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PROPERTY RIGHTS AND RESOURCE GOVERNANCE

ANGOLA

OVERVIEW

From 2005 to 2009, Angola's GDP growth annually exceeded 10%, one of the highest rates in the world. In 2009, Angola became Africa's largest oil exporter, sending 75% of its output to the United States and China and generating US \$24 billion or more in annual revenues. The country is believed to have huge petroleum reserves off its coast and should be able to sustain its oil economy for decades. However, in the view of many observers Angola's political and economic future rests on the government's ability to use its oil-based wealth to facilitate broader job-creation and income-generation, with a particular focus on enabling Angolans to better use the country's extensive agricultural resources. In order to do so, significant improvements in the governance of the oil resources are necessary, including: greater transparency and accountability, less corruption, and a fiscal regime that would enable the government to redistribute revenues to the benefit of the 18 million Angolans, most of whom now live on less than US \$2 a day.

Such a rebalancing of the economy would require significant public investments to extend infrastructure and social services (including education and healthcare) into rural areas. Financial and other services (some through the private sector) would enable rural households to expand the scale and productivity of their smallholder farms. The government's recent efforts to attract foreign investors into the agriculture sector reflect its recognition of the importance of developing the non-oil economy and bringing new capital and technology into the sector, as well as the relative abundance of agricultural resources that the country has to offer.

Less than half of Angola's population now lives in a rural area almost twice the size of Texas, so it is generally assumed that access to arable land is not problematic. However, issues of Angolans' access to land and security of tenure have arisen repeatedly in the nation's history. These issues have included: (1) encroachment of outsiders onto land claimed by local residents – initially the Portuguese in the colonial era and following the end of the civil war, but more recently the urban elites and commercial enterprises that have acquired formal rights to former Portuguese farms and prime agricultural land; (2) state expropriation of land for commercial development and urbanization; and (3) displacement and resettlement of combatants and populations fleeing conflict, and their movement into areas where they had few or no prior claim or rights. If resources to develop agricultural lands become more readily available, those lands will become more valuable than they are now, potentially creating new tensions between those with formal tenure rights and those with customary or informally acquired rights.

Such tensions have already been seen in the urban and peri-urban areas where more than half of the Angolan population lives, many having moved to these areas to flee the violence and destruction of the long civil war and acquired land through informal markets or by squatting. As urban land values have risen, competing claims have been registered. Government evictions of informal settlers to make way for commercial development or infrastructure have also contributed to tensions, amid protests that due process has not been followed and compensation not provided.

Thus, improvements in the systems and institutions governing both property rights and use of the country's natural resources remain a significant challenge for the government and people of Angola. If the post-

conflict peace and stability are to be maintained, there is little alternative to continuing resolution of the resource governance issues that both caused and sustained the decades-long war. Institutions responsible for land administration and management must be better equipped to manage land administration functions, including implementation of the formal legal framework governing land, formalization of land rights, and accessible systems of enforcement and dispute resolution. A third of households in Angola are headed by women, and attention to measures that would enable women to have more secure rights to land, understand their rights, and have access to institutions to support their rights are essential.

KEY ISSUES AND INTERVENTION CONSTRAINTS

- **Build capacity for formalization of land rights in urban and rural areas.** Almost all Angolans hold their land, whether urban or rural, under principles of customary law; few have rights recognized under formal law. Many Angolans increasingly recognize the value of formalizing their rights to land, but the government does not yet have the institutional capacity to initiate formalization procedures. The land law and regulations set a 3-year window (currently to the end of 2010, with a possible 3-year extension) in which land occupants must apply for formalization of rights. *Donors can provide short-term assistance that can both address the registration task and build capacities of local authorities to sustain formalization processes over the longer term.* USAID supported small land-rights formalization pilots in rural and peri-urban communities in 2006–2007 and is well-positioned to take the lessons from that experience, refine materials, and conduct larger efforts. The experience from these programs will help the government to achieve formalization of land rights countrywide, providing information on procedures, timing, documentation, and best practices. The World Bank and several partners are beginning a large project focused on smallholders that does not appear to include a land rights component. The project may provide opportunities to consider land issues, conduct pilots (e.g., land rights formalization, dispute resolution and institutional development), and provide awareness-building regarding the land law and rights.
- **Promote legal literacy with regard to property rights.** Few people in Angola understand their legal rights to property under formal law, including land rights, marital property rights, and inheritance rights. Absent that knowledge, even equitable laws and procedures protecting groups such as women will have little impact. Further, many government officials need training in the land law, regulations, and procedures for implementing the laws, including the formalization of land rights and granting of concessions. Absent such training, the danger that a land-rights formalization program could have the effect of adding to the wealth of elites while disenfranchising smallholders, the poor, women, and marginalized groups is extremely high. *Donors, including USAID, could assist the government by designing and implementing various programs to assist in conducting public awareness campaigns, legal literacy programs, and programs to build capacity within the government to address issues of land rights.*
- **Support the development of institutions to improve transparency and accountability regarding resource governance and to resolve disputes.** As the government continues to realize oil-generated wealth, it should be better prepared to redistribute that wealth in ways that will build a broader base of jobs and incomes for all Angolans. Initially, this implies greater investments in rural infrastructure and agricultural development. By placing greater priority on rural development, the government can ensure that smallholder farmers are able to increase their labor productivity and incomes. But smallholders as well as larger commercial farming enterprises must be provided security of tenure if they are expected to invest their own resources in the technology and equipment needed for boosting productivity. *Donors should support government efforts, at all levels, to address gaps in land-use planning and administration skills and capacities, and work with both public and private sector institutions to establish viable and fair strategies for increasing agricultural productivity. Donor support to strengthen the capacities of the judiciary as well as alternative dispute-resolution systems may also be helpful as the laws and regulations passed in 2004 are more fully implemented.* USAID, for example, has worked on development of institutions at the municipal level in several Angolan provinces, and could use its experience to assist institutional development at all levels, with special attention to the provincial level responsible for most land matters and the judiciary. Given the continued importance of customary law at the local levels, assistance should be provided to enable traditional authorities to understand the potential for extending formal land rights as well as to apply customary laws and the

principles in ways that meet standards of equity and fairness, especially with regard to women's access to land.

- **Support the development of analyses and procedures to better guide decision-making regarding land allocations for commercial development.** Pressures to allocate land for commercial development and the construction of infrastructure have resulted in government decisions to expropriate land, forcing people with various types of formal and customary (informal) land rights to resettle elsewhere. Compensation to those evicted has not always been forthcoming. Renewed interest in commercial agriculture also threatens to displace rural residents who have customary rights to land. A more transparent process of analysis and consultation could avoid some of the tensions that have arisen to date. *Donors could provide needed support to public and private organizations capable of furthering such a process, including, for example: developing procedures for involving civil society in the evaluation of commercial development proposals; establishing norms regarding investor contributions to community and rural development, public revenue, local employment, infrastructure, and environmental protection; and preparing or refining procedures for land expropriation, including clarifying the legal framework, establishing guidelines for mandatory consideration of options, developing procedures for community consultation and participation, developing procedures for land valuation, and designing compensation packages and resettlement programs.*

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SUMMARY

Before Independence in 1975, Angola was known as an agricultural producer. Large commercial farms operated by Portuguese colonialists produced coffee, sugarcane, and bananas for export. The country's smallholders produced most of the substantial maize exports. Land was nationalized at Independence, most of the Portuguese population left the country and abandoned their farms, and 27 years of civil war forced many rural communities from their land. Agricultural production declined. The conflict displaced more than 4 million people and destroyed infrastructure and markets, further diminishing the productivity of Angola's 35 million hectares of arable land and undercutting government efforts to revive the agricultural sector through privatization of the large farms.

Exploitation of Angola's significant mineral resources sustained the war. Diamonds supported UNITA's efforts while an expanding oil industry fueled the MPLA. UNITA was defeated in 2002, and peace and stability have largely been maintained. In 2009, Angola overtook Nigeria to become Africa's largest oil exporter, with revenues topping US \$24 billion in that year. Petroleum accounts for 90% of export revenues and 80% of GDP. Diamonds constitute the other principal export. Responding to investor interest, Angola plans to increase oil production even further. Few jobs will be directly created by these investments, and Angola faces the challenge of using its growing oil revenues to develop the rest of the economy.

