SOUTHERN AFRICA GLOBAL COMPETITIVENESS HUB

Assessment of Trade Facilitation in Angola

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EXECUTIVE SUMMARY

Introduction

Trade Facilitation in the WTO context refers to the simplification of procedures and documents related to the cross-border delivery of goods. It embraces both the infrastructure and the regulatory environments that affect the movement of goods from one customs territory to another—usually, but not exclusively, across national borders. Trade Facilitation was enshrined in three original articles of the 1947 GATT. Fifty years later, in the WTO's first (Singapore) ministerial, Member States recognized that Trade Facilitation now held perhaps the greatest potential for further mitigation of obstacles to free trade. The DOHA Agenda provided additional impetus for reforms, and in 2004 the Council for Trade in Goods issued determinations on the means for clarifying the three relevant GATT articles. In October of that year, the Council established the Negotiating Group on Trade Facilitation.

The Negotiating Group focused on clarifying GATT Articles X, VIII, and V, which will lead to the establishment of a formal set of rules governing Trade Facilitation. Since then, Members have submitted hundreds of proposals for consideration, and at the time of the present assessment, the Negotiating Group had issued its "third generation" proposals—those most likely to be accepted as binding rules for all WTO Members.

The WCO, the World Bank, and the WTO Secretariat—in collaboration with UNCTAD—also created self-assessment instruments for countries wishing to evaluate their status in respect of trade facilitation. The purpose of self-assessments is to allow Members to prepare for—and participate in negotiations on—the set of rules that will evolve from the submitted proposals. Developing countries have a special stake in ensuring that the rules allow them time for adjustment and work in their best long-term interests.

The Southern Africa Global Competitiveness Hub (the Hub), a USAID-funded project headquartered in Gaborone, has responded positively to requests from the countries of the region to assist in trade facilitation assessments. Answering a request from the Government of Angola, the Hub sent a mission to Luanda in October 2006. The present report represents the observations and conclusions of the consulting team that conducted the assessment.

For its primary assessment instrument, the Hub mission prepared a trade facilitation checklist based closely on the self-assessment questionnaires devised by the WCO and the WTO. The contents derive from the proposals of the Negotiating Group for clarification of the three GATT articles under scrutiny: Article X on the Publication and Administration of Trade Regulations; Article VIII on Fees and Formalities connected with Importation and Exportation; and Article V on Freedom of Transit. In addition to their extensive documentary review, the consultants held interviews with representatives of the Customs Administration; the Port Authority; customs brokers; shipping agents and freight forwarders; the Ministries of Commerce, Industry, Agriculture, Finance, and Transport; private traders; and the donor community.

Progress in trade facilitation translates into meaningful transactional economies in the global trading system. Numerous studies indicate that transaction costs of the type amenable to improvements in trade facilitation programs represent between 2 and 15 percent of total transaction value, worldwide.

A small reduction of 2.5 percent in transaction costs could save Angola an estimated $225 million per year, and probably more could be realized.

The moment is favorable for Angola to take stock of its progress and its shortcomings in trade facilitation. Formal implementation of several important conventions and agreements, including the SADC Trade Protocol, will signal to the region and the country's trading partners in general that Angola is serious about being a full partner in the global trading system. A comprehensive understanding of the issues at stake will allow the country to participate in the deliberations of the Negotiating Group. And concrete improvements in areas identified in this report will generate economic payoffs to Angola in terms of lowered costs of consumer and intermediate goods—as well as to its non-oil exports, which should grow in the years to come.

Article X

The main objective of Article X is to attain transparency, predictability, and uniformity in the application of international trade laws, regulations, and procedures. It also seeks to ensure respect for due process in appeal procedures pertaining to customs valuation of products or other charges on imports and exports. The proposals submitted to the Negotiating Group for this article fall into five rubrics as discussed below.

First in order are proposals that call for the *publication of all trade-related regulations* and procedures of border agencies, rates of duty and taxes imposed, decisions and examples of customs classifications, import and export restrictions, fees and charges, penalty provisions, appeal procedures, and all trade agreements to which a country is party. Information must be accessible to all interested parties, domestic and foreign, in a nondiscriminatory fashion. The mission found that laws and regulatory decrees are published in the Official Gazette and are generally readily available at the government printing office. Availability of information on the Internet, however, is limited and inconsistent. In order to come into better compliance with the leading proposals for this aspect of Article X, Angola would need to determine what constitutes all trade-related information for the country. It would also need to (i) assess the reliability of the telecommunication services for connecting Luanda to all the other provinces; (ii) procure computers and create reliable official websites that would provide all the relevant information on the lines proposed by the WTO Members; (iii) ensure a sufficient supply of printed laws, regulations, and procedures in stock at the government printers; and (iv) establish enquiry desks/points within border agencies or a central enquiry point.

The second set of proposals in this article emphasizes the need for an agreed, specified *interval between publication and entry into force* of official trade-related information. In Angola, the time period between publication and implementation varies from immediate to 90 days with several intermediate options. In order to be in compliance with the proposed new rules, Angola would have to do away with the immediate enforcement provision and come up with one specific time period between publication and implementation—assuming that Members agree to a uniform time period. Further consideration could be given to replicating what is already provided for in the context of the TBT and SPS Agreements and which is also being recommended under the draft SPS Annex to the SADC Protocol on Trade.

The third set of proposals focuses on the *need for consultations* between interested parties, notably governments and the private sector, on proposed new rules and procedures to import and export,

giving the interested parties an opportunity to submit comments in writing on new rules or amendments and allow reasonable time for making comments. In Angola, a plethora of government agencies contributes to trade policy and rules, and the division of responsibilities can be duplicative and confusing, as in the case of the Ministries of Commerce and of Industry. Although the Economic Cabinet chaired by the Prime Minister is charged with overall responsibility for coordinating trade policy, the trading and the official communities are generally in agreement that effective coordination is lacking. Customs seems to be the one office that affords its stakeholder adequate opportunity to review proposed changes and to submit comment on them. The Government will need to review existing committees to determine how best to proceed with the establishment of an effective consultative mechanism. It must also consider the need to have a specific committee looking at trade facilitation issues—a recommendation proposed by some WTO members. The composition of such a committee would be very important. The authorities will also need to review the functions of the Ministries of Commerce and of Industry so as to create clear demarcations on trade-related issues and decide which agency should have the sole responsibility for formulating trade policy.

The fourth group of proposals centers on *disciplines governing advance rulings* on tariff classification, customs valuation, and applicable duties. Advance rulings are granted upon written request from an importer and are normally considered binding on customs authorities, provided the facts and circumstances on which the ruling is based remain unchanged. In Angola, advance rulings are permitted but apparently seldom used. Because at the time of the assessment mission Customs was still using the Brussels Definition of Value and awaiting formal transition to WTO/WCO-recommended transactional valuation, advance rulings are less straightforward than they might be. Their underpinnings could also become more reliable, since Angola has yet to accede to either the Revised Kyoto or to the Harmonized System Conventions. Angola should prepare to adopt the WTO Customs Valuation Agreement as soon as the new Customs Law comes into effect. Implementing the WTO Customs Valuation Agreement will bring Angola in line with the international community and in particular the Southern Africa Member States. Some technical and capacity building assistance will be necessary to train all the relevant stakeholders. In addition, Angola will need to ensure uniform application of procedures, transparency, and legal redress in case of a dispute. These seem to be contemplated in the new Customs Law.

The fifth subset of proposals for Article X envisions *Appeal Procedures* as an equitable and effective means for reviewing and correcting administrative action. The proposals seek to ensure that for imports, exports, and goods in transit, Members have an obligation to provide a nondiscriminatory, legal right of appeal against Customs and other agencies' rulings and decisions. According to Customs Officials, as well as the new Customs Law, right of appeal for imports, exports, and transit goods is a nondiscriminatory legal right against Customs' and other border agencies' rulings and decisions. There are provisions for raising complaints over administrative decisions informally, and there is a formal appeal procedure. Most private stakeholders interviewed, however, were unaware of its existence.

Article VIII

The scope of the GATT 1947 article was the nature and complexity of fees and taxes that could be charged by a customs authority. The overriding purpose of the article was to ensure that charges imposed by a Member State, along with its procedural formalities, did not constitute *de facto* protectionism. Article VIII laid down the ground rules but left open wide margins of interpretation.

Member submissions of proposals to the Negotiating Group aim at mitigating abuses of Article VIII by narrowing the margins of interpretation and suppressing ambiguities. The proposals fall into six broad rubrics as discussed below.

The first set of proposals is concerned with *fees and charges* connected with importation and exportation and requires that they not be *ad valorem*, that they be commensurate with the cost of services provided, and that an adequate time period be allowed between publication and entry into force. Though Angola would be compliant with many of the proposed new rules, it would fail to satisfy others. Its most troubling area of potential noncompliance lies in Customs' application of *ad valorem* fees, a practice that is in violation of current proposals and even of the original GATT Article. Such charges should be wholly abolished. Any change in fee structure should be published both in the Gazette and on control agencies' websites.

A second set of proposals aims at clarifying the *formalities for importation and exportation* of goods. The proposals require application of the principle of nondiscrimination, reduction in numbers of procedures and documents to the minimum necessary, periodic reviews, and adherence to international standards. There should be a uniform Customs Code, use of commercially available information and copies, automation of systems, a one-stop window, elimination of pre-shipment inspection, and a phasing out of mandatory use of customs brokers. Again, Angola has achieved considerable progress in its Customs Expansion and Modernization Program and would be nearly compliant with many of the proposals. It will move further in this positive direction once the implementing ordinances for the Customs Law are promulgated and put into practice. Among the assessment mission's recommendations to the Government for addressing the remaining issues in this set of proposals, the most compelling are:

- Simplify the overall customs formalities by reducing duplicative requirements, such as the import permits, from other agencies.

- Work towards acceptance of certified faxes and copies as well as electronic documents.

- Automate procedures to an extent that approaches the best practices of advanced developing countries. For example, *fully* automate payment of duties and taxes.

- Set up a single window only after learning the many lessons about its limitations and occasional failures from international experience and from that of the Ministry of Commerce's window.

- Negotiate acceptable terms for a phase-out period of pre-shipment inspection.

A third important set of proposals concerns the *release and clearance of goods*. These proposals require Members to maintain pre-arrival processing and special procedures for express shipments. Using modern risk assessment techniques, Members will be expected to apply simplified import and export formalities for traders who meet specific criteria. Post-Clearance Audit should be integral to the relevant procedures and should adhere to international standards. Angola currently allows pre-arrival clearance, but it is only partially implemented at present and needs to be defined clearly in the implementing regulations under draft for the Customs Code. For express shipments, Angola should enact and implement the principles contained in the *WCO Guidelines for the Immediate Release of Consignments by Customs.* Customs should also establish a formal system of creating authorized dealers who automatically qualify for accelerated clearance.

Tariff Classification is another object of submitted proposals. Angola is applying the Harmonized System on a *de facto* basis. The Customs tariff has been expanded to six digits, but Angola's adherence to rigorous, low-error tariff classification has not been verified. Angola should accede to the HS Convention and fully implement the stipulated tariff classification criteria, thus ensuring adherence to the obligations for HS Contracting Parties specified in Articles 3 and 4 of the Convention.

Article V

Article V establishes the principles of freedom of transit: Members must grant Most-Favored Nation treatment to all other Members, and they must not hinder traffic in transit by imposing unnecessary delays or restrictions or by imposing unreasonable charges. As with the other GATT Articles that most directly affect trade facilitation, Article V laid down the ground rules but left open wide margins of interpretation. Although violations of its provisions have been asserted several times, Article V has never been applied under the dispute settlement system of the GATT or the WTO.

It is important to note that at the present moment there is no significant transit traffic and cargo through Angola as a result of the extended period of civil strife leading to the destruction of the transport infrastructure. This circumstance imposed some limitations on the depth of the present assessment, since it proved impossible to conduct an operational evaluation.

Similarly to the "third-generation" proposals related to the other GATT Articles under consideration, those for Article V include *nondiscrimination and legitimate policy objectives*. Because there have been virtually no transit movements over the last thirty years, there is no current practice to review. What can be emphasized at this time, when the Government is undertaking a major transport infrastructure reconstruction program, is that procedures should be developed to facilitate transit cargo movement. It is especially important that transit charges for accessing Angola's transport infrastructure relate to the cost of such access and do not discriminate on the basis of registration of the transit vehicle. Angola should implement the recommendations of the SADC review study aimed at assisting member countries implement a harmonized regime of road user charges.

A second set of proposals relates to disciplines on *fees and charges*. Port fees, like those of Customs, are published in the Gazette along with the objectives of each fee or charge. The time period between publication and implementation varies from immediate to 90 days. It is expected that transit charges for heavy goods vehicles as well as penalties for vehicle overloading will also be published once these are established as part of the SADC road user charges harmonization project. All fees and charges applicable to transit should allow a reasonable interval before coming into force, except when justified by legitimate public policy objectives. There should be no *ad valorem* charges on transit.

A third set of proposals relates to disciplines on *transit formalities and documentation requirements*. Angola is generally compliant with the requirement to publish information on formalities and documentation requirements for imports and exports before these enter into force. Some of these formalities would apply to transit. The Port Authorities do not publish the total release time of cargo from the port, even though this information can be readily processed by the authorities and the terminal operators. Information on release times at the border posts is not readily available. Port, road, and rail formalities and documentation requirements for transit will have to be developed through transparent consultative processes and implemented after prior publication. There should also be a review of

existing regional transit agreements that could be beneficial for Angola were it to sign up. It is also critical that the emerging transit procedures take into account relevant international standards, conventions, and regional transit agreements. Other recommendations under the rubric of transit formalities include:

- The development of national regulatory requirements for sealed consignments based on Annex E, Standard 3 of the Revised Kyoto Convention.

- The establishment of public-private partnerships to facilitate transit movements and monitor performance.

- The design and implementation of bonded transit arrangements, which will be useful in lowering the cost of transit through Angola while securing fiscal revenue.

