activities
5912	Motion picture, video and television programme post-production activities
5913	Motion picture, video and television programme distribution activities
5914	Motion picture projection activities
5920	Sound recording and music publishing activities
6010	Radio broadcasting
6020	Television programming and broadcasting activities
6391	News agency activities
SUPPLEMENTAL: ICT-enabled sectors without a discrete ISIC classification	
n/a	Business process outsourcing, e.g. finance, call centres.

Source: ISIC.

[a] *For* simplicity, it omits codes 6209 (Other information technology and computer service activities), 5819 (Other publishing activities), and 6399 (Other information service activities not elsewhere classified).

[b] *ISIC* has not resolved the classification of audio streaming services. For the purposes of this report, music streaming companies, such as Lebanon's Anghami, are included in 5920.

A more detailed analysis of the companies already operating in Lebanon's ICT sector reveals special strengths in certain niches. These are of particular importance to IDAL's strategic focus. Table 2.5 lists the activities and combinations of activities under the above-mentioned ISIC codes that are most prevalent in Lebanon.

Table 2.5.
Niches with strength in ICT

Software development and IT services	Software development for mobile applications and web platforms, and their operation	Search software development
❍ For the banking industry ❍ To businesses for customer relationship management, enterprise resource planning, and business process management.	❍ Payments, using bank and/or credit card data, to online merchants and brick-and-mortar retailers. ❍ Online markets for fashion, accessories, cosmetics, books, gifts, flowers, musical instruments, toys. ❍ Online event ticketing. ❍ Aggregation and marketing of "daily deals" from third parties. ❍ Payments using Bitcoin. ❍ Food delivery. ❍ Video games. ❍ Content (music, movies).[a]	❍ Social networks, advertising, video and audio content. ❍ Digital image manipulation and the mobile applications to collect and manage those images.

Source: UNCTAD.

[a] Through partnerships or directly, as these companies may develop new content and "localize" international content for advertising and entertainment, according to the unique sensibilities of each Arabic-speaking national market in the region.

Lebanon also shows potential in several ICT-enabled sectors. In the entertainment industry, content and ICT are increasingly blended. For example, distribution companies can evolve into content production entities, finding themselves on a vertical value chain. The most emblematic example of this evolution is Netflix. Alphabet (with YouTube), Amazon and Apple have also followed this path. Lebanon is a well-established hub in the Middle East for film production, with post-production and some emerging animation capabilities. Medical diagnostics is another potential subsector with heart rate-monitoring and sharing of medical data, through medical devices and web portals. The manufacturing of medical devices for heart rate-monitoring, day-to-day and waterproof devices for swimmers is also a candidate for investment promotion. Lebanon offers high skills at competitive wages, but they have not yet been tapped by FDI in this subsector.

Telecommunications costs and infrastructure deficiencies limit the short-term prospects for business process outsourcing (BPO), except for high-skill segments. Telecommunication rates and the quality of infrastructure are among the main factors in deciding where these efficiency-seeking businesses locate. For the time being, Lebanon is less competitive in these areas and, consequently, there are few companies engaged in the call centre type of BPO. However, the country's advantage increases as higher skills are required. This is for instance the case in finance and accounting, which attract most of Lebanon's BPO investment and is a good example of how an IPA can identify and promote a subsector or a niche, but also expand its scope by supporting tailored policy improvements to foster its competitiveness.

A stronger ICT sector could provide transformative leverage to existing clusters in creative industries, most obviously through e-commerce. Much of Lebanon's perceived strength in manufacturing is in high-end, export-oriented creative goods, which could benefit from regional e-commerce platforms. A recent study showed that several clusters have emerged across the country, and identified sectors that stand out as being

Table 2.6.

Lebanon's competitive standing in aspects of ICT among 12 MENA countries[a]

WEF competitiveness factors of relevance to FDI promotion in the ICT sector (decreasing order of competitiveness)	Lebanon's rank in the region	Regional leaders (global rank)
Higher education (Overall regional rank: 5th)		
Quality of math and science education	1	Lebanon (4), Qatar (6), United Arab Emirates (13)
Quality of management schools	2	Qatar (7), Lebanon (9), United Arab Emirates (15)
Quality of the education system	3	Qatar (5), United Arab Emirates (12), Lebanon (18)
Availability of research and training	4	Qatar (22), United Arab Emirates (24), Bahrain (36) Lebanon (41)
Innovation (Overall regional rank: 6th)		
Capacity for innovation	3	United Arab Emirates (15), Qatar (34), Lebanon (41)
Availability of scientists and engineers	4	United Arab Emirates (3), Qatar (5), Jordan (13), Lebanon (15)
University-industry collaboration in R&D	5	Qatar (12), United Arab Emirates (25), Bahrain (45) Lebanon (48)
PCT patents, applications/million population	5	Qatar (34), United Arab Emirates (43), Saudi Arabia (44), Lebanon (59)
Company spending on R&D	6	Qatar (13), United Arab Emirates (22), Saudi Arabia (45), Lebanon (75)
Quality of scientific research institutions	6	Qatar (20), United Arab Emirates (30), Saudi Arabia (54), Lebanon (81)
Government procurement of advanced technological products	11	United Arab Emirates (1), Qatar (3), Bahrain (22), Lebanon (114)
Technological readiness (Overall regional rank: 7th)		
Fixed broadband Internet subscriptions/100 population	1	Lebanon (35), Bahrain (53), United Arab Emirates (60)
Individuals using Internet, %	5	Bahrain (2), Qatar (7), United Arab Emirates (11), Lebanon (40)
International Internet bandwidth, kb/s per user	7	United Arab Emirates (36), Bahrain (40), Qatar (50), Lebanon (69)
Mobile broadband subscriptions/100 population	7	Bahrain (1), United Arab Emirates (2), Qatar (7), Lebanon (57)
Firm-level technology absorption	9	United Arab Emirates (10), Qatar (18), Saudi Arabia (32), Lebanon (86)
Availability of latest technologies	11	United Arab Emirates (13), Qatar (22), Bahrain (34), Lebanon (108)
Business sophistication (Overall regional rank: 5th)		
Extent of marketing	3	United Arab Emirates (5), Qatar (24), Lebanon (31)
Local supplier quantity	3	United Arab Emirates (13), Jordan (24), Lebanon (27)
Local supplier quality	5	United Arab Emirates (24), Qatar (39), Bahrain (45), Lebanon (62)
Nature of competitive advantage	5	United Arab Emirates (21), Qatar (27), Jordan (35), Lebanon (42)
Value chain breadth	5	United Arab Emirates (12), Qatar (18), Saudi Arabia (37), Lebanon (43)
Control of international distribution	5	United Arab Emirates (12), Qatar (19), Saudi Arabia (32), Lebanon (42)
State of cluster development	9	United Arab Emirates (3), Qatar (9), Saudi Arabia (22), Lebanon (61)

Source: WEF, 2017.

[a] Compared with 12 MENA countries for which WEF data is available: Algeria, Bahrain, Egypt, Jordan, Kuwait, Libya, Morocco, Oman, Qatar, Saudi Arabia, Tunisia and United Arab Emirates.

[b] Green shading indicates that Lebanon is ranked among the top three countries in the region.

[c] Red shading indicates that Lebanon is ranked among the bottom three countries in the region.

most conducive to high-end exports, i.e. fashion, jewellery, shoes, furniture, home textiles and decorations (UNIDO, 2015). While some of these clusters are centred on Beirut, most of them are in Bourj Hammoud (Beirut area), Tripoli, Mkalles, El-Fekha and Aarsal. The study highlighted the emerging potential in these clusters which could be magnified through transformative assistance from the Government. Indeed, such assistance could lead to higher impact than the existing focus on the development of industrial zones. Tapping into such opportunities would also bring development benefits to less developed regions.