Sixty-two percent of Angola's population lives below the national poverty line of US \$1.70 per day. More than half the population lives in urban areas, most concentrated in informal settlements with inadequate services. Limited inputs, lack of access to markets, and inadequate infrastructure have prevented Angola's farmers from returning the country to its former levels of agricultural productivity.

China, a major customer for Angola's oil, pledged more than US \$20 billion to finance infrastructure development and trade in the country, and has already provided Angola with an estimated US \$12 billion in oil-backed loans. Angola is directing a portion of the money to development of the rural areas with roads, ports, and airports. Foreign private investors are also seeking concessions of agricultural land with the idea of redeveloping the commercial agricultural export-oriented operations (coffee, bananas, and cotton) that were successful in the 1960s. Issues of rights to the large farms and ranches held by the Portuguese during colonial times remain. Various groups claim rights to the land, with some claims predating the colonial era, some dating to a politically-motivated redistribution of land rights that took place in the early 1990s, and others based on competing principles of customary law applied during the war years.

Land-related issues pose problems more broadly as well. People displaced by violence often returned to find land they believed to be theirs occupied by other more recent arrivals, such as internally displaced persons (IDPs) from other areas. Demobilized soldiers received land allocations in order to promote their peaceful reintegration into rural society. In some cases, IDPs elected to remain where they had migrated during the war even though their land rights in the new area were more tenuous. Households' flight into cities to escape the violence resulted in rapid, uncontrolled growth of informal peri-urban settlements.

Eighty-five percent of Angola's land is unregistered, and most land transactions take place on the informal market. Formal land administration systems and institutions in many areas are not functioning, or lack the information and tools necessary to apply the formal legal framework governing land rights. Traditional authorities (*sobas*) continue to administer land according to customary law. In urban areas, however, there have been increasing tensions as households' informal rights are challenged or are simply abrogated by authorities seeking to develop increasingly valuable land.

Angola has abundant water resources, but distribution is challenged by damaged and deteriorating water-supply systems. The country is rehabilitating existing systems and has an active campaign to supply all of its population with access to clean drinking water. The country's forests are sources of fuelwood, charcoal, and food for Angola's people. The government has revised the legal framework governing the sector to support rehabilitation of degraded forests, sustainable use of forest resources, and prevention of illegal harvesting. The proposed legislation is pending before the Council of Ministers.

I. LAND

LAND USE

Angola is a large, sparsely populated country with a total land area of 1,246,700 square kilometers (nearly twice the size of Texas). The country had a population of 18 million people in 2008, 43% of whom resided in rural areas and 57% in urban areas. Total GDP in 2008 was US \$83 billion. Industry (principally petroleum-related) accounted for 86% of GDP, followed by agriculture at 10% and services at 4%. Sixty-two percent of Angolans live below the national poverty line of US \$1.70/day; 15% live on less than US \$0.75/day. In rural areas, 94% of households earn less than US \$2 per day and most are dependent on small-scale subsistence agriculture for their livelihood (World Bank 2009a; World Bank 2008a).

Angola has a diverse landscape, ranging from tropical rainforests in the north to savanna deserts in the south and eastern parts of the country. A dry coastal strip runs from the northern capital of Luanda to the southern border with Namibia. The internal highlands are prime agricultural land. In 2005, 46% of Angola's total land mass was classified as agricultural area, just under 3% as arable, and 2% of the cropland was irrigated. Main crops are bananas, sugarcane, maize, and coffee. Forty-seven percent of Angola is forest land. Ten percent of total land is in nationally protected areas, and the rate of deforestation was 0.2% in 2005 (World Bank 2009a; USDOS 2010).

During the colonial era, many Portuguese colonialists developed large-scale commercial farms or *fazendas* in Angola. Prior to Independence in 1975, an estimated 50% of the country's arable land was held by Portuguese, who contributed to the GDP through the export of cash crops, including coffee, sisal, bananas, palm oil, and tobacco. Smallholders were responsible for producing most of the country's substantial maize exports. Angola nationalized its land at Independence, and most of the Portuguese fled the country, abandoning their farms and businesses. In many cases, former *fazenda* laborers remained on the land, cultivating subsistence crops. In low-conflict areas, they were often joined by displaced populations seeking safety from the violence. Although the government privatized some *fazendas* and commercial enterprises in the early 1990s, the continuing civil war that followed Independence prevented most of the *fazendas* from resuming production. At the end of the civil war in 2002, only 2% of farms were commercial operations (Clover 2005; DW 2005a; World Bank 2006).

At Independence, Angola was self-sufficient in food production and produced significant agricultural exports. By the end of the war, the country was dependent on imports and humanitarian aid to feed its population. Agriculture currently accounts for only 10% of GDP but provides employment (primarily informal) for roughly 63% of the workforce. Eighty percent of farms operate at a subsistence level with little or no surplus. Productivity of small-scale agriculture suffers in many regions from inadequate inputs, lack of infrastructure, limited access to markets, and the presence of landmines (World Bank 2008a; FAO 2005; World Bank 2009b; IFAD 2009; World Bank 2008c).

The percentage of the population living in Angola's urban and peri-urban areas is increasing at a rate of 5% annually (2005–2010 estimate), putting pressure on land and services. The vast majority of the people in these areas (83% in 2001) live in sprawling informal settlements. Most

informal settlements lack basic services, harbor disease, and strain the resources of the surrounding areas (DW 2005b; UN-Habitat 2010; UNDP 2009).

LAND DISTRIBUTION

The civil war displaced an estimated 4.5 million people. Some fled to other countries, but most migrated to the relative safety at the edges of cities and along the coastline. The concentration of the population put pressure on land: pastureland was overgrazed, the country's wildlife was disseminated, and the population's dependence on fuelwood and charcoal for energy destroyed

BOX 2. LAND TENURE INDICATORS		Score
<u>Millennium Challenge Corporation Scorebook, 2009</u>		
– Land Rights and Access (Range 0–1; 1=best)		0.377
<u>International Property Rights Index, 2009</u>		
– Physical Property Rights Score (Range: 0–10; 0=worst)		4
<u>World Economic Forum's Global Competitiveness Index, 2008-2009</u>		
– Property Rights (Range: 1–7; 1=poorly defined/not protected by law)		..
<u>World Economic Forum's Global Competitiveness Index</u>		
– Ease of Access to Loans (Range: 1–7; 1=impossible)		..
<u>International Fund for Agricultural Development, Rural Poverty Report, 2001</u>		
– Gini Concentration of Holdings, 1981-1990 (Range: 0–1; 0=equal distribution)		..
<u>International Fund for Agricultural Development, Rural Sector Performance Assessment, 2007</u>		
– Access to Land, 2007 (Range: 1-6; 1=unsatisfactory access)		2.8
<u>Food and Agricultural Organization: Holdings by Tenure of Holdings</u>		
– Total Number of all Agricultural Holdings, Year		..
– Total Area (hectares) of all Agricultural Holdings, Year		..
– Total Number of Holdings Owned by Holder; Year		..
– Total Area (hectares) of Holdings Owned by Holder; Year		..
– Total Number of Holdings Rented from Another; Year		..
– Total Area (hectares) of Holdings Rented from Another; Year		..
<u>World Bank Group, Doing Business Survey, 2009</u>		
– Registering Property-Overall World Ranking (Range: 1–181; 1=Best)		168
<u>World Bank Group, World Development Indicators, 2009</u>		
– Registering Property-Number of Procedures		7
– Registering Property-Days Required		334
<u>World Bank Group, World Development Indicators, 1998</u>		
– Percentage of Population with Secure Tenure		..
<u>Heritage Foundation and Wall Street Journal, 2009</u>		
– Index of Economic Freedom-Property Rights (Range 0-100; 0=no private property)		20
<u>Economic Freedom of the World Index, 2008 (2006 data)</u>		
– Legal Structure and Security of Property Rights (Range 0-10;0=lowest degree of economic freedom)		3.16
– Protection of Property Rights (Range 0-10; 0=lowest degree of protection)		4.11
– Regulatory Restrictions of Sale of Real Property (Range 0-10;0=highest amount of restrictions)		1.35

vegetation and led to soil erosion. Forest resources suffered from overuse and unsustainable practices (World Bank 2009b; Clover 2005).

