

ANGOLA

TRADE SUMMARY

The U.S. goods trade deficit with Angola was \$10.7 billion in 2010, up \$2.7 billion from 2009. U.S. goods exports in 2010 were \$1.3 billion, down 9.2 percent from the previous year. Corresponding U.S. imports from Angola were \$11.9 billion, up 27.9 percent. Angola is currently the 69th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Angola was \$2.6 billion in 2009 (latest data available), up from \$2.3 billion in 2008.

IMPORT POLICIES

Tariffs and Nontariff Measures

Angola is a Member of the World Trade Organization (WTO) and the Southern African Development Community (SADC). In March 2003, Angola agreed to adhere to the SADC Protocol on Trade, which seeks to facilitate trade by harmonizing and reducing tariffs and by establishing regional policies on trade, customs, and methodology. However, Angola keeps delaying implementation of this protocol in the hope that the country can revive domestic production of non-petroleum goods, which remains low as a result of years of civil war and economic underdevelopment. The government is concerned that implementation of the SADC Protocol on Trade would lead to a large increase in imports, particularly from South Africa.

A new tariff schedule came into force in September 2008 which removed duties on imported raw materials, equipment, and intermediate goods for industries and reduced tariffs on 58 categories of basic goods. According to the WTO, Angola's average MFN tariff rate is 7.4 percent, with tariffs as high as 30 percent on products such as coffee, alcoholic beverages, building products (*i.e.*, cement, bricks, ceramic tiles). A new surcharge of one percent was established on imports of luxury products. Personal customs fees and transportation taxes were revoked by the new statute and are no longer charged. Besides tariffs levied on imports, additional fees associated with importing include: clearing costs (2 percent); VAT (2 percent to 30 percent depending on the good); revenue stamps (0.5 percent); port charges (\$500 per day per 20 foot container or \$850 per day per 40 foot container); and port storage fees (free for the first 15 days, then \$20 per 20 foot container or \$40 per 40 foot container per day).

Tariff obligations for the oil industry are largely determined by individually negotiated contracts between international oil companies and the Angolan government. In December 2004, a new Petroleum Customs Law was introduced that aimed to standardize tariff and customs obligations for the petroleum industry while protecting existing oil company rights and exemptions negotiated under prior contracts. According to customs officials, the law eliminated exemptions from duties on items imported by oil companies that are not directly used as equipment in oil production, as had been the case previously. Oil companies are still disputing the customs officials' interpretation of the law. Because most U.S. exports to Angola consist of specialized oil industry equipment, which is largely exempt from tariffs, the annual impact of tariff barriers on U.S. exports is relatively low.

Customs Barriers

Administration of Angola's customs service has improved in the last few years but remains a barrier to market access. The Angolan government implemented a new customs code in January 2007 which follows

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the guidelines of the World Customs Organization (WCO), WTO, and SADC. However, during most of 2009, port clearance time averaged several months and importers commonly faced additional delays, often the result of capacity constraints at the Port of Luanda. For instance, shipping containers, although cleared, may be physically inaccessible because they are behind other containers. The situation improved with the recent creation of two dry ports for container storage, and with the diversion of some marine traffic to the Port of Lobito. As of mid-2010, port clearance time averaged one month.

The importation of certain goods into Angola requires an import license issued by the Ministry of Trade. The import license is renewable annually and covers all shipments of the authorized good or category of goods imported by the licensed importer. The importation of certain goods also requires specific authorization from various government ministries. This often leads to bureaucratic bottlenecks, which often leads to delays and extra costs. Goods that require ministerial authorization include the following: pharmaceutical substances and saccharine and derived products (Ministry of Health); radios, transmitters, receivers, and other devices (Ministry of Telecommunications); weapons, ammunition, fireworks, and explosives (Ministry of Interior); plants, roots, bulbs, microbial cultures, buds, fruits, seeds, and crates and other packages containing these products (Ministry of Agriculture); fiscal or postal stamps (Ministry of Post and Telecommunications); poisonous and toxic substances and drugs (Ministries of Agriculture, Industry, and Health); and samples or other goods imported to be given away (Customs).

