

## **Using a Democracy/Governance Strategy to Reduce Illicit Payments on African Roads**

### **A Case Study on Niger**

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#### **I. STATING THE PROBLEM**

For the past twenty years regional trade has experienced an impressive growth in the West African region. However illicit payments at the numerous police and customs checkpoints remain a serious constraint to the full-fledged development of regional transactions.

Illicit payments are primarily a transfer of resources from the private sector via transporters and marketing agents to public officials. In addition to the resource transfer there are also direct real economic costs imposed on the transport and trading sectors by illicit payments, including: first, the cost of time wasted, second, the underemployment of productive resources due to price distortions, and third, the post-harvest loss of produce during transit which takes longer due to stops required for illicit enrichment.

For the past five years there has been a real democratic upsurge in the region which has led to a renewed vitality of the civil society. This latter offers the opportunity for organizing at the grassroots level opposition to daily public officials abuses such as illicit payments on African highways.

In the specific case of Niger it could be expected that the strengthening of the civil society through a D/G strategy of training, information dissemination and empowerment of the Syndicat des Transporteurs et du Syndicat des Conducteurs, will help to achieve a sustainable environment against illicit cash payments on the country's highways.

#### **II. BACKGROUND TO UNDERSTANDING ILLICIT CASH PAYMENTS ON WEST AFRICAN ROADS**

The origins of intra-regional trade in West Africa go back to the Middle Ages (IXth through the XVIth century) when vast multi-ethnic empires dominated the Sahel. The bulk of the trade was across the Sahara and reached far south to the fringes of the forested areas. The slave trade and later on the colonial system

changed the direction of trade to the outward vertical one, that is from the hinterland to the coastal zone before exportation to the Americas and Europe. For fifteen years after independence trade directions remained largely unchanged.

The creation in 1975 of the Economic Community of West African States (ECOWAS) began to change all that. First the ECOWAS Treaty provides for the free movement of nationals of member States up to a period of three months without a visa. Second a vigorous and sustained policy of inter-state highways construction and upgrading was initiated by all the member states, which hence makes it possible to link Lagos to Abidjan, Cotonou to Niamey or Ouagadougou, and Abidjan to Bamako (1,000 kms each way) in less than 20 hours.

Then the following factors helped to boost intra-regional trade in West Africa:

- \* a fast growing informal sector as a response to the economic crisis and unemployment
- \* growing number of/and expanding urban centers, especially along the coastal zone, therefore increased demand for basic food commodities and light consumer goods.
- \* existence of several national currencies with unequal exchange rate to the dollar, which create unequal production costs.

Such new opportunities could have made everyone happy, especially the traders and the consumers, if it were not for the problem of illicit cash payment to public officials on West African highways. It has become a real constraint on the full-fledged development of regional trade and permanent source of harassment of traders. The worst is that illegal practice is being virtually "legitimized and institutionalized" throughout the region. It may have gotten out of control in some countries such as Nigeria, while discrete in others, yet it is becoming a plague. The following lines written by an Ivoirian journalist who travelled along the West African regional highway depict well the situation.

*"Il est 18h 30 quand le car Sotrabia-Express quitte le poste-frontiere de Noe pour Aboisso. Plus de tois quarts des passagers sont des commercants. Une dame se leve et demande des cotisations exceptionnelles pour 'les douaniers'. Un homme, la trentaine, proteste et brandit une feuille rose. "J'ai deja dedouane ma marchandise, je ne sais pas pourquoi je dois cotiser." Les dames, les plus nombreuses, l'arretent net en exhibant, elles-aussi, la feuille rose, chacune. "Monsieur, on voit que vous etes nouveau. Ici, on ne reconnait pas les quittances. Policiers, gendarmes, meme les Eaux et Forets, tout le monde devient douanier pour prendre de l'argent, il faut cotiser."*

**II. REDUCING ILLICIT CASH PAYMENT ON NIGERIEN HIGHWAYS --  
The role of the civil society.**

**A. The politics of liberalization of the agro-pastoral sector**

Harsh climatic conditions and a limited domestic market have always posed a constraint on increasing agro-pastoral production and farmers income in Niger. Moreover until recently different policies initiated by the Government of Niger (GON) aiming at controlling the prices and the export of agro-pastoral products, have prevented producers from benefiting from the opportunity of a larger West African market. However in the 1980s, because of the fall in the price of uranium, the country's main export earning, the GON was willing to liberalize the agro-pastoral sector.