With the end of the civil war, an estimated 433,000 IDPs and refugees returned to their homes. Another 70,000 demobilized soldiers also returned to their former homes and family land. These returnees found roads and bridges gone, their land littered with land mines and unexploded bombs, and, in some cases, occupied by other communities and families. Humanitarian support was unevenly distributed, and support for farming and enterprise development was insufficient to address the needs of the returnees (IFAD 2009; World Bank 2009b; World Bank 2008c; UNHCR 2010; MDRP 2008).

Throughout the country, fertile lands in areas with access to services and markets, as well as lands in areas near urban centers, are in high demand and are the focus of increasing competition between peasant and commercial interests. In some areas, smallholders – particularly those who settled during the war and have no formal land rights – have been forced to relocate to allow for commercial development and urbanization. In areas such as Huambo Province, multiple parties assert rights to some of the *fazendas*: former Portuguese landowners, new commercial interests courted by the government, former farm laborers who remained on the land through the conflict, and local communities asserting ancestral rights to land. The provincial and municipal governments facing competing claims to land and pressure for development have been

handicapped by lack of up-to-date cadastres and comprehensive land-use plans, and an absence of direction from the central government regarding implementation of the land law and regulations. Some local and provincial governments are managing issues of land rights on a case-by-case basis while they await development of a national strategy (World Bank 2009b; Clover 2005; ARD 2009a; Reuters 2010).

LEGAL FRAMEWORK

The 1992 Constitution of the Republic of Angola provides that the government has sovereignty over all territory, water, air space, soil, and subsoil; all natural resources, including land, are the property of the state. Only the state has authority to grant use-rights (GOA 1992).

Angola's 2004 Land Law (*Lei da Terras de Angola, Lei 09/04, de 9 de Novembro*) more fully develops the constitutional pronouncement that the government owns and exercises ultimate authority over all land and natural resources. The Land Law includes all rural and urban land for which the state can confer transferable rights. The Land Law does not extend to privately owned land, such as land owned by the Catholic Church and foreign embassies. The 2004 Land Law includes a provision that people occupying unregistered property must register their land within three years of the enactment of the supporting regulations. However, the law and regulations have not been fully implemented, and necessary land-administration institutions have not been developed in most provinces. The deadline for registration expires at the end of 2010. A statutory extension of time for another three years (to 2013) will arguably take effect in accordance with provisions for extensions within the law, but to date the central government has not indicated how it intends to proceed with implementation of the 2004 Land Law (GOA 2004a; GOA 2007; ARD 2007b).

The Angolan Civil Code, 2001 (*Codigo Civil*) governs land issues that fall outside the ambit of the Land Law or where the Land Law specifically defers to the Civil Code as the governing law, such as on the inheritance of property (GOA 2004a; GOA 2001).

The 2004 Law of Territorial Planning and Urbanization (*Lei do Ordenamento do Territorio e do Urbanismo, Lei 03/04, 25 June 2004*) governs both rural and urban land and requires territorial development plans at central, provincial, and municipal levels. The law empowers municipal governments to expropriate land for development (GOA 2004b; Foley 2008).

Most of the country's population is unfamiliar with the formal land laws, and customary law governs issues of land access, control of land and its production, transfers of land, and land use. Customary law principles and practices related to land can be highly localized, but most share the principles that land is regarded as owned by a universal deity and the ancestors of living occupants. Land is held by a community (or individuals within a community) and administered for the benefit of the community by the traditional leader or village elder (*soba*) (CARE 2004a; ARD 2007a).

TENURE TYPES

The state holds the "direct domain" of Angolan land and has the authority to confer or transfer the "useful domain" of land to individuals and entities (GOA 1992; GOA 2004a).

Land tenure types under formal law are based on the classification of the land as urban or rural, land use, and duration of use.

Ownership. Under the Constitution, the state has ultimate ownership of Angola's land (with the exception of land held by embassies and churches). The Land Law authorizes private rights to urban land that have qualities of freehold title: the landholder has a perpetual right to occupy and use the land, and the landholder can transfer, mortgage, and sell the right. However, the purchase and sale of urban land must be by public auction, with prices of urban land fixed by price indices

and municipal rules. The recipient of private property rights from the state can only transfer those rights with consent of the local authority and after a period of five years of effective use of the land (GOA 2004a).

Useful Customary Domain. Rural communities – defined as groups of neighboring families that have collective rights of possession, administration, and use of land – can obtain a perpetual right of useful customary domain. The relevant government authority has the power to recognize a rural community’s useful customary domain for land occupied by the community and used by the community in a useful and effective manner and according to custom. The holder of useful customary domain cannot transfer the land rights granted. A right of useful customary domain cannot be seized unless by foreclosed mortgage. If the community land is recognized as useful customary domain under the land law, it cannot be the subject of a concession (GOA 2004a; ARD 2007a).

Useful Civil Domain. The government can grant rights of useful civil domain over rural and urban land by means of a concession contract or lease. Useful civil domain is a perpetual right that can be mortgaged (GOA 2004a).

Surface Rights. The government can grant surface rights to rural and urban land to individuals and entities for the construction of buildings or to make or maintain plantations. Surface rights are granted provisionally for a 5-year term and can be extended to 70 years (GOA 2004a; ARD 2007a).

Precarious Occupation Rights/Temporary Leaseholds. The government can grant temporary occupation rights up to one year in duration (subject to renewal) to rural and urban land to individuals and entities for purposes of construction, mining, scientific investigation, and other activities permitted by the relevant authorities’ regulations (GOA 2004a).

Customary Rights and Former Landowners. A majority of Angolans hold land under customary law, asserting rights based on principles such as “first clearer of land,” inheritance, and informal transactions. Some former landholders, such as Portuguese holders of large farms, claim de facto rights based on their former ownership and continued occupancy. In at least one area of Benguela Province, the local government classifies the rights of these farmers as akin to perpetual leaseholds (GOA 2004a; GOA 2007; ARD 2009a).

SECURING LAND RIGHTS

Formal law provides procedures through which people can access land, including: (1) purchase and sale contracts (which carry requirements of public auction); (2) leases and concessions for establishment of a right of useful civil domain; (3) surface rights; and (4) temporary occupation rights. All formal land grants and transfers in Angola are subject to the requirement of “useful and effective usage” of land, which is to be established by land evaluation and documents attesting to the uses to which land is put. The Land Law sets two specific requirements: (1) the state cannot grant a household more than one-third of the surface corresponding to the household’s work capacity; and (2) a recipient of land rights shall forfeit the rights in the event he or she fails to use the land in accordance with the use-plan or index for three consecutive years, or six non-consecutive years, regardless of reason (GOA 2004a).

Foreigners are permitted to hold land in Angola. The Land Law sets out requirements for all landholders, including identification documents and registration of foreign companies (GOA 2004a).

The systems and institutions for accessing land through these formal routes are not functioning in many areas of Angola; the majority of the population accesses land through informal methods, which generally provide less tenure security, especially in relation to challenges by third parties external to the community (e.g., commercial interests, government expropriations). In other areas, land administration institutions are functioning but often lack the procedures needed to apply the

applicable formal law. In such areas, institutions may follow former rules and out-of-date procedures (GOA 2004a; ARD 2007a; ARD 2009a).

Inheritance of land acquired through customary processes is the main source of rural land for most community members, followed by arrangements for leasing, borrowing, and sharecropping. All members of the community (and those joining the community who are deemed trustworthy of integration including, most recently, ex-combatants) are entitled to have use of a parcel of land, the size and location of which is determined by the traditional leader, or *soba*. The *soba*'s allocation will usually be based on the size of the household, planned use for the land, and the availability of land to allocate. Studies of the reintegration of ex-combatants found that most returned to rural areas and accessed land through family connections and allocations from *sobas*. Ninety-five percent of ex-combatants report they have access to land, and very few disputes over land access have been reported (CARE 2004a; ARD 2007a; DW 2005b; DW 2006; MDRP 2008).

In most urban and peri-urban areas, land access is more dependent on the land market. Individuals and households desiring plots often begin by staying with relatives, then renting a plot and ultimately buying a plot on the informal market. In the more populated areas, *bairro commissioiners* and residential committees often serve as the source of land access; new arrivals to an area check with these entities to find out what land is available and on what terms. In areas where municipal offices are functioning, a coordinating commission may handle a land request with participation of the provincial-level department of the Ministry of Public Works and National Institute for Spatial Planning (INOTU). The 2001 Decree Regarding Resettlement of Displaced People acknowledged the right of displaced people to housing, and provided for new government allocations of land. It is unknown how many households received land under this law. In general, urban housing has not kept pace with the need (DW 2005b; UNDP 2009; DW 2006).