Cooperation and coordination is the subject of yet another set of proposals for Article V. The proposals refer to internal collaboration among stakeholders and cooperation between Member States. In Angola, there is a clear need for improved coordination among authorities at all ports. Once transit operations begin, it will become necessary to have disciplined mechanisms for ensuring periodic exchanges between neighboring authorities. A good example of this would be establishing corridor management groups or joint route management groups as anticipated in the SADC Protocol on Transport, Communications, and Meteorology and implemented in the Trans Kalahari Corridor.

Conclusions

Trade Facilitation offers significant benefits to business development, economic growth, and global integration. Angola is a participant in the broad WTO effort to reduce transactional barriers to trade, and its efforts are most clearly visible in the Customs Expansion and Modernization Program.

While its progress is notable, Angola nonetheless has much work ahead to bring its overall trade facilitation standards in line with those of the advanced developing countries, and it is only partially prepared to abide by the new set of rules under draft by the WTO Negotiating Group. Because those rules will be binding but will also incorporate special and differential treatment for least developed countries, the observations in this report have included both achievements and deficiencies and have noted where expert technical assistance may be advisable for bringing about the changes envisioned.

I. INTRODUCTION

Trade Facilitation Background

In the WTO context, trade facilitation has a specific rather than a general meaning. In the most basic sense, it is the simplification of procedures and documents related to the cross-border delivery of goods. It embraces both the infrastructure and the regulatory environments that affect the movement of goods from one customs territory to another—usually, but not exclusively, across national borders. Therefore, any measure that eases a trade transaction by reducing time and cost in the transaction cycle falls into the category of trade facilitation.

Within the multilateral trading arena, efforts to create rules directly related to trade facilitation go back to the original GATT articles drafted in 1946. The Customs Cooperation Council, now the World Customs Organization (WCO), was established in Brussels in 1952. During the following decades, the WCO promoted numerous international agreements and declarations, among the most notable of which are the Revised Kyoto Convention on Simplification and Harmonization of Customs Procedures (1999); the Convention on the Harmonized Commodity Description and Coding System (1988); the Istanbul Convention on Temporary Admission of Goods (1993); and the Arusha Declaration of Integrity in Customs (1993). But trade facilitation issues were partially eclipsed during the post-war decades when GATT signatories focused their attention on addressing, with considerable success, a wide range of other barriers to trade, and in forming the WTO as a member organization for promoting an international, rules-based system.

By 1996, however, it became clear that trade facilitation represented the next challenge for the international trading community. At the WTO's first (Singapore) Ministerial Conference that year, trade facilitation was added to the agenda, and the Council for Trade in Goods was mandated to undertake exploratory work on the simplification of trade procedures and to assess the scope for WTO rules. In 2001, as part of the DOHA Agenda, the Council was given more explicit instructions to pursue trade facilitation; in 2004, in what has come to be known as the "July Package," it set the modalities for negotiations on the relevant GATT articles. In October of that year, the Council established the Negotiating Group on Trade Facilitation.

The Negotiating Group had several concerns before it, but its focus was on further clarification of three GATT articles: Article X on the Publication and Administration of Trade Regulations; Article VIII on Fees and Formalities connected with Importation and Exportation; and Article V on Freedom of Transit. Its main methodology was to invite WTO Members to submit proposals for clarification or modification of these three articles. Over the next two years, the Negotiating Group received and codified hundreds of submissions. It has now created a "third generation" summary of those proposals most likely to be accepted as rules binding on all WTO Members.[1]

In collaboration with UNCTAD, the WCO, and the World Bank, the Negotiating Group also created a checklist, or questionnaire, for countries wishing to conduct self-assessments of their preparedness to live by a new set of binding rules. Several WTO Members have by now conducted such self-assessments in the area of trade facilitation, most of them contracting out the exercise and using either the Negotiating Group's checklist or one of the other assessment instruments drafted by the WCO or the World Bank. As the work of the Negotiating Group moves towards conclusion, it has become

[1] WTO document TN/TF/W/43/Rev. 10 dated August 11, 2006.

increasingly urgent for countries to contribute to the negotiations and to prepare themselves for the new set of rules. It is in this context that the Southern Africa Global Competitiveness Hub (the Hub) has responded positively to requests from the countries of the region to assist in trade facilitation assessments. The Government of Angola requested the Hub's assistance in June of 2006.

The Angola Context

The moment is propitious for Angola to take stock of its progress in trade facilitation. While the Government generally lacks a complete trade policy, it has stipulated priorities that include the diversification of exports and a certain level of protectionism for domestic industry. In 2003, it agreed in principle to adhere to the SADC Trade Protocol but continues to postpone implementation, owing at least partly to fears of inundation of imports from South Africa. In 2001, the Government launched a Customs Expansion and Modernization Project, which the WTO observes to have generated positive results.[2]

It is not only the SADC protocol that Angola has delayed signing: it has yet to ratify many of the most prominent international agreements such as the Revised Kyoto, Istanbul, and Harmonized System Conventions and the Arusha Declaration, all mentioned above. Although the Government has hesitated in formally adhering to these various conventions and agreements, in fact it is implementing most of their policies and practices. As it emerges fully from its difficult post-Independence phase of civil strife, counterproductive economic policies, and political isolation, in almost every way Angola is edging closer to full integration with the multilateral trading community. Its recognition of the need to make progress in trade facilitation signals another step in this positive direction.

Thanks to its exports of diamonds and petroleum, Angola maintains a healthy trade balance. But oil alone accounts for well over 90 percent of export revenues, and the country continues to be highly dependent on imports for everything from the most basic commodities to manufactured goods for the hydrocarbon sector. Despite a greatly rationalized tariff structure, imports remain more expensive than necessary; a significant part of this expense is related to the transaction costs associated with trade facilitation.

Worldwide, the OECD calculates transaction costs to range from 2 percent to 15 percent of total transaction value.[3] Angola certainly remains towards the high end of these estimates. But even if Angola could reduce transaction costs on imported goods by only 2.5 percentage points through improvements in trade facilitation, it could realize an annual savings of $225 million, a part of which might be allocated to expansion and further modernization of port and customs facilities.[4]

Real savings and economic growth through deeper integration with the global trading community are the primary benefits that Angola stands to gain through progress in trade facilitation. In the short-term, however, the Government will not want to find itself unprepared when new rules based on the three GATT articles become binding on all WTO Members. Angola has some remaining time to prepare for these rules and, above all, to affect their outcome by actively participating in the negotiations. There may be special exemptions for developing countries and extended periods for

[2] *Trade Policy Review Angola*. See WTO document WT/TPR/S/158.
[3] *Trade Facilitation and Business Development* (Paris: OECD, 2002), p.12.
[4] Based on 2005 value of imports of $9 billion.

implementation of certain proposals. Angola can have a hand in influencing these conditions, ensuring that they work in the nation's best interests.

The purpose of the present mission from the Hub is to provide the Government of Angola with an informational document that will assist it in negotiating effectively and in preparing for a new set of binding rules.

The Assessment Methodology

For its primary assessment instrument, the Hub mission prepared a trade facilitation checklist based closely on the self-assessment questionnaires devised by the WCO and the WTO. The contents derive from the proposals of the Negotiating Group for clarification of the three GATT articles under scrutiny. Included in an annex to this report, the checklist has a column for yes/no answers and an additional column for qualitative responses.

Several weeks before arrival of the mission, the Hub requested the Ministry of Industry to distribute copies of the checklist to approximately sixty previously identified respondents. The anticipated methodology was to complement the information provided in the returned questionnaires with direct interviews using the same instrument. The Hub had also planned for a workshop to take place during the first few days of the mission in order to explain fully the purpose of the assessment and to galvanize interest in participation.

Delays in both the workshop date and in distribution of the checklist affected the methodology. The direct interviews came to be the primary avenue for data gathering instead of being, as planned, verification and clarification of information collected from completed questionnaires. Despite certain unanticipated impediments, however, the mission was able to collect abundant information, largely through direct interviews, from representatives of the following groups:

- Customs Administration
- Port Administration
- Customs Brokers
- Freight Forwarders
- The Ministries of Commerce, Industry, Agriculture, Finance, and Transport
- Private Traders
- Donors

The research also included extensive documentary review and review of relevant legislation in the government printing and archival office (*Imprensa Nacional*).

The information gathered from all these sources allowed for a rich and comprehensive analysis of the progress, gaps, and needs of Angola in trade facilitation.

The Report

The report that follows comprises four chapters and the annexes. Each of the first three chapters covers one of the three GATT articles. Beginning with Article X and finishing with Article V, the chapters follow the sequence presented in the checklist—a reverse-order practice adopted by the Trade Facilitation Negotiating Group and replicated in the WTO and WCO data instruments. The fourth chapter draws broad conclusions and recommendations from the previous analyses and finishes with a matrix of recommendations.

The report attempts to address an audience that includes trade policy experts and customs practitioners along with stakeholders who are less familiar with the procedural intricacies of cross-border commerce or with the legal texts of the WTO. Thus, each chapter begins with a brief introduction to the history and meaning of the article covered. The assessments for each proposal then contain four sections. The first section is called *Current WTO Proposals* and presents condensations of long proposals and of groups of proposals found in the text of the primary document of the Negotiating Group, specifically in the chapter on "Third Generation" proposals. (Readers seeking the exact, full wording of the proposals are referred to the original document, accessible from the WTO website.) When the report cites a proposal without any abridgment, it notes that the statement is a verbatim text.

The next section is called *Current Status of Angola*. This section opens with a brief statement assessing the degree to which Angola would be compliant with the proposal if it were actually an accepted and binding rule. In some cases, Angola already meets all proposed conditions, while in others it would not be in conformity with them under prevalent conditions. The section continues with an analysis of Angola's status.

The third section is *Recommendations*. Here the report suggests actions that the Government of Angola might consider taking either to ensure future compliance or to participate actively in the negotiations on the particular point. The fourth and final section is called *Technical Assistance/Capacity Building* and attempts to identify those areas in which Angola could benefit from external assistance.

It is important to note that the analyses and recommendations are based on information provided by respondents, much but not all of which was subject to verification. The opinions expressed are those of the consultants alone and do not necessarily represent the thinking of the Hub or its primary donor, USAID.

The Global Competitiveness Hub Mission

The field work took place in Luanda from 14–31 October 2006. Bridget Chilala served as trade policy expert and as Team Leader. Ranga Munyaradzi, customs expert, and Evans Marowa, transportation expert, are also staff of the Hub. Donaldo Hart, a trade policy expert, is Principal of Duca Consulting International.

II. ARTICLE X

A. Discussion of Article

Article X focuses on the publication and administration of trade regulations. The main objective of this Article is to attain transparency, predictability, and uniformity in the application of international trade laws, regulations, and procedures. It also seeks to ensure respect for due process in appeal procedures pertaining to the classification or the valuation of products for customs purposes or other charges on imports and exports.

Each WTO Member was expected to implement the following, in accordance with the Article:

- Publish its trade-related laws, regulations, rulings, and agreements in a prompt and accessible manner.
- Abstain from enforcing measures of general application relating to the Customs Valuation Agreement or other charges on imports prior to their publication.
- Administer the laws and regulations in a uniform, impartial, and reasonable manner.
- Institute or maintain tribunals or procedures for, *inter alia*, prompt review and correction of administrative action relating to customs matters.

As with the other GATT 1947 Articles that most directly affect trade facilitation, Article X laid the ground rules on publication of information but left open wide margins of interpretation. During the subsequent decades, there arose many allegations of abuse of the Article among the GATT Members. As a result, in 2004, Members agreed on the need to renegotiate the Article to clarify the scope of the obligation to publish trade regulations—and to do so promptly. Members also agreed to institute disciplines requiring the establishment of prior consultation mechanisms before the enactment of trade rules and procedures, and to provide guidelines for review, appeal, and due process procedures. To date, Members have made several proposals which have been compiled by the WTO Secretariat, focusing on

- what information to publish and how such information would be made readily available
- the specific time period between publication and implementation
- the need to hold consultations and comment on new and amended rules
- provision of Advance Rulings and Appeal procedures
- other measures to enhance impartiality, nondiscrimination, and transparency

The coverage below of the current proposals by WTO Members consists in most instances of abridgments, condensations, or restatements of the actual text. A few of the proposals presented are taken *verbatim* from the compilation of proposals by the WTO Secretariat[5].

B. Trade Facilitation Proposals and Angola's Status

1. Publication and Availability of Information

Current WTO proposals:

> *The proposals suggest, among other things, what trade information needs to be published, how to publish it, and how to make it readily available. They specify which information elements should be made publicly available. In summary, the current proposals call for the publication of all trade-related regulations and procedures of border agencies, rates of duty and taxes imposed, decisions and examples of customs classifications, import and export restrictions, fees and charges, penalty provisions, appeal procedures, and all trade agreements to which a country is party. This information should be available to all governments and traders in a nondiscriminatory and convenient manner; the proposals discuss appropriate means of publishing it. They further detail how Members should notify the public and/or the WTO Secretariat on trade regulation amendments or the introduction of new regulations and call for the establishment of enquiry points to enhance the availability of trade-related information.*

Current Status of Angola

1. Publication of trade regulations. Angola has a variety of official means used to notify, publish, and make available trade-related information; all official publications are in Portuguese. Official notices on trade-related issues—namely trade-related laws which are approved by Parliament, *Decretos* approved by the Council of Ministers (Cabinet), regulations that are approved by the Ministers and issued as *decretos executivos* and *despachos*—are all published in the Official Gazette (*Diário da República*), which is printed by the government printing office (*Imprensa Nacional*). Occasionally, copies of these official documents run out and they can only be obtained from unauthorized dealers. Circulars issued by National Directors on administrative procedures are printed as hard copies by the relevant institutions or departments.