Before finalizing the selection of subsectors for investment promotion, it is necessary to understand which countries Lebanon is competing against for FDI and how they compare. The UNCTAD B2C E-Commerce Index ranked the country, in 2017, 55 out of 137 economies and third in the MENA region, after the United Arab Emirates and Saudi Arabia, with a high readiness index value (UNCTAD, 2017e). Table 2.6 illustrates an example of general higher-level factors of importance to ICT. The information provided can be used to benchmark Lebanon and its competitors for FDI in the MENA region. It summarizes the findings of the WEF's 2017–2018 Global Competitiveness Report in four crucial areas of relevance to a country's ability to compete in the ICT sector: higher education, innovation, technological readiness and business sophistication. This table can also be relevant to highlight areas where reforms are needed.

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

There is momentum for ICT-related reforms in Lebanon. As mentioned above, the Lebanon 2020 Digital Telecom Vision was adopted, as well as mechanisms to simplify access to finance for start-ups in the knowledge economy. On 7 June 2017, the Cabinet adopted a decision to reduce internet prices within two months, a tender to expand fibre optic coverage nationally was launched in November 2017, and Ogero announced that by mid-2018, the internet speed throughout the country would reach 50 megabits per second. IDAL should capitalize on these reforms for its policy advocacy efforts and include them in its promotional pitches.

The reforms should even be expanded to further improve competitiveness. When compared with the MENA region in critical areas such as university-industry collaboration in research and development and internet bandwidth, Lebanon lags behind (table 2.6). In other areas, it is near the bottom of regional rankings. For example, it exceeds only Yemen in terms of government procurement of advanced technological products and the availability of latest technologies. The country fares slightly better for cluster development (9 out of 12). In infrastructure, Law 431 of 23 July 2002 provided for the privatization of telecommunications, but the law has only been partially implemented. Fixed telephony remains a monopoly, while the Telecommunications Regulatory Authority (TRA), established in 2007, issued licences for two mobile operators, 37 Internet Service Providers (ISPs) and 9 Data Service Providers (DSPs).

The Government also has a role to play in helping to grow the ICT market. As illustrated by the case of Rwanda, governments can provide policy support, infrastructure development, adopt e-government solutions and expand markets for ICT goods and services. By aiming for universal IT literacy, providing students with laptops, making high-speed internet available throughout the country and training tens of thousands of people each year in IT skills, the Government of Rwanda is not just creating an IT workforce, it is creating entrepreneurs and consumers for media content, e-commerce and other IT-enabled markets. In a country of 12 million people, the Government's annual spending of about $50 million on IT services has been invaluable to sustaining that market. If the vision of the Government of Lebanon is to lead the MENA region in the production of ICT goods and services, then it can do more and become the driver for their adoption. The Government, notably through the Office for the Minister of State for Administrative Reform, has made efforts in this area. An e-Government Strategy was adopted in 2008. It included a project for a “single window government”, which was translated into the website “dawlati.gov.lb” which references a series of administrative documents for citizens and allows a limited number of e-procedures. It also organized the Digital Government Conference in 2017, which gathered government, private sector and academia to discuss e-government solutions in health, administration, education, social security, security, finance and land registration. Finally, the deployment of fibre optic coverage was first planned by the Cabinet (Fibre To The Cabinet - FTTC), then to individuals (Fibre To The Home – FTTH). Moving further would not only assist in improving the business climate (chapter I), but also directly grow the market for ICT firms and create an expectation for the consumption of sophisticated ICT solutions in everyday life. These effects, in turn, would stimulate demand and generate ICT entrepreneurship. Furthermore, public investments in such initiatives may end up financing themselves to one degree or another, through efficiency gains.

The benchmarking exercise will enable IDAL to build its investment-targeting plan. This would be the primary activity for generating investment projects in order to meet the concrete impact indicators described above and attributable to IDAL. The existing pool of private sector investment projects is unevenly spread across the various ICT subsectors, as is the potential for growth and FDI attraction. IDAL should identify the subsector-specific advantages, build value propositions and marketing materials around these, and proactively pitch them to individual investors identified through company-specific research. This would help identifying investors who are highly likely to expand their operations in the near future in the MENA region and react positively to the specific kinds of advantages that Lebanon has over its competitors.

Figure 2.3.
Relative sizes of selected information economy subsectors

Selection criteria

- **Listed companies**
- **Multinational enterprises**
- Reported **information on foreign business** (at least one between foreign sales and foreign assets)

Main analytical steps

- **Extraction** of the initial sample – all companies with annual operating revenues above $1billion (about 20,000 firms from the ORBIS company database).
- **Selection** of the 100 largest multinationals (in terms of operating revenues) for digital MNEs and ICT MNEs based on activity codes, trade description, financial reporting and company websites
- **Cross-validation** with other lists, both generalist (Fortune 2000, Forbes 500, S&P 500) and specialized (UNCTAD Information and Economy Reports and consultant reports)

			# MNEs	# MNEs with full info	Sales, 2015, billion US $ Avg	Max	Min
Digital MNEs	Internet platforms	Search engines	3	2	27.6	75.0	2.8
		Social networks	5	5	5.5	17.9	1.0
		Other platforms	3	3	4.6	8.6	2.1
		Total	11	10	11.3	75.0	1.0
	Digital solutions	Electronic payments	5	3	6.2	11.5	1.3
		Other digital solutions	21	19	3.7	11.7	1.0
		Total	26	22	4.2	11.7	1.0
	E-Commerce	Internet retailers	13	9	11.9	107.0	1.0
		Travel agencies	5	5	4.8	9.2	1.6
		Total	18	14	9.9	107.0	1.0
	Digital Content	Digital media	22	20	11.9	74.5	1.2
		Games	7	5	4.5	15.8	1.4
		Info and data	16	15	3.7	12.2	1.1
		Total	45	40	7.8	74.5	1.1
		Total	*100*	*86*	*7.6*	*107.0*	*1*
ICT MNEs	IT	Software and services	21	19	19.5	85.3	4.6
		Devices and components	52	50	31.4	215.6	5.0
		Total	73	69	28.0	215.6	4.6
	Telecom		27	27	31.3	146.8	5.1
		Total	*100*	*96*	*28.9*	*215.6*	*4.6*

Source: UNCTAD, 2017b.
Note: By average company revenue and number of companies, among UNCTAD’s databases of the top 100 digital multinationals and top 100 ICT multinationals.

IDAL can generate "long lists" of a few hundred companies in each target subsector. Sources used would include commercial databases, trade association directories, business news, IPA lists of foreign companies based in competitor countries and Internet searches. The Authority would collect and keep track of basic company facts and business intelligence in a CRM, Excel spreadsheet or any other database. Figure 2.3 provides an example of the first stage of lead generation.

These leads would be qualified and roughly prioritized through company-specific research. A company's growth plans and stated objectives for success would be gleaned from company web sites, annual reports, public filings with regulators, trade journals and business news. From there, IDAL could undertake to plan two-week investor-targeting campaigns abroad to make first-time, in-person pitches directly to investment decision-makers within 20 or more qualified companies in one geographic location. If 20 first-time pitches were to lead to three or four site visits and those to at least one realized project, then IDAL will have conducted a highly successful campaign with concrete impacts in priority sectors directly attributable to its proactive efforts.