Informal occupation of urban and peri-urban land is common in Angola. Rural residents migrated to coastal urban areas to escape the violence during the war, and migration has continued as the rural economy has been slow to recover. The 2004 Land Law revised prior civil law, which had provided some protection for informal holdings. Under the 2004 Land Law, all informal holdings are illegal and residents are subject to eviction if they fail to obtain a concession by a 3-year deadline, which expires in 2010 (with a possible extension to 2013). As part of development plans, the government has destroyed informal settlements without providing compensation to residents (GOA 2004a; DW 2005b; ARD 2007a; Foley 2007).

Government officials estimate that 85–90% of the land in Angola today is not held under formal title, and is unregistered. Angola's formal law provides for registration of land rights, including concessions, surface rights, and rights of useful civil and customary domain. Registration requires seven steps, roughly 345 days, and requires payment of 11% of the property value in fees. However, few if any of the cadastre offices necessary to the process are functioning. In some areas, the Ministry of Justice accepts and files documents evidencing rights in land, but the effect of the acceptance and filing of the documents is unknown (GOA 2004a; GOA 2007; ARD 2007a; DW 2005b; World Bank 2008d).

INTRA-HOUSEHOLD RIGHTS TO LAND AND GENDER DIFFERENCES

During the decades of war when men were serving as combatants, women were responsible for generating income, providing for household food security, and raising children and caring for the ill and elderly. Thirty-one percent of households are headed by women, and they form the majority of those living in extreme poverty. Twenty percent of Angola's women (compared to 30% of men) are literate (World Bank 2008a; IFAD 2009; ADF 2007).

Angola's formal law supports the equal rights of women to assets. Angola's Constitution establishes a right of non-discrimination on the basis of sex and provides for the equality of men

and women within the family. The 1989 Family Code (*Codigo da Familia*) governs issues relating to the composition of the family, marriage and marital rights, and parental obligations to children. Joint title in land and property is permitted under this Code (GOA 1989; ARD 2007a).

BOX 3. LAND AND GENDER INDICATORS		Score
<u>OECD: Measuring Gender In(Equality)—Ownership Rights, 2006</u>		
— Women's Access to Land (to acquire and own land) (Range: 0-1; 0=no discrimination)		0.8
— Women's Access to Property other than Land (Range: 0-1; 0=no discrimination)		0.2
— Women's Access to Bank Loans (Range: 0-1; 0=no discrimination)		0.2
<u>FAO: Holders of Land Classified by Sex, 1993</u>		
— Percentage of Female Holders of Agricultural Land		..

The Family Code provides for the equality of women and men within marriage, recognition of registered and common law marriage, spousal rights to separate and community property (at their election), and the obligations of spouses in the event of separation and divorce. The Family Code does not permit polygamy (GOA 1992; GOA 1989).

The succession provisions of Angola's Civil Code allow for testamentary disposition of property in accordance with the testator's wishes. Intestate provisions grant property to surviving spouses and children equally. As a matter of practice, however, daughters may not inherit land, or inherit a smaller amount than granted to sons. In some areas, families divide their land based on the theory that daughters will receive land when they marry while sons will be required to provide sufficient land to support a wife and children and care for elderly parents (GOA 2001).

Regardless of the source of land (e.g., inheritance, lease, purchase), Angolan women generally do not have land access equal to men's. Under traditional succession practices, family land passes to sons and male relatives of the deceased. Women in rural areas generally move to their husbands' villages upon marriage and often live on and cultivate land owned by the husband's family or granted by the family or *soba* to the husband. If the women are subsequently widowed, abandoned, or divorced, the former husband or relatives of the husband may force the women from the husband's land. Whether these women are welcomed back in their natal homes is a matter of local custom and far from assured. In addition, women are less likely to have the assets necessary to lease or purchase land in urban and peri-urban areas. Women seeking land are often forced to resort to the most insecure and least lucrative arrangements: they may borrow land, sharecrop, or squat on former commercial farms, making sporadic payments to landlords. In all of these cases, the land that women can access is most likely to be among the lowest quality (DW 2006; Filipe 2005; CARE 2004a).

LAND ADMINISTRATION AND INSTITUTIONS

The Ministry of Agriculture, formerly the Ministry of Agriculture and Rural Development, has responsibility for administration of rural land. The Ministry of Urbanism and Housing, formerly the Ministry of Urbanism and the Environment has responsibility over urban land matters, including urban planning. The National Institute of Geography and Cadastre (IGCA) is responsible for creating and maintaining the cadastre, and the National Institute of Spatial Planning and Urban Development (INOTU) is charged with setting planning and development standards. The provincial government is responsible for initiating the process for recognition of customary useful domain for rural communities. The central government office is responsible for maintaining a central archive of land, demarcation, maps, and records (GOA 2004a; ARD 2007a).

The National Reconstruction Office implemented the National Housing Project, which planned for and constructed new housing in urban and peri-urban areas following the end of the civil war. The beneficiaries of the project and extent of housing provided are unknown, but national and international NGOs have charged the National Reconstruction Office with responsibility for evicting residents of informal settlements and destroying homes without appropriate notice and payment of compensation. The Ministry of Urban Affairs and Housing is currently responsible

for new housing construction (DW 2006; Amnesty International 2010; Amnesty International 2009; Foley 2007).

Angola's land administration system suffers from: (1) an incomplete design; (2) incomplete (or nonexistent) data on landholdings; (3) cumbersome, time-consuming, and imperfectly understood transaction processes; (4) high transactions costs, often including bribes to government officials; (5) lack of information and processes to determine land values; and (5) lack of institutional capacity to create and maintain records and manage transfers (CARE 2004b; ARD 2007a; ARD 2009a).

Traditionally, the *soba* was (and in many areas still is) responsible for managing the community's land, making land allocations to individuals and households, establishing the areas of land for common use, setting rules regarding communal land and its resources (and in some circumstances, the use of land allotted to individuals), and adjudicating land disputes. In peri-urban areas, the local (*comuna*) administrator fills this role or shares authority with the *soba*. *Bairro*-level authorities and *Comissões de Moradores* – neighborhood bodies that operate informally and without government sanction – provide access to land and “regularize” encroachments (ARD 2007a).

Angola plans to devolve authority of matters such as land administration and management further by creating a system of locally elected governmental councils, *autarquias locais*. These councils will operate as the lowest level of formal government (below the *comuna*). These bodies have yet to be established, and it is unknown what authority they will have over land matters, and whether they will achieve a form of community-based land administration (ARD 2007a).

LAND MARKETS AND INVESTMENTS

With the exception of high-value urban land and large parcels of agricultural land, most land transactions are conducted informally. Customary law allows landholders to alienate communal land temporarily through a variety of means, including leases, rental agreements, borrowing arrangements, and loans. Historically, customary law prohibited permanent transfers because the land was deemed to be held in trust for ancestors and unborn generations and could not, therefore, be permanently transferred. However, as communal land systems evolved to include individualized tenure, the system recognized permanent transfers. In urban areas and regions with rich agricultural land, the majority of landholders have individualized rights, and such areas support active informal land markets (Clover 2005; DW 2006).

As Angola constructs new housing in urban and peri-urban areas, the market for plots has expanded. Real estate companies are selling plots in new developments in Luanda and cities such as Huambo. In Huambo, the provincial government has been piloting programs to develop new residential areas and sell serviced plots. Prices tend to be high; Luanda is ranked the most expensive city in the world for expatriates. Prices for serviced plots in smaller cities such as Benguela and Huambo are comparable to prices for plots in developments in comparably sized cities in developed countries. Purchasers tend to be expatriates, companies, and professionals (ANGOP 2010a; DW 2006; *Straits Times* 2010; *DayLife* 2010).

For urban land transactions, *bairro commissioiners* and residential committees often serve as a source of land for middle- and low-income households. Those desiring land in an area approach these entities to inquire about the availability of land and terms of purchase. The *bairro commissioiners* and residential committees facilitate transactions between private parties and maintain records of informal land transactions. These institutions are informal, arising from political parties in the years following Independence, but they may also have qualities of traditional authorities (DW 2006; DW 2005b; ARD 2009a).