Availability of official publications on Angolan Government websites is limited. The Customs Administration (*Alfândegas*) and the Ministry of Finance publish the tariff book with MFN, preferential tariff rates and taxes, relevant laws, regulations, and procedures on their websites, in addition to publishing such information through the Gazette and the *Jornal de Angola*. Brochures and newsletters are also used to a limited extent on notice boards in public areas at Customs offices and at the airport in Luanda. Decisions on advance rulings and examples of customs classification are not published for the benefit of the public but are made available for internal use by Customs officials at all entry and exit points. Customs valuation based on transaction value is not yet in use; instead, valuation is calculated using the Brussels Definition of Value (BDV). The BDV procedures are not published. The new Customs Code that comes into effect in January 2007 incorporates provisions of the WTO Customs Valuation Agreement. However, the mission was unable to establish whether

[5] WTO Document TN/TF/W/43/Rev.10 dated August 11, 2006

Angola will then move to transaction value basis for duty calculation purposes. Angola has signed the SADC Trade Protocol and other trading arrangements but no official website publishes information on such trade agreements or arrangements to which Angola is party. No judicial decisions are published except in situations where Customs is specifically authorized to do so by the concerned party or entity. According to Customs, the February 2005 Decree that amended the Tariff Book introduced Appeal Procedures[6].

The Central Bank of Angola (*Banco Nacional de Angola*) has a website on which some limited trade-related information can be found, in particular relating to financial matters.

The Ministry of Commerce, through the *Direcçao Nacional do Comércio Interno*, publishes information limited only to domestic trade legislation, regulations, and forms. The Ministry of Industry, on the other hand, does not yet have a website. The civil war in Angola, which ended in April 2002, has contributed to the slow pace of advances in Internet technology in Angola compared to most countries in the Southern Africa region.

Fees, charges, formalities, and requirements imposed by governmental authorities in connection with importation and exportation, including quantitative restrictions, licensing, statistical services, documents, documentation and certification, analysis and inspection, quarantine, sanitation, and exchange controls are published in the Gazette. Fees and charges are not adequately published and, as mentioned earlier, most of the government institutions responsible for managing trade-related issues do not yet have websites.

The Ministry of Agriculture is responsible for administering Sanitary and Phytosanitary requirements. In September 2006, the Ministry produced an import and export procedures manual—specifically for importation and exportation of seeds—which is in line with all other SADC countries. It is intended to facilitate freer movement of seeds in the Southern African region. A copy has been given to the SADC Secretariat for circulation to all SADC member states and will eventually be placed on the SADC Secretariat website. This effort could easily be replicated for all other products that require SPS certification.

Angola maintains Pre-shipment Inspections (PSI) for a number of tariff lines—most notably food products, medicines, and second-hand cars. Such inspections are carried out by four private companies. These companies also use their websites to publish information on inspections, in addition to posting official publications.

The information on all these government websites is limited in comparison to the proposal on using the Internet to publish and make available ***all trade-related*** information.

2. Enquiry points/single national focal information centre. The Customs Administration has public relations departments that provide information on customs issues relating to importation and exportation in Luanda and in other provinces. The other border agencies do not seem to have similar structures or designated information desks like Customs. Angola's other border agencies would therefore need to establish inquiry points/desks or collectively establish a central enquiry point to meet the specific proposals for Members. Angola would also have to establish a national coordinating body for trade-related information if such a proposal constituted an element of the eventual agreement

[6] Refer to *Lei 2/05 de Fevereiro* – The *Pauta Aduaneiro* (Tariff Book)

on trade facilitation. With regard to information on investment opportunities and related issues, a one-stop centre, ANIP, located in the same building as the Ministry of Industry, provides comprehensive information. Establishing such enquiry points in Angola would not be a major challenge.

3. *Notification of trade regulations.* While Angola has a mechanism for notifying the general public when amending and introducing new measures, the WTO Members have proposed that such amendments—especially to core measures that may have significant effects on trade with other Members, interested parties, and the WTO Secretariat—should be notified to enable such parties to submit comments before finalizing the introduction or amendment. This notification should be similar to what is provided for under Technical Barriers to Trade (TBT)[7] and Sanitary and Phytosanitary (SPS)[8] Agreements.

As far as the notification provisions of the TBT and the SPS agreements are concerned, to date, Angola has only made a notification on its national notification authority[9] for TBT and SPS. Much work remains for Angola to meet the rest of the notification requirements under the SPS agreement. Notification obligations on the lines of the SPS Agreement and the TBT agreements would create additional pressure, even though this would be beneficial in adding transparency to the trading system.

In very limited cases, the Government has requested contributions from relevant stakeholders when amending or introducing new laws. Consultations on the new Customs Code, however, were much wider than is usually the case, and Customs has continued to consult on the new regulations under the new Code.

One of the challenges for Angola is to make information available electronically and in a sustainable manner given limited connectivity, erratic supply of electricity in the country as a whole and the limited availability of skilled manpower in information technology. Most governmental agencies do not have official websites on which to publish information, and those that do only publish partial information.

Recommendations:

If all the proposals on publication and availability of information were to constitute elements of the eventual agreement on trade facilitation, Angola would need, first and foremost, to review and determine what would constitute ***all trade-related*** information for Angola.

Assess how reliable the telecommunication services would be in order to connect Luanda to all the other provinces to ensure that there is reliable connectivity.

Procure computers and create reliable official websites that would provide all the relevant information on the lines proposed by the WTO Members. Fortunately for Angola, financial resources would not be a major constraint and it can acquire computers easily in comparison to other least developed countries in Southern Africa.

[7] Refer to Articles 2.9 and 2.10 of the TBT Agreement.
[8] Refer to Article 7 of the WTO SPS Agreement
[9] WTO document G/SP/NNA/8.

Ensure that there is sufficient supply of printed laws, regulations, and procedures in stock at the government printers.

Establishment of enquiry desks/points within border agencies or a central enquiry point at an ideal location and linked to all relevant border agencies.

As for notification requirements, the technical and human capacity of Angolan institutions needs to be strengthened by creating practical notification mechanisms and providing targeted training.

Technical Assistance

Angola would require technical assistance to address the recommendations above with the exception of the need to ensure that there is sufficient supply of all the printed laws, regulations and procedures at the government printers.

Train personnel to manage the websites.

2. Time Period between Publication and Implementation

Current WTO proposals

> *Proposal relates to ensuring that there is an agreed specified interval between Publication and Entry into Force.*

Current Status of Angola

Time period between publication and implementation varies from immediate to 4 days, 10 to 30 days, and 60 to 90 days. Information on when a Law or *Decreto* would take effect is announced in the Official Gazette. According to Customs, in cases where there is no specific mention in the Law or Decree of date of entry into force, Article 5 of the Civil Code (*Código Civil*, a general Law issued by the Ministry of Justice) is applied. The time period is also dependent on the subject matter of the laws. In these cases, a law comes into force on the 4th day after publication for the region of Luanda and between 10-30 days for the other provinces. The Customs Code specifies 90 days while the Tariff Book stipulates 30 days between publication and implementation. It was beyond the mission's scope to establish what permits this variation and why.

Recommendations

The different time periods between publication and implementation present a potential problem for Angola. Comparing the current situation with the proposal for an agreed specific interval, Angola would have to do away with the immediate enforcement provision, which does not provide for any time period between publication and implementation. Secondly, Angola would have to consolidate the various time periods and come up with one specific time period between publication and implementation, assuming that Members agree to a uniform time period. Angola may require a review of its existing laws to bring them in line with a requirement for a standard and adequate time period.

Further consideration could be given to replicating, for example, what is already provided for on time period in the context of the TBT and SPS Agreements[10] and which is also being recommended under the draft SPS Annex to the SADC Protocol on Trade that has since been signed by Angola.

Technical Assistance

Technical assistance will be required for Angola to review its existing laws and to establish one specific time period between publication and implementation.

3. Consultations and Commenting on New and Amended Rules

Current WTO proposals

> *The main measures proposed require that consultations be held between interested parties—notably governments and the private sector—on proposed new rules and procedures to import and export, giving the interested parties an opportunity to submit comments in writing on new rules or amendments and allow reasonable time for making comments. They also require that the information provided include a statement on the policy objective when introducing or amending existing laws or regulations.*

Current Status of Angola

According to the Trade Policy Review of 2006, economic policy in Angola is managed by the Economic Cabinet, which is chaired by the Minister Adjunct to the Prime Minister. This body normally meets weekly. The Economic Cabinet coordinates the activities of several Ministries responsible for different aspects of economic and trade policy.

The Ministries of Commerce and Industry share responsibility for most trade-related issues. The distinction is that the Ministry of Industry is responsible for and takes a lead on matters pertaining to the Southern Africa Development Community, including the implementation of the SADC Protocol on Trade, while the Ministry of Commerce is responsible for operational aspects of both external and internal trade. The Ministry of Finance, in which the Directorate-General of Customs is situated, is responsible for the management of tax policy, including setting tariff policy for Angola.

Other sectoral ministries involved in trade policy implementation include the Ministry of Agriculture and Rural Development, the Ministry of Culture (for the export of artifacts), the Ministry of Fisheries,

[10] See Annex B paragraph 5 of the Agreement on the Application of Sanitary and Phytosanitary Measures and Article 2, paragraph 2.9 of the Agreement on Technical Barriers to Trade.

the Ministry of Transport, the Ministry of Public Works, the Ministry of Geology and Mines, and the Ministry of Petroleum.

According to stakeholders interviewed, Angola does not have a well established mechanism for effective consultations. The Government recognizes the need to establish an interministerial institutional structure to execute its strategies in all areas related to trade policy, including trade facilitation, and to expand it to include consultations with private sector stakeholders.

Consultations on customs-initiated issues take place prior to introduction of new regulations, giving stakeholders an opportunity to contribute to, influence, and comment on proposed changes to either existing or new laws and regulations before entry into force. Both informal and formal meetings and workshops are used to consult with relevant stakeholders. Invitations to such events normally state the policy objectives sought by such a new law or an amendment and the stakeholders are normally informed of deadlines for submission of comments. The new Customs Code provides for consultations with the private sector when there is a need to change procedures.

The issue of contention with some stakeholders is that these consultations are not encompassing enough and that in some cases the stakeholders lack technical capacity and information to engage effectively with the Government on the issues under consultation. There was little evidence that other border agencies consult to the same degree as Customs on issues under their mandate. Most of the institutions stated that there are no consultative mechanisms to provide an opportunity for stakeholders to comment before any new laws or regulations are introduced or before changes are made.

Angolan authorities reported to the WTO Trade Policy Review that the country was planning to establish a National Executive Secretariat for the WTO-related issues that are coordinated by the Ministry of Commerce. The National Executive Secretariat will have administrative autonomy and a Multisectoral Consultative Committee. According to the authorities, this Secretariat will have the tasks of promoting, overseeing, and coordinating all activities relating to implementation of the WTO Agreements, including trade facilitation.

Recommendations

Angola will need to review existing consultative committees to determine how best to proceed with the establishment of an effect consultative mechanism. It should also take into account the need to have a specific committee looking at trade facilitation issues, as has been proposed by some WTO Members. The composition of such a committee would be a very important element to consider. The authorities will also need to review the functions of the Ministries of Commerce and Industry so as to create clear demarcations on trade-related issues and decide which ministry should have the sole responsibility for trade policy.

Technical Assistance

Angol will require technical assistance to establish an effective consultative mechanism and to review the functions of the Ministries of Commerce and Industry.

4. Advance Rulings

Current WTO proposals

> *The main proposals call for the development of disciplines on the provision of advance rulings on tariff classification, customs valuation, and applicable duties upon written request within a certain time period that "would be binding on customs authorities provided the facts and circumstances on which the ruling is based remain unchanged."*

Current Status of Angola

The World Customs Organization guidelines on advance rulings define the term as

"designating the option for customs to issue a decision, at the request of the economic operator planning a foreign trade operation, relating to the regulation in force. The main benefit for the holder is the legal guarantee the decision will be applied."

According to the Customs Administration and some stakeholders interviewed, disciplines have been established on the provision of advance rulings on tariff classification, applicable duties and taxes, and valuation based on the Brussels Definition of Value. The rulings are issued in writing and appropriate treatment is accorded to confidential information. Such rulings, however, are not made publicly available and are not time bound. The rulings are binding on Customs authorities and notice in writing is given of any modification or revocation of an advance ruling and the effective date of the modification or revocation to the Party concerned.

The Brussels Definition of Value (BDV) is what Angola currently uses for the determination of value of goods. In case of disagreement, value is established in relation to identical or similar goods exported to Angola from the same country of origin or by the same exporter. As far as tariff classification is concerned, Angola seems to be implementing the international 6-digit HS code tariff nomenclature, though it has not yet acceded to the WCO HS Convention. The mission also observed that there is increased use of principles of the Revised Kyoto Convention, although Angola is not yet a signatory to the Convention.

According to the WTO Secretariat Document on Angola's Trade Policy Review, "a new Customs Code incorporating the provisions of the WTO Customs Valuation Agreement was approved by the Council of Ministers in May 2005 and by the National Assembly in August 2005. The new Code will enter into force 90 days after the publication of the corresponding Decree in the Gazette. The entry into force of the new code will enable the adoption of the WTO valuation method."[11]

Angola is a member of the SADC, although it has not yet ratified the SADC Protocol on Trade. The country is a very active participant in Customs Committee meetings and has agreed, together with all the other countries, to extend the HS Code to 8 digits—even though Angola is currently only implementing up to 6 digits.

Similarly, with verification of the origin of goods declared for the purpose of determining applicable duties and taxes, Angola has no preferential agreements with any SADC member state. It has one simple set of rules of origin for imports from all sources—thus, all goods are treated on an MFN basis. Current customs regulations require imported goods to be accompanied by documentary proof

[11] See Angola Trade Policy Review Document Number WT/TPR/S/158, page 35.

of origin in the form of a certificate of origin or equivalent document issued by a responsible organization in the country of origin and presenting adequate guarantees.[12]

Recommendation:

It would be advisable for Angola to accede to the WCO HS Convention given that it is already implementing the system.

Angola should consider moving away from using BDV for valuation and implement the WTO Customs Valuation Agreement, as this would bring Angola in line with the international community and in particular the Southern Africa Member States. Implementing the WTO Customs Valuation, which is provided for in the new Customs Code, would entail seeking technical and capacity building assistance to train all the relevant stakeholders. The New Customs Code, once in force, will require Angola to introduce WTO Customs Valuation to replace BDV.

In addition, Angola will require an equitable application of procedures, transparency, and legal redress in case of a dispute. Customs officials should be provided with targeted training on implementing and operating advance rulings. Angola may need to develop a database for advance rulings given that it imports almost all of its consumer and industrial goods.

