

Land taxation of peri-urban agricultural concessions in Kinshasa: towards an incentive model for agricultural production.

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Abstract

The demographic growth of the city of Kinshasa, its consequences on the population's food needs and the lack of development of peri-urban agricultural land (agricultural concessions) to increase food supply have led this research into land taxation as an incentive mechanism for agricultural operators to develop land acquired under agricultural concessions. The research methodology is based on a literature review (land governance in the DRC, land taxation, agricultural production on agricultural concessions, prices of agricultural land after subdivision), data collection on agricultural concessions in the commune of Mont-Ngafula (agricultural production, subdivision of agricultural concessions, land prices and land tax). The research results show that there are many agricultural concessions in Mont-Ngafula. These concessions are not active in agricultural production, but thanks to the demographic pressure in the area where the agricultural concessions are located, the operators subdivide the land granted to them to benefit from the added value, an operation which brings in more profits to agricultural operators unlike income derived from agricultural activities. To combat the hoarding of agricultural concessions in peri-urban areas of Kinshasa, this communication proposes a new taxation approach which would encourage active agricultural operators (incentives) and discourage inactive operators (coercion).

Keywords : peri-urban agricultural land, agricultural concessions, sale of land, land taxation, Mont-Ngafula, Kinshasa.

1. Introduction

Introduction During the first decade of the year 2000, demographic growth in the Democratic Republic of Congo (DRC) was accompanied by a remarkable improvement in Gross Domestic Product (GDP) following the boom in the extractive industries sector. However, the financial benefits of the mining sector have not benefited the majority of Congolese households: the evolution of the DRC's GDP showed that its growth rate, which stood at -2.1% in 2001, rose to 14.9% in 2012 (UNDP, 2015; Lebailly *et al.*, 2014). During the same period, the report on the evaluation of the Global Development Goals (MDGs) mentioned that the poverty index in the DRC remained at around 71.3% (WCO, 2014).

In Kinshasa, the capital of the DRC, the population has multiplied sevenfold in 40 years without this increase being accompanied by appropriate public policies (De Saint Moulin, 2010). The poverty in which the Kinshasa population live pushes the majority of them to settle in peri-urban areas where the cost of living is relatively low, even though it is in these same urban-rural areas. that the agricultural production sites of the city of Kinshasa are located (Ayipam, 2013; Lusamba Kibayu, 2010; Muzingu Nzolameso, 2010; Kasongo Lenge Mukonzi and Yumba Kabange, 2009). The three urban-rural communes of Kinshasa are: Mont-Ngafula, N'Sele and Maluku).

This presentation release therefore aims to: (1) explain how agricultural operators obtain land concessions; (2) present the agricultural situation of land concessions in the commune of Mont-Ngafula; (3) show the financial gain linked to the subdivision operations of agricultural concessions and how these operations spread in the areas where agricultural concessions are located; (4) show the limit of the current mechanism for taxing agricultural concessions in the face of this phenomenon of hoarding of agricultural land; (5) propose a revision of the current land tax mechanism to make it a tool that will be both coercive, for operators who do not work their agricultural land sufficiently, and incentive, for operators who develop agricultural land.

2. Obtaining the agricultural concession

2.1. Land division and real estate titles linked to agricultural concessions

For the execution of the land code of the Democratic Republic of Congo (DRC), it was requested that each province of the DRC be subdivided into land districts (Land Code, 1973, 71). Concerning the city of Kinshasa, it was considered as a real estate district in its own right in 1974 (Ordinance No. 74-149, 1974), then subdivided into two in 1991 (Ministerial Order No. 91-0072, 1991) , in four in 1993 (Ministerial Order No. 009/93, 1993) and in ten since March 2016 (Ministerial Order No. 021/Cab/ Min.Aff.Fonc ./2016, 2016). Among the ten land districts in the city of Kinshasa, eight are urban and two are made up of urban and rural land. This is the land constituency of N' Sele-Maluku and Mont-Ngafula. It is in the rural parts of these land districts that land is granted in agricultural concessions (Land Code, 1973, article 222).

Each land division is made up of two divisions: a real estate titles division (directed by the Registrar of real estate titles, CTI in acronym) and a cadastre division (directed by the Head of cadastre division, CDC in acronym). Offices are attached to these divisions. Both divisions are collaborative divisions, but with some autonomy. From a management point of view, it is the CTI which manages the land division. The diagram below (Figure 1 in french) shows the different offices that make up each division of a registration district and the levels of collaboration.

