DEMOCRATIC REPUBLIC OF THE CONGO

TRADE SUMMARY

The U.S. goods trade deficit with Congo was $434 million in 2010, up $183 million from 2009. U.S. goods exports in 2010 were $93 million, up 17.5 percent from the previous year. Corresponding U.S. imports from Congo were $528 million, up 59.6 percent. Congo is currently the 147th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Congo was $21 million in 2006 (latest data available).

IMPORT POLICIES

Tariffs

The Democratic Republic of the Congo (DRC) is a member of the World Trade Organization (WTO), the Central African Economic Community (CEEAC), the Great Lakes Economic Community (CEPGL), the Common Market for Eastern and Southern Africa (COMESA), and the Southern African Development Community (SADC). The DRC does not participate in the COMESA or SADC free trade areas, in part due to the DRC government's strong dependency on revenues from tariffs.

The DRC has been liberalizing its import regime since the early 1990s. According to the WTO, the DRC's average applied tariff rate was 12 percent in 2008 – lower than the applied tariff level in many other central African countries. All of the DRC's tariffs are ad valorem and charged on a cost, insurance and freight (CIF) basis. The tariff structure consists of three bands: five percent for equipment goods, raw materials, agricultural and veterinary supplies and unassembled equipment; 10 percent for large consumable food items, industrial inputs, spare parts and items for social services, such as hospitals and disabled persons; and 20 percent for other finished products.

In addition to tariffs, there are a multitude of taxes collected on imported goods by several government agencies without any coordination. These additional taxes importers pay on goods and services average between 2 percent and 40 percent. Depending on the nature of the goods, the government levies a sales tax (ICA) at a rate that varies between 3 percent and 13 percent. In August 2010, DRC President Kabila signed a decree replacing the ICA with a value added tax (VAT), which will come into effect on January 1, 2012, which the government believes will bring in more revenue to the state treasury.

The principal government agencies in the DRC that collect taxes include the Customs Authority (DGDA), Industrial Incentive Fund (FPI), Office of Maritime Freight Management (OGEFREM), National Office of Transportation (ONATRA), Tax Authority (DGI), General Direction of Administrative Incomes (DGRAD) and the Import-Export control agency (OCC). Some of these agencies, such as the FPI, are not involved in customs activities.

The DGDA collects a tax on imports in the amount of 25 percent of CIF value. The OCC charges a 2 percent tax on the CIF value of all imports exceeding $10,000 and uses a sliding scale for imports valued at less than $10,000.

Customs Procedures

Since June 2006, a French-owned company has been the DRC's authorized agent for pre-shipment inspection (PSI) of imports valued at $2,500 or more. Firms exporting to the DRC must provide the PSI agent with an invoice containing a detailed description of the goods that will be shipped and a statement accepting inspection. Imports that arrive in country without a PSI certificate are charged 40 percent of the Free on Board (FOB) value. Other required shipment documents are a commercial invoice, packing lists, bills of lading/airway bill, import license, pro forma invoice, the U.S. shipper's export declaration, an insurance certificate, and often a certificate of origin.

To streamline customs procedures as well as improve the DRC's investment climate, in August 2010 President Kabila promulgated a new Customs Code. The new Code includes several provisions that will benefit those doing business in the DRC, such as simplified customs procedures, intellectual property rights protection, verification of goods before payment, payment facilities, established special economic areas, and a customs decision appeals process.

GOVERNMENT PROCUREMENT

The DRC's public administration reforms implemented since 2002 have allowed foreign suppliers to bid on government contracts. Foreign firms may be favored in the bidding process because they have easier access to international insurance funding guarantees.

With the sponsorship and technical assistance of the World Bank, a tender board now operates under the supervision of the Ministry of Budget. In April 2010, President Kabila promulgated a new public procurement law, which according to analysts, should facilitate transparency and competitiveness among local and international companies. The World Bank provided financial and technical assistance for development of the new procurement law. It should facilitate participation in procurement by both foreigners and national suppliers.

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

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Although the 2006 Constitution provides for protection of intellectual property rights (IPR), enforcement of IPR is weak. Pirated books, sound recordings, and visual media are readily available. Privately owned television stations in Kinshasa routinely broadcast U.S. films, apparently without securing exhibition rights from the owners. The government is also unable to prevent most pirated goods from being imported into the country, or to prevent their subsequent distribution and sale. However, the government is considering IPR-related legislation that will improve its enforcement capacity. Additionally, DRC officials have participated in several U.S. government-sponsored training programs organized by the U.S. Patent and Trademark Office.

INVESTMENT BARRIERS

The DRC remains a highly challenging environment in which to do business and the DRC's expensive, slow and burdensome commercial procedures impede the country's integration into the global market trade system.

The DRC is slowly emerging from more than three decades of mismanagement, pillaging, and war. All of these factors have negatively impacted the country's physical infrastructure, which constrains the quality, operability, and security of transportation links.

In addition to underdeveloped infrastructure, inadequate contract enforcement, limited access to credit, continued instability in the eastern part of the country, lack of adequate intellectual property rights protection, and high levels of both bureaucracy and corruption continue to constrain private sector development.

Despite these impediments, there are no formal barriers to foreign investment by any private or public company in the DRC. Problems instead lie on the administrative and bureaucratic side, where laws and regulations are often ineffectively enforced. In 2007, the government launched a review of 61 mining contracts entered into prior to 2002 which the government was concerned may have been negotiated in less than transparent circumstances. The review process has itself been characterized by numerous delays and a lack of transparency, with little information provided by the government to foreign (including U.S.) investors.

The one-stop shop, or "guichet unique," was established in 2005 within the National Agency for the Promotion of Investment to simplify the process of registering a company by unifying under one roof the required procedures of various government ministries. However, the body lacks sufficient authority to approve licenses, permits and other requirements, and therefore has had limited success in expediting company registration.

OTHER BARRIERS

Corruption

U.S. businesses often complain about corruption in the DRC, citing it as a principal constraint to doing business. Protracted negotiations with numerous officials are mandatory in commercial matters. The government has passed laws on anticorruption and money laundering, and the DRC is a Party to the UN Anti-Corruption Convention. Nevertheless, bribery is still common in public and private business transactions, especially in the areas of government procurement, dispute settlement, and taxation. Although bribery is illegal in the DRC, enforcement of laws in this area remains a challenge.

Bureaucracy

As is the case in much of the DRC's business environment, many of the country's trade barriers result from complex and poorly codified regulations, a multiplicity of overlapping administrative agencies, and a frequent lack of control by officials responsible for the regulatory environment. Enforcement of regulations varies widely across the country. Many local traders operate private networks for expediting the movement of goods.

To ensure a secure legal and judicial environment in the DRC, Parliament approved a law in December 2009 authorizing the DRC's accession to the Organization for the Harmonization of Business Law in Africa (OHADA), and President Kabila promulgated this law in February 2010. The core purpose of OHADA is to promote economic development and integration between its members, as well as to ensure a secure legal and judicial environment in Africa. The government officially launched the National OHADA Commission in April 2010, and it originally expected to sign and deposit the instrument of OHADA accession by November 2010, with the Treaty taking effect on January 1, 2011. However, as of January 19, 2011, the DRC had still not signed or deposited the instrument of OHADA accession. The reason behind the delay is that President Kabila has required that judges be sufficiently trained in applying the OHADA law before the DRC signs and deposits the instrument of OHADA accession.