COMPULSORY ACQUISITION OF PRIVATE PROPERTY RIGHTS BY GOVERNMENT

Angola's Constitution, the 2004 Land Law, and 2007 Land Law Regulations give the state broad authority to take land for public use, including land over which a private property right is asserted. Under the Constitution, all land acquisitions by the state are deemed to be inherently valid and irreversible. If land is seized, fair and adequate payment must be made to the owner of the land and the affected holders of other property rights. The state can expropriate lands leased or under concession (GOA 1992; ARD 2007a; GOA 2007; DW 2006; Foley 2007).

Angola's formal law gives the state the authority to expropriate land held by rural communities for public benefit, with payment of compensation. Holders of concessions are entitled to six months' notice of land expropriations. The state shall pay for the value of improvements and may provide for use of a similar property (GOA 1992; ARD 2007a; GOA 2007).

Land expropriations for development have been common in Angola since the end of the civil war. Municipal governments and the National Reconstruction Office have expropriated land used for informal settlement for new residential construction and infrastructure development. In some cases, the state has not given appropriate notice of expropriation and has not paid compensation to evicted residents, although in some cases the state has provided residents with alternate housing (Amnesty International 2009; Amnesty International 2010; DW 2006; Foley 2007).

LAND DISPUTES AND CONFLICTS

Land disputes are relatively common in areas where there is a mix of land rights, the population is in flux, or the area is near an urban or peri-urban center. Causes of land disputes are: government land expropriations and attendant evictions, boundary disputes, third party (non-locals) assertions of rights to land; access by marginalized groups (e.g., widows, divorced women, ex-combatants, pastoralists); ambiguity in nature of land rights held; encroachment (with special concern about conflicts between occupants of former commercial farms versus new owners taking possession under government concession); land speculation/land-grabbing; and land-transfer disputes (ARD 2007b; CARE 2004a).

Angola's land-dispute resolution framework includes both formal and customary systems. Land cases brought in civil court in Angola are long and costly. An average case initiated at the provincial court level may run two years, and twice that time is not unusual. Appeal of the trial court's decision is a matter of right, and the case may take several years to be heard. The status quo relating to the land will be maintained during the term of the case, absent extraordinary circumstances. The Land Law contains a mandatory mediation and conciliation procedure and requires arbitration before a provincial level tribunal. The provincial government is responsible for organizing arbitration panels. Disputes relative to rights of possession, management, use, and production of rural community land, and issues related to the useful domain of rural community lands, shall be decided within those communities consistent with their effective customs, with a right of appeal by any party to the mandatory mediation, conciliation, and arbitration process (GOA 2004a; ARD 2007b).

In conjunction with village elders and local councils, *sobas* traditionally handle a multitude of local governance matters, land matters, and conflict resolution. In peri-urban and urban areas, *sobas* are often not present or may have limited power, and *bairro* coordinators and *comissoes de moradores* (residential committees) often fill the *soba*'s role. Particularly in areas where the capacity and resources of local government are limited, these customary and community institutions may carry more authority than formal governmental institutions. Traditional village-based systems applying customary law generally offer participatory, conciliatory methods of dispute resolution (DW 2006; DW 2005b).

KEY LAND ISSUES AND GOVERNMENT INTERVENTIONS

In the post-conflict years, the Angolan government invested in development of the Land Law (2004), the supporting regulations (2007), and the Law of Territorial Planning and Urbanization (2004). The government has not yet taken steps to implement the laws or to develop the central-level institutional support for necessary reforms of the land administration system. In many cases, provincial government officials responsible for land administration are reluctant to act on land matters absent direction from the central government; those that do may resort to relying on former laws and out-of-date forms (ARD 2009a; ARD 2009b; DW 2006).

In 2009, the Angolan government announced plans to invest US \$2 billion in the agriculture sector, with specific goals to decrease reliance on food imports by increasing cereal output from 3 million to 15 million tons by 2013, revitalizing markets, and reviving the coffee sector. In support of these goals, the government is encouraging the development of commercial farming with long-term leases of land and the development of infrastructure, including roads and ports (FSF 2009; ARD 2009a).

The *Fundo Apoio Social* (FAS) (Social Action Fund) is an Angolan government agency dedicated to social and economic reconstruction. FAS has a 5-year (2009–2013) US \$200 million budget for work on a legal framework for environmental law and projects supporting small-scale agriculture and institutional development, particularly at the local level. FAS receives some funding from the World Bank (ARD 2007a; World Bank 2009b).

The government initiated its Angola Youth Housing Programme in 2009. The program plans to provide housing to citizens between 23 and 35 years of age who have resided in an area for at least two years, have no home of their own, and have a paid job. It is unknown how many people qualify for benefits under the program and how many houses have been allocated to date (*AllAfrica* 2009a).

DONOR INTERVENTIONS

USAID has been supporting Angola's work in the areas of land rights since 2003. USAID provided technical assistance to the government of Angola to assist in the development of the 2007 Land Regulations and funded pilot projects to formalize land rights in peri-urban and rural areas of Huambo Province. Through the Property Rights and Natural Resource Governance (PRRG) Program, USAID has engaged in two studies supporting the strengthening of land tenure and property rights. A study in Kuando-Kubango Province analyzed the implications of new forestry and wildlife legislation, a multi-country agreement to develop a trans-frontier conservation area, and Government of Angola's plans to reclassify a large block of southeast Angola as protected areas on the land tenure security and livelihoods of communities residing in southeast Angola. A study in Benguela Province assessed land access and tenure security in the two areas and explored the implications of a planned commercial banana plantation on the tenure security and livelihoods of small-scale farmers. The study found high levels of tenure insecurity among smallholders in the study areas, slow progress on the implementation of the 2004 Land Law, and opportunities for the government to support smallholders through a well-designed program for the formalization of land rights, and support for options such as outgrower schemes in areas of commercial investment (ARD 2009a; ARD 2009b; ARD 2008; ARD 2007a; USAID 2009).

USAID's Economic Opportunity program aims to increase access to and productive use of resources such as property rights to directly benefit micro-, small and medium enterprises in rural and urban areas. Program activities include technical assistance and training to build institutional capacity, facilitating the availability of financial services to entrepreneurs, and encouraging productive uses of financial resources. The Cooperative League of the USA (CLUSA) has been

actively engaged in Angola's agricultural sector for more than a decade. CLUSA's programs seek to increase the growth of selected commodity value chains and industries while creating greater business opportunities and improving capabilities of small- and medium-scale farmers and related entrepreneurs. CLUSA supports a variety of business activities in horticultural production, processing and marketing, irrigation, input supply, transport, processing, and marketing and is engaged in establishing agricultural business centers to provide agriculturalists with support to create business plans, establish banking relationships, and develop markets. CLUSA is identified as the entity that will provide support for outgrower schemes in the Benguela Province banana plantation development (CLUSA 2009; USAID 2009; ARD 2009a).

In 2009, the World Bank initiated a 7-year US \$49.35 million market-oriented smallholder agricultural project. The project's objective is to increase agricultural production through provision of better services and investment support to rural smallholders in selected communes and municipalities of Bie, Huambo, and Malanje provinces (World Bank 2009b).

Through its Project Terra (*Projecto Terra Angola*), the Food and Agriculture Organization (FAO) has been engaged in land issues in Angola since before the end of the civil war and was successful in registering the rights of about a dozen customary communities in Huila Province. The FAO has a substantial program that includes land-rights workshops and institutional capacity-building, development of public awareness materials, and support for land-rights formalization (FAO 2009a).

The NGO Development Workshop (DW) has worked in Angola for decades and served as an advocate on land-rights issues of the urban and peri-urban poor. DW is a partner in the Government's decentralization program in the areas of municipal participatory planning, and partnered with USAID in a land-rights formalization project in Huambo (DW 2009; ARD 2008).

2. FRESHWATER (LAKES, RIVERS, GROUNDWATER)

RESOURCE QUANTITY, QUALITY, USE AND DISTRIBUTION

Angola has abundant water resources and does not have a scarcity of surface or groundwater, although there are regional and seasonal differences in availability. The country has nine major hydrological basins that drain into the major river systems of central-western-southern Africa, including the Congo, Zambezi, and Cuanza rivers. The Cubango River originates in Angola's central plateau and flows in the Okavango Delta in Botswana, a globally significant wetland. The southern region of the country has limited surface water and relies on groundwater resources. The total volume of internal annual renewable water resources is 148 cubic kilometers. Irrigation accounts for 60% of water use, followed by domestic use (23%), and industry (17%) (World Bank 2009a; FAO 2005; ADF 2007).

