

ANGOLA

TRADE SUMMARY

The U.S. goods trade deficit with Angola was \$11.2 billion in 2007, an increase of \$1.1 billion from 2006. U.S. goods exports in 2007 were \$1.3 billion, down 17.4 percent from the previous year. Corresponding U.S. imports from Angola were \$12.5 billion, up 6.7 percent. Angola is currently the 67th largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Angola was \$1.1 billion in 2006 (latest data available), up from \$1.0 billion in 2005.

IMPORT BARRIERS

Tariffs and Nontariff Measures

Angola is a Member of the World Trade Organization (WTO), the Common Market for Eastern and Southern Africa (COMESA), and the Southern African Development Community (SADC). In March 2003, Angola agreed to adhere to the SADC Protocol on Trade that seeks to facilitate trade by harmonizing and reducing tariffs, and by establishing regional policies on trade and customs. Angola has delayed implementation of this protocol until 2008, however, so that the country can revive internal production of nonpetroleum goods. This production has remained extremely low because infrastructure in the country has been devastated by 27 years of civil war and neglect. The government is also concerned that implementation of the SADC Protocol on Trade would lead to a flood of imports, particularly from South Africa.

A new customs code was implemented in January 2007. The new code covers all customs activity, follows the guidelines of the World Customs Organization (WCO), WTO, and SADC, and represents a major step in the reform and modernization of the Angolan customs service. The code brings much needed transparency and provides a legal basis for efficient methods of customs controls in areas such as risk analysis, post-import audit, and improved technology, such as scanners. It also gives Customs control of major strategic functions such as pre-shipment inspection.

Customs duties on six categories of goods range from 2 percent on raw materials necessary for the nation's development, up to 30 percent for items such as passenger automobiles. The 2006 simple average applied tariff rate was 7.2 percent. Besides the duties themselves, additional fees associated with importing include clearing costs (2 percent), value added tax (2 percent to 30 percent depending on the good), revenue stamps (0.5 percent), port charges (\$500 per 20 foot container or \$850 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). The customs regime for the province of Cabinda (in effect since 2004) does not apply to the petroleum industry, passenger vehicles, alcoholic beverages, tobacco, or jewelry.

Tariff obligations for the oil industry are largely determined by individually negotiated contracts between international oil companies and the Angolan government. The December 2004 Petroleum Customs Law aimed to standardize tariff and customs obligations for the petroleum industry while protecting existing oil company rights and exemptions negotiated under prior contracts. Customs officials have interpreted the law as eliminating duty exemptions on items imported by oil companies that are not directly used as equipment in oil production. Oil companies are currently disputing this interpretation.

Customs Barriers

Angola is a member of the WCO and signed a Letter of Intent to implement the WCO Framework in October 2005. Administration of the customs service has improved in the last few years but import delays remain a barrier to economic growth. Importers commonly face ship waiting times of up to 40 days outside the Port of Luanda. Once cleared, shipping containers may be physically inaccessible because they are behind other containers.

Under Decree 41/06 (effective August 16, 2006), mandatory pre-shipment inspections apply only to the export to Angola of certain goods listed in the regulations or defined in the future by the Ministries of Finance, Agriculture, Health, Commerce, and Industry.

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. Some goods also require additional, specific authorization from various government ministries, which can delay the customs clearance process. Goods that require special authorization include the following: pharmaceutical substances and saccharine and derived products (Ministry of Health); radios, transmitters, receivers, and other devices (Ministry of Post and 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).

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 162 in 2007, but competition among clearing agents has not brought down fees, which often range between 1 percent and 2 percent of declared value.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Angola has adopted SADC guidelines on biotechnology, which prohibit imports of transgenic grain or seed until regulatory systems governing biotechnology have been developed. Since 2005, Angola has required the Ministry of Agriculture to approve agricultural imports that might contain transgenic material, and importers must present documents certifying that their goods do not include transgenic products. Transgenic products can be imported for food aid, but must be milled or sterilized to render the grain incapable of germinating upon arrival in the country. Biotechnology imports for scientific research will be subject to regulations and controls to be established by the Ministry of Agriculture. Angola has only one well-equipped food testing laboratory and laboratory workers have limited technical expertise.

GOVERNMENT PROCUREMENT

Angola is not a signatory to the WTO Agreement on Government Procurement. The government may advertise tenders in local and international publications 15 days to 90 days before the tenders are due. Bidders request tender documents from the procuring ministry, department, or agency for a nonrefundable fee, and then submit their completed tenders, with a security deposit, to the procuring ministry. However, the tendering process often lacks transparency. Information about some government projects and tenders is not often readily available from the procuring agencies, and potential bidders must spend considerable

time on research. Under the Promotion of Angolan Private Entrepreneurs Law, the government gives Angolan companies preferential treatment in tendering for goods, services, and public works contracts.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Although Angolan law provides basic intellectual property rights protection and the National Assembly is working to strengthen existing legislation and enforcement, protection is currently weak due to a lack of enforcement capacity. The Ministry of Industry protects trademarks, patents, and designs under Law 3/92. The Ministry of Culture administers Law 4/90, protecting authorship, literary, and artistic rights.