In building a promotional narrative to pitch Lebanon as the best location, emphasis should be put on its key advantages. Lebanon enjoys a strong reputation for its educated workforce, regionally competitive wages for skilled labour, and entrepreneurship. The country's openness and multiculturalism are most specifically an advantage when it comes to the production, localization and dissemination of media content in the region. In addition, the country is a regional leader in fixed broadband internet subscriptions, capacity for innovation, extent of marketing, local supplier quality and higher education. Although the WEF ranking on education is not specific, Lebanon's education system, despite its challenges, trains substantial numbers of workers in IT. The Ministry of Education and Higher Education indicated during the UNCTAD fact-finding mission that it is providing low-cost IT training to about 10,000 students at any given time. Furthermore, 90 per cent of vocational schools have training in IT, with maintenance credentials being obtainable in 6 to 9 months. Networking or software development credentials are available after two years of study. With new markets quickly emerging around trends in areas such as Big Data and the Internet of Everything, Lebanon's education system is responding to create new courses. A more competitive and strategically coordinated approach would build on this advantage by looking ahead to the skill needs anticipated a few years in the future and adapt the curricula proactively rather than reactively.

In investment aftercare and business linkages, the information economy is emerging more rapidly than most sectors in Lebanon, but its survival is by no means guaranteed. While the existing ecosystem needs new companies coming in to accelerate the cluster's growth, retention and expansion of existing investors is a prerequisite to success in the sector. IDAL should support existing firms in this cluster, whether foreign or domestic, with operational trouble-shooting, networking support, policy advocacy and business counselling. The planned BSUs are effectively meant to play this business counselling role, but for more efficiency, their focus should be narrowed on the priority subsectors and their activities broadened to include proactive organization of networking events, investors surveys, investment climate issue analysis and policy discussions.

Policy advocacy should be envisaged by IDAL as product development. Lebanon's marketability to foreign investors is de facto capped by the realities of the business environment climate and by the current lack of capacity of the Government to conduct a dynamic, government-wide campaign for FDI promotion. IDAL should therefore continuously and systematically advocate for the necessary investment climate reforms.

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

Setting impact indicators in a monitoring and evaluation framework is essential for measuring achievement and adjusting investment promotion efforts as necessary. Table 2.7 proposes a monitoring and evaluation framework mapping the path for each of the four objectives mentioned in the beginning of this section, and links objectives, activities, outputs and impact indicators. On this basis, IDAL and its Board could add specific targets and evaluate progress annually.

Table 2.7.

Monitoring and evaluation framework to achieve the objectives in ICT and ICT-enabled sectors

Objectives	1. Grow the Lebanese ICT and ICT-enabled sectors through FDI attraction and business support	2. Attract FDI in outsourced finance and accounting services (BPO)	3. Link the ICT sector with domestic manufacturers in creative industries, through e-commerce and IT services	4. Stimulate reforms to create a best-practice institutional landscape for private sector development and investment promotion
Activities	**Preparatory work** ○ Stakeholders' buy-in ○ Subsectors' competitiveness assessment ○ Comprehensive and promotionally effective subsector-specific data for investor site selection in priority subsectors, including data on comparator locations ○ Identification and advocacy of high priority policy measures to advance the selected subsectors ○ Lead development procedures to ensure maximum conversion of investor inquiries and IDAL-initiated contact into investment decisions, implemented projects, expansions, and linkages **Investment targeting** ○ Lead generation research in priority subsectors ○ Investor-targeting campaigns **Investment facilitation** ○ Inquiry responses ○ Site visit organization ○ Facilitation of government procedures ○ Facilitation of business start-up **Investor aftercare and linkages** ○ Operational trouble-shooting for individual investors ○ Organization of networking events for foreign producers of content (e.g., film) and software (e.g., video games) and potential Lebanese subcontractors (e.g., content localization, software development) **Policy advocacy** ○ Advocacy for resolution of persistent, high-impact problems through policy reform		○ Organization of seminars and networking events linking Lebanon's creative industries to e-commerce companies ○ E-commerce regulations analysis and advocacy	○ Advocacy among GoL for stakeholder-inclusive FDI strategy (section A) ○ Advocacy for the implementation of the recommendations of chapter I ○ Advocacy for the conclusion and operationalization of MoUs between IDAL and each of its partners in investment promotion and facilitation (section A)

Output indicators	❍ Percentage of priority subsectors for which profiles with comparative data and effective pitches have been completed ❍ Number of inquiries handled ❍ Number of first-time presentations made to IDAL-generated leads ❍ Number of site visits supported ❍ Number of clients announcing investments ❍ Conversion rates – Percentages of leads advancing from one level of output to the next (e.g. percentage of inquiries which lead to site visits, percentage of first-time presentations which lead to site visits, percentage of site visits which lead to announced investments, and percentage of announced investments which are implemented)	❍ Number of Lebanese creative industry companies introduced to e-commerce platform providers ❍ Number of deals signed between Lebanese creative industry companies and e-commerce platform providers	❍ FDI strategy (section A) ❍ Best-practice IDAL law (chapter I) ❍ Concluded MoUs between IDAL and each of its partners in investment promotion and facilitation (section A)
Impact indicators	**Information economy, generally** ❍ Number of new decent jobs created in the sector, as measured by actual hires ❍ Increase in women (with comparable pay) employment ❍ Growth in sector revenue and related fiscal revenues ❍ Moving up the development ladder within sectorsb, including transfer of knowledge and innovation ❍ Growth in number of information-economy companies above a given size, as measured by number of employees, including in SDGs-related areas (e.g. health, education, climate action) **Specific to ICT sectors** ❍ Attraction of foreign ICT companies, as measured by number of companies over a minimum level of capital investment ❍ Value of outsourcing contracts from foreign companies in the ICT sector (including video games and other software) **Specific to ICT-enabled sectors (i.e., BPO)** Value of outsourcing contracts from foreign companies in content and media Attraction of foreign companies in outsourced finance and accounting services (BPO), as measured by number of companies over a minimum level of capital investment	❍ Growth in revenue from online sales by Lebanon's creative industries	❍ Quantitative progress toward achievement of FDI-related objectives in the national FDI strategy (section A) ❍ IDAL as a pure promoter of investment, with no additional functions (chapter I)

Source: UNCTAD.

RECOMMENDATIONS

The vision of Lebanon becoming an information economy should be supported by a proactive investment promotion strategy. The country has a series of comparative advantages to develop the ICT and ICT-enabled sectors, especially in the MENA region, despite the challenges that it needs to overcome. This section illustrates how the strategic approach to FDI promotion recommended in this chapter could be implemented to assist IDAL target and attract FDI in ICT and ICT-enabled sectors, in order to move to the next stages of the sectors' development and increase their positive spillovers to the economy. The recommendations below, targeted at IDAL but also other Government stakeholders in charge of the sectors' regulation and promotion, already integrate the new structure and staff of the authority as recommended in section B.

Short-term

- Organize a stakeholders' workshop to build consensus on the objectives of the FDI strategy for ICT and ICT-enabled sectors, quantify them and identify preliminary areas where reforms are necessary.
- Adjust the monitoring and evaluation framework accordingly.
- Empower IDAL's research unit to coordinate the collection of the ICT and ICT-enabled sectors and to become the premier source of knowledge for the country's private sector production capabilities, external markets and clients.
- Implement the methodology described in this section to identify the target subsectors.
- Formulate and adopt a list of policy improvements aimed at increasing the competitiveness of the target subsectors.
- Define an investment-targeting plan with a long list of companies and adjusted promotional pitches.
- Adopt the strategy's monitoring and evaluation framework by quantifying and completing the impact indicators relevant to assess the performance of IDAL and the impact of the investments.
- Roll out the planned BSUs, but dedicated to serving only ICT and ICT-enabled sectors. Units should only open in a first stage in the areas where they can serve these sectors.