Angola's water supply systems were constructed during colonial times, and those still functioning were damaged by the war. Much of the population displaced by the war fled to urban and peri-urban areas, stressing already inadequate systems. Water supply is limited and unequally distributed, with the poorer sections of cities paying high prices to private vendors for 3 to 5 liters a day per person while wealthier areas have access to 80 liters per person a day from publicly provided infrastructure. Water is contaminated and storm drainage systems inadequate, resulting in high rates of water-related disease. The years of conflict precluded development and enforcement of environmental regulations governing Angola's petroleum and mining industries, and water in industrial regions is polluted. Angola also lacks infrastructure and enforced regulation of treatment of domestic and industrial waste, which is discharged directly into the rivers and ocean. Rural rivers, on which local populations rely as their sole source of water, are often unsafe for drinking and bathing. Only 38% of the population has access to safe drinking water (FAO 2005; World Bank 2009b; World Bank 2008a; ADF 2007).

LEGAL FRAMEWORK

Angola's Water Law (*Lei de Aqua*, Law No. 6/02) was enacted in 2002. The law provides for government ownership of the country's water resources, and the state's responsibility for development, control, and preservation of water resources. Regulations are not yet promulgated. The Biological Water Resources Law (Law No. 6-A/04) promotes the protection of Angola's water resources and ecosystems. The law imposes an environmental impact statement requirement on projects that may affect biologic water resources (World Bank 2008b; ADF 2007).

TENURE ISSUES

Angola's Water Law provides landholders with use-rights to subsurface water and water passing through the landholding, subject to recognition of the state's ultimate rights to all water, and the requirement that landholders cannot obstruct any water course. The law promotes water-user participation in water management and intersectoral coordination. Under customary law, landholders have similar rights of use of water passing through their land parcel with the attendant obligation to restrict use as necessary to preserve the resource for the community as a whole (ADF 2007; GOA 2007).

GOVERNMENT ADMINISTRATION AND INSTITUTIONS

The National Water Directorate, which is under the Ministry of Energy and Water (MINEA), is responsible for water resources in Angola. The Directorate's duties include proposing and promoting policies and legislation, establishing strategies for the rational use of water resources and sustainable development, licensing and inspection of hydraulic works and water and sanitation systems, and establishing rules to ensure the quality of water-supply services. The Ministry of Agriculture is responsible for irrigation systems and development (World Bank 2008b; ADF 2007).

The Ministry of Planning is responsible for coordinating the overall planning of the technical activities of planning, the elaboration of strategies, plans for economic and social development and the technical monitoring their implementation. As such, the Ministry may collaborate with MINEA and other ministries in strategy development and projects relating to the development and distribution of water resources (GOA 2008).

GOVERNMENT REFORMS, INTERVENTIONS AND INVESTMENTS

In 2003, the Ministry of Water and Energy adopted a strategy for development of the water and sanitation subsector. Phase I included actions to rehabilitate existing water systems, with Phase II devoted to further development of the policy and regulatory framework and institutional development. The Ministry of Energy and Water initiated a Water for All project in 2008. The project is planned to provide a 20% increase in water supply each year, with the goal of ensuring that at least 80% of the country's population has access to water by 2012. The UN joined the government's effort in 2009 to assist with implementation. As of mid-2010, no comprehensive report on progress had been published, but progress is reported at the provincial level. In Cunene, for example, officials state that project funds paid for rehabilitation of 124 boreholes and drilling of 70 new holes (ADF 2007; Shandling 2008; ANGOP 2010b).

DONOR INTERVENTIONS AND INVESTMENTS

The World Bank is supporting the Ministry of Energy and Water and Ministry of Planning with a 7-year (2009–2014) US \$113.2 million project to develop Angola's water sector. The project is designed to strengthen institutional capacity of water-sector agencies to improve access and reliability of water-service delivery, rehabilitate water supplies, and provide capacity-building. The governments of China, Brazil, Spain, and Germany will support complementary activities.

Two World Bank emergency recovery projects have included water-sector components and, at the close of FY09 reporting, had successfully rehabilitated water pipes and improved house connections in N'Dalantando and rehabilitated half the water network in N'Dalantando, with similar rehabilitation work underway in Malanje (World Bank 2008b; World Bank 2009c).

USAID funded the NGO Development Workshop in its effort to provide water and sanitation services to returnees in Huambo Province in the years following the end of civil war. The project funded the construction of new wells, dry pit latrines and borewells, and established water committees to manage the water points and water resources (DW 2005a).

3. TREES AND FORESTS

RESOURCE QUANTITY, QUALITY, USE AND DISTRIBUTION.

Angola has between 23 million and 53 million hectares of forest land. The significant range in estimates reflects the lack of information about the actual extent of Angola's forests (FAO 2008).

Angola's forests include tropical rainforest in the northern provinces of Cabinda, Zaire, Bengo, and Kwanza-Norte (an estimated 2% of total forest) and open dry forests and savannah or miombo woodlands in the central and eastern parts of the country (about 80% of total forest). The balance of the country's forest is found in the southern region, which is characterized by open tree cover, shrubs and grasses, and desert vegetation, in addition to about 1.25 million hectares of mangroves, and isolated or compact tree clusters in peri-urban areas (FAO 2008).

Forests are a major source of food, income, and livelihoods for Angola's population. Rural residents use forests for fuelwood, charcoal production, and non-timber forest products such as palm for baskets, mat-weaving and palm wine. Angola has over 100 plants with medicinal qualities, and 95% of the population uses medicinal plants, alone or in combination with manufactured drugs, to treat illness or disease and as part of preventive protocols. Angola's formal timber industry was paralyzed by the civil war; many operations ceased to function while local elites and combatants seized others. Angola's forests currently provide for a significant amount of "grey market" activity (FOSA 2001; FAO 1996).

Angola's forests have been degraded by activities such as illegal harvesting of timber and clearing and burning for cropping. Forest lands near population centers are especially vulnerable because fuelwood and charcoal are the main sources of energy, and the end of the war allowed for greater access to forests that were previously considered unsafe. The country's large tree plantations, many of which were under the control of private companies, were critically degraded during the war years as a result of illegal cutting and lack of silviculture treatment and management (FOSA 2001; FAO 1996).

Rehabilitation of the forest sector faces substantial challenges, including the lack of comprehensive forest-resource inventories and the need for a legal framework and forest management plans. Private enterprises such as logging operations are not subject to effective regulation. Local populations are often aware of the unsustainability of many of their forest practices but do not believe they have alternatives. The institutions supporting the forest sector lack capacity and staffing, and the country lacks a program to train new staff in forest and wildlife science (FOSA 2001; FAO 1996; Zweede et al. 2006).

LEGAL FRAMEWORK

Angola's 1992 Constitution provides that the state owns the country's forestland and natural resources. The 1962 Forest Ordinance (*Decreto* No. 44-531 of 21.06.1962), which was enacted during the colonial era, governs forest rights and activities at the national level. The ordinance has no relevance at this stage in Angola's development and is generally ignored (GOA 1992; FOSA 2001; FAO 2006).

Article 31 of Decree 40:040 (1955) and Article 12 of Legislative Diploma 2873/11/57 govern areas designated to protect and conserve wildlife in conformity with international conventions, and include national parks, integral natural reserves, partial reserves, and special reserves (ARD 2009b).

A new law and policy governing forests, wildlife, and conservation areas has been drafted. The draft law allows for cutting trees and harvesting other forest products for purposes of subsistence, community use and enjoyment, exploitation of timber and non-timber forest products, and other special purposes such as individual consumption, conservation, and scientific investigation. The draft law resulted from the recognition that the colonial period legislation in effect did not reflect current realities in Angola nor current international law governing biodiversity conservation. The law also needed to be harmonized with the 2004 Land Law. The Institute for Forestry Development (IDF) drafted the law and policy, included opportunities for public comment and input, and submitted the law and policy to the Council of Ministers in 2006. Some officials believe the law will be passed as drafted while others believe debate over the law continues within the Council of Ministers. At least part of the debate reportedly concerns institutional responsibilities, including which ministry would be responsible for administration of national parks and which ministry would be responsible for the forestry sector (ARD 2009b).