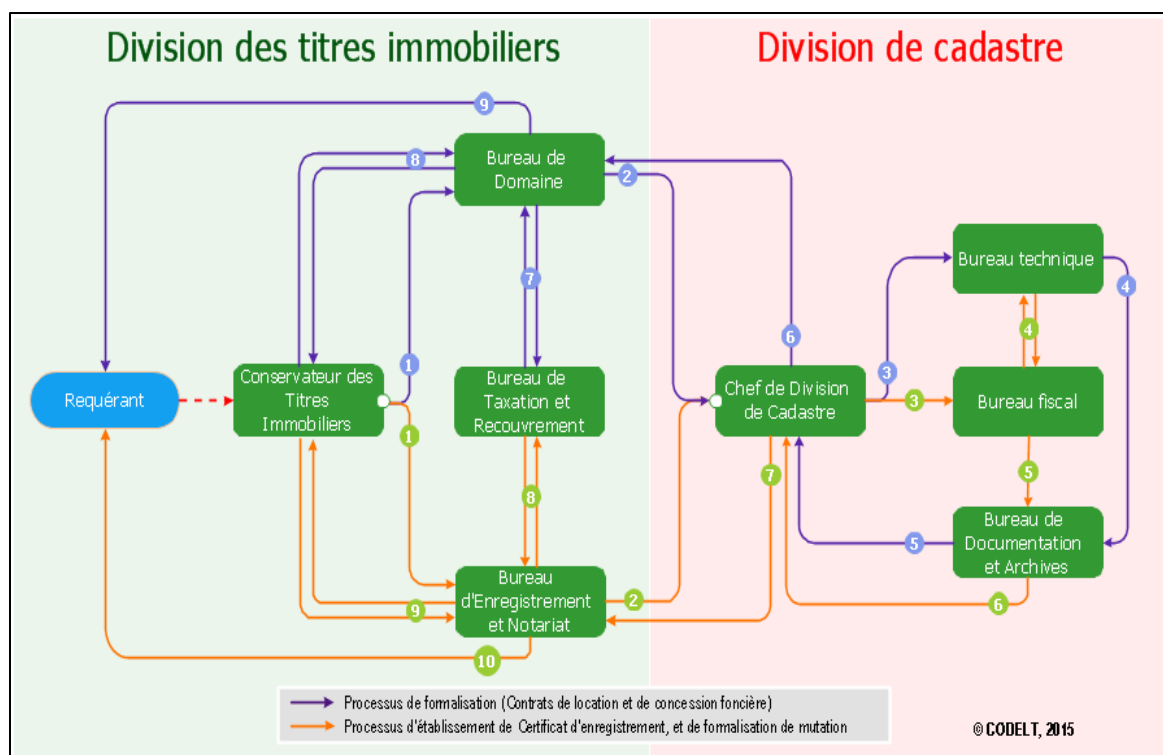


Figure 1: Operation of a land district and levels of collaboration
Source: CODELT 2015 cited by Teyssier and Nyamwonga (2017).

Regarding the composition of these two divisions, there is in each an office which takes care of general services and personnel (Office 1), represented in the diagram respectively by "Registrar of Real Estate Titles" for the titles division real estate and "Head of Cadastre Division" for the cadastre division.

The cadastre division is also made up of the technical office (Office 2), documentation and archives (Office 3) and fiscal office (Office 4). The technical office is involved in the framing of the agricultural concessions created and the sizing; the documentation and archives authorize the creation of the agricultural concession. This office manages all traces of the technical parts of the files of the agricultural concessions created. Namely that the agricultural concession is created only if the land fund is available; the tax office takes care of the calculations of the costs to be paid (taxes) linked to the procedures for creating the agricultural concession (delivery of titles and their enjoyment) and the real estate expertise during the sales operations of the plots covered by certificates of registration.

In the real estate titles division, there is the domain office (Office 2) which manages all the plots created; the registration and notary office (Office 3) which takes care of the delivery of the registration certificate. It is at the level of this office that the assessment or examination of the conditions required to obtain a registration certificate is carried out, in particular development; the disputes office (Office 4) which relate to the land fund (limits, etc.) and the title. These are abnormal cases which are not included in the basic outline of the agricultural concession process; the taxation and collection office (Office 5).

Several types of real estate titles linked to the occupation of land concessions exist in the DRC (emphyteusis, surface area, usufruct, use and rental)¹, but those which intervene during the procedure for obtaining agricultural concessions are the temporary occupancy contract (rental) and the long-term occupancy contract (emphyteusis).

2.2. Real estate titles linked to agricultural concessions

2.2.1. Temporary occupancy contract

The provisional occupation contract is a land title corresponding to agricultural land whose development is insufficient. Its establishment requires the report of the survey of land vacancies, the report of measurement and demarcation of the land by the surveyors, the sketch of the land and other documents which can enlighten the administration authorities.