Medium-term

- Conduct the first annual survey of companies in Lebanon's information economy to identify the markets, skills, partnerships and investment climate reforms which are most needed for continued growth and diversification. This would further orient IDAL's policy advocacy efforts.
- Initiate a programme of networking among ICT service providers, technology partners, content developers, and customers, domestic and foreign, with a view to building business linkages.
- Establish an Information Economy Skills Forum bringing together academia, industry and public sector to plan for the skills needed to implement the vision and objectives of the Government for the ICT and ICT-enabled sectors and meet market demand.

Longer-term

- Collaborate with the other Government institutions on plans to expand the transition to e-government, particularly as it relates to improving the business climate and facilitate investment (chapter I).

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ANNEX I. Summary of recommendations

What to do?	Why?	How?
1. Review the national and international legal framework for FDI regarding openness, transparency and predictability, and align related provisions with the development objectives	Despite its reputation for openness for trade, several restrictions on FDI persist, sometimes contradicting the stated development objectives of the Government, including to make Lebanon a knowledge economy. The country's BITs mainly consist of first generation IIAs, and Lebanon has been a respondent in several ISDS cases, which make the case for modernizing the treaty network.	**Measures affecting the national legal framework for FDI** ❍ Publish an exhaustive list of restrictions to FDI in an official document (ST)[94] ❍ Separate within IDAL the staff responsible for investment promotion and for administering incentives (ST) ❍ Revaluate the need for some of the current investment restrictions and align them with the country's FDI attraction objectives (MT) ❍ Consider the introduction of a reference to non-discrimination or NT in the domestic legislation to grant the core standards of treatment and protection to foreign investors (MT) ❍ Revise Investment Law 360 to separate IDAL's promotional and regulatory functions (LT) **Measures affecting the international legal framework for FDI** ❍ Ensure the coherence of BITs at the bilateral and regional levels, and link the related reforms to the domestic policy objectives ❍ Modernize the treaty network based on a careful and fact-based cost-benefit analysis
2. Foster an environment conducive to business operations	A series of outdated, and sometimes unusual, administrative processes affect business establishment and access to land. The absence of a competition law and agency prevents proactive actions to establish a level-playing field. Laws in the area of corruption are missing and with respect to labour, the core ILO convention on Freedom of Association and Protection of the Right to Organize has not been ratified. When laws are in line with modern practice, notably in areas related to arbitration and to environment, the relevant implementing authorities are affected by shortages of resources, including staff.	**Procedures to establish and liquidate a business** ❍ Conduct, as a preliminary step to the establishment of a OSS, a complete review of the existing procedures, and assess if they are legally required or were introduced through practice. This would include a review of requirements to legalize documents (ST) ❍ Establish e-registration procedures by interconnecting governmental services (MT) ❍ Publish the list of required steps to establish a business and make it legally binding, and introduce clear administrative response deadlines in the OSS to foster accountability (MT) **Access to land and property rights** ❍ Establish an e-registration platform for land and built property titles, potentially integrated in the OSS, subject to the adoption of the e-transaction law (MT) ❍ Increase the time limits for access of in-kind rights by foreigners without a licence, and clarify the conditions for the transfer of leasehold rights (MT) ❍ Determine clear criteria to grant the licence. It could then be granted automatically by authorization of the MoF provided pre-established and objective requirements are fulfilled (MT)

What to do?	Why?	How?
		Taxation regime
		❍ Pursue efforts to establish and use e-declaration and e-payment, notably after the adoption of the e-transaction law (ST)
		❍ Interconnect the Trade Register and the MoF (ST)
		❍ Reduce the list of VAT exceptions, e.g. for gas and oil (ST)
		❍ Conduct a cost-benefit analysis to assess the relevance of incentives, and measure the impact of the regimes for holding and offshore companies, and of the IPZ and PDC schemes (MT)
		❍ Introduce clear guidelines on transfer pricing and a framework for anti-avoidance (MT)
		❍ Increase the resources allocated to inspections and follow-up actions (MT)
		❍ Amend the Investment Law 360 decrees to make incentives automatic based on pre-determined, clear and objective criteria (MT)
		Labour regime
		❍ Sign and ratify the ILO Convention on Freedom of Association and Protection of the Right to Organize (MT)
		❍ Use the recommendations of the Price Index Committee to set the minimum wage, thus ensuring that it considers the views of the employers and employees (MT)
		❍ Conduct a labour market survey to assess the country's skills needs and any mismatches (MT)
		❍ Adopt measures to promote women's participation in the labour force and close the gender gap by, among other things, extending paternity leave or introducing parental leave (MT)
		❍ Review the continuous need for restrictions on foreigners, and ensure that national curricula reflect the need identified in the labour market survey (LT)
		❍ Strengthen the resources of the NEO to allow it to implement its mandate (LT)
		Environmental protection
		❍ Deliver advocacy events and an information campaign for public and private stakeholders (ST)
		❍ Build partnerships with entities to develop training activities to raise awareness of the importance of environmental issues in the public and private sectors (ST)
		❍ Authorize, temporarily, the MoE to contract externally to overcome the insufficient resources to implement its mandate in terms of EIAs, IEEs and EAs (ST)
		❍ Allocate sufficient staff to the MoE to implement its mandate (MT)
		❍ Establish the missing regional departments to bring them closer to projects (MT)

What to do?	Why?	How?
		Competition regime
		❍ Launch an awareness campaign on the impact of anti-competitive behaviour, and start a public policy dialogue on the need to complete the competition strategy and adopt a competition law (ST)
		❍ Adopt a comprehensive competition strategy, based on a review of existing market practices, including abuse of dominant positions, monopolies, collusions and cartels (MT)
		❍ Review the draft Competition Law (MT)
		❍ Adopt the Competition Law and establish a competition authority (LT)
		❍ Train the authority's staff to equip them with the skills required to implement the law (LT)
		❍ Expand the MoUs to foreign competition authorities to develop the ability to prevent cross-border anti-competitive practices and share best practice (LT)
		Governance issues
		❍ Promote arbitration, mediation and conciliation, and raise awareness about them with the cooperation of business associations and existing centres (ST)
		❍ Implement the physical single window for customs administration (ST)
		❍ Provide high-level political support to the fight against corruption and follow through with the adoption of the National Strategy Against Corruption and the pending draft laws (ST)
		❍ Introduce anti-corruption provisions in the draft public procurement law, including on conflict of interest (ST)
		❍ Pursue efforts to upgrade the automation of customs' procedures (MT)
		❍ Establish the High Anti-Corruption Authority and provide it with sufficient human and financial resources (MT)
		❍ Adopt the draft public procurement law (MT)
		❍ Complete the legal framework for the fight against corruption in line with the recommendations stemming from the review mechanism of the UNCAC (MT)
		❍ Create a public-private dialogue mechanism to involve the private sector in the law-making process and in the implementation phase, notably to raise awareness (MT)
		❍ Conduct a review of the available human and financial resources in the judiciary to assess the gaps and identify areas of improvement (LT)