Angola could consider providing for submission of a request for advance ruling through clearing agents, allowing them to undertake the calculation, which would then be approved by Customs if it is to be binding on Customs. This provision would entail training clearing agents (*despachantes*) on how to determine value using transaction value, manage Advance Rulings, and maintain a database on Advance Rulings linked to the Customs database for Advance Rulings.

Technical assistance

Technical assistance will be required to bring the Angolan tariff code in compliance with the WCO HS Convetion, to implement the WTO Customs Valuation Agreement and develop a data base for advance ruling. This assistance could be provided by the current Crown Agents' project at Customs.

5. Appeal Procedures

Current WTO proposals

> *Appeal procedures provide a mechanism for reviewing and correcting administrative action so as to complement regulatory transparency. The proposals seek to ensure that for imports, exports, and goods in transit, the obligation to provide a non-discriminatory, legal right of appeal against customs and other agencies' rulings and decisions should apply.*
>
> *With regard to Release of Goods in Event of Appeal, the proposal is that "where a disputed decision is the subject of an appeal, goods should normally be released and the possibility be available, in given circumstances for duty payment to be in abeyance. This should be subject,*

[12] Decree-Law 2/05, Article 22.

where required by national legislation, to the provision of a guarantee, such as a surety or deposit." This proposal relates to Articles VIII and X.

Current Status of Angola

According to Customs Authorities, right of appeal for imports, exports, and transit goods is a nondiscriminatory legal right against Customs' and other border agencies' rulings and decisions. Provisions for traders to raise complaints concerning administrative decisions informally before moving to a formal appeal procedure exist, though most private stakeholders interviewed were not aware of their existence. It was not clear from the responses to the questionnaires whether companies or traders have a right to be represented at all stages of appeal procedures by an agent or legal representative, although Customs indicated that this is provided for in existing laws.

Some of the stakeholders interviewed did not think that they were being provided with a right of appeal for imports against Customs'—and indeed any other border agency's—rulings and decisions. Most of the companies opted to pay rather than appeal to avoid incurring additional costs and also because the appeal procedures were too onerous on them.

Angola is in the process of implementing measures to improve the judicial system. It has established the office of the Ombudsman, which is an independent public body protecting citizens' rights, liberties, and guarantees. Angola is also gradually implementing a system that has ushered in simplified, quicker, and less bureaucratic practices, thus avoiding traditional methods that are extremely slow and costly. Although considerable steps have been taken to improve the Angolan judicial system, a lot more still needs to be done in the context of the modern world.

Recommendations

Angola may need both human resources and time to introduce necessary changes to ensure compliance should the proposals be incorporated in the Trade Facilitation Agreement under negotiation.

In addition, Angola will have to ensure that, with respect to determinations of particular customs values, there is a level of administrative review independent of the employee or office that issued the determination and a right to move to a judicial review.

Technical Assistance

The U.S. Government is providing assistance to the Angolan justice sector under the Commercial Law Development Program, focusing on judicial case management and commercial code reform; once completed, it could contribute to the modernization of the judiciary system. The mission was unable to establish for certain whether this work will usher in a mechanism that will provide for a right of appeal on the lines proposed in the WTO negotiations on trade facilitation.

6. Other Measures to Enhance Impartiality, Nondiscrimination, and Transparency

Current WTO proposals

Refer to two main issues:

- ***establishment of uniform administration of trade regulations***

- ***maintenance and reinforcement of integrity and ethical conduct among officials***

With regard to uniform administration of trade regulations, the specific proposals call for the establishment of a central function within government with the primary responsibility to interpret trade regulations–e.g. those relating to customs classification or valuation.

For maintenance and reinforcement of integrity and ethical conduct among officials, the main proposals focus on the need for establishment of

- *a Code of Conduct for staff of border agencies and spelling out the rights and obligations of the public servants*

- *introduction of computerized systems to reduce/eliminate discretion exercised by officials and employees with respect to basic customs decisions*

Current Status of Angola

Customs indicated that there is a unit within the establishment with the primary responsibility of interpreting trade regulations, such as those relating to classification and customs valuation, even though Angola has not yet migrated fully to implementing the WTO Customs Valuation methods. Training for the staff responsible for interpretation of customs valuation and classification is based on casebooks.

With regard to maintenance and reinforcement of integrity and ethical conduct among officials, the Government has a *decreto executivo* on a "Code of Conduct" that spells out obligations, although most of the stakeholders interviewed did not feel it was being adhered to fully. Certain offenses committed by Customs officials, depending on their gravity, are considered criminal acts. Angola is not a signatory to the Arusha Declaration.[13]

Angola uses the TIMS system, a computerized system to reduce the discretion exercised by officials and employees with respect to basic customs decisions. The TIMS has been installed in almost all points of entry and exit. Altogether, there are 10 points using TIMS, which is being used to calculate customs duties and valuation[14]. TIMS also has a management system for enhancing accountability by being connected to the Central Bank network for the purpose of receipting and accounting for revenue collected by customs operations.

The Angolan authorities also reported that the new national Customs Code that comes into force in January 2007 incorporates a new system that would allow for the imposition of civil or administrative penalties and, where appropriate, criminal sanctions for violation of customs laws and regulations, including those governing tariff classification. There is no coordination and control mechanism, however, between the Customs Administration and organizations involved in devising ethics policies in Customs services.

[13] Arusha Declaration aims to rid countries of corruption through maintenance of a high standard of integrity throughout the civil service and particularly in the Customs.
[14] According to the Customs Authorities.

Angola does not have a system of import/rapid alerts in place. With hardly any transit trade taking place, it would not be a priority to set up such a system. The test procedures in Angola, according to Customs authorities, are provided for in the new Customs Code that comes into force in 2007, while most private sector stakeholders indicated that this was nonexistent.

Angola introduced a new Pre-shipment Inspection Scheme on 11 September 2006[15], which allows importers to select out of four companies the one they wish to inspect and certify their imports for goods that are subject to mandatory[16] and voluntary inspections. The inspections are on quality, quantity, export market prices (for foreign exchange purposes), customs classification, value for customs purposes (based on Brussels Definition of Value) and assessment of import duty; there is no minimum value subject for PSI. These inspections are done at the point of export at the request of the importer in Angola. Reinspection is conducted upon arrival at the request of Sanitary, Police, and Customs authorities, where containers seals have been broken or where goods present a risk to health, environment, and national industry or to Customs revenues collection. This selection is done at random. The information supplied by BIVAC on their website is silent on test procedures, and in particular on confirmation tests; therefore, the mission could not obtain full information on the current situation.

Recommendations

There is a need to create or build capacities to prevent and control offenses—especially those relating to Customs—in order to counter perceived corruption in the country.

[15] Executive Decrees Numbers 124/06 and 404/06.

[16] See BIVAC international website: www.bivac.com/homePage_frameset.html "Pre-shipment Inspections of Imports for Angola", for a list of mandatory products covering chapters 01 through to 36, and partially chapters 84, 87 and 95.

III. ARTICLE VIII

A. Discussion of Article

The scope of the GATT 1947 article was the nature and complexity of fees and taxes that could be charged by a customs authority. The overriding purpose of the article was to ensure that charges imposed by a Member State, along with its procedural formalities, did not constitute *de facto* protectionism. While the same rules apply to exportation, the concern of the GATT signatory states at the time focused largely on importation. Since signatory states had committed to bound tariff levels, one means of raising the level of import protection was to levy a series of fees and to make customs formalities more complex than necessary. As with the other GATT articles that most directly affect trade facilitation, Article VIII laid down the ground rules but left open wide margins of interpretation. During the subsequent decades, there arose many allegations of abuse of the Article VIII basic concepts among the GATT signatories and eventual WTO Members. As the Negotiating Group has received and codified proposals to narrow the margins of interpretation and suppress ambiguities, the current discussions fall into six main subcategories:

1. *Fees and Charges Connected with Importation and Exportation*

2. *Formalities Connected with Importation and Exportation*

3. *Consularization*

4. *Border Agency Coordination*

5. *Release and Clearance of Goods*

6. *Tariff Classification*

The presentations below of the Negotiating Group's current proposals in most instances are abridgments, condensations, or restatements of the actual text. A few of the proposals presented are taken *verbatim* from the Third Generation Proposals of Revision 10.

B. The Negotiating Group and Angola's Status under Article VIII

1. Fees and Charges Connected with Importation and Exportation

Current WTO proposals:

> *Fees and charges shall only be imposed for services provided in direct connection with the specific importation or exportation in question or for any formality required for undertaking such importation or exportation. Fees and charges shall not exceed the approximate cost of the service provided, and they shall not be calculated on an* ad valorem *basis. Information on fees and charges shall be published, and an adequate time period shall be accorded between the publication of information on new or amended fees and charges and their entry into force except when justified by legitimate public policy objectives.*

Current Status of Angola

Angola would be compliant with some aspects of the proposals but not with others.

Angola's most troubling area of potential noncompliance lies in Customs' application of *ad valorem* fees. *Ad valorem* assessments—levied as a percentage of the value of goods—are in violation of current proposals and even of the original GATT article. The problem with *ad valorem* fees is that, in effect, they become tariffs disguised as service charges. To avoid raising the effective level of

protection, fees and charges for the clearance of imported goods should be limited to compensating the cost of delivering a service. Of the several charges that Angolan Customs levies at present, they expect to abolish the following three: (i) a stamp duty, which is *ad valorem*; (ii) travel subsidies, which are fixed by distance; and (iii) personnel charges, which represent fixed-cost service charges.[17] They will continue to charge a sales tax (*imposto de consumo*) and General Customs Service Fees (*emolumentos gerais aduaneiros*). The former is a tax, not a fee, and the latter is intended not to be *ad valorem,* although at present it is levied at two percent of the applicable duties.[18] There are specific and published calculations of the travel and personal service charges, although it is not clear that they represent the cost of services. In any event, these will be eliminated as separate charges and the costs they are meant to cover will be included in the General Customs Service Fees. Additional charges are levied by the Port Authority, the Ministry of Commerce, and other agencies.

Information about the taxes and fees charged by Customs and Port Authorities is fully available in the Official Gazette (*Diário Nacional*). References to the Gazette number and the codification of the decree or directive can be found on the website of the Ministry of Finance.[19] The information is available only in Portuguese. While the proposals on this subcategory of Article VIII are silent on the language required, in general the Negotiating Group has called for publication in at least one of the official WTO languages, which do not include Portuguese.

Recommendations

Enact one of the two following options:

> *1. Eliminate all* ad valorem *taxes and fees associated with services for the clearance of goods*. This is the express intention of the Government. While the new Customs Code is silent on the subject, the draft regulations will address the issue of charges. This option is preferable, as it would leave Angola in a position of full compliance with this aspect of Article VIII.
>
> *2. Ensure that all fees are commensurate with the actual cost of the service provided.*

Make the actual law or decree available through the website. Furthermore, ensure that the information on the site is complete. At present, for example, the wholly revised Customs Code is not mentioned on the website. Although publication was recent, its importance would argue for its immediate inclusion.

Technical Assistance

Angolan Customs should have sufficient technical capacity at its disposal, through its own staff and through the experts assigned to it by Crown Agents, to effect the suggested recommendations.

2. Formalities Connected with Importation and Exportation

Current WTO proposals

> *In its application of customs formalities, procedures, and documentary requirements, Members shall apply the principles of nondiscrimination, limit formalities to the minimum necessary, and conduct periodic reviews of procedures and requirements Formalities should adhere to international standards and best practices. There should be a uniform customs code, use of commercially available information, automation of systems, a one-stop window,*

[17] *Imposto de selo, subsídios de transporte e deslocação, emolumentos pessoais*.

[18] The WTO 2005 "Trade Policy Review" for Angola (WT/TPP/S/158, page 41) notes that the sales tax functions as an effective increase to tariffs.

[19] The full path to this information is : http://www.minfin.gv.ao/alfan/arqalfan/200607a.htm

elimination of pre-shipment inspection, and a phasing out of mandatory use of customs brokers. There should be an option to return goods to an exporter.[20]

Current Status of Angola

Angola already meets many conditions contained in the full proposals but would not be compliant with others.

The following analysis will look at each of the ten most significant requirements in the proposals in sequence.

1. *Nondiscrimination*. In applying to importation and exportation the principles of nondiscrimination, i.e. MFN and national treatment, Angola appears to be fully compliant.

2. *Periodic Review of Formalities / Procedures and Requirements*. Angolan Customs continues to move through an internal reform process assisted by an in-country presence of experts associated with the UK-based consultancy, Crown Agents. The evidence of its periodic reviews of formalities can be found in the numerous new laws and directives that have been published in the Gazette and in Customs' own information bulletins.[21] The publication of a wholly new Customs Law is a major step toward in-depth review. Angola would be regarded as fully compliant with this proposal.

3. *Reduction / Limitation of Formalities/Procedures and Data/Documentation Requirements*. The essence of this proposal is that formalities and documentary requirements should be limited to the minimum necessary and should not create obstacles to trade efficiencies. Internal customs practices do not reveal excessive formalities. The picture changes, however, if one looks at the whole system of importation and exportation: the Ministry of Commerce has mandatory licensing procedures in which a permit is required for each individual shipment. The permits themselves must be accompanied by a series of documents that become redundant with those required by Customs. Angola is progressing but would be vulnerable to criticism of noncompliance in this area.

4. Use of *International standards and best practices.* While it is increasingly using the principles of the Revised Kyoto Convention, Angola is not a signatory to it. Nor has Angola formally acceded to the Harmonized System, which it has nonetheless effectively applied since 1999. Although a WTO Member since 1996, Angola has not yet implemented the Customs Valuation Agreement. At the time of the present mission, Angolan Customs continues to use the Brussels Definition of Value. Its transition to the WTO transactional system of valuation has been accepted in legislation but will require time to implement fully. Customs now uses a single administrative document (SAD, *o documento único*) which is in an internationally accepted format. Angola is progressing slowly to adherence to generally accepted international standards and best practices.

5. *Uniform Customs Code*. While Angola is a Member of SADC, it is not fully implementing the SADC Protocol on Trade. It could therefore not be established if a uniform Customs Code or aligned Customs legislation had been introduced in terms of the SADC Protocol.

