

# *Effect of Illegal Taxes on the Business Environment in Sud Oubangi Province*

**Study carried in Gemena and Akula in Sud Ubangi province**

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## The Effect of Illegal Taxes on the Business Environment in the South Ubangi Province

Elan RDC sent out two mission teams to evaluate the impact of illegal taxes on the economy of the Sud Ubangi and the Equateur provinces. This section of the report focuses on the financial impact on economic operators doing business in the south Ubangi as we interviewed big and small businesses, government entities, truck and boat operators, business association both in Gemena and in Akula. We will attempt to estimate the effect illegal taxes on these operators and the NAIC in fighting these illegal taxes.

### **Methodology:**

Through a set of interviews carried sometimes individually and other times jointly with my colleague Gregory Mthembu Salter, expert in political analysis, I have collected data and will present my findings in this report. Although I will try the focus on the business side of the information gathered, some information provided in my report will certainly overlap on Gregory's report and will be integrated in a final report.

I intend to analyze the data collected to evaluate the perception of legality or illegality of these taxes based on the different viewpoints of those interviewed. Some taxes are considered legal and others illegal, I will also try to estimate of the volumes of taxes collected from the businesses.

Below is a list of operators and actors interviewed which provided their particular reality in regards to taxes they have paid:

1. Gemena Big Business Operator
2. Gemena Small Business Operators
3. The Association of Commerçants
4. Agricultural traders in Gemena and at the Port in Akula
5. The Truckers Association
6. Boat operators at the port in Akula
7. Government instances ( Governor and Dg of DRRSU)

These interviews collected different viewpoints on the taxes perceived and their legitimacy.

My conclusion will be a set of recommendations on the way to move forward in regards to the so called illegal taxes.

### **Findings**

The interesting finding has been that ***each and every tax is negotiable***. Each individual actors interviewed has adapted its business in its own unique and particular way to be able to fight and survive in a context of voluntary confusion regarding taxes. Each businesses is fighting against perceived illegal taxes as per their capacity and resources permit against taxes predatory tax collectors.

## **A. Gemena Big Business Operator**

As I interviewed big business operators on the market place, they seem to have a better capacity to handle taxes and “*tracasseries*” from government agencies. They operate in Gemena out of a main office which is in Kinshasa from where they received instructions on how to proceed in regards to the “*ordre de missions*” claiming “**X, Y or Z**” taxes they are required to pay.

These big businesses have a set of administrator and legal counselors on site and/or in their main offices who deal with all these aspects of screening the legal and illegal taxes. Oftentimes the “*ordre de mission*” ends up being rejected by these company administrators as the claims can be totally farfetched by the government agents who may be just trying to pull money out of these businesses. The legitimacy of these agents are usually questionable. (We have heard of fake agents who are turned back with the equivalent of a drink).

Before these big business pay anything they contact their legal services and obtain instruction on how much they should be paying to the different service. What we also understood that the art of negotiation plays a big role in reducing the amount that they have to pay. The collecting agents usually comes with a much bigger invoice to pay and all amount to be paid is negotiated. In one instance we discovered that the SQAV tax (which a quarantine on agricultural products tax) is a set and established amount per boat offloaded in Akula no matter how much merchandise was on board. For this company the real amount paid is fixed at 28,0000 Fc per boat even though the document they receive as proof of payment of the SQAV tax is 2 , 3 or 4 times more than what they really paid. This is an indication already that the amount collected are more than likely not actually deposited in to the public treasury office because the amount written on paper is lower than that is actually perceived.

These Big business are also using some specific port where they rent warehouses and have their own agents managing their stock there allowing them to transfer their good at their rhythm out of the ports. Because of this type of setting they have are able to send their trucks every day or whenever they need to take away their stock out of the Akula port. It is a real advantage for these companies which can afford the monthly rental cost which is cheaper than what small businesses are paying for they are charged certain taxes per truck entering at the port.