What to do?	Why?	How?
3. Create an FDI promotion strategy geared towards deriving increased development impact	Lebanon does not have a concerted investment policy and IDAL, the national IPA, is currently tasked with promoting eight broad sectors. A focused investment promotion strategy on the sectors and subsectors that could foster development impact would increase the efficiency of IDAL's activities and maximize benefits.	**Stakeholders' participation**
		❍ Organize consultations with investment stakeholders to identify the objectives of the strategy
		❍ Secure consensus around the objectives of the strategy, and ensure their coherence with existing sectoral strategies and plans
		❍ Launch the collection of the data required to benchmark sector competitiveness and identify FDI targets, and conclude MoUs and technical protocols between CAS and the other governmental institutions involved with FDI data collection ❍ Adopt the sector scoring guidelines relevant to the benchmarking methodology through a participatory process
		Subsectors where the IPA can have the greatest impact
		❍ Apply the benchmarking methodology to score the sectors/subsectors and identify the immediately promotable ones
		❍ Establish a list of the selected priority subsectors and validate it during a strategy-setting national workshop
		Policy and promotion activities specific to the needs of each priority sector
		❍ Identify the policy measures necessary to improve the attractiveness of the target sectors/subsectors and reflect them in the strategy, including a timeline for their implementation
		❍ Engage in the necessary policy advocacy efforts for the selected priority subsectors
		❍ Launch a pilot market outreach programme on a priority subsector (an example can apply to ICT and ICT-enabled sectors)
		❍ Impact indicators to measure success and revise the strategy
		❍ Establish a monitoring and evaluation framework for IDAL, linking objectives and activities, and make it public to increase the IPA's accountability
		❍ Evaluate IDAL's performance against the framework and adjust its workplan accordingly
		❍ Determine suitable indicators to assess the impact of FDI inflows vis-à-vis the Government objectives and targets set in the strategy and utilize them to review the effectiveness of the FDI strategy every three to five years

What to do?	Why?	How?
4. Enable IDAL to implement the investment promotion strategy	IDAL is best-positioned to develop and implement the investment promotion strategy. While it has succeeded in building intelligence on the country, IDAL's investment promotion efforts are impeded by a small budget, a shortage of staff and a broad mandate, which includes regulatory functions as well as responsibilities for export promotion and SME development. A pragmatic and staged approach is thus proposed for the structure and functions of the IPA within the limits of Investment Law 360, until a revision is possible.	**IDAL's structure** ❍ Separate the regulatory and promotional functions within the IPA (ST) ❍ Restructure IDAL to implement the investment promotion strategy (ST) ❍ Require that IDAL's board of directors includes representatives of the public sector at the highest level possible (ST) ❍ Empower the board by making it responsible for adopting the strategy, financial oversight of IDAL, approval of management appointments, provision of strategic advice, and support of policy advocacy's efforts (ST) **Capacities, awareness and institutional cooperation** ❍ Devise a charter and terms of reference for IDAL's board of directors, and provide corporate governance training to board members and IDAL's senior management (MT) ❍ Mandate IDAL to host FDI seminars for high-level public officials, and include private speakers, to raise awareness among government of the importance of FDI (MT) ❍ Conclude MoUs and service-level agreements between IDAL and each of the public and private stakeholders essential to the promotion and regulation of its anticipated investors (MT) **Revision of Investment Law 360 and IDAL's performance evaluation** ❍ Revise Investment Law 360 to establish IDAL as a dedicated promoter and transfer regulatory functions to a dedicated government institution or an established ministry (LT) ❍ Have the Council of Ministers and IDAL's board of directors monitor and evaluate IDAL, against the framework adopted in the strategy (LT) ❍ Consider the establishment of separate export and SMEs development agencies (LT) ❍ Increase IDAL's budget for investment promotion to bring it in line with the lowest funded good-practice IPAs (LT)

What to do?	Why?	How?
5. **Apply the proposed investment promotion strategy to the information economy**	The Government has prioritized the information economy and the country is starting to have an emerging ICT-cluster. The ICT and ICT-related subsectors are used as an illustration to suggest a targeted and selective investment promotion strategy to further enhance FDI and increase the impact of the IPA's activities.	**Preparation of the investment promotion strategy** ❍ Organize a stakeholders' workshop to build consensus on the objectives of the FDI strategy for ICT and ICT-enabled sectors, quantify them and identify areas for reforms (ST) ❍ Adjust the monitoring and evaluation framework accordingly (ST) ❍ Empower IDAL's research unit to coordinate the collection of the ICT and ICT-enabled sectors and to become the premier source of knowledge for the country's private sector production capabilities, external markets and clients (ST) ❍ Implement the methodology described in this report to identify the target subsectors (ST) ❍ Formulate and adopt a list of policy improvements aimed at increasing the competitiveness of the target subsectors (ST) ❍ Define an investment-targeting plan with a list of companies and promotional pitches (ST) ❍ Adopt the strategy's monitoring and evaluation framework by quantifying and completing the impact indicators relevant to assess IDAL's performance and the impact of investment (ST) ❍ Roll out the planned BSUs (dedicated to serving ICT and ICT-enabled sectors). Units should only open in a first stage in the areas where they can serve these sectors (ST) **Expansion of knowledge and networks** ❍ Conduct the first annual survey of companies in Lebanon's information economy to identify the markets, skills, partnerships and investment climate reforms needed for continued growth and diversification (MT) ❍ Initiate a programme of networking among ICT service providers, technology partners, content developers, and customers, both domestic and foreign (MT) ❍ Establish an Information Economy Skills Forum bringing together academia, industry and public sector to plan for the skills needed to implement the vision and objectives of the Government for the ICT and ICT-enabled sectors and meet market demand (MT) **eGovernment** ❍ Collaborate with other public entities on plans for the transition to eGovernment, particularly as it relates to improving the business climate and facilitate investment (chapter I) (LT)

ANNEX II. Description of incentives under Investment Law 360

Type of investment	Incentives	
	Financial	**Non-financial**
Investments under Investment Law 360	IDAL can participate in the capital of JSCs when required by international organizations and for entrepreneurship development. Requires a decree by the Council of Ministers.	Superseding authority from IDAL for permits and licences, with implicit approval after 15 days, except for municipalities where a disagreement is referred to the Council of Ministers.
Zone A[a]	2- year exemption of CIT when JSC's shares[b] are offered to public subscription at the Beirut Stock Exchange (BSE), provided the negotiable shares represent no less than 40 per cent of the capital of the company.	Work permits in all categories, provided they are exclusively needed in the project and 2 Lebanese nationals are employed for each foreigner and are registered at the NFSS.
Zone B + tourism and marine resources if listed	Ibid, then 50 per cent CIT and taxes' reduction on the project's dividends for 5 years starting exploitation.	Ibid.
Zone C + ICT projects if listed	Ibid + exemption of CIT and taxes on project's dividends for 10 years starting exploitation.	Ibid.
PDC[c]	Exemption of CIT and taxes on project's dividends for 10 years starting exploitation. Reduction of work and residency permits' fees up to 50 per cent, regardless of their category and depending on the number of permits required, and reduction of 50 per cent of the value of the Certificate of Deposit.[d] Reduction up to 50 per cent of construction permit fees needed for the project's operation. Exemption of land registration fees at the Real Estate Registrar, provided the project is built within five years.[e]	Ibid + exemption for JSCs to have Lebanese natural and legal persons in their Board.

Source: Investment Law 360.

[a] Amendments to the geographical classifications can be introduced five years after the issuance of Investment Law No. 360 by a Decree issued by Council of Ministers, based on a proposal by the President of the Council Ministers (article 10).

[b] Including holding and offshore companies.

[c] These are the maximum incentives that can be granted.

[d] Every Lebanese individual/company hiring a foreigner must deposit 1.5 million LBP at the Housing Bank or at one the authorized banks that then issues a Certificate of Deposit. The Housing Bank manages the portfolio of Foreign Worker's Certificates of Deposit (Decree 283 of 30 August 1993).