Given that the agricultural concession is granted subject to the rights of third parties, to safeguard these rights, all transactions on rural or peri-urban land are subject to a prior investigation procedure which aims to perceive the nature and the extent of the rights that the applicant could have on the land requested for concession (Land Code 1973, article 116). It focuses on: verifying the delimitation of the requested land; the census of the people who are on this land and carry out an activity; description of the location and inventory of what the land contains in terms of forest, watercourse, roadway, etc. ; hearings of people who make claims or make observations; the recording and studies of everything that will be written (Land Code 1973, articles 194 and 195). The sketch of the land made by the surveyors is signed by the Head of Land Registry Division (CDC) and the Head of Documentation Office (CB Doc.) of the land district to which the requested agricultural concession belongs.

It can be noted that during this investigation, there is no question of providing information on the intrinsic agronomic value of the land regarding its destination. It is up to the applicant to take steps to ensure the agronomic quality of the land requested for an agricultural concession. At the end of the investigation, the officials mandated for this purpose draw up a Report (Minutes Verbal) indicating all the above-mentioned information, the conclusions and attach any other useful document to support. The report is analyzed by the administrative land authorities. If there is no reason for refusal, the land requested is granted as an agricultural concession on the basis of a temporary occupancy contract established by a Provisional Occupation Title. Obtaining it allows the agricultural operator to launch and execute its development program.

For the tenant who signed the rental contract, he has the obligation to actually occupy the land within six months and begin development within eighteen months from the date of signing his rental contract (Code land, 1973, article 94 paragraph 1). Development would mean that the occupation, exploitation and maintenance of the concession land base must be effective, permanent and consistent with the destination of the concession (agricultural), as long as the concession is at the disposal of the concession agricultural operator (Land Code, 1973, article 93).

¹ The leaseholder has access to uncultivated land and must maintain and develop it (Land Code 1973, article 110). The landowner, for her part, also pays the royalty and valorizes the land made available to her. But unlike the long-term leaseholder, the landowner has access to land with buildings, woods, trees and other plants while having authorization to use them (Land Code 1973, article 123). Usufruct, although he can use and enjoy the products that the occupied land possesses. He cannot undertake, in addition to what he found on the ground, any activity aimed at modifying the state of the ground which has been entrusted to him. The user also enjoys what the land contains, but exclusively for him and his family. In addition to this, he can create warehouses for himself. It really remains within the logic of usage. Therefore, rental is a form of land concession which prepares for another type of contract. The duration of the rental contract varies depending on the destination and location of the land to be granted.

Development does not emphasize the quality of the crop or the type of crop based on market demand. It is effective when it respects a certain proportionality of land occupation, i.e. at least 50% occupation of the granted land must be actually exploited to confirm the effectiveness of the development.

The rental contract has a duration of three years, renewable twice maximum. For rural land of more than 10 hectares intended for agricultural or livestock use, the rental contract is obligatory for a period of five years, renewable twice (Land Code, 1973, article 154). At the end of the provisional contract, the tenant is obliged to make a request to establish occupancy and development with the land administrative authorities. The triggering of the development assessment operation is carried out at the request of the tenant agricultural operator and at his expense (Land Code 1973, article 158). The assessment of the progress of development is based on the development program indicated in the land application file (Land Code, 1973, articles 58 paragraph 1 and 94 paragraph 4).

2.2.2. Long-term occupancy contract

The long-term occupation contract is intended for land used for agricultural purposes and which is subject to sufficient development. The duration of this contract is 25 years, renewable². It is possible to move from a land title having no legal value (customary act for example³) to a long-term occupation contract if the development has been sufficient between the two periods.

The long-term occupation contract is issued to legally establish an agricultural concession only following the occupation and development survey. If the outcome of these investigations is satisfied, the land administrative authorities enter the final contract in the registration book and establish a certificate of registration of a long lease. This is produced in two copies, one is drawn up in the registration book and the other is delivered to the holder of the registered right. The registration certificate is the only land title which proves that the agricultural concession is legally established under emphyteusis (Land Code 1973, articles 59 and 219). The registration certificate becomes unassailable two years after its establishment. Actions taken against him can only be for damages, even if this is obtained by mistake, surprise or fraud (Land Code 1973, article 227). Criminally, however, the holder of a certificate obtained by fraud can be prosecuted for forgery and the destruction of such certificate can be ordered by the Judge (Mugagu, 2008).