6. Acceptance of Commercially Available Information and of Copies. Neither the Customs nor the concerned ministries—most notably the Ministry of Commerce—accepts faxes or even authenticated copies of documents related to importation or exportation. Angola is not following international best practices in this regard. In certain instances (pre-arrival clearance), Customs may accept copies provided that the originals are presented within a specified time. Even with electronic submission of

[20] Not included here are proposals related to customs unions and to specific testing procedures. The former are not relevant at this time, while the present research was incomplete to answer the latter.

[21] Now in its fourth year, the *Boletim Informativo da Direção Nacional das Alfândegas* is an attractive publication that contains various news items of interest to the trading community and also lists any new circulars or directives.

the SAD, original documents are required. It was not possible to ascertain with other Agencies the status of Acceptance of Commercially Available Information and of Copies.

7. *Automation*. Automation of clearance procedures is underway through the TIMS Computer Program (*The Information Management System)* but remains both precarious and partial. There is no Wide Area Network and Customs offices are not connected with each other electronically. Traders and brokers cannot key in their importation declarations (SAD) electronically, but a new facility has been developed whereby they can submit the declarations on diskette or other external storage device, and there are two computers installed for public use within the Customs offices at the Port of Luanda. There is no electronic communication with other agencies involved in clearance, and there is only partial automation of payment. Angola is not truly automated in light of contemporary standards for a modern customs operation.

8. *Single Window (*guiché único*) / One Time Submission*. Customs predicts the establishment of a single window within two years. At present, there is no such facility.

9. *Elimination of Pre-shipment Inspection*. Since 2002, Angola has progressively modified its original mandatory requirement of 100 percent inspection.[22] Importers may now select, at their choice, one of four accredited firms for inspection and may decline pre-shipment services for goods exempted from compulsory inspection. Because the proposals include clauses allowing as yet unspecified numbers of years for adhering to the condition of elimination, Angola would not be considered in violation of the rule.

10. *Phasing Out Mandatory Use of Customs Brokers*. As with pre-shipment inspection, Angola has made several changes to the use of brokers: competition in the sector has been opened with at least 70 brokers for a trader to choose from at this time, and large firms are allowed to have their own internal customs brokers (*caixeiro despachante*), who must go through the same certification process as external brokers. The new Customs Code is unequivocal in regard to the noncompulsory use of brokers. Article 34 reads: "Any person who has the right to use or dispose of the goods in question has the right to make the clearance declaration himself."[23] Article 35 states that customs clearance may be carried out by the importer (*o interessado*) or by his representatives. In fact, however, through practice and possibly through the implementing regulations that are being drafted, the mandatory use of brokers will be continued. Angola would not be considered in violation of the rule if the draft proposal that allows least developed countries to benefit from a long phase-out period is accepted.

Recommendations

Accede to and fully implement provisions of WCO Revised Kyoto Convention, WCO Istanbul Convention, and WCO HS Convention.

Submit to the WTO the new national valuation legislation and regulations and any reservations to the provisions of the Valuation Agreement in terms of Articles 12 and 20 of GATT Article VII.

Implement the SADC Protocol on Trade provisions on harmonized Customs procedures.

Simplify the overall customs formalities by reducing duplicative requirements, such as import permits, from other agencies.

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[22] See *Decretos 34/02, 5/04, 41/06, despacho 124/06, decreto executivo 124/06,* and *despacho 404/06*. The essential information in these decrees was also transmitted through the Customs Bulletin. The Customs Code, however, is silent in regard to pre-shipment inspection.

[23] Author's translation. The actual text is: *Qualquer pessoa que tenha o direito de dispor das mercadorias tem o direito de agir como declarante.* This text is in itself a translation of Article 3.7 of Revised Kyoto.

Work towards the use of certified faxes and copies as well as electronic documents.

Upgrade Customs computers and make automation approach the best practices of advanced developing countries. For example, *fully* automate payment of duties and taxes.

Set up a single window only after learning the many lessons about its limitations and occasional failures from international experience and from that of the Ministry of Commerce's window.[24]

Prepare to negotiate acceptable terms for a phase-out period of pre-shipment inspection.

Technical assistance

Upgrading or procurement of computers and capacity building to support automated payment of duty, fees / charges, Wide Area Network, and Electronic Data Interchange.

Capacity building and development of basic guidelines for the creation of a single window system.

3. Consularization

Current WTO proposal

> *A Member shall not require a consular transaction, including any related fee or charge, in connection with the importation of any good.*

Current Status of Angola

Angola will be fully compliant with the proposal.

Consularization refers to the practice of some countries to require a statement or certification from a consul or other embassy officer related to the commercial invoice, export declaration, or other export document before shipment to the importing country (represented by the consul). The practice has never been condoned in the WTO and is little used today. It has not received much attention in the trade facilitation negotiations; the proposal presented by the U.S. and Uganda—reproduced *verbatim* above—calls for its full elimination and is likely to be accepted unconditionally.

Consularization is not an issue for Angola, since the Government requires no consular documents for importation of goods.

4. Border Agency Coordination

Current WTO Proposal:

> *A Member shall endeavor to encourage its authorities and agencies involved in border controls to cooperate and coordinate in order to facilitate trade by, among other things, converging import and export data and documentation requirements and establishing a single location for one-time documentary and physical verification of consignments.*

Current Status of Angola

[24] The Ministry of Commerce has a *guiché único* ideally located on a large commercial boulevard. Although it is welcomed by the business community, its effectiveness is reported to be compromised by the lack of decisional authority of the staff posted to it by the several concerned ministries.

Angola meets various conditions specified in the text of the proposal but falls short on others.

As the current proposal is articulated with several enfeebling conditions ("endeavor," "encourage"), Angola would be considered compliant insofar as its intentions are concerned. The reality on the ground is more complex. There are monthly meetings coordinated by Customs with various border agencies, especially those under the Ministries of Justice and of the Interior. Although Customs and the Port of Luanda coordinate effectively, it could not be ascertained what the position is at other stations, as they were not visited. The situation is reflective of the overall dispersion of authorities in the area of international trade, where four ministries contribute—without adequate coordination—to the formulation of trade policy and where up to seventeen statutory bodies can be involved in the importation and exportation processes of the trade facilitation.[25]

As the primary entity responsible for the importation and exportation of goods, Customs is often held accountable for delays or data issues that lie outside its control. While there is good coordination for unloading and release of goods between Customs and the Port of Luanda, ports in Angola operate under the authority of the Ministry of Transport, while Customs is a department of the Ministry of Finance. Adding to the difficulty of coordination, the Port of Luanda, which clears 86 percent of incoming goods, operates under private concession. Customs maintains offices at the Port, but there is no electronic exchange of data between the two entities.

There is also no electronic exchange of information between the Customs Administration in Luanda and the satellite offices at border posts and other seaports.

Angola currently has two operational border posts fully manned by Customs, one at Santa Clara on the border with Namibia, and the other in Cabinda on the border with the Democratic Republic of the Congo. The border post with Zambia is not manned by Customs. The operational hours at Santa Clara and Cabinda are coordinated with Namibia and DRC respectively. The Angolan seaports manned by Customs are Luanda, Lobito, Namibe, and Cabinda.

As noted in the section above on "Formalities Connected with Importation and Exportation," Angola does not have a single window for customs facilitation purposes. The Customs Administration does, however, plan to create such an entity concomitantly with an electronic information system.

Recommendations

Establish a Border Post Management Committee, or Advisory Body, spelling out its functions and mandate. This practice has proved successful in developed and advanced developing countries.

Update and re-format the "Importers' Guide" (*Guia Breve para Importadores*). This useful document, which is available on the Internet,[26] was last updated in 2003. The act of updating and modernizing it as a user-friendly guide for all importers should require a full examination of the importation clearance process and not be limited just to Customs. It can be a first step to a full analysis of the institutional complexities involved.

Move prudently but steadily towards electronic exchange of information with all ports and border posts. In only a few instances will infrastructure represent a real obstacle. A robust EDI system is not required—only desktop computers and access to the Internet. While overall institutional coordination is being worked on, Customs with the port authorities can achieve their own workable systems.

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[25] The ministries contributing to trade policy are those of Finance, Commerce, Industry, and Planning. The stakeholders in trade facilitation include these ministries and many internal departments as well as the Ministry of Health and the Ministry of Agriculture.

[26] The website of the Ministry of Finance. See http://www.minfin.gv.ao/alfan/arqalfan/20030601.htm.

Technical Assistance

Assistance will be required to upgrade the infrastructure and IT Systems at main seaports and at land borders with Namibia, Democratic Republic of the Congo, and Zambia.

A qualified expert can advise on the establishment of a Border Post Management Committee or Advisory Body.

5. Release and Clearance of Goods

Current WTO proposals

> *Members shall maintain or introduce pre-arrival processing and expedite procedures for express shipment. Using modern risk assessment analysis techniques, Members shall apply simplified import and export formalities for economic operators which meet specific criteria. Members shall adopt the relevant international standards and instruments as a basis for Post-Clearance Audit. They shall also separate release from clearance procedures. Members shall measure and publish their own average time for the release of goods in a consistent manner on a periodic basis, based on the WCO Time Release Study and shall endeavor to continuously reduce such average release times.*

Current Status of Angola

Angola would be largely compliant, meeting many, but not all, conditions contained in the full proposals.

The following analysis will look at each of the requirements in the proposals in sequence.

1. *Pre-Arrival Clearance*. The proposals rest on WCO guidelines and the Revised Kyoto Convention (Standard 3.25).[27] The intention is to allow clearance to occur immediately upon arrival of goods, since the declaration will already have been processed. According to Customs and traders, this facility exists in Angola for certain highly reliable importers. (There is also pre-lodgement for perishables.) Pre-Arrival Clearance is inadequately defined under the new Customs Code and only partially implemented at present, but it is likely to become a clause in the regulations under draft for implementation of the Customs Code.[28]

2. *Expedited Procedures for Express Shipments.* Angola informally follows the Universal Postal Union guidelines in clearing express shipments but has not implemented the principles contained in the *WCO Guidelines for Immediate Release of Consignments by Customs (*formerly the *Guidelines for Express Consignments Clearance).* Because Angola has not signed the Revised Kyoto Convention, it does not observe the relevant WCO guidelines for urgent consignments. Generally, however, immediate clearance is authorized for shipments with a value of under US$100.

3. *Risk Management/Analysis, Authorized Traders*. There is agreement among Customs officials and traders that risk management is being implemented through the TIMS computer program and by an internal commercial investigation unit (*Unidade de Investigação Comercial)*, but there are no systems or simplified procedures in place for Authorized Traders.

4. *Post-Clearance Audit*. Post-clearance audits are intended to create feedback loops into the risk analysis system: where an audit reveals full compliance, the importer's risk profile improves or is

[27] "National legislation shall make provision for the lodging and registering or checking of the Goods declaration and supporting documents prior to the arrival of the goods."

[28] Pre-arrival clearance is not mentioned explicitly in the Code but appears to be foreseen in Article 51, which deals with customs regimes.

unaffected; where an audit shows elements of noncompliance, the importer's risk profile suffers. The new Customs Code (Article 63) provides the legislative basis for conducting post-clearance audits but does not define how they should be used as part of the overall risk-assessment system. In Angola, the practice officially began with the new Customs Tariff Book (*Pauta Aduaneira*) in 2002, which included instructions on the means and justifications. Customs has an internal Post-clearance Audit Unit.

5. *Separating Release from Clearance Procedures*. The intention of the proposals is to allow an importer to obtain the release of goods prior to meeting all requirements by providing sufficient guarantee in the form of a surety or deposit. Implementation requires a system by which goods may be released from the custody of Customs before final payment of duties or resolution of customs matters. Angola uses three methods of pre-clearance release: (i) in the event of an incomplete declaration, in which case the importer is allowed 15 days to complete the formality; (ii) anticipated release in cases for which there are special requirements; and (iii) express release for inflammable or perishable goods. A sound reputation with Customs is a prerequisite for an importer to use any one of these methods. Cash deposits are the only form of surety allowed at present. The trading community suggests that pre-clearance release is known but little used.

6. *Establishment and Publication of Average Release and Clearance Times.* The proposals say that this self-assessment should be "continuous" or "periodic" and based on the WCO's Time Release Study. Angola Customs has not conducted the WCO Time Release Study, but they do publish their own figures derived from TIMS. Their data show the number of days it takes a Customs Broker to lodge clearance documents with Customs after arrival of a ship at Luanda Port (average 16 days) and the time the document takes to go through all Customs procedures (average 2–3 days). The time taken by the Port Authorities to release cargo after all Customs formalities are completed is not measured, but importers put this figure at three weeks or more. Customs has published these figures in its information bulletin.

Recommendations

Create and implement the regulatory framework for pre-arrival clearance. This facility is found in all fully modern customs administrations and is integral to clearance efficiencies. With its TIMS system, its risk management abilities, and its trained officials, Angolan Customs has the means at its disposal to make pre-arrival clearance more easily available to the trading community.

Enact and implement the principles contained in the *WCO Guidelines for the Immediate Release of Consignments by Customs.* An Express Division could initially be established within the Luanda Customs Region to deal with all express shipment matters. These principles will result in savings in time and related costs for traders engaged in international trade and will help Customs to focus its attention on higher value consignments.

Establish a formal system of creating certified, or authorized, dealers who automatically qualify for accelerated clearance. Their accreditation notwithstanding, these traders remain subject to pre and post-clearance audits.

Establish an interagency committee which will review all trade facilitation bottlenecks that are highlighted in the Customs generated data on the time taken to clear goods.

Technical Assistance

Technical assistance may be required to set up an express clearance system, to conduct a full-scale Time and Release Study, and to do capacity building for the auditing functions.

6. Tariff Classification

Current WTO Proposal:

> *Members shall apply criteria for the tariff classification of goods so that their classification decisions are not arbitrary or unjustifiable and do not constitute a disguised restriction on international trade. Furthermore, decisions on tariff classification which are based on the Harmonized Commodity Description and Coding System of the World Customs Organization shall be presumed to comply with the requirements that they not be arbitrary or unjustifiable.*

Current Status of Angola

Although it has not yet acceded to the WCO Harmonized Commodity Description and Coding System (HS Convention), Angola is applying the system on a *de facto* basis. Their Customs tariff has been expanded to six digits, but Angola's adherence to rigorous, low-error tariff classification has not been verified.