Angola has formal trade barriers to the importation of genetically-modified organisms (GMOs) unless they are milled or sterilized. This conforms to SADC regional policies that bar the use of GMOs as cultivating seeds. If companies operating in the oil and mining industries present a letter from the Minister of Petroleum or the Minister of Geology and Mines, they may import, without duty, equipment to be used exclusively for oil and mineral exploration.

Required customs paperwork includes the “*Documento Unico*” (single document) for the calculation of customs duties, proof of ownership of the good, bill of lading, commercial invoice, packing list, and specific shipment documents verifying the right to import or export the product. Any shipment of goods equal to or exceeding \$1,000 requires a clearing agent. The number of clearing agents has increased from 55 in 2006 to 157 in 2010, but competition among clearing agents has not reduced fees, which typically range from 1 percent to 2 percent of the value of the declaration.

Pre-shipment inspection is also a barrier for goods including cars, live animals and living plants, cereals, seeds, food produce, pharmaceuticals, chemicals, alcoholic beverages, and dairy products. BIVAC (Bureau Inspection Valuation Assessment Control), a private company associated with Bureau Veritas, is the government’s recommended agent for pre-shipment inspections. Exporters who use an agent other than BIVAC for pre-shipment inspection are subject to additional inspection upon arrival.

GOVERNMENT PROCUREMENT

The government advertises tender notices in local and international publications 15 days to 90 days before the tenders are due. Tender documents are normally obtained from a specific government ministry, department, or agency for a non-refundable fee. Completed tenders, accompanied by a specified security deposit, usually must be submitted directly to the procuring ministry. The tendering process often lacks transparency. Information about government projects and tenders is often not readily available from the appropriate authorities, and the interested parties must spend considerable time to obtain the necessary information. Awards for government tenders are sometimes published in the government newspaper “*Jornal de Angola*.” Under the Promotion of Angolan Private Entrepreneurs Law, the government gives Angolan companies preferential treatment in the procurement of goods, services and public works contracts.

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In September 2010 a new Public Procurement law was adopted. The new law made significant changes to the procedures for the acquisition of goods and services, as well as the award of concessions, by the government. These changes include: additional local content requirements; the use of competitive public tender as the standard procedure for government procurement; a new definition of the legal regime for public works contracts; and the creation of a Public Tender Management Unit that will have overarching responsibility for the preparation and launching of public tenders.

Angola is not a signatory to the WTO Agreement on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Angola is a party to the World Intellectual Property Organization (WIPO) Convention, the Paris Convention for the Protection of Industrial Property, and the WIPO Patent Cooperation Treaty. Intellectual property is protected by Law 3/92 for industrial property and Law 4/90 for the attribution and protection of copyrights. Intellectual property rights are administered by the Ministry of Industry (trademarks, patents, and designs) and by the Ministry of Culture (authorship, literary, and artistic rights).

Although Angolan law provides basic protection for intellectual property rights and the National Assembly is working to strengthen existing legislation, IPR protection remains weak in practice due to a lack of enforcement capacity. However, government officials have made efforts to confiscate and destroy pirated goods. On September 18, 2008 Angola's Economic Police burned 2.5 tons of counterfeited medicines, and pirated CDs and DVDs in a public event aimed at curbing the sales of pirated merchandise in Angola. According to Angola's National Department for the Protection of Intellectual Property Rights, the owners of the pirated goods were sentenced to up to six months in jail or fined approximately 110,000 Kwanza (approximately \$1,500). However, there are no reports of the authorities' conducting similar destructions of pirated material in 2009 or 2010. The government has also worked with international computer companies on anti-piracy measures. No suits involving U.S. intellectual property are known to have been filed in Angola.