3. Agricultural situation of land concessions in the commune of Mont-Ngafula

3.1. Geographical location of the commune of Mont-Ngafula

The Municipality of Mont-Ngafula is located southwest of the city of Kinshasa: 4° 25' 35'' South and 15° 17' 44'' East; to the North by the Municipalities of Makala, Selembao and Kisenso; to the South by the territory of Kasangulu (Kongo-Central Province); to the East by the Communes of N'djili, Kimbanseke and N'sele; to the West by the Commune of Ngaliema and the Republic of Congo-Brazzaville (Figure 2).

² The number of renewals is indeterminate and is not subject to any control

³ The fact of requesting land under an agricultural concession and specifying its location beforehand (see composition of the land application file), assumes that there has been, a priori, an approach made on the part of the applicant to customary authorities in the area and which allowed him to identify the land to be exploited. During this phase, the future concessionaires come into contact with the land, meet the local customary authorities, mainly the customary chiefs or their descendants (rightholders), and obtain their approval on the use of a portion of the land belonging to them to their local communities in exchange for a customary fee in kind and in cash. In return, the customary authorities draw up a "customary act" attesting to their agreement to transfer the right to use the land to the concessionaires.

3.3. Size of agricultural concessions

The sample of agricultural concessions analyzed in this part of the thesis is made up of 50 agricultural concessions. Analysis of the few descriptive statistics on the areas of these concessions shows that the smallest concession in the sample has 1.08 ha and the largest agricultural concession has an area of 156 ha. Calculation of the Gini index in the sample gives the value of 0.59 (Figure 3).

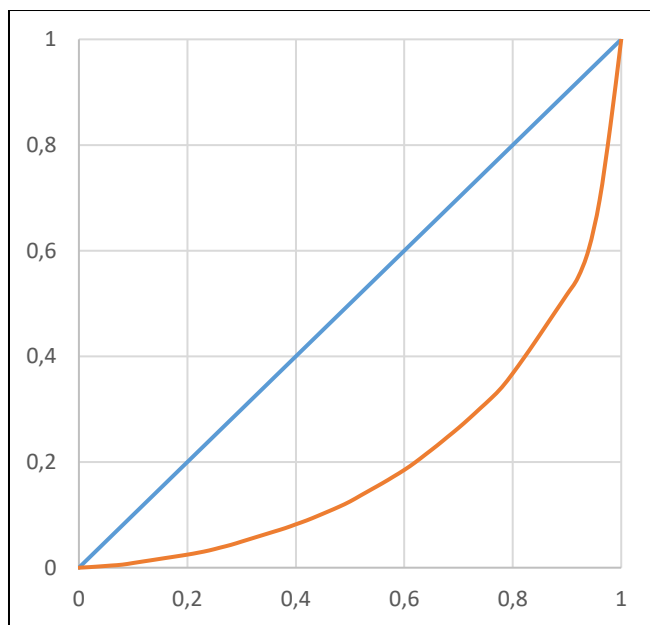


Figure 3 : Unequal areas between agricultural concessions in Mont-Ngafula

The unequal distribution of land areas owned by agricultural concessionaires makes it necessary to categorize these agricultural concessions according to the land area in order to highlight the different ways of land use between the categories which will be developed.

The classes or categories of agricultural concessions are constructed on the basis of the limits established by the legislators of the land law concerning the granting of land in agricultural concessions. Thus, four categories of agricultural concessions are developed based on the area held by agricultural concessionaires:

- Category 1: Very small agricultural concessions. This category includes agricultural concessions whose total area is no more than 3 ha (22%);
- Category 2: Small agricultural concessions. This category contains agricultural concessions whose surface area varies from 4 to 10 ha (28%);
- Category 3: Medium-sized agricultural concessions. In this category are agricultural concessions with an area ranging from 11 to 50 ha (42%);
- Category 4: Large agricultural concessions. This category brings together agricultural concessions with an area ranging from 51 to 160 ha (8%).

3.4. Income from agricultural activities

The median value of agricultural income for all concession categories is negative. That is to say that at least 50% of agricultural operators in all categories of agricultural concessions work at a loss. This loss is more pronounced in category 1 agricultural concessions given their level of operating expenses. Table 2 allows us to assess the level of monetary losses suffered for each hectare of exploited land.

Table 1 : Income from agricultural activities

		Category of agricultural concessions			
		Cat.1	Cat.2	Cat.3	Cat.4
Farm income (US dollars.ha-1.year-1)	Median	- 24	- 2	- 12	- 12
	Average	- 33	- 28	- 40	-15
	Standard deviation	216	15	56	19
Agricultural concessions with positive income	Percentage	25	50	33	25
	Average (Dollars.ha-1.year-1)	218	79	35	6
	Coefficient of variation	79	215	120	0*

* Only one agricultural concession out of the four belonging to category 4 achieves a positive annual agricultural income.

