



C I A N

Conseil français des investisseurs en Afrique

Anti-corruption  
Commission

Briefing Paper

February 2010

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## Handbook: Resisting Extortion Solicitations in Tax and Customs Matters

Foreign companies operating in countries of weak governance, whether in Africa or not, are frequently faced with administrative harassment in tax and customs matters. Dishonest public agents sometimes create harassment situations as a way of intimidating companies into yielding to their extortion solicitations... made in exchange for ending the harassment.

Yielding to undue solicitations in Africa constitutes an act of corruption in breach of the laws of all African countries. Since the signing of international anti-

corruption conventions (OECD, UN, etc.) these acts are also in breach of the laws of other countries such as France.

Faced with the problems brought on by extortion solicitations, member companies of the CIAN Anti-corruption Commission have worked together to:

- > Identify forms of administrative harassment encountered on the African continent;
- > Raise awareness among all companies operating in Africa regarding the risk that yielding

to extortion solicitations involves;

- > Develop strategies of resistance to extortion solicitations.

This handbook is intended for companies wishing to better resist extortion solicitations, for African public authorities committed to fighting corruption and for international and non-governmental organizations working towards bettering political and economic transparency.

### What is administrative harassment ?

Administrative harassment is a form of power abuse exercised by certain public agents to obtain undue advantages.

Some situations provide particularly favourable contexts for undue solicitations:

- > Repetitive or multiple tax investigations;
- > Systematic use of ill-defined or incomplete regulations;
- > Abuse of interpretative differences and difficult recourse to litigation;
- > Administrative foot-dragging in response to requests for payable VAT or tax credits;
- > Deliberate obstruction to customs clearance operations.

#### The French Council of investors in Africa

The French Council of investors in Africa is a professional and independent association of approximately 100 companies operating on the whole of the African continent via more than 1000 establishments.

The CIAN offers its members specialized working commissions on geographic or thematic issues. The CIAN Anti-corruption commission is presided by Philippe Montigny, President of the anti-corruption certification agency ETHIC Intelligence.



## Why resist extortion ?

All legislations of the world consider yielding to an extortion solicitation as an act of corruption.

Foreign - including French - companies that engage in such actions face important legal and extra-legal risks:

- > Within the African country where the act is committed;
- > In the company's home country;
- > In the United States if the company is listed in an American stock market.

Moreover, it is important to remember that **paying once means creating an incentive for future solicitations.**



## How to resist extortion

Companies should first be able to anticipate extortion situations and develop a true resistance strategy based on:

- > Knowledge of the psychological, economic and political dimensions of undue solicitation in order to reverse the balance of power exploited by public agents in their favour;
- > Commitment at the highest level to banning corruption and to placing integrity as a strategic company value;
- > Public display of a specific corruption-prevention policy in which yielding to undue solicitations or threats is strictly forbidden;
- > Adoption of the safest and most thorough declarative options for tax and customs operations in order to avoid vulnerability to undue solicitations during investigations;
- > Demonstrated support from company headquarters to subsidiaries facing undue

solicitations. This support is important to the subsidiary facing threats of reprisal by disgruntled public agents not having obtained what they solicited unduly;

- > The know-how and commitment of local employees, who are often better positioned to identify ways in which the company can effectively resist undue solicitations.

**Secondly, in any given country, other companies are likely to face the same difficulties. In their response to these difficulties, companies must adopt a collective approach. Such an approach represents:**

- > An indicator of legitimacy vis-à-vis local authorities and international missions in order to gain their support and curb administrative harassment;
- > An opportunity for its members to visibly display their anti-corruption commitments and publicly denounce the

undue solicitation problems that they have encountered;

- > A driving force for improving governance and the transparency of administrative procedures and recourse to litigation.

**Finally, an effective resistance to undue solicitations requires fostering dialogue with civil society, African authorities, and donors committed to the fight against corruption.**

### To order this handbook

Contact the CIAN:  
[relationcian@cian.asso.fr](mailto:relationcian@cian.asso.fr)  
+33 (0)1 45 62 55 76  
[www.cian.asso.fr](http://www.cian.asso.fr)

75-page handbook in English and French written by Philippe Montigny, afterword by François Vincke

Price: 9 € per handbook + shipping.