The sustainable expansion of export markets requires a set of economic policies and institutional arrangements that assures the allocation of Niger's productive resources on the basis of its comparative advantages. With the support of USAID/Niger GON has agreed to initiate a series of policy reforms under the Niger Economic Policy Reform Project (NEPRP). The different policy reforms were to last 1988 through 1995 and can be grouped in the following categories:

1. Elimination of the export taxes on agro-pastoral products;
2. Reduction of illegal payments to public officials in agro-pastoral trade;
3. Improved transport and trading sector regulation;
4. Export promotion and strengthening regional trade relationship in West Africa; and
5. Increased public dissemination of agro-pastoral market information.

The first three policy changes were met largely through actions taken immediately upon signing the agreement between USAID and GON, for reasons external to the NEPRP conditionality. The dollar value of the NEPRP was calculated to offset GON revenue losses during the first three years after taking these policy reforms.

Of interest to us is the second CP (Condition Precedent). Our main hypothesis is that the sustainability of CP2 will largely depend on the strengthening

of the civil society. Before we analyze the evolution of illicit enrichment following the initiation of NEPRP, it might be helpful to shed some light on the nature of the Nigerien civil society.

## **B. The Nigerien civil society: past and present**

The origins of the modern Nigerien civil society go back to the period preceding independence when Africans were allowed by the colonial administration to fully participate into politics. While the Djerma-based Parti Populaire Nigerien (PPN) of Hamani Diori was elitist, its opponent Djibo's Bakary's Union Democratique Nigerienne (Sawaba) tried to reach out to the grassroots by relying on traditional associations such as the Samarya (youth associations) and the Sana (handcraft associations). However Diori Hamani who ran the country for the first 14 years put a stop to civil society activities. The Parti Sawaba was prohibited and all of its leaders thrown in jail or forced into exile. To prevent grassroots opposition and to extend his power-base outside the Djerma area, Diori co-opted the traditional chiefs who wield considerable influence among the Hausa.

General Kountche who took over power through a military coup in 1974 further destroyed the Nigerien civil society. The austere General personally ruled the country with an iron fist for thirteen years without any formal institutions which could relay his marching orders to the grassroots. However beginning in 1982, Kountche initiated a gradual movement towards the creation of a participatory society called **Societe de Developpement**. The process was so slow that by the time of his death in November 1987, very little had been achieved in the field.

When he succeeded General Kountche in 1987, General Saibou was faced with two alternatives: continue the Kountche's iron rule or liberalize his regime. In fact he didn't have much choice. The circumstances at the time gave him little room for political manoeuvring. He was selected to succeed the defunct Kountche only because he was the senior officer in the armed forces. Coming from a small ethnic group, he wielded little influence within the political apparatus and lacked political base. Amid a serious economic and under increasing social pressures, Ali Saibou found himself forced to liberalize his regime. Then the State's authority began to crumble. Between 1988 and July 1991 when the National Conference officially convened in Niamey, the country experienced waves of political protest and a renewed vitality of the civil society.

The next question is whether there exists or not a correlation between the evolution of illicit cash payment on the Nigerien highways and the renewed vitality of the civil society.

## **C. Analyzing the relationship between illicit cash payments and the recent**

## **evolution of the Nigerien civil society.**

Illegal payments at roadblock and customs posts in Niger started being reported in the late 1980s. By 1992 the statistical tax and illegal payments in Niger for exports were roughly equivalent to official exports taxes in Niger before 1987. Available evidence suggests that illegal cash payments between Galmi, Niger and the Burkina Faso border 600 km away had reached 79,000 CFA in May for a truck of onions (10 to 35 tons). Increased overhead costs for vehicles due to illegal payments are estimated at 27,000 CFA for this 600 km and loss of produce attributable to delay for illegal payments are roughly equal in value to cash payments. On this basis the total costs of illegal payments was 185,000 in 1992 or 7 CFA/kg for 25 tons of onions.

With USAID support GON implemented an effective 1992 and 1993 campaign to reduce illegal payments to police agents and security forces and an effective 1994 campaign to reduce illegal payments to customs agents. Between May 1992 and November 1994, domestic illegal cash payments on exports in real terms were reduced by half and related loss of produce and transport overhead costs were reduced as well.

What could be the relative potency of the role played by the civil society?