INVESTMENT BARRIERS

Angola is formally open to foreign investment, but its regulatory and legal infrastructure is not adequate to facilitate significant foreign direct investment outside the petroleum sector or to provide sufficient protection to foreign investors. Smaller firms in non-extractive industries tend to have a particularly difficult time conducting business in Angola. In 2003, Angola created the National Private Investment Agency (ANIP) and replaced its 1994 Foreign Investment Law with a new Law on Private Investment (Law 11/03). The 2003 law lays out the general parameters, benefits, and obligations for foreign investment in Angola. It encourages foreign investment by providing equal treatment for domestic and foreign investors, offering fiscal and customs incentives, and simplifying the investment application process. However, the law is vague on profit repatriation and includes only weak legal safeguards to protect foreign investors. In addition, many provisions of the law are subordinate to other sector-specific legislation (including in the petroleum, diamond, and financial sectors), allowing government ministries to override some of the protections and incentives contained in the investment law.

Angolan law has no provisions for international arbitration and requires that any investment dispute be resolved in Angolan courts. In 2008, the Attorney General ruled that Angola's specialized courts to hear tax disputes were unconstitutional. Consequently, foreign investors effectively have no legal recourse to dispute claims for additional taxes imposed by the Ministry of Finance upon audit. The World Bank's "Doing Business in 2011" survey estimates that commercial contract enforcement – measured by the

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amount of time elapsed between the filing of a complaint and the receipt of restitution – generally takes 1,011 days in Angola. A law on voluntary arbitration that would provide the legal framework for speedier, non-judicial resolution of disputes has been drafted, but not yet approved.

Although the new investment law is part of an overall effort by the Angolan government to create a more investor-friendly environment, many laws governing the economy have vague provisions that permit wide interpretation and inconsistent application by the government. Foreign investors can establish fully-owned subsidiaries in many sectors, but frequently are strongly encouraged (even though not formally required) to take on a local partner. In the petroleum sector, the government is gradually implementing local content requirements first set forth in 2003. The relevant legislation mandates that many foreign oil services companies form joint venture partnerships with local companies on any new ventures. For the provision of goods and services not requiring heavy capital investment, or non-specialized expertise, foreign companies may only participate as a contractor to Angolan companies. For activities requiring higher levels of capital investment and higher levels of expertise, foreign companies may only participate in association with Angolan companies.

Obtaining the proper permits and business licenses to operate in Angola is time-consuming and adds considerably to the cost of investment.

OTHER BARRIERS

Corruption

In November 2009, President Dos Santos called for a zero tolerance policy against corruption. In March 2010, the National Assembly approved a law on Public Probity which requires most government officials to declare their assets to the Attorney General. Nevertheless, corruption remains prevalent due to rent-seeking behavior by powerful officials, the lack of adequately trained government staff, dependence on a centralized bureaucracy and antiquated regulations dating back to the colonial era. The process to register a company is complicated and may involve up to 14 steps with many different government ministries. The payment of gratuities and other facilitation fees can result in quicker service and approval. Investors are often tempted to seek quicker service and approval by paying gratuities and other facilitation fees.

Investors have at times experienced harassment, political interference, and pressure to sell their investments. In some cases, these practices have involved individuals with powerful positions within the government who exert pressure directly or through the established bureaucracy. As a result, some investors have experienced significant delays in payments for government contracts and in obtaining the proper permits or approval of projects. Investors report pressure to form joint ventures with powerful local interests.

Angola's public and private companies have not traditionally used transparent accounting systems consistent with international norms, and few companies in Angola adhere to international audit standards. The government approved an audit law in 2002 that sought to require audits for all "large" companies, but this rule is not generally enforced.

Infrastructure

Angola's badly damaged and neglected infrastructure substantially increases the cost of doing business for investors. Poor roads, destroyed bridges, and mined secondary routes raise transportation costs. The country is in the process of rebuilding its communications, energy, transportation, and road infrastructure. Domestic and international communications are improving, but communication networks are

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oversubscribed in the provinces and sometimes in the capital city of Luanda, and coverage can be unreliable. Frequent interruptions plague water and power supplies, while power surges can damage electronic equipment. Increased overhead for investors includes outlays for security services, back-up electrical generators, and cisterns. However, rebuilding infrastructure is a major policy objective of the Angolan government. The government budgeted \$16 billion in 2010 for restoration of public infrastructure to address these deficiencies, and is actively seeking significant private investment in the power and housing sectors.