[e] Failure to do so implies paying three times the fee that was originally to be paid.

ANNEX III.FDI promotion objectives and activities of various Lebanese institutions

The content of this annex is based on a review of the individual strategies and plans by UNCTAD.

The **Ministry of Industry, Post and Telecommunications** has seven strategic objectives which emphasize "national industries" (i.e. domestic firms) with mixed implications for FDI (Ministry of Industry of Lebanon, 2016).

- The objective of "expanding the domestic market" aims to "protect…national industry" and calls for "protection tools in cases of dumping and the increase of imports."
- The objective to "increase the competitiveness of the national industry" encourages "national industries to specialize in high value-added production (programming, nanotechnology, mechatronics, electronics, fashion design, professional leather industry, assembly and manufacturing industry, traditional national food industry, medicine, alternative energy, jewelry, industrial equipment, cosmetics, medical herbs and essential oils, perfume, biochemistry, industrial chemistry, petrochemical industry)." The high-tech industries included in this list are not yet well-established, nor even in several instances emerging, and would presumably benefit from FDI.
- The objective to "increase the investment and financing of the industrial sector" states that the Ministry wants to "find a mechanism to ensure foreign industrial investments in Lebanon," but outlines only measures which engage financial institutions and donors. IDAL is mentioned as a provider of incentives, which apply not only to foreign investors but also domestic ones.
- Objectives seeking to foster the "green" and "new knowledge" industries dot not mention FDI.
- The objective "media for industry" seeks to "link the consumption of domestic products with patriotism" and "change community culture and perceptions of the national industry." This does not explicitly reject FDI, but it advocates for a distinction between national and international business.

In 2015, the **Ministry of Post and Telecommunications** adopted the Lebanon 2020 Digital Telecom Vision. The Minister envisages Lebanon as a regional hub for ICT infrastructure and focuses on projects to expand backbone infrastructure. Towards this end, the Ministry is searching for foreign companies as contractors. The Ministry is conscious of the importance of private investment as an enabler of infrastructure development and was an advocate for the recently passed Public-Private Partnership (PPP) Law. The new law is expected to be a useful tool for securing private investment for infrastructure expansion projects, such as the $350 million project being tendered to extend fibre optic cables throughout the country over a four-year period. The Ministry measures success, in part, by speed, reliability and prices of the internet services offered to business. It is also aware of some gaps in the domestic ICT value chain, such as the lack of a data centre, but has few concrete measures to address them. The Ministry does not see itself as a direct agent of investment promotion for private sector development in the ICT sector, outside of public tenders for infrastructure projects.

The **Ministry of Agriculture** has a 2015–2019 strategy. Of its 12 components, at least five of them could benefit from FDI, as is the case for many other countries. These are:

- Provision of safe and high quality food from domestic production;
- Improving value chains and increasing the value addition for products of plant origin;

- Improving value chains and increasing the value addition for products of animal origin;
- Increasing agricultural exports; and
- Providing support to small-scale farmers and producers, and encouraging youth and women to engage in agriculture-related investments.

However, the strategy does not explicitly mention private productive investment (as opposed to financing), let alone FDI, in any of these areas, even if new value chain segments, compliance with higher standards and international distribution channels are among the benefits for which FDI is often sought. So far, most of the activities designed to meet the objectives in the logical framework of the Ministry focus on improving the capacities of the Ministry, advocating legal and regulatory improvements, and supporting small-holder farmers, for example through activities such as marketing abroad, finding access to finance, and understanding good agricultural practices.

Officials interviewed by UNCTAD during the fact-finding mission expressed appreciation of the potential benefits of contract farming arrangements. There are however no plans to promote contract farming opportunities or other private sector solutions (for example, logistics firms which can implement a warehouse receipt system that allows farmers to get financing with stored goods as collateral and, therefore, to sell these goods at times of year when prices are favourable). A study to see if Lebanon is internationally competitive for such types of FDI would be a first step in a strategy that sought to leverage all possible sources of private investment.

The **Ministry of Energy and Water** aims to foster the country's generation capacity and grid, as well as managing short-term measures to mitigate chronic power outages. It also has interest in private renewable energy projects and has started to develop a strategy for the sector. The Ministry's long-term master plan has set targets for electricity generation from renewable energy at 12 per cent by 2020 and 20 per cent by 2030. Given the efforts underway, it is expected that these rates could be exceeded. The Ministry's primary mode of engagement with investors is through its public tenders of renewable energy projects, which are unrestricted for FDI. The Ministry has received bids for 200 megawatts of photovoltaic solar projects and 180 megawatts of wind projects across 12 sites. It is now working with the International Finance Corporation to devise a PPP framework for an additional 1500 megawatts to be opened for bidding within the next two years.

The **Ministry of Tourism** has established a convention bureau to bid on contracts for large international meetings, conventions and exhibitions. However, the success of the strategy depends on major improvements to the country's tourism infrastructure, in which the Ministry of Tourism envisages private investors playing a major role. There is no hotel in the country with a large convention hall, and in the summer of 2017, all the four- and five-star hotels in Beirut were overbooked. Furthermore, and according to the Ministry, the airport can handle only about half the number of passengers envisaged per year under its strategy. The Ministry is not currently approaching investors directly or working with IDAL to attract attention to these potential projects as investment opportunities.

The **Ministry of Foreign Affairs and Emigrants** is engaged in the promotion of investment to the extent that its foreign embassies and consulates are staffed with diplomats whose portfolios include economic and commercial diplomacy. The Ministry has an initiative to engage Lebanese diaspora around the world to present the country's investment opportunities. In this regard, the Lebanese Diaspora Energy initiative has the objectives to:

- Celebrate the Diaspora's success stories throughout their journey in different countries.
- Promote the country's heritage by disseminating Lebanese culture, traditions and vision worldwide.
- Establish linkages between the Diaspora and residents to provide opportunities for sharing experiences, enhancing relationships, and establishing business and social connections.
- Explore opportunities for Lebanese residents and expatriates to work together to restore the image of country and trust in the economy.

None of these objectives is specific to investment promotion. However, the annual conferences have become increasingly focused on investment. In September 2017, about 40 per cent of the programme was dedicated to substantive sessions meant to highlight investment opportunities in Lebanon's knowledge economy, entertainment industry and renewable energy sector.

The **Ministry of Economy and Trade** has adopted, in 2014, the "Lebanon SME Strategy: A Roadmap to 2020". The strategy assesses the situations of SMEs in the country and proposes a roadmap to develop the Lebanese entrepreneurial and SME ecosystem. Among the challenges identified is the limited appetite for outside investors, that the strategy aims to address by focusing on pillars to facilitate the "right" funding, improving access to markets and enhancing capabilities and innovation capacities. This includes attracting top-tier international venture capital and private equity firms, using BDL Circular 331 to provide them with encouraging anchor funding, facilitating linkages between the SMEs and MNEs, as well as those with the diaspora and the diplomatic network abroad, and sharing success stories of Lebanese expatriates.