This type of environment certainly creates a continuous suspicion on the government agents charged to collect the taxes and a climate of confusion that encourages fraud and direct negotiation with the government (which is unfortunately an accepted way of doing business in the DRC) as each business tries to escape paying the maximum amount of tax. Fighting illegal taxes will have to start in communicating and divulging to all what the real taxes to be paid are and that should be the same tariff for all independently of the size or the negotiating team a business has. Transparency will always be the key in fighting illegal taxes.

## **B. Gemena Small Business Operators**

My interview with small traders in Gemena revealed that the most exposed to pay the biggest taxes are those selling food products. They are in fact harassed by different taxes at the port of Akula . One business owner principally trades Sugar and Salt as his main products. He expressed that he had to reduce his volume due to taxes such as:

- **OCC (\$2/ TM)**, which he thinks is an unfair tax since all his products are available on the market in Kinshasa and this tax should already be included in his purchase price for he is not importing these products and that there is no further control done at the port on these products.
- **SQAV (20,000FC/ truck accessing the port)**, He also confirms that he is not purchasing any vegetal or animal products as they are manufactured goods. He strongly feel that is an arbitrary tax whereas is risking losing his merchandise if not paid, and further more if it is seize by the police, he will have to support a 50,000 FC additional charge in penalty to leave the port.
- **Manutension Tax (Stevedoring Taxes of 4000FC / TM)** which he consider is an added cost for the service is not rendered by the agency charging this tax. For he must pay an additionally 100Fc per 50kg sugar bags and 50Fc per 20kg salt bags if he wants to leave the port with his goods.

As I visited this trader the impression was that his business was barely surviving as both the exchange rate and the taxes imposed may be responsible for the slow down. His monthly habit was to trade 500 bags of sugar and 1000 bags of salt each month. Now a days it takes at least two month to renew his stock. This is a reduction of his turn over by one half.

This trader further explained that he is disgusted from trading back agricultural goods as the cost approximate 10% in taxes to ship down rivers Corn or Peanuts. His evaluation is that for every 1000 bags of corn purchased he has to disburse the equivalent of 100 bags of corn pay taxes to access the port, and pay all the above taxes to load on board the boat prior to the cost of transport. He feels there is no guaranty to recover his cost as he further pays all new set of taxes in Kinshasa. This aspect of the taxes paid in Kinshasa are covered in Jonathan Bashi's report as copied below:

Products	Ave kg/ bag	Stevedoring	Environment	Agriculture	Hygiene *	Port exit *	Total FC	Ave cost/ TM	Ave USD\$/ TM
Corn	135	2,700	300	400	1,900	1,100	6,400	47,407	\$ 31.60
Cassava	120	2,350	300	400	1,900	1,100	6,050	50,417	\$ 33.61
Bean	135	2,000	300	400	1,900	1,100	5,700	42,222	\$ 28.15
Rice	130	2,700	300	400	1,900	1,100	6,400	49,231	\$ 32.82
Peanuts	140	2,700	300	400	1,900	1,100	6,400	45,714	\$ 30.48
Gombe nuts	150	4,800	300	400	1,900	1,100	8,500	56,667	\$ 37.78
Nb : Hygiene tax is an average based on the type of boat Pousseur 1300 et Baleinière 2500 fc / bag .									
Nb : Port exit is also an average, This arbitrary tax is negotiated between 200-2000 Fc/ bag									
Data extrapolated from Jonathan Bashi report " <i>ETUDE SUR LES TRACASSERIES AUX PORTS DE KINSHASA</i> " October 2017									

This same traders feels that the other taxes he is subjected to are more reasonable taxes like IPR where he pays 29,000FC a month. The Environment taxes he pays \$50 a year.

However he mentioned that he will be waiting for this person with a "*Tramontina machete*" if any one tries to collect the SOCODA tax (which is a copyright protection tax on logo printed on product in the stores in Gemena). This shows the level of nuisance on illegal taxes on this business man.

I have also met other business owner in Genema in the clothing business and they don't perceive the same harassment from the tax authorities. They feel that the tax OCC on second hand bundle of clothes is reasonable and equivalent to 145FC/ bundle and the Provincial taxes are of 800Fc per Bundle. Of course they pay DGRAD, IPR and they think it is quite fair the taxes they pay. This point out that the taxes are higher on food products that are perishable.

