

# U4 Expert Answer



## Overview of corruption and anti-corruption in Angola

### Query

Could you please provide an overview of corruption and anti-corruption in Angola?

### Purpose

Our country has commercial interests in Angola and new investments are being planned. Most of the information available on corruption appears to be anecdotal and scattered, and maybe outdated.

### Content

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### Summary

Emerging from nearly three decades of conflict and instability, Angola continues to face major challenges of weak governance and widespread corruption at all levels of society. Corruption manifests itself through various forms, including bureaucratic, political and grand corruption, embezzlement of public resources, systematic looting of state assets, and a deeply entrenched patronage system that operates outside state channels. The scale of corruption and mismanagement has been considerable in the extractive industries.

The government has introduced important reforms in recent years, especially with regard to revenue and budget transparency. It also called for a crackdown on

corruption in 2009. But Angola's overall legal and institutional anti-corruption framework remains highly inadequate. Anti-corruption institutions are underdeveloped, often lacking human and financial resources, as well as technical expertise and capacity. They are subject to widespread political interference, casting serious doubt on the political will for reform. Although civil and political rights are guaranteed by the Angolan constitution, civil society and the media face many challenges of a political, financial and logistical nature that restrict the free exercise of their constitutional rights.

## 1 Overview of corruption in Angola

### Background

Following independence from Portugal in November 1975, Angola has been ravaged by years of civil war involving the government controlled Popular Movement for the Liberation of Angola (MPLA) and the rebel National Union for the Total Independence of Angola (UNITA). This civil war claimed millions of lives and refugees. After the death of UNITA leader Joseph Savimbi in 2002, a ceasefire was finally reached by the two factions and UNITA assumed the role of major opposition party. Although the political situation began to stabilise after the 2002 peace agreement, President José Eduardo dos Santos – who holds the Presidency

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since 1979 – has so far shown little commitment to the democratisation process. Parliamentary elections - which had been repeatedly delayed since 1997 - were finally held in 2008, with the ruling MPLA winning over 80 % of the votes.

The country continues to face major challenges of widespread poverty, a ruined infrastructure, an abundance of minefields and guerrilla movements fighting for the independence of the northern exclave of Cabinda. In August 2006, a peace treaty was signed with a faction of the Front for the Liberation of the Enclave of Cabinda (FLEC), a separatist guerrilla group which is still active in the North, but sporadic violence and insecurity persist in the region.

Natural resources have played an important role in fuelling conflict and insecurity in the country, with all sides in the conflict seeking control over the country's resource wealth. The country is one of the top two producers of petroleum and diamonds in Sub-Saharan Africa. In the post-war era, increased oil production combined with high international prices for oil has supported growth rates averaging more than 15 % from 2004 to 2008, making Angola one of the fastest growing economies in Africa (CIA, 2011). Oil is the driving force of the economy, accounting for 58% of Angola's GDP and 80% of government revenues (Revenue Transparency Watch). Post-war reconstruction efforts and resettlement of displaced people have also contributed to high rates of growth in the construction and agriculture sectors. Angola has made considerable progress in improving its infrastructure, with major investments made into the building and rehabilitation of roads, hospitals, schools and railways.

In spite of these noteworthy improvements, economic growth has largely failed to translate into better development outcomes for all. The exploitation of the country's natural resources has created considerable wealth for a minority of the population, but the vast majority of its people still live in dire poverty. While, according to UNICEF, significant progress has been made towards reducing maternal and infant mortality since 2002, Angola continues to rank among the weakest in the UNDP Human Development Index, although its GDP per capita is that of a lower middle income country (UNDP, 2010 and UNICEF, 2010).

## Extent of corruption

As Angola emerges from nearly three decades of conflict and instability, it continues to struggle with

major challenges of weak governance, and widespread corruption at all levels of society.

Major worldwide governance indicators reflect this situation. In 2010, the country ranked 168th of the 178 countries assessed by [Transparency International's Corruption Perceptions Index \(CPI\)](#), scoring 1,9 on a scale of 0 (highly corrupt) to 10 (highly clean), suggesting widespread and endemic forms of corruption. These findings are consistent with the World Bank's Worldwide Governance Indicators [World Bank 2009 Worldwide Governance Indicators](#) which underline Angola's extremely poor performance on all six dimensions of governance assessed. While the country has improved its performance in terms of political stability (from 19,2 in 2004 to 35,8 in 2009 on a scale of 0 to 100), it scores very poorly in all other areas of governance, especially in terms of voice and accountability, regulatory quality and rule of law. The situation even seems to be deteriorating in terms of control of corruption (from 6,3 in 2004 compared to 5,2 in 2009).