From informal survey carried out in February 1995 on the Niamey-Maradi highway, we gathered from farmers, traders, and truck drivers the following evidence:

\* The **Syndicat des Conducteurs du Niger** (the drivers union) was created in 1988 shortly after General Ali Saibou took over power. Before then truck drivers were at the mercy of public officials. There was some kind of collusion between those public officials and the rich transporters (the vehicles owners) to keep truck drivers down and from claiming better working conditions. Now truck drivers, thanks to their newly-created union, have acquired rights which include: vacation, pension, job loss compensation, and prohibition of abusive firing.

\* In 1994 truck drivers went on strike to demand for the reduction and rationalisation of the number of police, security, and customs posts on the country's highways. The GON yielded to their pressures and reduced the number of those checkpoints from 200 to 104.

\* However too many truck drivers remain ignorant of their rights and know nothing about the GON campaign against illicit enrichment.

The evidence above shows that the reduction of illicit cash payments to public officials is also partly due to the determination of the drivers union to stand up and fight for their rights in a newly-created democratic environment. Moreover a

question could be raised on whether or not the GON would initiate those policy reforms if it were not for the pressure to bear by international donors including USAID. Indeed NEPRP's first objective was to increase farmers' income via a loss in public sector tax revenue. The end objective was to offset that loss by an increase in legal collection on imports. However the project fell short of strengthening the GON capacity in tax collection. So the final result is that the private informal sector is getting richer while the GON is getting poorer.

For the past three years Niger has been going through an acute financial crisis which has paralyzed the functioning of the State and now threatens the very survival of the democratic process in the country. Already in 1992 there was a military revolt due to a two-month salary arrears. In March 1995 salary arrears were estimated at 15 billion CFA and represented up to 7 month arrears for certain categories of civil servants.

Thus the dualistic character of the Niger's economic and socio-political environment has been further consolidated.

- 1) On the one hand there is a State-driven formal economy in the Western part of the country, more precisely the Dosso-Niamey-Tilabery axis. It enjoyed a rapid growth in the 1970s due to increased earnings from uranium exports, but today it suffers the most from the country's economic crisis; and.
- 2) On the other hand to the east there is a booming agricultural and commercial sector along the border with Nigeria. That sector largely functions outside the official channels. Today most Nigeriens depend whether directly or indirectly on that informal sector for their livelihood.

That structural dualism inevitably creates tension between its two components, that is the formal sector vs the informal sector. Thus public officials who have not been paid for months tend to indulge more in predatory rent-seeking practices. On the opposite side there is a more outspoken civil society ready to stand up and fight for its rights. The next question is how, as part of democratic consolidation, to strengthen the civil society and make it capable of resisting the state's totalitarian tendencies. In the specific case of Niger the following D/G strategy could be suggested:

\* Strengthening the civil society through a strategy of identification, organization, training, and empowerment of the following two types of associations:

- local organizations which tend to organize around functional interests, such as business, labor and professional associations, or sectorial concerns like the environment, education, and public health; and

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- public interest associations whose single purpose is to focus on strengthening democratic governance (human rights organizations, civic education associations, and policy think tanks).

Yet a situation where the State is getting poorer and there is a menace of its withering away cannot, perdure in Niger. It is even possible that if external pressures lessen GON could unravel some of the policy reforms. So there is a need to design a strategy which would help the state to get back on his feet and be able to pay its civil servants, and to provide much needed basic services such as education and health. The point is that the formal sector is not paying income tax and that the Customs are poorly-equipped to adequately collect import taxes.

#### **IV. THE NEED TO COMBAT ILLICIT CASH PAYMENTS AT THE REGIONAL LEVEL**

As pointed out earlier, illicit cash payments have become a widespread practice all over West Africa. The objective of export tax reduction and the different campaign against illicit enrichment in Niger is to give Nigerien farmers easier access to the larger West African markets. However if elimination of an export tax and strategies designed to reduce illicit payments in one country are to be effective and sustainable in promoting regional trade, there should not be contradictory measures taken in importing and transshipment countries. It is necessary to ensure that taxes affecting the exported commodities are not increased in importing countries and countries through which the commodities are shipped on the way to their final destination as a result of the elimination of taxes in the exporting countries. Thus onions from Niger, are exported to Cote d'Ivoire through Burkina Faso. While the NEPRP push for reduction of export taxes in Niger, such payments are reported to have increased in Burkina Faso and Cote d'Ivoire when they declined in Niger. This reduced the impact of policy reform in Niger.

There is need for policy reform coordination at the regional level. One option is to design bi-lateral policy programs with a regional perspective including activities to deal with external constraints. Another one is for donors to push for supranational policy reforms within existing regional arrangements such as ECOWAS or the Francophone Union Economique et Monetaire Ouest-Africaine (UEMOA).