The emphasis on tariff classification is the reduction of error. Classification error may be inadvertent or deliberate. Errors may occur in Customs offices, at pre-shipment inspection, or with brokers. They can be the result of understaffing, poor training, occasional misunderstanding, or deliberate trade restriction. They can result in lost revenues to the government, trade diversion, or increased costs to importers and consumers.[29]

The EU has proposed adoption of the HS by all WTO Members, while New Zealand emphasized only that use of the HS provides greater credibility ("presumed to comply") to a Member's tariff classifications.

Recommendations

Angola should accede to the HS Convention and fully implement the tariff classification criteria stipulated therein. These steps would ensure adherence to the obligations for HS Contracting Parties specified in Articles 3 and 4 of the Convention.

[29] A report on India revealed as high as 30 percent classification error. (Sachin Chaturvedi, "An Evaluation of the Need and Cost of Selected Trade Facilitation Measures in India" (Asia-Pacific Research and Training Network on Trade Working Paper Series, No. 4, March 2006), p.15.

IV. ARTICLE V

A. Discussion of Article

The scope of the GATT 1947 article was the freedom of transit. The overriding purpose of the article was to allow for freedom of transit through the territory of each Member for transport to or from the territory of other Members. The main obligations under GATT Article V are

- not to hinder traffic in transit by imposing unnecessary delays or restrictions or by imposing unreasonable charges
- to grant Most Favored Nation (MFN) treatment to transit goods of all Members.

As with the other GATT articles that most directly affect trade facilitation, Article V laid down the ground rules but left open wide margins of interpretation. Article V has never been applied under the dispute settlement system of the GATT or the WTO. Violations of its provisions have been asserted several times, but without any of these cases ever leading to the issuing of a panel report. As the Negotiating Group has received and codified proposals to narrow the margins of interpretation and suppress ambiguities, the current discussions fall into one of five subcategories:

1. *Non-Discrimination and Policy Objectives*

2. *Disciplines on Fees and Charges*

3. *Disciplines on Transit Formalities and Documentation Requirements*

4. *Improved Coordination and Cooperation*

5. *Operationalization and Clarification of Terms*

Following the typology of the present report, the summaries of the Negotiating Group's current proposals in most instances represent abridgments, condensations, or restatements of the actual text in Revision 10.

B. Third Generation Proposals and Angola's Status under Article V

It is important to note that at the present moment there is no significant transit traffic and cargo through Angola as a result of the extended period of civil strife leading to the destruction of the transport infrastructure linking Angola to the landlocked countries of the region. Angola is currently implementing a major infrastructure reconstruction program that includes the transport infrastructure. As a result, transit traffic will become a key market for the ports of Angola and the road and rail transportation sectors.

1. Nondiscrimination and Policy Objectives

(a) Strengthened Nondiscrimination

Current WTO Proposals

> "*Members shall not apply discriminatory measures to goods in transit, or to vessels or other means of transport of other Members, for non-commercial reasons. This does not exclude the right to resort to the exceptions already laid down in WTO Agreements, for valid reasons and provided that the measure concerned does not constitute a disguised restriction on international trade*".

"*National Treatment: With respect to all laws, regulations, requirements and procedures affecting the internal passage of traffic in transit across the territory of a Member, and all fees and charges imposed on or in connection with transit, including transportation charges ("transit fees and charges"), and without prejudice to the legitimate customs control and supervision of goods in transit, each Member shall accord to traffic in transit to or from the territory of any Member, treatment no less favourable than that accorded to domestic goods, exports and imports, and their movement.*

Most Favored Nation treatment: With respect to all laws, regulations, requirements, procedures and fees and charges, including transportation charges, on or in connection with transit, each Member shall accord to traffic in transit to or from the territory of any other Member treatment no less favourable than the treatment accorded to traffic in transit to or from any third country.

Treatment following transit: Each Member shall accord to products which have been in transit through the territory of any other Member treatment no less favourable than that which would have been accorded to such products had they been transported from their place of departure to their destination without going through the territory of such other Member. Any Member shall, however, be free to maintain its requirements of direct consignment existing on the date of the GATT 1994 in respect of any goods in regard to which such direct consignment is a requisite condition of eligibility for entry of the goods at preferential rates of duty or has relation to the Member's prescribed method of valuation for duty purposes."

Current Status of Angola

Because there have been virtually no transit movements over the last thirty years, there is no current practice to review. If the approach on the current procedures applied to imports and exports is applied on transit procedures, then Angola would be deemed to be compliant to these proposals. The various government control agencies (such as Customs, Ports Authorities, Railway Authorities, Road Agency, and Directorate of Road Transport) are undergoing reforms and reviewing their procedures, which will take account of the re-emergence of transit traffic through Angola.

Recommendations

While transport infrastructure reconstruction is in progress, it is necessary that transit procedures be developed to facilitate transit cargo movement. Such procedures should be compliant with the above principles. In particular, the transit charges for accessing Angola's transport infrastructure should relate to the cost of such access and not discriminate on the basis of registration of the transit vehicle.

Technical Assistance

SADC is currently conducting a transit road user charges review study to assist member countries in implementing a harmonized regime. Angola should fully participate in this scheme.

(b) Legitimate Policy Objectives

Current WTO Proposals

"*Members recognize that the legitimate public policy objectives set out in GATT Articles XX and XXI, including in relation to national security, health, safety and the environment, shall not be compromised in any way. To that end, Members recognize that the general and security exceptions provided for in GATT Articles XX and XXI shall be fully applicable.*

Any Member may require that traffic in transit through its territory be entered at the proper customs house without prejudice to the other commitments on transit."

Current Statusof Angola

The ports of Angola are in the process of implementing measures to be compliant with the International Ship & Port Facilities Security (ISPS) Code of the International Maritime Organization, which means that systems have been put in place to facilitate secure flow of exports, imports, and transit traffic and cargo. Similarly there are measures being implemented to comply with the International Maritime Organisation's Convention on Facilitation of International Maritime Traffic (FAL Convention).

Recommendations

It is important that systems for management of legitimate policy objectives such as health, safety, security, and environmental management be effectively implemented in a manner that reflects clear and consistent procedures for transit traffic and cargo.

Technical Assistance

Technical assistance may be required by the various control agencies operating along the transit routes from ports of entry to ports of exit to implement sound environmental, health, safety, and security management systems. In particular assistance mey be required to ensure comprehensive implementation of the ISPS Code an the FAL Convention.

2. Disciplines on Fees and Charges

(a) Publication of Fees and Charges and Prohibition of Unpublished ones

Current WTO Proposals

"*Publication: Members shall publish information on all transit fees and charges. This Information shall include the reason for the transit fee or charge (the service provided), the responsible authority, the transit fees and charges that will be applied, and when and how payment is made. Members shall make this information readily available to all interested parties and inform other Members where this information is available. The information shall be published via an officially designated medium, and where feasible and possible, official website.*

Prior publication: Members shall accord an adequate time period between the publication of information on new or amended transit fees and charges and their entry into force except when justified by legitimate public policy objectives."

Current Status of Angola

Port and Customs fees and charges are published through the Official Gazette along with their objectives. However, information on these fees and charges is not easily available, and most regulatory agencies responsible for control of trade and transit do not have websites. The time period between publication and implementation varies from immediate to 4 days, 10–30 days, 60 days, and 90 days. There does appear to be some consultation prior to introduction or amendment of fees and charges. The port fees and charges currently in place for imports and exports are likely to be applicable to transit traffic once it starts passing through Angola.

Recommendations

It is expected that transit charges for heavy goods vehicles as well as penalties for vehicle overloading will also be published once these are established as part of the SADC road user charges harmonization project.

All fees and charges that would be applicable to transit should be published in adequate time before coming into force except when justified by legitimate public policy objectives. It is important to ensure adequate availability of published documents and to create functional websites that are maintained up-to-date with information regarding fees and charges.

Technical Assistance

No technical assistance would be required to publish fees and charges. However, technical assistance may be required in establishing and maintaining well functioning websites.

(b) Periodic Review of Fees and Charges

Current WTO Proposals

> "*Periodic review: Each Member shall periodically review its transit fees and charges to ensure that they are in line with WTO commitments and with a view to consolidating them and reducing their number and diversity.*"

Current Status of Angola

There is some review of fees and charges on exports and imports and it is expected that the same approach would be applied to transit traffic and cargo.

Recommendations

It will be important to get clarity on the frequency of periodic reviews that would be incorporated in the emerging trade facilitation agreement at the WTO and then establish disciplined mechanisms for conducting such review. It is worth noting that consolidating and reducing the number and diversity of fees and charges will complicate the formulae for calculating the cost of services rendered in terms of parameters to be incorporated in those formulae.

Technical Assistance

Technical assistance may be required in consolidating fees and charges to reduce their diversity and stipulate transparent parameters for determining the level of the fees and charges.

(c) More Effective Disciplines on Charges for Transit – Reduction / Simplification

Current WTO Proposals

> "*Members shall exempt traffic in transit from customs duties, transit duties and other fees and charges, except transit fees and charges that are commensurate with the cost of the service rendered. Any transit fee and charge shall:*
>
> - *Be reasonable, having regard to the conditions of transit;*
> - *Not be charged with respect to consular services or the equivalent;*
> - *Only be imposed for transit services provided in direct connection with the specific transit movement in question or for any formality required for undertaking such importation or exportation;*
> - *Not exceed the approximate cost of the transit service provided;*
> - *Not be calculated on an ad valorem basis.*"

Current Status of Angola

The port charges applied to exports and imports are generally compliant with the above proposals, while the *ad valorem* customs fees are clearly not compliant. Should the same charges be applied to transit traffic and cargo, then Angola would be generally compliant, save for the *ad valorem* customs fees, which should not be levied on transit.

Recommendations

It is critical that Angola review all current charges that would be levied on transit traffic to ensure that they are commensurate with the actual cost of the services rendered to transit. A case in point would be to apply the recommendations of the SADC road user charges harmonization project.

Technical Assistance

The various government control agencies that have the responsibility of levying fees and charges on transit should have in-house capacity to review them, but may need to get specialist technical assistance for some highly technical calculations; such is the case with the ongoing SADC road user charges harmonization project.

(d) Periodic Exchange between Neighboring Authorities

Current Status of Angola

The level of periodic exchange currently in place between Angolan officials and the neighbors on its operational borders needs to be clarified.

Recommendations

Once transit operations begin it will become necessary to have disciplined mechanisms for ensuring periodic exchanges between neighboring authorities. A good example of this would be establishing corridor management groups or joint route management groups as anticipated in the SADC Protocols on Trade and on Transport, Communications and Meteorology and implemented in the Trans Kalahari Corridor. A good place to begin would be across the Santa Clara border post with Namibia, where the Government of Namibia is already keen to collaborate with the Government of Angola.

Technical Assistance

No technical assistance is required to implement periodic exchange of fees and charges with neighboring authorities.

Some technical assistance may be required to facilitate the establishment of functional corridor or route management groups across the transit routes.

3. Disciplines on Transit Formalities and Documentation Requirements

(a) Publication

Current WTO Proposals

> "*Publication: Members shall publish all transit formalities and documentation requirements, and regional transit agreements or arrangements. Members shall make this information readily available to all interested parties and inform other Members of where this information is available. The information shall be published via an officially designated medium, and where feasible and possible, official website.*

Prior publication: Members shall accord an adequate time period between the publication of new or amended transit formalities and documentation requirements and their entry into force except where justified by legitimate public policy objectives. Transparency of transit release time: Each Member shall periodically publish the average time for release of traffic in transit at main points of entry and exit using tools such as the WCO Time Release Study."

Current Status of Angola

Angola is generally compliant with the requirement to publish information on formalities and documentation requirements for exports and imports before these enter into force. The time period between publication and implementation varies from immediate to 4 days, 10–30 days, 60 days, and 90 days. Some of these formalities would apply to transit. Customs at the Port of Luanda do track the customs release time but it is not apparent to what extent this information is widely available. The Port Authorities do not publish the total release time of cargo from the port, even though this information can be readily processed by the authorities and the terminal operators. Information on release times at the border posts is not readily available.

Recommendations

Port, road, rail and Customs formalities and documentation requirements for transit have to be developed through transparent consultative processes and implemented after prior publication.

Technical Assistance

As Angola has not been handling transit movements for about thirty years, technical assistance may be required to support the revamping of transit procedures including the review of existing regional transit agreements/arrangements to which it may be beneficial for Angola to sign up.

(b) Periodic Review

Current WTO Proposals

"*Each Member shall periodically review its transit formalities and documentation requirements to ensure that they are in line with WTO commitments and with a view to consolidating them and reducing their impact on trade. Such reviews shall allow for the participation of all interested parties and, as appropriate, may be held at a regional or international level*."

Current Status of Angola

Owing to the fact there have been no transit movements for the past thirty years, the formalities would not have been periodically reviewed.

Recommendations

Port, road, rail, and Customs formalities and documentation requirements for transit have to be developed through transparent consultative processes and implemented after prior publication.

It will be important to get clarity on the frequency of periodic reviews that would be incorporated in the emerging trade facilitation agreement at the WTO, and then to establish disciplined mechanisms for conducting such review of transit formalities and documentation requirements.

Technical Assistance

As Angola has not been handling transit movements for about thirty years, technical assistance may be required to support the revamping of transit procedures including the review of existing regional transit agreements/arrangements to which it may be beneficial for Angola to sign up.

(c) Reduction/Simplification

Current WTO Proposals

"*Special border crossing facilities for transit*: *Traffic in transit shall not be subject to any unnecessary delays or restrictions and shall be granted expedited and simplified treatment at border crossing points, including sea, fluvial and air ports or inland terminals as applicable. As far as possible, physically separate transit lanes shall be made available for traffic in transit.*

Members shall ensure that traffic in transit through their territory is not subject to any unnecessary delays, restrictions, inspections or controls. Transit formalities and documentation requirements shall be reasonable having regard to the conditions of transit, applied uniformly and be not more trade restrictive than necessary to achieve the legitimate public policy objective pursued. For traffic in transit, Members shall provide for:

- *The processing of transit documents and data prior to the arrival of the transiting consignment;*
- *The use by traders of commercially available information, documents and data wherever possible, including as part of transit declarations;*
- *The progressive establishment of a single window for traffic in transit.*

Current Status of Angola

While currently there is no transit traffic through Angola, excessive delays are being experienced in clearing imports through the land ports and the airport. These same delays would affect transit trade and traffic as there are no special facilities dedicated for transit.