Angola also performs poorly on the 2010 [Heritage Foundation's Index of Economic Freedom](#). The country ranks 161st out of the 179 countries assessed (and 40th out of 46 in the Sub-Saharan Africa region), with an economic freedom score of 46,2 on a 0 to 100 scale (Heritage Foundation, 2010). In particular, the country performed extremely poorly in terms of freedom from corruption, with a score of 19 on a 0 to 100 scale, with corruption perceived to be rampant among government officials at all levels. Similarly, Angola performed poorly on the 2010 [Ibrahim Index of African Governance](#)<sup>1</sup>. It was ranked 43 from 53 [Sub-Saharan African](#) countries assessed, scoring particularly poorly in the areas of Sustainable Economic Opportunity and Human Development (Mo Ibrahim Foundation, 2010).

## Forms of Corruption

### *Petty and bureaucratic corruption*

Petty bribery is widespread in Angola and public servants routinely ask for bribes – referred to as “*gasosas*” in the local language. Bribes are demanded

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<sup>1</sup> The Ibrahim Index uses a number of different variables to compile its list which reflects the state of governance in Africa.

for accessing basic public services such as health, justice and education, while police officers often extort small payments at checkpoints. Public officials are known to supplement their low wages by levying additional charges for bureaucratic services such as vehicle registration, identity card applications, permits and registration of businesses (Freedom House, 2007).

Inefficient government structures, red tape and an opaque regulatory environment combined with low civil-service salaries offer many opportunities for rent-seeking. Over 46 % of the companies surveyed within the framework of the [2006 World Bank & IFC Enterprise survey](#) expected to make informal payment to “get things done”, while 36 % identified corruption as a major constraint to doing business in the country (World Bank & IFC, 2006). While progress has been made in recent years to improve the overall regulatory environment, the business environment remains difficult. It is plagued by pervasive corruption, complex bureaucratic procedures and an underdeveloped financial system (US Department of State, 2010). The [World Economic Forum Global Competitiveness Report 2010-2011](#) confirms that corruption and inefficient government bureaucracy are among the greatest constraints for business operations in the country (World Economic Forum, 2010).

### *Grand corruption*

Shady business deals and grand corruption scandals often involve foreign multinationals and top level domestic and foreign officials, as in the case of the major corrupt arms deal referred to as “Angola gate”. This international political scandal over the illegal sale of arms to the Angolan government - in defiance of a UN arms embargo - involved international oil companies, off-shore financial centres, and international banks. The scandal illustrated how political and business elites in France, Angola and elsewhere exploited the country’s civil war to siphon off oil revenues. 42 people have been accused of illegal arms deals, tax fraud, money laundering, embezzlement and/or other corruption-related offences. Among those charged were a former French Minister of Interior, and the son of late French President Francois Mitterrand. Both were convicted in 2009 by a French tribunal (The Telegraph, 2009).

There are indications that grand corruption has persisted in the post-war era. Angola is listed on the [Grand Corruption Watch List](#) that Global Integrity started compiling in 2008 in an effort to identify

countries where certain key anti-corruption safeguards are so weak that the risk of large-scale theft of public resources is greater than in most countries. Angola shares with 15 other countries characteristics that put it at risk of being affected by grand forms of corruption, including extremely poor conflict of interest safeguards in government, weak oversight over large state-owned enterprises, and poor or non-existent controls over the flow of money into the political process (Global Integrity, 2009).

A recent report by Rafael Marques de Morais – an Angolan investigative journalist and writer<sup>2</sup> – documents how key sectors of the economy such as petroleum, telecommunications, banking, media and diamonds form part of a business empire<sup>3</sup> built by high ranking officials close to the presidency to enrich themselves and tighten the ruling party’s political grip over the country (Marques de Morais, R, 2010).

### *Political corruption*

Corruption also undermines the integrity of the country’s political processes, as the long-delayed September 2008 legislative elections have shown. Some international observers such as the European Commission and the Southern African Development Community have praised the elections as generally fair, in spite of organisational weaknesses, procedural inconsistencies and an uneven playing field for contestants (EU election observation mission, 2008). However, other organisations have questioned the legitimacy of the results and various reports have documented irregularities and political violence during the electoral process (Freedom House, 2010). For example, the National Electoral Commission - notoriously close to the MPLA - denied opposition parties access to the vote registry and hampered the accreditation of election monitors not affiliated with the ruling party. Political party financing also lacked transparency, with government releasing state funding for opposition parties later than mandated and securing additional state resources to fund its own campaign

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<sup>2</sup> Rafael Marques de Morais was found guilty of violating the Press Law and sentenced to six months of prison.

<sup>3</sup> The report alleges that firms such as Movicel, Biocom, Banco Espírito Santo Angola, Nazaki Oil & Gás, Media Nova, World Wide Capital and Lumanhe are involved in this “state-business empire” based on illicit enrichment of top ranking officials.

(Freedom House 2010). Some organisations have also denounced government intimidation of the opposition, the denial to opposition parties of fair access to media and to public facilities for meetings, the lack of public access to the voting registry public or the influence of companies linked to the MPLA in election preparation (Social-Political Observatory of Angola, 2008).

