ANGOLA

TRADE SUMMARY

The U.S. trade deficit with Angola was $3.8 billion in 2003, an increase of $1.0 billion from $2.7 billion in 2002. U.S. goods exports in 2003 were $492 million, up 32 percent from the previous year. Corresponding U.S. imports from Angola were $4.3 billion, up 37 percent from 2002. Angola is the 67th largest export market for U.S. goods. The flow of U.S. foreign direct investment (FDI) in Angola in 2002 was $822 million, up from $401 million in 2001. U.S. FDI in Angola is primarily concentrated in the petroleum sector.

IMPORT POLICIES

Tariff and Non-Tariff Barriers

Angola is a member of the WTO and the Southern African Development Community (SADC). In March 2003, Angola agreed to adhere to the SADC Free Trade protocol that seeks to facilitate trade by harmonizing and reducing tariffs and by establishing regional policies on trade, customs, and methodology. The government is reviewing the need for tariff and non-tariff barrier reduction; however, it cites a lack of resources and personnel as impediments to this effort. Due to the government’s wish to re-launch and protect its nascent industrial sector, there is political pressure to maintain tariffs.

Angola currently uses the Harmonized System Customs Code. Tariffs fall into one of six categories ranging from 2 percent to 35 percent depending on the good, with most products charged a 10 percent tariff. Additional fees include clearing costs (2 percent), VAT (2 percent to 30 percent depending on the good), revenue stamp (0.5 percent), port charges ($500/20 foot container or $850/40 foot container), and port storage fees (free for first 15 days but rarely do goods clear port within the grace period).

Import Licensing

The importation of goods into Angola requires an import license issued by the Ministry of Trade. This license is renewable every year and covers any item the importer may choose to import.

Customs Barriers

Customs regulations are opaque and often confusing after decades of incremental changes and uncoordinated updates. A new customs law is being drafted, but there is no date scheduled for its implementation, nor is public information about it available.

Required customs paperwork includes the “Documento Unico” (single document), proof of ownership of the good, bill of lading, commercial invoice, packaging list, and specific shipment documents verifying the right to import/export the product. The “Documento Unico,” introduced by Crown Agents in 2002, has reduced the number of forms that Angolan customs requires and has decreased the amount of time paperwork spends clearing customs from an average of 25 days to 5 days. However, assistance provided by customs facilitators or “despachantes” can vary greatly and have a substantial impact on the time it takes for goods to clear customs. Angola has not yet notified its implementing legislation in the WTO Committee on Customs Valuation.

Pre-shipment inspection (PSI) by BIVAC International is required for import of goods valued at more than $5,000. Imports without proper PSI documentation may be charged up to 100 percent of the value of the goods. However, art/antiques, precious metals/stones, cinematographic films, newspapers and periodic publications, and other items defined by law are generally exempted from PSI review. U.S. exporters have complained of over-valuation of goods. In September 2003, Angola announced that it would be abandoning this system in favor of local classification and valuation. No date has been given for implementation of this new process.

Certain goods require specific authorization from various government ministries, which can delay the customs process. Goods that require ministerial authorization include: pharmaceutical substances and saccharine and derived products (Ministry of Health); radio, transmitters, receivers, and other devices (Ministry of Post and Telecommunications); weapons, ammunitions, fireworks, and explosives (Ministry of Interior); plants, roots, bulbs, germs, buds, fruits, seeds, and crates/other packages containing these products (Ministry of Agriculture); fiscal or postal stamps; poisonous and toxic substances and drugs (Ministries of Agriculture, Industry, and Health); and samples or other goods imported to be given away (Customs).

Companies operating in the oil and mining industries are exempt from duty payments, with a letter from the Minister of Petroleum or Mines, when importing equipment to be used exclusively for oil and mine exploration.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Angola does not enforce any labeling law at this time. In early 2003, a law was proposed to require labeling in Portuguese but the law has not been enacted. At this time, it is only recommended, not required, that Portuguese be included on the labeling. In practice, imports are admitted into the country with little reference to health, testing, or weight standards.

GOVERNMENT PROCUREMENT

Angola is not a signatory to the WTO Agreement on Government Procurement. The Government of Angola solicits bids for supplies and services in local and international publications 15 to 90 days before the bids are due. Bid documents are normally obtained from a specific government ministry, department, or agency for a non-refundable fee. Completed bids, accompanied by a specified security deposit, are usually submitted directly to the ministry in question. The bidding process often does not meet international standards of objectivity and transparency. In addition, information about government projects and tenders is not often readily available from the appropriate authorities, and the interested parties must spend considerable time on research.

Some U.S. firms that have won bids to sell goods or services to the government or parastatal companies have experienced delays ranging from months to years in receiving payment or have received reduced payments.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Although Angola has basic intellectual property rights protection and is working to strengthen existing legislation and enforcement, current protection is weak due to lack of capacity. Intellectual property rights are regulated by the Ministry of Industry (trademarks, patents, and designs) and by the Ministry of Culture (authorship, literary, and artistic rights). Intellectual property is protected by Law 3/92 for industrial property and Law 4/90 for the attribution and protection of copyrights.