The draft legislation governing forests and wildlife proposes major changes with respect to tenure in Angola's conservation areas. If the legislation passes in its current form, support for local communities residing in conservation areas will for the first time be integrated into conservation area objectives. Unlike current law, the draft law recognizes the rights of local communities within conservation areas to hunt small game and harvest forest resources for subsistence purposes. Concessions in conservation areas would be limited to ecological tourism operations, while commercial forestry and hunting activities would be prohibited in these areas. As such, if reclassification of the KAZA region of Angola is successful, the prospects for communities residing in this area are much more favorable should the draft legislation pass than they if the current legal framework remains in place (ARD 2009b).

TENURE ISSUES

Access to Angola's forests and forest products has suffered from years of war, a lack of legal framework and regulation, and weakness in the government institutions. Communities are living on or near state-owned forestland with no formal rights of access or use of forest products. In many areas, forests have become an open-access resource that local populations use for food, fuel, and to generate income through activities such as charcoal production. In other areas, forests remain under control of local elites, aggressive entrepreneurs, and private enterprises that may restrict access to those who are less powerful (FOSA 2001; FAO 2006; Zweede et al. 2006).

GOVERNMENT ADMINISTRATION AND INSTITUTIONS

The forestry sector is governed by the *Instituto de Desenvolvimento Florestal* (Institute of Forestry Development) (IDF) and the *Direcção Nacional de Agricultura, Pecuária e Florestas* (National Directorate of Agriculture, Livestock and Forestry) (DNAPF), both within the Ministry of Agriculture. The *Direcção Nacional de Recursos Naturais* (National Directorate of Natural Resources) (DNRN) is in charge of protected areas. Theoretically, DNAPF is responsible for defining policies, and IDF implements policy. In practice, IDF tends to dominate the decision-making on policy issues and the development and implementation of policy. At the central level, IDF includes the following departments: (1) Office of Studies and Planning; (2) Forestry Department; (3) Wildlife Department; (4) Department of Law Enforcement; (5) Department of Administration, Management and Budget; and (6) Human Resources. IDF maintains Regional

Centres and provincial directorates. IDF has very limited resources and a shortage of specialized personnel (FAO 2008; FOSA 2001).

GOVERNMENT REFORMS, INTERVENTIONS AND INVESTMENTS

In 2006, the Government of Angola, through the former Ministry of Agriculture and Rural Development (now Ministry of Agriculture) and with support for the New Partnership for Africa's Development (NEPAD) and FAO, initiated a 5-year US \$75 million project to revitalize Angola's forestry sector, including preparing a national inventory of forests, formulating forest policy and legislation, and planning for reforestation, capacity-building in areas of forest protection and management, infrastructure development, and revitalization of the extractive sector. As of 2009, the project reported training at least 80 technicians and forest officers in forest inventory techniques, and the inventory was progressing. In order to combat desertification, IDF is undertaking a project to plant 5000 hectares of trees per year. The campaign is progressing but national numbers have not been released (NEPAD and FAO 2005; FAO 2008; *AllAfrica* 2009b; FAO 2009b; ANGOP 2010c).

In 2007, the Government of Angola signed a Memorandum of Understanding with four neighboring countries to create a transfrontier conservation area, known as Kavango-Zambezi (KAZA), which would include an 87,000 square kilometer area of southeast Angola. As part of the KAZA-Transfrontier Conservation Area (TFCA) agreement, Angola has committed to engaging area communities in sustainable conservation-based livelihoods, while improving conservation of the natural resources. The region is currently comprised of two conservation areas and four public hunting reserves known as *coutadas*, and the Angolan Ministry of Environment is considering whether to issue a proposal to convert the region into a block of conservation areas. At the same time, the Government of Angola has been preparing and debating new legislation to replace the existing legal framework governing forests, wildlife, and conservation areas (ARD 2009b).

DONOR INTERVENTIONS AND INVESTMENTS

The government's possible reclassification of the KAZA region in Angola into a block of conservation areas and the draft law have significant implications for: (1) natural resource rights of local communities inhabiting the area; (2) tourism, hunting, and timber interests wishing to either to maintain or acquire rights; and (3) the government's capacity to make the goals of biodiversity conservation, poverty reduction, and socioeconomic development complementary and mutually reinforcing. In an effort to better understand these tenure implications, USAID commissioned a land and natural resources rights assessment that focused on the Mucusso Coutada, the southernmost reserve in the Southeast Angola *coutada*/conservation area network, lying along the Kubango River bordering Namibia (ARD 2009b).

The USAID study concluded that reclassification of the KAZA area may improve the prospects for tenure, livelihoods, and conservation depending upon the final content of the new legal framework and the manner in which it is implemented, including the outcomes of debates over institutional mandates, funding deficits, and the approach to realizing community objectives that are stated in the legislation. If the area remains primarily a cluster of *coutadas*, the resource rights of resident communities are vulnerable to the government's awarding of concessions to outside interests. If the area is instead reclassified as a block of conservation areas, the subsistence rights of communities that are provided for under the new legislation could potentially be denied or narrowed through conservation area management plans (USAID 2009a).

Achieving the goals of the KAZA-Transfrontier Conservation Area (TFCA) agreement, depends upon several factors, including: (1) strengthening and passing the draft law and accompanying regulations in ways that will protect and strengthen community rights to use and govern land and natural resources in conservation areas and *coutadas*; (2) study of the implications of voluntary resettlement of populations that relocated to southeast Kuando Kubango during Angola's civil war to ensure that outcomes would result in peaceful transition and improved livelihoods for those who are resettled; and (3) developing a legal framework for co-managed conservation areas that empowers resident communities with (a) ample decision-making power over the land and natural resources they depend on, and (b) rights to equitably benefit from revenues generated from non-consumptive and consumptive use of resources in these areas (USAID 2009a).

The Mayombe Forest Transboundary Initiative is a sustainable ecosystem-management project being developed by UNEP and the International Union for the Conservation of Nature (IUCN) with funding from the Norwegian government. The initiative, which is in the design stage, will be a collaborative effort by the governments of the Democratic Republic of Congo (Kinshasa), the Republic of Congo (Brazzaville), and Angola to cooperate in the preservation and rehabilitation of the Mayombe Forest, which suffered for the region's political and economic instability (UNEP 2009).

NGOs advocating for sustainable use of forest resources in Angola include AID/WATCH, the Global Lead Advice & Support Service (GLASS), Coalition Jubilee 2000 Angola, and Angola Economic Justice Program. The NGO Development Aid from People to People (ADPP) has initiated a tree-planting project in partnership with the Institute of Forest Development (IDF) (Environmental Defense 2005; *AllAfrica* 2007).

4. MINERALS

RESOURCE QUANTITY, QUALITY, USE AND DISTRIBUTION.

Petroleum and diamond production dominate Angola's mineral industry, with oil by far the most important commodity. Angola's mineral wealth fueled the long years of civil conflict; UNITA marketed diamonds to finance and equip its troops while the MPLA exploited the coastal oil reserves. The conditions of conflict made it possible to divert resources with little notice, and Angola's minerals contributed to the personal wealth of Angola's elites (USAID 2005; Allen 2010).

Angola is estimated to have reserves of oil exceeding 13 billion barrels, largely located offshore in deepwater locations near the coast of Cabinda and Zaire provinces. Investments that would increase oil production and capacity in the years ahead and several new projects are already beginning to come on-line. Angola's government created the national oil company, *Sociedade Nacional de Combustiveis de Angola* (Sonangol), in 1976. As the sole concessionaire for oil exploration and production in Angola, Sonangol works with foreign companies through joint ventures and production-sharing agreements. Major oil companies with operations in Angola are British Petroleum (BP), Chevron/Texaco, ENI (Italy), Total, ExxonMobil, and Sinopec (China). The country has one oil refinery, which is owned by *Fina Petroleos de Angola*, a joint venture between Sonangol, Total, and private investors. The refinery does not have the capacity to meet domestic demand, and Angola imports gasoline, jet fuel, and kerosene (FSF 2000).

Angola joined the Organization of Petroleum Exporting Countries (OPEC) in 2007, and in 2009 Angola overtook Nigeria to become Africa's largest producer of crude oil. Petroleum in that year accounted for 90% of export revenues (with 75% going to the US and China) and 80% of GDP. Revenues in 2009 were US \$24 billion, down from the 2007 peak of US \$30 billion. Foreign governments and international organizations are encouraging Angola to reduce corruption and to

increase transparency and accountability in its governance of the petroleum industry. Oil production directly employs relatively few Angolans (some 15,000), indicating that wealth generated in the sector will need to be invested in other sectors to boost non-oil production and employment (Bermudez-Lugo 2009; Smillie 2007; World Bank 2006; EIA 2010; Cramer-Flood 2009).