4. Transformation of agricultural concessions into housing

4.1. Income from the sale of land by Gain linked to the sale of land

The data shown in Table 3 obtained in the archives of the State office at the Ministry of Land Affairs shows that the purchase prices of agricultural concessions are low than the revenues realized after the sale of land intended for agricultural concession. For example (Table 3), in 2001, the purchase of one hectare of agricultural concession cost 750 US dollars from customary chiefs, while the sale in residential plots (subdivision), after obtaining legal documents from the Ministry of Land Affairs, allowed agricultural operators to earn up to 12,000 US dollars. Knowing that one hectare of agricultural concession allows for 16 plots of 20 square meters.

Table 2 : Evolution of land prices in Mont-Ngafula

Year	Purchase price of agricultural concessions		Sale price of land for housing	
	Neighborhood	USD /ha	Neighborhood	USD/ha
2000	Kimwenza	700	Lutendele	2 000
2001	Mitendi	750	Mitendi	12 000
2002	Mangala	800	Lutendele	2 128
2003	Lutendele	900	Mitendi	7 000
2004	Matadi-Mayo	600	Kimbondo	13 333
2005	Lutendele	250	Mitendi	1 819
2006	Lutendele	350	C.P.A. Mushie	33 333
2007	Lutendele	400	Mitendi	16 364
2008	Mitendi	750	Mitendi	15 000
2009	Mitendi	750	C.P.A. Mushie	18 7500
2010	Mitendi	825	Mitendi	29 412
2011	Matadi-Kibala	181	Mitendi	32 727
2012	Kimwenza	200	Mitendi	90 000
2013	Kimwenza	423	Mitendi	45 000
2014	Kimwenza	60	Mitendi	60 000
2015	Mitendi	1 045	Mitendi	70 000
2016	Mbuki	400	Mitendi	75 000
2017	Mbuki	1 200	Mitendi	87 500

4.2. Spatial dynamics of the lands of Mont-Ngafula

The dynamics of spatial occupation of the land of Mont-Ngafula for the years 2010 and 2018 is in table 4. In numerical terms, this table shows the surface area of each element of land occupation of Mont-Ngafula and its evolution between the two years of references retained.

Table 4 : Dynamics of spatial occupation of Mont-Ngafula between 2010 and 2018

Element	Area (m2)		Evolution rate
	2010	2018	
Plant cover	389 761 442,5	297 490 186,4	-23,67
Soil without plant cover	20 515 859,45	65 349 441,86	218,53
Watercourse	267 137,93	267 137,93	0
Housing	4 510 0591,42	92 538 265,13	105,18
Total	455 645 031,3	455 645 031,3	

The analysis of the dynamics of spatial occupation of Mont-Ngafula shows that the sprawl of urban areas in Mont-Ngafula concerns both the densification of urban neighborhoods and the land located in rural areas. In the latter, there is a deterioration of the plant cover in the areas where agricultural concessions are located. This spatial dynamic also explains the pace of the creation of new neighborhoods in Mont-Ngafula. The birth of new urban neighborhoods takes place in stages and is irremediable: rural agriculture (for self-consumption and/or income) is followed by agricultural concessions and then subdivision for the construction of residential houses.

5. Current model of the fiscal mechanism for peri-urban agricultural concessions

The land heritage of the Democratic Republic of Congo (DRC) is organized into public land and private land. The public land domain of the State is made up of land allocated to a public use or service. Land in this category remains non-transferable as long as it is not abandoned from its public use or service (airport, military camp, public cemetery, etc.). While private land is made up of all other land including land granted for agricultural purposes (Land Code, 1973, articles 54 & 55). The tax mechanism currently applied to peri-urban agricultural concessions in Kinshasa is based on tax and state tax, especially since these levies relate to the enjoyment of private land by the Congolese State.

5.1. Property tax

The property tax is the financial counterpart of the services enjoyed by purchasers of agricultural concessions from the public administration during the procedures for obtaining the various real estate titles and the enjoyment of these.

The indications on the costs linked to the establishment of contracts are included in the various interministerial orders of the Ministry of Land Affairs and Finance on the setting of the rates of rights, taxes and royalties to be collected at the initiative of the Ministry of Land Affairs (No. 044/CAB/MIN/AFF.F/2005; No. 004/CAB/MIN/AFF.FONC/2009; No. 003/CAB/MIN/AFF.FONC/2013) . When the economic and budgetary situation requires it, the Minister responsible for Finance is authorized to modify property tax rates (Ibanda , 2016). The calculation of the property tax for agricultural concessions (annual rent) is based on the reference price (Pr). The reference price and the royalty rate are also set in the same interministerial decrees cited above on the rates of duties, taxes and royalties to be collected by the Ministry of Land Affairs. In this document we particularly focus on the tax linked to the enjoyment of agricultural concessions.