I collected in **Gemena** the following info regarding taxes on agricultural good shipped down river are:

<b>DGRSU</b>	1,500FC per bag of corn, peanuts or beans
<b>Droit du Port</b>	300 FC per bag of corn, peanuts or beans
<b>OCC</b>	250FC per bag of corn, peanuts or beans
<b>DGI</b>	50,000 FC if paid annually or 10,000 FC per load.
<b>SQAV</b>	20,000 FC per truck entering the port
<b>Manutention</b>	Not mentioned at this time.

Again most of these taxes can be negotiated as I met other traders in **Akula** who paid the following per bags:

<b>DGRSU</b>	500-700FC per bag of corn, peanuts or beans
<b>Droit du Port</b>	100-400 FC per bag of corn, peanuts or beans
<b>OCC</b>	200-500 FC per bag of corn, peanuts or beans
<b>DGI</b>	50,000 FC if paid annually or 10,000 FC per load.
<b>SQAV</b>	20,000 FC per truck entering the port
<b>Hygiène</b>	5,000-10,000 FC negotiated per load regardless of quantity
<b>Manutention</b>	200-300FC per bag- Stevedores only charge 600-1000 Fc per bag. A tax collector met at the port of Akula confirmed that 20% tax is perceived by DGRSU on the cost of the stevedoring. This tax is to be paid by the trader. My understanding is that the last one, should be paid by stevedores earning money at the port, but it is imputed to the traders.

The impact on these taxes can be extrapolated per TM of product as per table below.

Average Tax Impact per load of 25 bags per load of Product in FC			
<i>Tax collectors</i>	<i>Perceived per</i>	<i>Average Tax/bag</i>	<i>Tax/25 bag load</i>
<b>DGRSU</b>	Bag	600	15,000
<b>PORT ACCESS</b>	Bag	250	6,250
<b>OCC</b>	Bag	225	5,625
<b>DGI</b>	Load of +/- 25 bag		10,000
<b>SQUAV</b>	Load of +/- 25 bag		20,000
<b>Hygiene</b>	Load of +/- 25 bag		7,500
<b>Stevedoring</b>	bag	250	6,250
<b>Total Cost per Load of 25 KG</b>			<b>70,625</b>
<b>Average Tax Cost per bag in 25 bag load</b>			<b>2,825</b>
Impact on landed (purchase and trucking) cost in Akula			
<b>Products</b>	<b>Landed cost</b>	<b>Ave kg/ bag</b>	<b>Tax Impact/ TM</b>
<b>Corn</b>	22,000	135	20,926
<b>Peanuts</b>	78,000	140	20,179
<b>Beans</b>	60,000	135	20,926

### C. The Traders Association

We have met the **Association des Commerçants de Gemena** who is fighting the illegal taxes for its members. They have a fierce and long battle against the many imposed illegal taxes since 2009.

From our interview, I understood that the 38 taxes abolished in 2013 were again reinstated since 2014 by the Governor Ipeto as per this picture taken at the port of Akula below. From my interpreters it says that the traders **must pay** these 38 taxes. In fact the billboard is now placed at the far end of the port near where they burn the garbage and is more than likely not read by anyone. It has become part of the background of the port.

The association explained that they have to fight now more taxes than before. They have provided us a list of **taxes and tracasseries** considered illegal.

1. **ETD (Entité Territoriale Décentralisée)** Charges 5000 FC per bikes carrying agricultural products (like Palm oil, Fish or Peanuts) this tax is collected on the roads in the territory of Kungo.
2. **RCCM** perception on businesses is \$100 versus \$40 according to OHADA and the small business are forcibly imposed up to \$200 as a penalty for contesting this increase.



3. The perception for the **Identification National** for moral entity id supposed to be \$30 but they are forced to pay between \$100-150.
4. **Tax on Rented Property** is supposed to be paid by the landlord but it is forced on the renter who pays 20% of the annual cost of rental.
5. **OCC** taxes are imposed on imported goods at the point of entry into the country but are again collected at the port in Akula although it is not considered a border. OCC taxes are also supposed to be collected by Metric Ton but is not by unit of product thus increasing the landed cost on the traders.