In addition to its oil reserves, Angola was the seventh-largest producer of rough diamonds in 2006 and ranked fifth in terms of value of diamond production. The diamond industry provided roughly 10,000 jobs in 2006, with a reported 90% held by Angolans. The main diamond-producing area is located in the Lunda Norte province. Most of Angola's diamond reserves are alluvial and are mined near the surface, often using simple tools such as shovels and sieves. Much of the mining is done by artisanal miners, known as *garimpeiro*, who worked for UNITA mining diamonds during the war. Following the end of the war, the government's diamond company, Endiama (*Empresa Nacional de Diamantes de Angola*), and international companies joined forces to take control of the diamond mines and production. The *garimpeiros* remained, operating informal illegal operations. They have been subject to substantial human rights violations, including serious assaults and killings perpetrated by mining companies and government officials (Bermudez-Lugo 2009; Allen 2010).

Angola also produces granite, cement, marble and salt. The country's undeveloped mineral resources include copper, gold, gypsum, iron ore, lead, silver, and zinc. Angola has deposits of uranium and is planning to develop a nuclear energy industry (Bermudez-Lugo 2009; FSF 2009).

LEGAL FRAMEWORK

The 1992 Law on Mining and Geological Activities (Law 1/92 of 17 January) provides that all minerals belong to the state. The Council of Ministers must approve of all mining and exploration contracts. The 1994 Diamond Law (*Lei das Diamantes*, Law No 16/94) grants the government entity Endiama title to Angola's diamonds. Endiama has the right to prospect, exploit, handle, and commercialize diamonds in Angola. The Diamond Law established restricted zones, protected zones, and reserve zones that restrict the movement of people and goods in diamond-producing provinces. Unauthorized prospecting, mining, transportation and possession of diamonds carries prison terms of 8 to 12 years (Smillie 2007).

The 2004 Petroleum Activities Law states that the government of Angola owns all petroleum mineral resources. Under the law, the state company, Sonangol, holds the sole concession for exploration and production activities in Angola. Companies wishing to engage in exploration and production of petroleum can only do so in association with Sonangol. The law permits Sonangol to be an equity participant in exploration and production activities (World Bank 2006; GOA 2004c).

TENURE TYPES AND SECURITY

Under the 1992 Law on Mining and Geological Activities, the state can grant individuals and entities prospecting licenses to carry out research, prospecting, and reconnaissance activities within a defined area. Entities wishing to mine must submit a mining plan and obtain the right to extract and trade in mineral resources, which is evidenced by a mining title (SEAMIC 2009).

The 2004 Petroleum Activities Law, Law 10/04, recognizes two types of agreements between Sonangol and international oil companies: concession agreements, which apply to onshore and shallow water blocks, and production-sharing agreements, which apply to deepwater operations. Each production-sharing agreement is individually negotiated, and the terms have varied over time, becoming more standardized in 2004 to stabilize extraction conditions and attract more investment (GOA 2004c; World Bank 2006; Auty 2008).

The Diamond Law gives Endiama the rights to grant concessions to prospect for and extract diamonds in Angola. Endiama establishes joint ventures with domestic and foreign companies, with Endiama taking a majority ownership position in the joint ventures. Under the law, licensed artisanal miners can work in designated areas where mechanized mining is impossible. Miners must have been resident of the county in which operations take place for at least 10 years and meet certain criteria regarding identity documents. The conditions of licenses are considered onerous, and no artisanal licenses had been issued as of 2006 (Smillie 2007).

Under the Law on Mining and Geological Activities, mining titles will expire if the contractor abandons activities, operates outside the scope of the rights granted under the mining title, or fails to report on its activities (SEAMIC 2009).

GOVERNMENT ADMINISTRATION AND INSTITUTIONS

Angola's Ministry of Petroleum manages the petroleum sector. The Ministry is responsible for implementing the policies and laws governing the sector, providing oversight of concessions and production-sharing agreements, and determining market prices. The national oil company, Sonangol, has a broad range of authority and functions: Sonangol serves as a regulatory authority, an equity participant and taxpayer, and invests public funds. The performance of various functions by a single state-owned entity creates conflicts of interest and helps perpetuate a rent-cycling system that benefits elites (GOA 2004c; World Bank 2006; Auty 2008; HRW 2010).

The Ministry of Geology and Mines (*Ministerio de Geologia e Minas*) is responsible for enforcing mining laws, negotiating mineral contracts, and conducting geologic surveys. Endiama, the state-owned diamond company, is responsible for administering and regulating the diamond sector and is a mandatory partner in all diamond ventures. Endiama is technically under the Ministry of Geology and Mines but operates independently and without oversight. Endiama's subsidiary, Sodiam, is the single-channel export arm for Angola's diamond industry. Sodiam is also responsible for certifying the diamonds under the requirements of the Kimberly Process, an international agreement intended to restrict sale of conflict diamonds. As with Sonangol, the inherent conflicts of interest have been noted by international organizations such as the World Bank, but no change in the structure of the government entities is anticipated (Bermudez-Lugo 2004; Smillie 2007; World Bank 2006).

GOVERNMENT REFORMS, INTERVENTIONS AND INVESTMENTS

Angola is investing heavily in infrastructure to support the mining industry. The government is spending several billion dollars to modernize the Luanda Port and reconstruct railways that can move cargo efficiently from mining locations to industrial centers and ports. A new refinery being built in Lobito is expected to be operational in 2012. Sonangol, Chevron, Total, BP and ENI are building a 5-million-ton liquefied natural gas (LNG) plant, which is scheduled to begin production in 2010. The government intends to convert much of the natural gas into LNG for export and use a portion to produce electricity (Bermudez-Lugo 2009; SFS 2009).

Beginning in 2002, the Angolan government took steps to introduce transparency and controls into the management of its petroleum and mineral wealth. The government opened concession-bidding processes to public scrutiny, adopted an integrated financial management system, and began publishing oil receipts and updates on the foreign currency reserves. All oil companies, including Sonangol, are audited annually. The government created a reserve account to maintain a percent of windfall profits, and has improved its mechanisms for intra-governmental expenditure tracking. Some international organizations have suggested that the efforts are inadequate in both design and execution: the publicized information is usually too dated to permit meaningful action, irregularities noted by auditors in Sonangol's accounts are minor and do not

address structural conflict of interest issues, and no standards govern the use of the reserve account (HRW 2010; RWI 2010; World Bank 2007; World Bank 2006).

Angola is not currently a participant in the Extractive Industries Transparency Initiative (EITI). The government publishes some monthly statistics on diamond revenue, but the data is not disaggregated to the company or mine level, making the figures harder to analyze or verify. The state diamond company, Endiama, has been accused of awarding contracts to foreign companies through secretive processes, and of using political patronage to divert revenues, granting minority ownership stakes to unqualified companies controlled by powerful Angolans. Several reports have asserted that the diamond companies have also caused significant environmental damage and that employees have been subject to human rights violations (RWI 2010; HRW 2010; Allen 2010).

DONOR INTERVENTIONS AND INVESTMENTS

Angola is the largest supplier of oil to China, and China has pledged more than US \$20 billion to finance infrastructure development and trade in the country. China has also provided Angola with an estimated US \$12 billion in oil-backed loans. In the last several years, Chinese construction firms have built a new airport, restored railroads, and built numerous hospitals, schools, and roads in the country.

Partnership Africa Canada conducts an annual review of the diamond industry and has issued strong recommendations to reform the sector to provide more transparency in operations, establish an effective system for tracking artisanal diamonds from production to export and transferring the task of certifying diamonds under the Kimberly Process to the Ministry of Geology and Mines (Smillie 2007).

As part of USAID's Global Development Alliance Program, Chevron Corporation, one of the largest companies working in Angola's petroleum sector, has partnered with USAID. The objective of the partnership is to support municipal development. The project includes providing technical assistance on the development of municipal plans and support for municipal development of community infrastructure and other activities designed to improve service-delivery and economic opportunity (USAID 2006).

The NGO Partnership of Africa and Canada (PAC) which is a member of the Kimberly Process, has drawn attention to issues of potential human rights abuses in the mining industry, especially involving illegal immigrants working in diamond mines (PAC 2009).

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