ANNEX IV. Example of scoring table for **selected ICT sectors**

ISIC Code	FDI determinants										FDI trends			Expected development impact							Total score
	Skilled labour force	Cost of labour	Natural resources	Access to land	Energy	Other infrastructure	Access to markets	Investment climate	Accessible market (size)	Market growth	Global flows	Regional flows	Track record	Employment eatures	Enterprise development in eco-sectors	Exports	Fiscal revenue	Value chain development	Value chain upgrade	Greening economic activities	
ICT-manufacturing industries																					
2610																					
2620																					
2630																					
2640																					
ICT trade industries																					
4651																					
4652																					
ICT service industries																					
5820																					
6110																					
6120																					
6130																					
6190																					
6201																					
6202																					
6202																					
6311																					
6312																					

NOTES

1. See New York Times (1997). U.S. Lifts the Ban on Travel to Lebanon, available at: nytimes.com/1997/07/31/world/us-lifts-the-ban-on-travel-to-lebanon.html.
2. $418.5 million worth of foreign and mixed investment projects were approved for incentives by IDAL between 2003 and 2006.
3. In 2004, two mobile licences were granted to Alfa (managed by Global Telecom Holding, ex-Orascom Telecom Holding, headquartered in The Netherlands) and to MTC Touch, now Touch (subsidiary of Zain Group, headquartered in Kuwait)
4. IDAL website, based on data from the General Directorate of Real Estate Affairs, available at: investinlebanon.gov.lb/en/lebanon_at_a_glance/foreign_direct_investments/foreign_investment_structure.
5. Based on an estimated total of 47,600 jobs created over the period 2003–2017, 34,021 were attributed to FDI projects (see World Bank, 2017a and 2012).
6. Foreign companies are defined as those not incorporated in Lebanon.
7. Greater Arab Free Trade Area (GAFTA) Agreement, EFTA with Iceland, Lichtenstein, Norway and Switzerland and the EU Association Agreement with the European Union (EU). A TIFA was signed in 2006 and Lebanon is an eligible country in the generalized system of preference (GSP) with the United States. Finally, an FTA was signed with Turkey in 2010, but is pending ratification by Lebanon. Negotiations are ongoing with China and the Southern Common Market (MERCOSUR). The MoET also indicated that Lebanon would be joining the Agadir Agreement (Egypt, Jordan, Morocco and Tunisia).
8. The procedure is guided by the Law on the Protection of National Production of 8 December 2006 and Decree 1204 of 18 March 2008.
9. The Ministry of Agriculture and the Ministry of Industry have adopted strategies underlining measures to increase exports (respectively, Strategy 2015–2019 and Strategic Plan 2016–2020), Agri-Plus (2012), Agro-Map (2004) and the Maritime Lebanese Exports Bridge (M.LEB) for the transportation of goods to the Middle East from the Port of Beirut to the Port of Mersin (Turkey).
10. In January 2018, the Minister of Economy and Trade recruited a consultancy firm, McKinsey & Co, to assist in the development of an economic strategy for the country.
11. These sectors are technology, food and beverages, information technology (IT), tourism, telecommunications, media, agriculture and industry.
12. Restrictions also apply to the Lebanese entities for plurality purposes: they can only invest in one broadcasting company, in which their shares should not exceed 10 per cent.
13. IDAL, however, is making efforts to provide information on restrictions to FDI on its website.
14. Article 5 of the Law regulating legal professions (amended by Law 42 of 19 February 1991).
15. Law 44 on Fighting Money Laundering and Terrorist Financing of 24 November 2015, Law 55 on Exchange of Information for Tax Purposes of 27 October 2016 and Law 42 on Declaring the Cross-Border Transportation of Money of 24 November 2015.
16. In domestic arbitration, if the contract is of an administrative nature, the arbitration clause or contract must be approved by a decree issued by the Council of Ministers upon the competent minister's proposal for the State or by the relevant regulatory authority for the public law entities. There is no such requirement in international arbitration.
17. The review is based on 49 BITs as the text of the Lebanon-Qatar BIT was not available.
18. Namely, real estate and other, tangible or intangible property not acquired in the expectation, or used for the purpose, of economic benefit or other business purposes.
19. Relating to, among others, the protection of depositors, the maintenance of the safety, soundness, integrity or financial responsibility of financial institutions, and the integrity of the State's financial system.
20. This brings together various types of investment treaties that are not BITs. Three main types can be distinguished: broad economic treaties that include obligations commonly found in BITs; treaties with limited investment-related provisions; and treaties that only contain "framework" clauses.
21. Toto Costruzioni Generali S.p.A. v Republic of Lebanon, ICSID Case No. ARB/07/12, Award, 7 June 2012; France Telecom v Lebanon, UNCITRAL Rules, Award, 22 February 2005 (not public).
22. ICSID Case No. ARB/16/20. Iskandar Safa and Akram Safa v Hellenic Republic; ICSID Case No. ARB/14/2. Michael Dagher v Republic of the Sudan; Ayoub-Farid Saab and Fadi Saab v Cyprus, ICC Rules.
23. General partnership (société en nom collectif – SNC), partnership in commendam (société en commandite simple – SCS) or joint-venture.
24. JSC (société anonyme libanaise – SAL), LLC (société anonyme à responsabilité limitée – SARL), holding and offshore companies.
25. The introduction of a single member / unilateral LLC, in the framework of the Code of Commerce reform, is being discussed by the Administration and Justice Parliamentarian Committee.
26. Holding and offshore companies can only register in Beirut.
27. Decision on 26 April 2012, effective in January 2013. Offshore companies are exempted, except if their capital exceeds $33,333.
28. Commercial Register website, available at: cr.justice.gov.lb/.

29. Ministry of Economy and Trade portal, available at: portal.economy.gov.lb/.

30. Ministry of Economy and Trade website, available at: economy.gov.lb/index.php/subCatInfo/2/143/8/3.

31. Commercial Code (Book V), Code des obligations et des contrats and CPC. Banks' insolvency is managed by Law 2/67 of 9 November 1966 and Law 110 of 7 November 1991.

32. Investment Law 360 grants superseding authority to IDAL to deliver licences and permits to projects for investment projects benefitting from incentives; however, this is not implemented in practice.

33. General Directorate of Land Registry and Cadastre website, available at: lrc.gov.lb/en/.

34. Jaber Law Firm website, available at: jaberlawfirm.com/content/real-estate-lebanon, accessed on 14 October 2017.

35. Information about the procedure, fees and the form available in Arabic at: lrc.gov.lb/en.

36. As per the disposition of the Decree as amended, all licences issued before the publication of Law 293 in the Official Gazette were automatically extended by five years.

37. Banks are subject to the provisions of article 154 of the Monetary and Credit Law (Decree 13513 of 1 August 1963, as amended).

38. By comparison, tax revenues in OECD countries represent on average 33.7 per cent of GDP (OECD Stats, 2017). Projections for 2017 by the IMF included the increase of tax rates of CIT from 15 to 17 per cent and VAT from 10 per cent to 11 per cent.

39. It notably excludes sole proprietorships and partnerships, which obey to a different regime (personal income tax ranging from 4 to 21 per cent depending on profits).

40. Article 1, paragraph 11, subparagraph 1 of the Code des procédures fiscales as amended by Law 60 of 27 October 2016 and article 3 of the Law 706 on Collective Investment Schemes in Securities and Other Financial Instruments of 2005.

41. They must remain the property of the company for at least 12 years, are used exclusively for its purpose and the consideration charged for their use does not exceed 15 per cent of the annual wages paid to the personnel.

42. Law 248 of 2014 and articles 26 and 27 of the Customs Code.

43. Ministerial Decision 839 of 31 August 2007, as amended.

44. List available at: investinlebanon.gov.lb/Content/uploads/SideBlock/161219112357110~DOUBLE per cent20TAXATION per cent20TREATIES.pdf.

45. Decree Law 45 of 1983, as amended by Law 772 of 2006 and Decree Law 46 of 1983, as amended by Law 19 of 5 September 2008.

46. From 6 per cent below $33,333, 4 per cent between $33,333 and $53,333 and 2 per cent above $53,333.

47. The MAC allows swift implementation of Actions 5 and 13 of the Base Erosion and Profit Shifting (BEPS) Project, related to Transfer Pricing Documentation and Country-by-Country Reporting (CBCR), and Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance.