5.1.1. Reference price and annual tax deduction

The Congolese State temporarily grants the land to a concessionaire because the latter has developed it. Obtaining temporary occupancy contracts and long-term occupancy contracts and their holding give rise to obligations vis-à-vis the State. As these are land titles with a limited lifespan, the use of agricultural land is subject to the payment of an annual tax to be paid at the beginning of each year for the financial year linked to the previous year. The tax and collection offices of the land districts are in reality assessment services. They create or generate property tax revenue by recording and donating the amount. The ordering is done by the financial authorities and the purification by the public accountant. The table 5 shows the evolution of reference prices and royalties between 2005 and 2013.

Table 5 : Evolution of reference prices and royalties in 2005, 2009 and 2013.

			Years		
			2005	2009	2013
Price reference	From 1 to 10 Ha		0.50 Ff ⁴¹ / ha	4 \$/ha	4 \$/ha
	From 10 Ha to 25 Ha	≤ 10 ha	0.50 Ff/ ha	4 \$/ha	4 \$/ha
		> 10 ha	0.25 Ff/ ha	2 \$/ha	2 \$/ha
	From 25 to 100 Ha	≤10 ha	0.50 Ff/ ha	4 \$/ha	4 \$/ha
		[11-25 ha]	0.25 Ff/ ha	2 \$/ha	2 \$/ha
		[26-100 ha]	0.20 Ff/ ha	1 \$/ha	1 \$/ha
	From 100 to 500 Ha	≤ 10 ha	0.50 Ff/ ha	4 \$/ha	4 \$/ha
		[11-25 ha]	0.25 Ff/ ha	2 \$/ha	2 \$/ha
		[26-100 ha]	0.20 Ff/ ha	1 \$/ha	1 \$/ha
	> 500 Ha	[101-500 ha]	0.20 Ff/ ha	0.50 \$/ha	0.50 \$/ha
		≤ 10 ha	0.65 Ff/ ha	4 \$/ha	4 \$/ha
		[11-25 ha]	0.25 Ff/ ha	2 \$/ha	2 \$/ha
		[26-100 ha]	0.27 Ff/ ha	1 \$/ha	1 \$/ha
		[101-500 ha]	0.27 Ff/ ha	0.50 \$/ ha	0.50 \$/ ha
	Rent or annual fee	[501-1000 ha]	0.25 Ff/ ha	0.30 \$/ ha	0.30 \$/ ha
> 1000 ha			0.25 \$/ ha	0.25 \$/ ha	
1st year			20%	20%	
2nd year			30 %	30 %	
3rd year			40%	40%	
	4th year		45%	45%	
	5th year		50%	50%	
	Beyond		50%	50%	

Sources: Interministerial orders: N°044/CAB/MIN/AFF.F/2005; No. 004/CAB/MIN/AFF.FONC/2009; No. 003/CAB/MIN/AFF.FONC/2013

By analyzing the table 5, we see that the reference price increased between 2005 and 2013 in inverse proportion to the extent of agricultural land granted. For areas ranging from 1 to 25 ha, the reference price was multiplied by 8. From 26 to 100 ha, the reference price was multiplied by 5. From 101 to 500 ha, the reference price was multiplied by 2.5. Finally, from 501 to 1000 Ha, the reference price was multiplied by 1.2.

Knowing that it is the reference price which makes it possible to determine the land tax for agricultural concessions, we can then deduce that the cost of the royalty decreases with the increase in the surface area of land granted to agricultural operators.

The 2013 rate is the one that applies to this day.

⁴¹ Ff = 1\$ (USD)

Taxpayers are subject to a declarative tax system. Which would mean that dealers benefit from a presumption of accuracy and honesty. They are supposed to pass freely to the taxation and collection unit of the rental land division of their agricultural operation in order to obtain the tax collection note. Then, under their own responsibility, they will pay to the bank to the account of the General Directorate of Administrative and State Revenue (DGRAD) and subsequently return to the tax and collection office to submit the receipt.

