

ANGOLA

TRADE SUMMARY

The U.S. goods trade deficit with Angola was \$16.8 billion in 2008, an increase of \$5.6 billion from \$11.2 billion in 2007. U.S. goods exports in 2008 were \$2.1 billion, up 65.4 percent from the previous year. Corresponding U.S. imports from Angola were \$18.9 billion, up 51.2 percent. Angola is currently the 62nd largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Angola was \$876 million in 2007 (latest data available), down from \$1.4 billion in 2006.

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 has delayed implementation of this protocol until 2010 so 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 early 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 that exempts duties on the import of raw materials, equipment, and intermediate goods for industries and reduces tariffs on 58 categories of basic goods. A new tax was also established on imports of luxury products, which are now subject to a 1 percent surcharge. Personal customs fees and transportation taxes were revoked by the new statute and are no longer charged. Besides the duties themselves, 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 eliminates 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 currently 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, estimated to be in the range of \$10 million to \$25 million.

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

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follows the guidelines of the World Customs Organization (WCO), WTO, and SADC. However, as of late 2008, port clearance time averaged one month and importers commonly face 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 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, which can delay the customs clearance process. 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). 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 162, but competition among clearing agents has not reduced fees, which often range between 1 percent and 2 percent of the value of the declaration.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Angola has adopted SADC guidelines on biotechnology, which effectively prohibit imports of transgenic grain or seed until regulatory systems governing biotechnology have been developed. In January 2005, the government passed a law banning the importation of biotechnology products using the text of an earlier ministerial decree issued by the Ministry of Agriculture in April 2004. The Ministry of Agriculture must approve agricultural imports that might contain transgenic material, and importers must present documents certifying that their goods do not include biotechnology 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 are subject to regulations and controls to be established by the Ministry of Agriculture.

Angola is now enforcing a 2006 law that requires labeling in Portuguese. The government enforces laws requiring production and expiration dates for perishable products. Unlabeled products can be confiscated. In practice, many imports are admitted into the country with little reference to health, testing, or weight standards, although Angolan authorities have destroyed some imported food products they alleged were contaminated or unsuitable for human consumption. These allegations in some cases were the result of poor understanding of international labeling information. Generally, Angolan standards, testing, labeling, and certification requirements have little effect on U.S. agricultural exports to Angola.

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,

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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. The government is continuing to work on the New General Law on Public Acquisition and Respective Regulations that was announced in April 2006, which will require public notice for government tenders and is expected to increase the transparency of the government procurement process.

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). Each petition for a patent that is accepted is subject to a fee that varies by type of patent requested.

Although Angolan law provides basic protection for intellectual property rights and the National Assembly is working to strengthen existing legislation, IPR protection remains weak 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 medicines, 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). 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 much foreign direct investment outside the petroleum sector or to provide sufficient protection to foreign investors. Smaller, non-extractive firms tend to have a more difficult time conducting business in Angola than larger, multinational corporations engaged in extractive industries. 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 weak legal safeguards to protect foreign investors. For example, several foreign construction companies abruptly lost their quarrying rights in 2007. In addition, 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

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Bank's "Doing Business in 2009" survey estimates that commercial contract enforcement – measured by the amount of time elapsed between the filing of a complaint and the receipt of restitution – generally takes more than 1,000 days in Angola. A law on voluntary arbitration law that would provide the legal framework for speedier, non-judicial resolution of disputes has been drafted, but not yet 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 the 2003 Law on Private Investment does not explicitly restate these prohibitions, these areas are assumed to remain off-limits to foreign investors.

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. Investment in the petroleum, diamond, and financial sectors continues to be governed by sector-specific legislation. Foreign investors can establish fully-owned subsidiaries in many sectors, but frequently are strongly encouraged (though not formally required) to take on a local partner.

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 2009" report ranked Angola at 168 out of 181 countries surveyed on time taken to register a business -- an average of 156 days compared to a regional average of 63 days. The 2003 investment law provides that ANIP and the Council of Ministers should take no more than two months to approve a contract with an investor.

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 requires many foreign oil services companies currently supplying the petroleum sector to 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 a medium level of capital investment and a higher level of expertise (not necessarily specialized), foreign companies may only participate in association with Angolan companies.

OTHER BARRIERS

Corruption

Corruption is prevalent due to rent-seeking behavior by powerful officials, vague laws protecting personal property, 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. The process to register a company is 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.

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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 delays in obtaining the proper permits or approval of projects. Investors report pressure to form joint ventures with powerful local interests. 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.

Recovering from War

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 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 \$7.5 billion in 2007 for restoration of public infrastructure to address these deficiencies.