48. OECD website, available at: oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf. Accessed on 26 October 2017.

49. OECD website, available at: oecd.org/tax/transparency/exchange-of-information-on-request/ratings/.

50. VAT Law of 5 December 2001.

51. With some exceptions introduced by Decree 11359 of 2014 by the terms of which all transactions carried out by financial institutions and holding companies not connected to their VAT-exempt activity are subject to VAT.

52. Articles 16 and 17 of the VAT Law and IMF (2017), Article IV Staff Report – Country Report No. 17/19.

53. Article 30 of the VAT Tax Law.

54. Ministry of Finance E-Taxation Portal at eservices.finance.gov.lb/.

55. Ministry of Finance E-Inquiry/E-Payment of BPT Portal at taxinquiry.finance.gov.lb/.

56. Online Money Transfer (OMT) is the local Western Union agent.

57. Lebanon's tax capacity is estimated to be at 34 per cent of GDP, while it currently stands at below 15 per cent.

58. Technology, food and beverages, information technology, tourism, telecom, media, agriculture and industry.

59. Amendments to the geographical classifications can be introduced 5 years after the issuance of Investment Law 360 by a Decree issued by Council of Ministers, based on a proposal by the President of the Council Ministers – this was never done in practice.

60. Annex 1 of the Code lists the industries in which it is forbidden to hire women and children. These include notably: underground work in mines, quarries and all stone extraction work; oven work for the melting, refining and firing of mineral products; silvering mirrors by the quicksilver process; production and handling of explosives; glass melting and firing; oxyacetylene welding; production of alcohol and all other alcoholic drinks.

61. Labour Arbitration Boards administer individual labour disputes, while collective labour disputes are settled by Disputes Arbitration Committees (Law 2 September 1964).

62. ILO NORMLEX website, available at: ilo.org/dyn/normlex/en/f?p=1000:20060::FIND:NO:::., accessed on 16 October 2017.

63. Notably, Labour Code of 1946, as amended, Decree No. 3273 of 26 June 2000 on labour inspection and Decree 128/2 of 17 February 2001 relating to the elaboration of inspection programmes.

64. ILO website, available at: ilo.org/labadmin/info/WCMS_150914/lang--en/index.htm.

65. Decree 15761 of 18 September 1964 and its amendments. Specific provisions apply to Syrian nationals.

66. Decision 1/41 of 2017 defines the list of jobs reserved to nationals.

67. A specific study was however conducted in 2011 for the hotels and restaurants industries.

68. Requests must be submitted in Beirut, except for agricultural and domestic services workers where they are submitted at the local level. In this case, the transfer to Beirut must be made within one month.

69. The reciprocity condition was removed regarding the end-of-indemnity service for Palestinians by Law 29 of 24 August 2010 amended paragraph 3 of article 59 of the Labour Code, however they are not eligible to maternity and sick leave, nor family allowances.

70. In practice, this applies only to foreigners married to a Lebanese woman, as a foreigner married to a Lebanese man for more than one year is granted citizenship.

71. For more information, see also lb.undp.org/content/lebanon/en/home/library/environment_energy/Environmental-Safeguards-for-Planned-and-Existing-Activities.html.

72. See ali.org.lb/services/green-production-help-desk-ali-escwa-partnership.

73. UNCTAD MENA Programme webpage, available at: unctad.org/en/pages/MeetingDetails.aspx?meetingid=1377.

74. See ec.europa.eu/neighbourhood-enlargement/sites/near/files/aap_liban_2011_ad1.pdf

75. LAMC website, available at: ccib.org.lb/en/?p=post&id=8.

76. Instrument of ratification deposited on 22 April and entry in force on 22 May 2009, with a reservation on the provision regarding the submission of disputes to arbitration prior to the International Court of Justice (ICJ) in case of a disagreement between two States. In case of conflict between the domestic provisions and UNCAC, UNCAC prevails.

77. Notably the Criminal Code, the Criminal Procedure Law and Law 318 of 20 April 2001, as amended, regarding money laundering, the Civil Servants Regulations and the Labour Code. Investment Law 360 also contains a provision on conflict of interest of the chairman and 2 board members fully dedicated to IDAL.

78. Official Gazette website, available at: pcm.gov.lb/arabic/subpgoldJo.aspx?pageid=3836.

79. As contained in the "Country Review Report of Lebanon" of 2016, available at: unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_03_08_Lebanon_Final_Country_Report.pdf

80. National News Agency (2017). Hariri: Our aim is to make Lebanon a global innovation hub, available at: nna-leb.gov.lb/en/show-news/82225/Hariri-Our-aim-is-to-make-Lebanon-global-innovation-hub.

81. The existing plans include the *Strategy 2015–2019* of the Ministry of Agriculture, the *Energy Policy Paper 2010* of the Ministry of Energy (currently under review), the *Lebanese Diaspora Energy initiative and Diaspora citizenship reform* of the Ministry of Foreign Affairs and Immigrants, the *Strategic and Operational Plan 2016–2020 and Integrated Vision for the Lebanese Industrial Sector* 2025 of the Ministry of Industry, the *Lebanon 2020 Digital Telecom Vision* of the Ministry of Post and Telecommunications and the *Ministerial Strategy towards the development of meetings, incentives, conferences and events (MICE) tourism* of the Ministry of Tourism.

82. The new draft decrees of Investment Law 360 aim at specifying additional criteria for granting incentives in the other sectors. These are however not based on assessments, but rather on experience as per the terms of the texts.

83. For instance, UNDP has prepared a study presenting the economic and job creation opportunities in Lebanon of four sectors (agriculture, manufacturing, agro-food and tourism) and a cursory analysis has been initiated by the World Bank. The preliminary findings indicate the promotability of several higher-value sectors, namely business process outsourcing (BPO), high-tech manufacturing, information and communication technology (ICT), healthcare as well as and media and entertainment (World Bank, 2017a).

84. Outcome and impact indicators would say, for instance "160 concrete leads generated from missions and seminars (20 per event); 16 investors undertaking site visits" and "2 companies investing; $50 million in capital inflows; 200 jobs created; $12 million in local procurement to domestic companies".

85. BDL is the sole entity legally responsible for collecting FDI data on the financial sector (see context).

86. The two latter functions are not implemented in practice.

87. Articles 9, 15, 18 and 19 of Investment Law 360.

88. Adopted on 22 August 2013, Circular 331 was amended by Circular 367 in August 2014 and by Circular 408 in November 2015.

89. A division of the Industrial Research Institute linked to the Ministry of Industry, and has administrative and financial autonomy.

90. For a full overview of the intellectual property legal framework in Lebanon, please see: economy.gov.lb/en/what-we-provide/intellectual-property-right/ and wipo.int/wipolex/en/profile.jsp?code=LB.

91. See wamda.com/2016/05/lebanese-startup-clusters-go-beyond-beirut

92. These include AltCity, Bader, Berytech, which hosts accelerators Speed@BDD and UK-Lebanon Tech Hub, Flat6Labs and SmartESA.

93. The index measures the readiness for B2C e-commerce using the following indicators: share of individuals using Internet, share of individuals (15+) with a bank account, secure internet servers per 1 million people and the Universal Postal Union postal reliability.

94. Wherever indicated, ST (short-term), MT (medium-term) and LT (long-term) refer to recommended implementation timeframes of, respectively, 0-18 months, 18-36 months and above 36 months.

95. Available at: economy.gov.lb/public/uploads/files/6833_5879_4642.pdf.

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