5.1.2. Calculation of the property tax for a given agricultural concession

1st case : Or an agricultural concession of 49 Ha established on *the* basis of a long-term occupancy contract since 1999. The concessionaire regularly pays the property tax. We would like to know the amount of the annual tax for the year 2019, i.e. the twentieth year of occupation of the land. The calculation is done as follows:

From 1 to 10 Ha: 10 Ha at the rate of 4 \$/ha => 10 ha x 4 \$/ha = 40\$

From 11 to 25 Ha: 15 Ha at the rate of 2 \$/ha => 15 ha x 2 \$/ha = 30\$

From 26 to 100 Ha: 24 Ha at the rate of 1 \$/ha => 24 ha x 1 \$/ha = 24\$

===== >>> 40\$ + 30\$ + 24\$ = 94\$

94\$ x 1640 CDF/\$ = 154,160 CDF (Reference price)

From this reference price, we derive the property tax for the fourth year of possession of the long-term occupancy contract. By applying the 2013 rate, the tax to be paid by this agricultural concessionaire will be: 154,160 CDF * 0.5 = 77,080 CDF or 47\$ for 49 ha during the fourth year of possession of the long-term occupancy contract, this which gives an amount of 1,537.06 CDF/ha or 0.95 \$/ha.

2nd case : Assuming that this concessionaire has not paid his property tax since 2013. What will be the cumulative total of his property tax arrears in 2019 ?

Answer: Knowing that it is the 2013 reference price which is applied to this day, the cumulative royalty of this dealer after seven years of late payment will be 47\$ X 7 = 329 \$. If during this time, the agricultural concession was left abandoned, this inactivity would have only cost the operator 329\$, when we know that during the same period the land added value of the land can increase by exponentially in the peri-urban areas of Kinshasa.

It is often at the time of the request to change the destination of the land fund from agriculture to another type (residential for example via subdivision) that the administrative land authorities become aware of possible failures to pay the property tax. The financial value of the subdivision of the agricultural concession easily allows the purchaser to pay his tax arrears due to the Congolese State, the payment of the land tax will have generated public revenue without this economic instrument, the tax, deters agricultural operators who rely on financial investment in agricultural land in the peri-urban area of Kinshasa. Especially since the cost of the tax per square meter is far lower than the land value of the same when it must be allocated to non-agricultural use.

5.2. Property tax

There are four categories of taxes in the DRC: (1) real taxes; (2) schedular income taxes; (3) exceptional tax on expatriate remuneration and the minimum tax for expatriates as well as; (4) turnover tax, which has been replaced since January 1, 2012 by value added tax (VAT). Of these four categories, it is the real taxes which attract the attention of this paper, because it is in this category of taxes that the property tax is found, in addition to the tax on vehicles or vignette, of tax on mining and hydrocarbon concessions.

The land tax, IF in acronym, has as its taxable base the surface area of land concessions built or not located in the DRC: “ *The IF is due by the holder of the right of ownership, possession, emphyteusis, surface area, transfer, concession or usufruct of taxable property, as well as by persons occupying, under a lease, real estate belonging to the private domain of the State, Provinces, Cities and Municipalities, or from the assets of the constituencies* ” (Order-law no. 69-006 of February 10, 1969, article 8).

The collection of tax in the DRC is an exclusivity of the Directorate General of Taxes (DGI), but since the adoption of the new constitution in 2006 (Constitution 2006: article 204) and the law on the functioning of the provinces, there are certain real taxes which escaped the DGI and became exclusive to the provinces. These are property tax, vehicle tax (vignettes) and rental tax. For the city-province of Kinshasa, these three taxes are managed by the Directorate General of Revenue of the city of Kinshasa (DGRK).

In the DRC, property taxes concern built and unbuilt properties depending on the nature of the buildings and the rank of the localities. It is currently taxed on the basis of surface area. According to the General Tax Code in its article 3 in paragraph 1, “ *property allocated by the owner exclusively to agriculture or livestock including buildings or parts which are used for the preparation of agricultural products or livestock, provided that these come from the taxpayer's exploitation in a proportion at least equal to 80% of all the products processed* ” are exempt from payment of property tax (Mbokolo Dj'andima , 2007). Peri-urban agricultural concessions in Kinshasa are part of this category of land assets and are therefore exempt from land taxes.

6. Conclusion : Towards a land tax model that encourages agricultural production

To compensate for speculative behavior on peri-urban agricultural land and make peri-urban agricultural concessions real sources of food supply for the city of Kinshasa, tax measures must be accompanied by a certain number of other promotion support measures. to peri-urban agriculture. In this paper we focus more particularly on two of these measures: taking into account some limits of the current land code and the adaptation of the tax mechanism in order to make it an incentive for agricultural production. In practice, it very often happens that individuals control vast areas of land for several years based on simple possession of purchase deeds. As long as an individual owns the land for agricultural purposes on the basis of such an act and does not take any steps with the competent land administration in order to officially apply for the land owned under agricultural concession, no restriction in terms of duration of occupation imposed on him. At the land administration level, this property does not exist because it has not yet been created by legally recognized land titles.