6. **SQUAV** - This tax is supposed to be imposed at the borders by the Ministry of Agriculture on *vegetal and animal products*. Small Traders are taxed 20,000Fc for every truck arriving at the port with agricultural goods or leaving the port with manufactured goods. Basically all goods are imposed this tax although Akula is not a border port.

7. **Provincials Taxes** are perceived as arbitrary taxes for example the vignette cost has double in cost between 2016 and 2017. We understood from the governors' office that this increase is a penalty on negligent vehicle owners who delayed upon their obligation to pay this tax last year. We also noticed that on the road to Akula road block where set in place mainly to collect this taxes especially from the motorbike.
8. **SOCODA** which a tax on copyrights. We have learned from the association and we received information from the small businesses in the market place that they are charged this every product that has a logo on their shelves. This taxes has provoked a fierce opposition from business owners in a such a way that one of them explained his method to avoid paying it: it is the "Tramontina method" which is to a machete ready and waiting for these collectors.
9. **IBP - Impot sur les Benefices et Profits**- This is often a source of heated discussion between the collecting agency which tend to collect more than what is actually legal. This often results in a penalty called "Redressement fiscal" and this is resolved via negotiation.
10. **Impot sur le Revenue Proffessional**. The association members explained that is an estimation that each business person pays monthly. Because it is not calculated based on any tangible declared revenues most often it can be over taxed.
11. **Pollution Taxes Imposes on Businesses**. Similar to the last one this taxes is often an arbitrary taxes imposed on dimension of the warehouse.

#### **D. The association of trucker**

My meeting with the truckers did not reveal an impression that some taxes were unjust taxes on their trade. The trucker confirmed that taxes are really paid by the owner of the goods. The truckers at the contrary are wanting more control or police gate to protect the road from too heavily loaded trucks and limiting access to trucks during the rain to increase the longevity of the road. They want to partner with the state officials in implementing some fund collection mechanism to maintain the road.

#### **E. Boat operators at the port in Akula**

From my meeting with a boat operator they also don't feel the burden of taxes. They explain the only taxes they are asked to pay are rather fair:

- **Commissaire Fluvial** - \$250/ Trip
- **RVF** ( Regie des Voies Fuviales) a set tax per trip- I did not get the amount of this tax
- **Commerce Exterieur** 28\$/load which is paid by the owner of the good if they travel down to Brazzaville for delivery of the good on board
- **IPMEA** (Impôt sur Les Petites et Moyennes Entreprises
- **Droit du Port Armateur**- \$85 per Trip

### **Analysis and conclusions**

After collecting these information we visited with both the newly elected Governor of the Sud Ubangi province and the Directeur Général of the DGRSU. This new team in office at this time had about than 14 days into office and they were willing to ask us to help them and facilitate the discussion with the stakeholder to have a more harmonious collaboration with them who will support the province's budget with their taxes. They promised to Invite Elan for this meeting with the stakeholders.

The most striking element I gathered in this study is that those involved in the food business (Produits agro-alimentaire) are the most taxed among the stakeholder, with smaller businesses being those who pay the most taxes.

The findings of the study indicate that every agricultural and food-related (i.e. perishable) commodity at the port of Akula is burdened by illegal taxes. Our calculations suggest that, on average, each bag of product is taxed between \$0.80 and \$1.31, giving an average of **\$0.95** of tax, as shown in the table below:

Tax name/agency	Average Akula Entry	Minimum Akula Exit	Maximum Akula Exit	Average per 100 sacks
DGRSU	200	500	700	467
D. Port	300	100	300	233
OCC	250	200	500	317
SQAV	200	200	200	200
Manutention	200	200	300	233
Hygiene	-	50	100	75
Total average tax per bag in FC				1,525
Total average tax per bag in USD				0.95

The taxes which could most easily be tackled for their illegality are those collected by **OCC and SQAV**, and the charge for **Manutention**. Elimination of these taxes should result in reducing the cost of agricultural and manufactured food product **by \$0.50** per bag of 50kg for manufactured goods entering the province, and by **\$0.25** for agricultural product averaging 100kg shipped to Kinshasa.