Angola has planned missions to other countries to evaluate how the single window system has been implemented with a view to implementing it in Angola.

Recommendations

As Angola develops its transit procedures, consideration should be given to establishing separate facilities for processing transit traffic so as to facilitate its speedy clearance at the major transit ports of entry/exit.

It is imperative that these delays be eliminated, especially before transit operations begin. Failure to do so would invariably lead to unnecessary delays to transit. In order to comply with the proposals, the new transit procedures should provide for

- pre-arrival processing of transit documentation and data
- acceptance of commercially available information, data and documentation
- progressive implementation of a single window system

Technical Assistance

Technical assistance will be required to implement the single window system.

(d) Harmonization/Standardization

Current WTO Proposals

"*Use of international standards: Members shall draw upon international standards and instruments*[30] *as a basis for transit formalities and documentation requirements, where such standards and instruments exist, except when they would be an inappropriate or ineffective means for the fulfillment of the legitimate objectives pursued*."

"*Common customs documentation and procedures: For goods entering a Member under customs transit procedure, Members should accept commercially available information, including as part of transit declarations. Contracting parties to regional transit agreements or arrangements should agree on common, simplified documents that are aligned with international standards. In both cases, Members involved in transit shall allow the same set of documents to accompany the consignment from the country of departure to destination.*

Members should give careful consideration to the possibility of acceding to international instruments relating to Customs transit[31]*. Alternatively, they shall consider, when drawing up bilateral or regional agreements with a view to setting up international Customs transit procedure, the Standards and Recommended Practices of the Specific Annex E of the Revised Kyoto Convention*."

Current Status of Angola

The review of Customs Law has taken into account the principles of international standards and documentation with respect to exports and imports, and some of these will be applicable to transit.

Recommendations

As Angola is in the process of implementing reforms in Customs and transport legislation, it is critical that the emerging transit procedures take into account relevant international standards, conventions, and regional transit agreements in which it is a key transit territory. The relevant standards and conventions are summarized in footnote 1 as well as the SADC Trade and Transport Protocols and other relevant agreements of CEMAC, of which Angola is a member.

Technical Assistance

Technical assistance to implement common transit regimes with neighboring countries may be required with possibilities for electronic acquittal of transit.

(e) Promotion of Regional Transit Agreements or Arrangements

Current WTO Proposals

"*Members shall promote bilateral and regional transit agreements or arrangements which are consistent with all other commitments on Trade Facilitation and with a view to reducing trade barriers. Members agree to cooperate and coordinate in designing and applying bilateral and regional transit agreements or arrangements. Members shall take full account of international*

[30] International standards and instruments on transit include the Specific Annex E of the International Convention on the Simplification and Harmonization of Customs Procedures (the Revised Kyoto Convention), the UN TIR Convention, the ATA Convention, the Istanbul Convention, the International Convention on the harmonization of frontier controls of goods, the UN Layout Key for documentation and the WCO Data Model.

[31] E.g., the UN TIR Convention or equivalent.

standards and instruments when designing and applying those agreements or arrangements. It is recommended that such agreements or arrangements go beyond customs matters which are relevant in the context of transit, such as road and transport issues. Members shall not enforce unilateral rules affecting traffic in transit which are not in accordance with the bilateral or regional transit agreements or arrangements in which they participate. Members participating in regional transit agreements or arrangements shall give positive consideration to reasoned requests to participate by other Members who meet the requisite participation criteria."

Current Status of Angola

Angola is a member of SADC and CEMAC but has not implemented any of the regional transit regimes, nor has it signed regional transit agreements with its neighbors.

Recommendations

Angola should implement the relevant transit agreements of these regional economic communities in a manner consistent with the provisions of the WTO agreements to which it has committed. Angola does have bilateral agreements with the Democratic Republic of the Congo and Namibia and should implement these to promote transit movements.

Technical Assistance

Technical assistance to implement common transit regimes with neighboring countries may be required with possibilities for electronic acquittal of transit.

(f) Simplified and Preferential Clearance for Certain Goods

Current WTO Proposals

"*Members shall use risk management techniques to enable any inspections to be targeted on the basis of the degree of risk attached to individual consignments. This shall include the establishment of authorized trader schemes which grant simplified treatment to traders with a good track record of compliance with transit formalities and documentation requirements. In designing and applying transit formalities and documentation requirements, Members shall take account of the inherent characteristics of the goods concerned.*"

"*Formalities adjusted to the specificities of the goods in transit: Members shall adapt the treatment of goods in transit to the expected degree and nature of the hazard, whether fiscal, sanitary or security related, that can be derived from the characteristics of goods in transit. Categories such as "normal goods," "dangerous goods," "perishable goods," and "sensitive goods" may be established at national level together with related procedures and shall be made publicly available.*"

Current Status of Angola

Currently, risk management is selectively applied to exports and imports using the TIMS system developed by Crown Agents. There are no formally established authorized trader schemes.

Recommendations

This system will have to be enhanced and applied to transit traffic. Likewise, the transit formalities would need to take special account of the characteristics of the goods in transit.

Technical Assistance

Technical assistance may be required to implement transparent authorized trader systems.

(g) Limitation of Inspections and Controls

Current WTO Proposals

> "*Members shall limit physical inspections of goods in transit to the case where circumstances may require them. Consignments secured by customs seals shall not, as a general rule, be subjected to customs examination. No quality control and no veterinary, medicosanitary or phytosanitary inspection shall be imposed on goods in transit, except in cases where risks have been identified. This shall not prevent customs from carrying out spot checks on the goods, based on risk management. Only when customs consider such measure indispensable in relation with the characteristics of the goods as referred in Article [2] shall they (i) require goods to follow a prescribed itinerary; or (ii) require goods to be conveyed under customs escort surveillance. Normally customs shall not impose such treatment to sealed consignments conforming with the national regulatory requirements*[32]."

Current Status of Angola

Currently, risk management is selectively applied to exports and imports using the TIMS system developed by Crown Agents. It is expected that Angola would apply a similar risk management approach for transit traffic inspections with suitable risk profiles for such transit.

Recommendations

Angola should develop a risk management regime for inspection of transit traffic, having regard to the risk profile of the transit as well as the sealing arrangements of the transport units conveying such transit cargo.

The national regulatory requirements for sealed consignments should be based on Annex E, Standard 3 of the Revised Kyoto Convention.

Technical Assistance

Technical assistance may be required in developing suitable risk profiles for the transit traffic and cargo once transit operations resume.

(h) Sealing

Current WTO Proposals

> *Goods under transit procedure must be appropriately identified to stop any fraudulent importation of goods: As a general rule, identification of these goods is ensured by sealing. In addition to this classic function of seals, electronic seals have been developed to provide for the detection and tracking of goods.*

Current Status of Angola

It is expected that once transit movements resume, they will move in transport units meeting the Customs sealing requirements.

[32] Members shall consider using Annex E, Standard 3 of the Revised Kyoto Convention as the basis for the national requirements on seals and fastening.

Recommendations

The national regulatory requirements for sealed consignments should be based on Annex E, Standard 3 of the Revised Kyoto Convention.

Technical Assistance

No technical assistance would be required to enforce the developed national sealing requirements.

(i) Cooperation and Coordination on Document Requirements

Current WTO Proposals

The proposal calls for coordination of documentation requirements among all authorities involved with traffic in transit within each Member.

Current Status of Angola

There is not much interagency coordination of documentation requirements for imports and exports in order to facilitate trade. It is expected that the same problem will reflect on transit traffic once it resumes in Angola.

Recommendations

It is recommended that an interagency trade facilitation committee be established to review all trade facilitation operational bottlenecks and documentation requirements with a view to converging requirements and, if possible, implementing single location, one-time document submissions.

Technical Assistance

Technical assistance may be required in facilitating establishment of an interagency trade facilitation committee.

Technical assistance will also be required to establish a single window system for submission of documents.

(j) Monitoring

Current WTO Proposals

> "*Recognizing the importance of efficient implementation of such transit agreements or arrangements, the parties of such regional agreements or arrangements are encouraged to incorporate measures relating to the monitoring of transit into their agreements or arrangements. Such measures can foresee inter alia the appointment of national transit coordinators; performance indicators (e.g., target clearance times) or public private partnerships to manage and monitor the arrangement*."

Current Status of Angola

At present, Angola is not participating in any transit agreements/arrangements; hence, there is no performance monitoring of the transit arrangements.

Recommendations

It is recommended that Angola establish public-private partnerships aiming at institutional solutions to facilitate transit agreements and arrangements with suitable performance monitoring mechanisms.

Technical Assistance

Technical assistance may be required in facilitating the establishment of such public-private partnership institutional arrangements.

(k) Bonded Transport Regime/Guarantees and International, Regional or National Customs Guarantee System

Current WTO Proposals

"*In order to avoid provisional taxation while securing revenue in case of inland diversion of goods, Members shall operate bonded transport regimes that allow the transit of goods through the territory of Members without payment of customs duties, taxes or other charges subject to the provision of an appropriate guarantee Members shall ensure that guarantees required from transit operators are:*

- *Designed and applied on a regional or international basis to as great an extent as possible;*
- *Released promptly and in full after the completion of the transit operation.*
- *Guarantees shall be renewable for subsequent consignments once a previous one is proved to have reached its destination. No fees and charges shall be imposed in relation to the use of bonded transport regimes and guarantees except for those directly related to the approximate cost of any service provided*."

Current Status of Angola

There are no bonded transit arrangements because there is no transit traffic through Angola. SADC is in the process of developing a harmonized bonded transit regime to be piloted on one of the SADC corridors. Angola should therefore take a keen interest in this development with a view to implementation after it has been successfully piloted.

Recommendations

It is recommended that bonded transit arrangements be designed and implemented in anticipation of the resumption of transit movements through Angola. These bonded transit arrangements will be useful in lowering the cost of transit through Angola while securing fiscal revenue. Consideration should be given to implementing the SADC transit regimes.

Technical Assistance

Technical assistance will be required to implement the bonded transit guarantee schemes, especially the regional ones.

4. Improved Coordination and Cooperation

(a) Amongst Authorities

Current WTO Proposals

> "*Members shall ensure cooperation and coordination between all concerned authorities and agencies in their territory to facilitate traffic in transit. Members shall ensure cooperation with other Members on issues of traffic in transit, including with regard to standardizing transit formalities and documentation requirements and coordinating operations of border crossings. To this end, neighboring Members shall, as far as necessary, meet periodically to discuss and come to an understanding on the fees and charges, formalities, legal requirements and practical operation of transit regimes relating to goods moving in transit between them*."

Current Status of Angola

There is a clear need for improved cooperation and coordination amongst authorities in order to improve current operations at all ports. This need will become even more critical once transit traffic by surface transport through Angola commences.

Recommendations

Once transit operations begin, it will become necessary to have disciplined mechanisms for ensuring periodic exchanges between neighboring authorities. A good example would be establishing corridor management groups or joint route management groups as anticipated in the SADC Protocol on Transport, Communications, and Meteorology and implemented in the Trans Kalahari Corridor. A good place to start would be across the Santa Clara border post with Namibia, where the Government of Namibia is already keen to collaborate with the Government of Angola.

Technical Assistance

Some technical assistance may be required to facilitate the establishment of functional corridor or route management groups across the transit routes.

(b) Between Authorities and the Private Sector

Current WTO Proposals

> "*Members shall provide opportunities for interested traders to comment on the transit regime and its operation, including with regard to the introduction of new or amended transit fees and charges, and transit formalities and documentation requirements, with a view to minimizing unnecessary delays and restrictions on traffic in transit*."

Current Status of Angola

There is some consultation with the private sector with regard to import and export procedures but the mechanisms need to be more disciplined; they should be strengthened and applied in the same manner with respect to transit formalities, documentations, and fees and charges.

Recommendations

The recommended corridor and route management groups in a) above should be public-private partnership arrangements to facilitate coordination and collaboration between the public and private sectors.

Technical Assistance

Some technical assistance may be required to facilitate the establishment of functional corridor or route management groups across the transit routes.

5. Operationalization and Clarification of Terms

Current WTO Proposals

"Scope:

Definition of traffic in transit: Goods (including those moved via fixed infrastructure, inter alia pipelines, baggage and the personal belongings of the person operating the means of transport), and means of transport, shall be deemed to be in transit across the territory of a Member when the passage across such territory is only a portion of a complete journey beginning and terminating beyond the frontier of the Member whose territory the traffic passes. Traffic of this nature is termed 'traffic in transit' irrespective of (i) trans-shipment, short-term storage, breaking bulk, or change in the mode of transport, and (ii) whether the goods or means of transport, after passing across a territory of a Member, return to the territory of a Member in which they originate or through which they have previously transited.

Exception: *The provisions of this [Article] shall not apply to the operation of aircraft in transit, but shall apply to air transit of goods (including baggage).*

Freedom of transit:

Freedom of transit and routes most convenient for international transit: There shall be freedom of transit through the territory of each Member via the routes most convenient for international transit. Traders have the freedom to choose the route subject to any reasonable restrictions imposed by Members consistent with paragraph 4. No distinction shall be made which is based on the choice of means of transport, the flag of vessels, the place of origin, departure, entry, exit or destination, or any circumstances relating to the ownership of goods or means of transport.

Transit formalities and documentation requirements:

Transit formalities and documentation requirements are all laws, regulations, requirements and procedures on or in connection with transit."

Recommendations

Clarity on the above terms will make implementation of transit arrangements by WTO Members more coherent once Members have committed themselves to the proposed measures. It is therefore recommended that Angola accept these definitions, which are aimed at clarifying the terms related to transit used in the proposed trade facilitation agreement.