Angola is a member of the World Intellectual Property Organization and uses its international classification system to identify and codify requests for patents and for the registration of trademarks. Each petition for a patent that is accepted is subject to a fee that varies by type of patent requested. Angola recently adopted the Paris Convention for the Protection of Industrial Property. No suits involving U.S. intellectual property are known to have been filed in Angola.

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SERVICES BARRIERS

Foreign participation in the services sector is generally not restricted. The banking sector comprises the bulk of the services sector and has grown substantially over the past two years, with Portuguese banks leading the expansion. However, the financial sector remains weak due to unclear regulations, years of non-transparent spending, a large number of non-performing loans, and the inability to collect short and medium-term debt. Limited transparency in the financial sector impedes the performance of due diligence to comply with U.S. financial laws and poses a significant challenge for U.S. financial institutions doing business in Angola.

Foreign investors can set up fully-owned subsidiaries in many sectors, and frequently are strongly encouraged, though not formally required, to take on local partners. Decrees 5/95 and 6/01 limit expatriate staffing of local companies set up in Angola by national or foreign investors to no more than 30 percent of the workforce.

INVESTMENT BARRIERS

Angola is officially open to foreign investment; however, its regulatory and legal infrastructure is inadequate to facilitate direct investment and to provide protection. Although it recently created a new agency, the National Private Investment Agency (ANIP), to assist investors and to facilitate new investment, it does not yet have the resources to fulfill its mandate and suffers from a lack of trained staff. The Angolan government recently replaced the 1994 Foreign Investment Law with the Law on Private Investment (Law 11/03). Law 11/03 lays out the general parameters, benefits, and obligations for foreign investment in Angola, and recognizes that investment plays a vital role in the country's economic development. Nevertheless, the new investment law is vague on profit repatriation and does not provide strong legal safeguards to protect foreign investors. The law also does not allow for international arbitration and requires that any investment dispute be handled in Angolan courts. It is not certain when the government will produce implementing regulations that may clarify the provisions of profit repatriation or provide investors with a more defined set of investment terms.

The old Foreign Investment Law expressly prohibited foreign investment in the areas of defense, internal public order, and state security; banking activities with respect to the function of the Central Bank and the Mint; administration of ports and airports; and other areas considered by law to be the State's exclusive responsibility. Although Law 11/03 does not explicitly restate these prohibitions, these areas are assumed to be off-limits to investors. Investments will benefit from a more standardized set of incentives approved under the Law on Tax and Customs Incentives for Private Investment approved by the National Assembly in July 2003. However, it is not yet clear whether these incentives will be applied automatically or if they will be negotiated between ANIP and the investors.

Although the new investment law is part of an overall effort by the Angolan government to create a more investor-friendly environment, the process by which this and similar laws are developed is often shrouded in secrecy and generally not open to public review until already enacted into law. Many laws governing the economy have vague provisions that permit wide interpretation and application by the government across sectors. Investments in the petroleum, diamond, and financial sectors, however, continue to be governed by specific legislation.

In addition, obtaining the proper permits and business license to operate in Angola is time-consuming and adds to the cost of investing. A World Bank study published in October 2003 identified Angola as one of the five most time-consuming countries in the world to establish a business, taking 146 days compared to a regional average of 71 days. In August 2003, the government established a one-stop shop, or "Guiche

Unico", to decrease the bureaucracy and time it takes to register a company. As of the end of 2003, the "Guiche Unico" was not yet fully functioning due to a lack of funding and qualified staff.

ELECTRONIC COMMERCE

Due to the 27-year civil war, Angola has been late to join the computer and Internet development process, leaving access to computers and the Internet very low. Access to computers and the Internet in workplaces is still a rarity. Only a small number of Internet cafes exist in Luanda and a few major provincial cities, but new Internet outlets are opening on a gradually increasing basis. Five Angolan companies currently provide dial-up Internet service and several Angolan companies are now licensed to sell computers.

OTHER BARRIERS

Corruption

Petty corruption is a prevalent problem due to extremely low civil service salaries, dependence on a centralized bureaucracy and antiquated regulations dating back to the Portuguese colonial era. Procedures to register a company are complicated and, if rules are followed to the letter and no gratuities or facilitation fees paid, can take two years. This long time frame sometimes leads investors seeking quicker service and approval to pay gratuities and other processing fees. Angola's public and private companies have not traditionally used transparent accounting systems consistent with international norms. Few companies in Angola employ international audit standards. Effective in 2002, the government is requiring "large" companies to undergo audits, though it lacks the capacity to enforce this new legal requirement.

Investors have at times experienced harassment, political interference in their business dealings, 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, which is often a passive conduit. As a result, some investors have experienced significant delays in payments from government contracts and delays in obtaining the proper permits or approval of projects.

Recovering from War

Angola's destroyed or badly damaged infrastructure from its 27-year civil war substantially increases the cost of doing business. The country is only now starting to rebuild its communications, energy, transportation, and road infrastructure. Domestic and international communications, while improving, are difficult and costly. There are frequent interruptions in the power and water supplies. As a result, investors face additional costs to support their businesses, such as paying for security, back-up electricity generators, and water tanks.