During this phase, neither the Congolese State nor the customary authorities have the power to force the beneficiary of the land to agricultural production. Among land speculators, land remains in an uncultivated state for several years. The only fear of these speculators is that the customary authorities will again cede the same lands to other claimants, which will lead to land conflicts. In order to dissuade potential competitors, the first beneficiaries of land are rushing to erect boundary markers in concrete or trees showing that the portion of the land is already occupied. Many lands on the outskirts of Kinshasa appear to be vacant because they are uncultivated, while the multiple markers placed there demonstrate that local communities have already ceded their right of use on this land to various natural and legal persons: churches , non-profit associations, politicians etc.

To secure the land after obtaining it from the local community, requesting legal land titles is the obligatory route. It is at the end of this stage that the temporary occupation contract is given to the applicant for a maximum period of 10 years. For some operators, this is a period of deployment of agricultural activities on the land, while for land speculators obtaining the temporary occupation contract is an element of securing the land investment. No arrests can be made while the applicant is in his 10-year probationary period. Even when this period expires, the triggering of the development control initiative is made by the applicant. This means that many agricultural concessions have expired temporary occupation contracts but are not worried, sometimes even with an accumulation of property tax disputes.

Very often, before the expiration of the temporary occupation contract, several behaviors are observed on the land: sale of the land to new applicants; submission of a request for change of destination, launch of some works and payment of tax disputes; passage through the networks to negotiate a long-term occupation contract and keep the land without effort of agricultural production, although upon signing the contracts the agricultural operators were required to achieve a minimum production for each type of speculation declared (Agricultural law, 2011, article 17).

After obtaining the long-term occupation contract, the land administration has no control over the regularity of the development of agricultural concessions. The field trips that are sometimes organized are those of agronomist advisors, who can only note the abandonment of these concessions. At the administrative level, the official decision to abandon an agricultural concession is only made more than 25 years after obtaining the long lease, a duration corresponding to the period of renewal of the long lease occupancy contract. In practice, for the land administration to be able to detect behavior linked to land speculation, it is necessary to allow at least 35 years after obtaining the land under an agricultural concession. During this time, the concession is left abandoned, excluding the possibility of access for people really interested in this land for agricultural production.

The question of the duality of granting power and its consequences on the anarchy of governance in Kinshasa is very often raised in research which has peri-urban lands as its substrate. This situation is not without consequences on the weakening of agricultural production in the peri-urban areas of Kinshasa (Wagemakers *et al.* 2010; Ntungila Nkama Mbelu, 2010; Masiala Bode *et al.* 2018). It would also be to rule on the scope of customary powers over land management in the DRC. Indeed, the Congolese land code has now been in force for more than 40 years without the scope of customary powers over land management being circumscribed.

In 1973, when this code was promulgated, it was anticipated that an ordinance-law from the President of the Republic would be promulgated to limit the scope of customary power over land management (Land Code 1973, article 389), but until To date this Ordinance has still not been promulgated. The absence of this ordinance-law pushes local customary authorities and their descendants to take advantage of their customary rights to reappropriate peri-urban land and cede it to third parties for multiple uses including agricultural production . Some customary chiefs are even designated as land chiefs. They impose the legitimation of their granting power in land matters on the ground without difficulty (Mambi Tunga-Bau, 2010; Ayimpam 2013) . While awaiting a response from public policies on the land status of local communities, the current tax model applied to agricultural concessions can already evolve towards a model which integrates the arbitrary behavior of certain agricultural concessionaires who rely on land investment instead of the agricultural production.

To be able to use land taxation as an instrument to increase the food supply on the outskirts of Kinshasa, it will be necessary that the exemption from the payment of land tax by agricultural concessionaires only concerns agricultural concessions that actually in regular activity and not be taken as a “universal” principle (on all agricultural concessions without exception), without accompanying measures. As for the land tax, its level must take into account the marginal damage linked to agricultural inactivity and the increase in the land value of agricultural land if it must be allocated for non-agricultural purposes. Because, an incentive tax adapted to these two elements can well encourage operators to valorize the land funds granted to them and discourage land speculators by rates more than proportional to the rate of increase in the land value of the uncultivated lands of their agricultural concessions.

In the same way that the Provincial Inspectorate of Agriculture regularly organizes field trips for monitoring-advisory activities and agricultural surveys, the Ministry of Land Affairs could integrate its real estate experts into these teams to assess the level of implementation. in value and regularly sanction inactive agricultural concessionaires.

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