V. CONCLUSIONS

Trade Facilitation—the simplifying and harmonizing of documents and procedures for moving goods across national borders—offers significant benefits to business development, economic growth, and global integration. Angola is actively participating in this modern evolutionary process, and nowhere are the country's efforts more visible than in the Customs Expansion and Modernization Program. This focused and medium-term effort has already generated numerous positive results, among which are a lowering of duties and a rationalization of the tariff structure, an increase in revenues to the Treasury, the formation of specialized investigative and audit units in Customs, training accompanied by higher standards of integrity and performance for officials, and an entirely new Customs Law.

While the progress achieved is promising, Angola has much work ahead to bring its overall exportation and importation standards in line with those of the advanced developing countries, and it is only partially prepared to abide by the new set of rules under draft by the WTO Negotiating Group on Trade Facilitation. Because those rules will be binding but will also incorporate special and differential treatment for least developed countries, the observations in this report include both achievements and deficiencies and note where expert technical assistance may be advisable for bringing about the changes envisioned.

In accordance with the mandate of the Negotiating Group, this assessment has focused on Articles X, VIII, and V of the GATT and on the "third generation" proposals of the August 2006 Revision 10 of the Negotiating Group's collection of Member proposals. The most salient observations and conclusions of the present mission's assessment can be summarized as follows.

Article X. The emphasis of Article X is on transparency, availability, and uniformity of trade-related information. It promotes the establishment of national enquiry points, electronic as well as paper publication, the even-handed administration of trade law, and the right of traders to judicial process for appeal.

The present assessment has disclosed strengths and weaknesses—but also notable improvements—in Angola's status with respect to the rules being proposed. On a positive side, all laws and executive decrees, along with ministerial ordinances, are published in the Gazette and are available to the public at the government printing office. The time period between publication and implementation is also clearly stipulated. There is an appeals process and the new Customs Law has greatly clarified the issues of offenses and rights of appeal.

There remain, nonetheless, gaps between actual practice and the Member proposals as they are being codified in near-final form by the Trade Facilitation Negotiating Group. Among the widest gaps is the paucity of information available through the Internet. Many ministries have no websites at all. Both Customs and the Ministry of Commerce provide considerable information on their sites, but they are not necessarily updated consistently; further, the information provided, while welcome and useful, is incomplete. At the government printing office—which offers no Internet access or internal computerized searches—copies of the relevant Gazette are occasionally out of stock. Technical assistance will be required to develop fully responsive websites; however, an even more important phase must precede such development—a review and a determination of what constitutes trade-relevant information in Angola, since it is spread among numerous ministries and internal departments.

The Government also needs to address several other issues for the purpose of arriving at greater conformity with the impending new trade facilitation rules. These include harmonizing the times between publication and implementation of trade rules in conformity with the new proposals, clarifying advance rulings, and implementing clear appeals procedures. Angola continues to make progress in its dissemination and administration of trade regulations. The main obstacle to progress in the future may be the dispersed nature of trade administration within the Government. The establishment of a National Secretariat for WTO compliance may prove a necessary step to achieving full compliance with the impending new rules.

Article VIII. Customs administrations are the primary focus of Article VIII, which above all is concerned with the nature of fees and charges levied in customs offices and with the procedural and documentary formalities of importation and exportation. Again, owing largely to the efforts expended under the Customs Expansion and Modernization Program, Angolan Customs has already contributed significantly to improvements in trade facilitation, and we have enumerated several of these in the introduction to this chapter. But economic agents and their intermediaries, as well as Customs officials themselves, acknowledge that much work remains to be done.

Although fees and charges are clearly published—and the calculations behind them are known and available—, the fact that several *ad valorem* charges remain effective places Angola in noncompliance with the recent proposals as well as with the original 1947 article. Officials in Luanda are well aware of the situation and have already moved to improve the structure of charges.

In the area of customs formalities, Angola has again made great strides towards modernization. It has opened up competition among clearing agents (brokers), done the same with pre-shipment agents, and reduced the number of tariff lines for which PSI is mandatory; it has introduced a completely revised and modern Customs Law, applies regulations on a nondiscriminatory basis, and is implementing the terms of the most relevant international conventions, such as the one governing tariff coding. Where formalities for importation and exportation remain excessive, the problems lie largely outside of Customs and with other agencies that mandate special requirements for international commerce: the Ministries of Commerce, Industry, Health, and Agriculture constitute a non-exhaustive list. Resolving this sort of concern will be the work of the Economic Cabinet or other special entity formed to address trade issues.

Formal adherence to several of the conventions whose terms Angola already largely implements—the Harmonized System, Revised Kyoto, Istanbul—are steps the Government should take to signal to world trading partners that the country is serious about its full integration into the global trading community. The expansion of automation within Customs and the establishment of an effective single window are steps that Customs itself can and should take with qualified technical assistance.

Customs also has control over further efficiency gains in the clearance and release of goods. It should advance continuously towards full automation of clearance procedures, make risk assessment a formal process used for every shipment, and expand the use of pre-clearance release of goods. By adhering to Revised Kyoto, Angola would fully implement the *WCO Guidelines for Immediate Release of Consignments by Customs*, an area in which its practices lack clarity and consistency.

Article V. Freedom of transit, along with the transparency and administration of trade rules and the workings of customs, is a core agenda of trade facilitation. The most important issues are those of nondiscrimination and the transparency and reasonableness of transit formalities, including charges.

As the discussion in Chapter IV suggests, an *assessment* of transit status in Angola in operational terms is premature, since as a consequence of the protracted civil war and the virtual destruction of road and rail infrastructure, there simply is no significant transit traffic through the country. Angola is, however, currently implementing a major infrastructure reconstruction program which includes the transport infrastructure. As a result, transit traffic in the future will become a key market for the ports of Angola.

Notwithstanding the current virtual absence of transit cargo in the country, there are positive indications that future regulations will adhere closely to WTO standards. It is likely, for example, that nondiscriminatory formulations currently applied to customs operation will shape those governing transit. Furthermore, Angola is active in SADC and is nearly certain to adhere to its transit regulations, including the eventual determinations of the SADC road user charges harmonization project. The ports of Angola are in compliance with the provisions of the International Maritime Organization.

Given the current transitory situation, what is important for Angola is to begin immediately the codification of transit regulations that, to the maximum extent possible, are in harmony with international and regional standards. The establishment of joint corridor or route management groups with other SADC countries would be an excellent initiative for which there is no need to delay. The border with Namibia, especially at the Santa Clara post, affords a promising location to begin such an effort.

The following matrix of recommendations is organized by article and, to a large extent, by the discussions of each article in the main body of this report. The matrix includes most, but not all, recommendations, condensing them in a summary phrase. The final column suggests the degree of priority attention that should be accorded the corresponding recommendation. It presents three alternatives: "I" signifies highly important and "Immediate," suggesting that the recommendation must be addressed and in the very short term. "E" signifies "Essential," meaning that the recommendation must be considered, but normally only after those marked "I." "R" denotes "Recommended" and is the lowest priority given.

The matrix in no way is intended as a substitute for a close reading of the text in the preceding chapters.

Schedule of Recommendations

Proposal Rubric	Recommendations	Implementing Agency	Tech Assist	Priority
ARTICLE X				
Publication and Availability of Information	• Review and determine what would constitute ***all trade-related*** information for Angola. • Assess feasibility of connecting Luanda to all the other provinces through the telecommunication services. • Create official websites to provide all the relevant information on the lines proposed by the WTO Members. • Ensure a sufficient supply of printed laws, regulations, and procedures at the government printers. • Establish enquiry points within border agencies or a central enquiry point linked to all relevant border agencies.	Ministry of Commerce Ministry of Communications All border agencies Government Printers Economic Cabinet /Inter-ministerial	Yes Yes Yes None Yes	E E E I R
Notification requirements	Create practical notification mechanisms in Angolan institutions and provide targeted training.	Border Agencies	Yes	I
Time Period between Publication and Implementation	• Abolish the immediate enforcement provision. • Establish one specific time period between publication and implementation consonant with proposals from Member States. • Consider replicating the time period in the context of the TBT and SPS Agreements and the draft SPS Annex to the SADC Protocol on Trade.	Economic Cabinet Economic Cabinet Ministry of Commerce/Econ. Cabinet	None Yes None	I I I
Consultations and Commenting on New and Amended Rules	• Establish an effective consultative mechanism along with a trade facilitation committee as proposed by some WTO Members. • Review the functions of the Ministries of Commerce and Industry to create clear demarcations on trade-related issues.	Ministries of Commerce and Industry Economic Cabinet	Yes Yes	I E
Advance Rulings	• Accede to the WCO HS Convention. • Implement the WTO Customs Valuation Agreement. • Offer equitable application of procedures, transparency, and legal redress in case of a dispute. • Develop a database for advance rulings. • Consider allowing clearing agents to request for advance rulings.	Finance/Customs Ministry of Commerce/Finance/ Customs Finance/Customs Finance/Customs Finance/Customs	Yes Yes None Yes None	E E R R R
Appeal Procedures	Ensure a level of independent administrative review with respect to determinations, especially in regard to customs valuation.	Finance/Customs	None	E
ARTICLE VIII				
Fees and Charges Connected with Importation and Exportation	• Eliminate all *ad valorem* taxes and fees associated with services for the clearance of goods OR negotiate with the WTO for retention of the General Customs Service Fees to continue as *ad valorem* for a determined period. • Ensure that all remaining fees are commensurate with the actual cost of the service provided.	Finance/Customs Finance/Customs	None	E E

Proposal Rubric	Recommendations	Implementing Agency	Tech Assist	Priority
Formalities Connected with Importation and Exportation	• Accede to and fully implement provisions of WCO Revised Kyoto Convention, WCO Istanbul Convention, and WCO HS Convention.	Ministry of Commerce	Yes	E
	• Submit to the WTO the new national valuation legislation and regulations and any reservations to the provisions of the Valuation Agreement in terms of Articles 12 and 20 of GATT Article VII.	Ministry of Commerce	None	I
	• Implement the SADC Protocol on Trade provisions on harmonized Customs procedures.	Ministry of Industry	None	I
	• Simplify the overall customs formalities by reducing duplicative requirements, such as the import permits, from other agencies.	Interministerial	None	R
	• Work towards the use of certified faxes and copies as well as electronic documents.	Interministerial	None	R
	• Progress towards full automation of customs procedures; for example, *fully* automate payment of duties and taxes.	Customs	Yes	E
	• Establish a single window based on internal and international experience.	Customs	Yes	E
	• Prepare to negotiate acceptable terms for a phase-out period of pre-shipment inspection.	Finance/Customs	None	R
	• Consider the option of negotiating favorable terms for a phase-out period of the compulsory use of brokers.	Customs	None	R
Border Agency Coordination	• Establish a Border Post Management Committee, or Advisory Body, spelling out its functions and mandate.	Interministerial	None	R
	• Update and re-format the "Importers' Guide" (*Guia Breve para Importadores*).	Customs	None	R
	• Move prudently but steadily towards electronic exchange of information with all ports and border posts.	Customs	Yes	E
Release and Clearance of Goods	• Create and implement the regulatory framework for pre-arrival clearance.	Customs	Some	E
	• Enact and implement the principles contained in the *WCO Guidelines for the Immediate Release of Consignments by Customs*. An Express Division could initially be established within the Luanda Customs Region to deal with all express shipment matters.	Customs	None	E
	• Establish a formal system for certifying or authorizing dealers who automatically qualify for accelerated clearance.	Customs	None	R
Tariff Classification	Accede to the HS Convention and fully implement the tariff classification criteria stipulated therein.	Communications/ Customs	None	I
ARTICLE V				
Nondiscrimination and Policy Objectives	Develop comprehensive transit procedures compliant with the nondiscriminatory principles of MFN, National Treatment, and post-transit treatment expressed in Article V.	Inter- Ministerial		I
Legitimate Policy Objectives	Ensure implementation of legitimate policy objectives such as health, safety, security, and environmental management in a manner that reflects clear and consistent procedures for transit traffic and cargo.	Interministerial		E
Publication of Fees and Charges and Prohibition of Unpublished Ones	Publish transit charges for heavy goods vehicles as well as penalties for vehicle overloading once these are established as part of the SADC road user charges harmonization project.	INEA	Yes	E
	(See also Article X recommendations)	Interministerial	Yes	E
More effective Disciplines on Charges for Transit – Reduction/Simplification	• Review all current charges that would be levied on transit traffic to ensure that they are commensurate with the actual cost of the services rendered to transit.	Interministerial		E
	• Apply the recommendations of the SADC road user charges harmonization project.	INEA		E
	(See also Article VIII: "Fees and Charges")			

Proposal Rubric	Recommendations	Implementing Agency	Tech Assist	Priority
Periodic Exchange between Neighboring Authorities	• Establish joint corridor or route management groups as anticipated in the SADC Protocol on Transport, Communications, and Meteorology. • Start with the Santa Clara border post with Namibia.	Interministerial Interministerial		E E
Disciplines on Transit Formalities and Documentation Requirements	• Develop port, road, and rail formalities and documentation requirements for transit through transparent consultative processes; implement after prior publication. • Ensure that new transit procedures provide for pre-arrival processing of documentation and data and for acceptance of commercially available information. • Make certain that the emerging transit procedures are compliant with Annex E of the Revised Kyoto Convention as well as with the UN TIR, the ATA, and the Istanbul Conventions, the International Convention on the Harmonization of Frontier Controls of Goods, the UN Layout Key for documentation, and the WCO Data Model.	Interministerial	Yes	I
Promotion of Regional Transit Agreements or Arrangements	Implement the relevant transit agreements of SADC and CEMAC.	Interministerial		E
Limitation of Inspections and Controls	Develop a regime for inspection of transit traffic based on the risk profile of the transit as well as the sealing arrangements of the transport units conveying the cargo.	Customs	Yes	I
Sealing and Bonded Transport	• Base national regulatory requirements for sealed consignments on Annex E, Standard 3 of the Revised Kyoto Convention. • Implement the SADC transit regimes, especially in respect of bonded transit arrangements.	Customs Interministerial	 Yes	I E

N.B. The codification for the Priority column is as follows: I = highly important and immediate, the top priority; E = essential but not immediate; R = recommended.