Angola is a party to the World Intellectual Property Organization (WIPO) Convention, as well as the Paris Convention for the Protection of Industrial Property and the Patent Cooperation Treaty, which entered into force in late 2007.

INVESTMENT BARRIERS

Angola's laws and regulations neither support direct investment outside of the petroleum sector nor provide sufficient protection to foreign investors. Smaller, nonextractive firms tend to have a harder time conducting business in Angola than larger, multinational corporations engaged in extractive industries. In 2003, the Angolan government replaced the 1994 Foreign Investment Law with the Law on Private Investment (Law 11/03). The 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, it is vague on repatriation of profits and includes only weak legal safeguards to protect foreign investors. For example, several foreign construction companies abruptly lost their quarrying rights in 2007. Many provisions of the law are subordinate to other sectoral legislation, allowing other government ministries to override some of the protections and incentives offered by the investment law.

Angolan law has no provisions for international arbitration and requires that any investment dispute be resolved in Angolan courts. Angola has not ratified major international arbitration treaties. The World Bank's "Doing Business in 2008" survey estimates that commercial contract enforcement – measured by the amount of time elapsed between filing of a complaint and receipt of restitution – generally takes more than 1,000 days in Angola. A voluntary arbitration law that provides the legal framework for speedier, nonjudicial resolution of disputes has been drafted but has not yet been approved.

Angola's previous foreign investment law expressly prohibited foreign investment in the areas of defense, internal public order, and state security; in banking activities relating to the operations of the Central Bank and the Mint; in the administration of ports and airports; and in other areas of the State's exclusive responsibility by law. Although Law 11/03 does not explicitly restate these prohibitions, these areas are assumed to remain off-limits to foreign investors. Investments may benefit from a more standardized set of incentives under the Law on Tax and Customs Incentives for Private Investment, approved by the National Assembly in July 2003. However, companies must apply for these benefits when negotiating with the National Private Investment Agency (ANIP).

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 across sectors. Investments in the petroleum, diamond, and financial sectors continue to be governed by specific legislation. Foreign investors can set up fully-owned subsidiaries in many sectors, but frequently they are strongly encouraged, though not formally required, to take on local partners.

Obtaining the proper permits and business licenses to operate in Angola is time-consuming and adds to the cost of investment. The World Bank “Doing Business in 2008” report identified Angola as one of the five worst countries (out of 178) in terms of the time required to start a business. It takes an average of 119 days to register a business compared to a regional average of 56 days. According to the 2003 investment law, ANIP and the Council of Ministers should take no more than 2 months to approve a contract with an investor, but in practice this process normally takes considerably longer. After contract approval, the company must register and file documentation with the relevant government ministries.

The one-stop shop, or “Guiché Unico,” established in 2003, was aimed at simplifying the process of registering a company by unifying under one roof the procedures required by various government ministries. However, the “Guiché Unico” lacks authority over the government ministries that must approve licenses, permits, and other requirements, and thus has had little success in expediting company registration. Representatives of several ministries staff the Guiché, but their ministries are still learning how to coordinate their work. The two most time-consuming steps are obtaining certification from the Notary Public and publication of the company name and statutes in the *Diário da República*, the national gazette managed by the National Press. The government has brought the registration time down to 3 weeks, but the certification and publication phases take months.

The government is gradually implementing local content legislation for the petroleum sector, originally promulgated in November 2003 (Order 127/03 of the Ministry of Petroleum). The legislation will require many foreign oil services companies currently supplying the petroleum sector to form joint-venture partnerships with local companies on any new ventures. Foreign companies providing goods and services not requiring heavy capital investment and with a basic, medium, or higher level of nonspecialized expertise, may only operate as contractors to Angolan companies. They may participate only in association with Angolan companies through joint ventures if their activities require a medium level of capital investment and a higher level of expertise.

OTHER BARRIERS

Corruption

Corruption is prevalent due to rent-seeking behavior by powerful officials, vague laws protecting personal property, the lack of effective legal institutions, the lack of adequately trained government staff, low civil service salaries, dependence on a centralized bureaucracy, and antiquated regulations dating back to the colonial era. Procedures to register a company are complicated and may involve up to 14 steps with many different government ministries. Investors are often tempted to seek quicker service and approval by paying gratuities and other facilitation fees.

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 has not yet enforced this rule.

Investors have at times experienced harassment, political interference, and pressure to sell their investments or form ventures with powerful local interests. 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 delays in obtaining the proper permits or approval of projects. In general, the Angolan government has avoided expropriation of foreign-owned assets during the last decade and has upheld contractual obligations when disputes emerged into public view.

Neglected 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, but the three main railroads will not be fully restored by the end of 2007. Domestic and international communications are improving, but communication networks are oversubscribed in the provinces and sometimes in Luanda, and coverage can be spotty. 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. Rebuilding infrastructure is a major policy objective of the Angolan government, however. In 2007 the government budgeted \$7.5 billion for restoration of public infrastructure to address these deficiencies.