Government and business elites are closely interlinked in Angola. It is common for government officials and civil servants to hold positions in private companies in addition to their public functions. Conflicts of interest extend to state-owned enterprises, where “*government ministers and other high officials commonly and openly own interests in companies regulated by their respective ministries*” (Global Integrity, 2008). Foreign investors are often encouraged to partner with Angolan companies, many of which are known to be front organisation for government officials of questionable integrity (Business Anti-corruption Portal, 2010). According to the [Economic Intelligence Unit’s Angola Country Risk 2007](#), state credit funds set up to support small Angolan companies have been prone to poor governance and misappropriation and have been allegedly channelled to favoured companies owned by high-ranking political figures or projects with strong political connections (Economic Intelligence Unit, 2007).

### *Cronyism and patronage networks*

Power in Angola is concentrated around the head of state, José Eduardo de Santos, who, according to various reports, is at the centre of a deeply entrenched patronage system that operates outside state channels and undermines the efficacy of these normal channels. The beneficiaries of this system are collectively referred to as the “Futungo”, named after the Presidential palace, and control much of the opaque financial dealings of the state, using a significant proportion of government resources outside the state budget in a parallel system of state revenue deployment (Global integrity, 1999, and Hanson, S., 2008). High level MPLA allies and relatives enjoy unchecked access to state resources and are widely suspected of using public resources for their personal gain.

The president also controls the allocation of powers within ministries, frequently removing people from their posts and assigning them elsewhere. According to a DFID study, a characteristic of the Angolan patronage system is that, if government cronies are allowed to

enrich themselves in the course of their duties, they are still expected to perform their duties to certain standards. In other words, while officials may have access to lucrative positions and resources, the institutions of state must continue to work as efficiently and as well as possible (Shaxson, N., João Neves, J., and Pacheco, F., 2008). Their political support is expected in exchange from these benefits. According to the report, base salaries are deliberately kept relatively low – parliamentary deputies were cited as the example – and they then compete for subsidies and other favours in an informalised system of patronage.

## Sectors most affected by corruption in Angola

### *Oil and mining industry*

Angola is endowed with large deposits of oil, diamonds and natural gas reserves, making it one of Africa’s most resource rich countries. Oil and diamond represent the vast majority of Angola’s exports and major international oil companies are involved in oil exploration and production. High growth rates driven by record oil prices in the post-war era have resulted in massive increases in state revenues and have translated in considerable growth of the state budget. Experts consider Angola to suffer from a classic case of the “resource curse”. Its reliance on oil rents rather than direct tax revenues provides unique opportunities to the ruling elite for corruption and self-enrichment while reducing citizens’ demand for greater accountability and representation from their government (Human Rights Watch, 2010).

As a result, the government has reportedly traditionally mismanaged the country’s mineral wealth, using its control over oil resources to strengthen its political and economic power over the country. According to a 2004 Global Witness report, evidence from IMF documents and elsewhere confirm that over US\$1 billion per year of the country’s oil revenues – about a quarter of the state’s yearly income – has gone unaccounted for since 1996. Human Rights Watch estimates that more than US\$4 billion in oil revenues disappeared from Angolan state coffers between 1997 and 2002 (Global Witness, 2004 and Human Rights Watch, 2004). In addition to resource diversion, officials are known to enrich themselves by receiving bribes. For example, scandals surrounding the French Elf-Aquitaine oil company revealed that through the 1980s and 1990s the company spent about USD 60 million per year in bribes worldwide, maintaining a slush fund in Lichtenstein from

which it paid bribes into Swiss bank accounts of African officials, including Angolans (McMillan, J., 2005). In the post-war era, there are indications that resource revenues continue to be used by the ruling elite to enrich themselves and/or secure their hold on power (Marques de Moraes, R, 2010).

Control of the oil industry is consolidated through the state owned Sonangol group. The financial relationship between the government and Sonangol is complex and secretive, as are the sub-contracting procedures used to assign sector work to outside companies (Business Anti-corruption portal, Website). Analysts regard Sonangol – which is the biggest company in the country and the largest source of revenue - as an important factor in ensuring the survival of the current regime as well as a major source of personal enrichment for state officials (Marques de Moraes, R., 2010). According to the Business Anti-corruption portal, a significant proportion of Sonangol's income is diverted to the ruling elite through complex offshore financial systems and/or used to weaken the political opposition. In TI's 2011 Report on Revenue Transparency of Oil and Gas Companies, Sonangol scores very low in terms of anti-corruption programme reporting, suggesting that the company still has few measures in place such as giving employees anti-corruption training or ensuring their protection from retaliation if they report corruption (Transparency International, 2011). However, findings also suggest that Sonangol has made progress in terms of organisational disclosure, in areas such as the publication of company accounts and external audits.

Revenue transparency is traditionally very weak but has significantly improved in Angola since the end of the war. Under international pressure, major progress has been made in recent years in increasing transparency in government oil revenues, and to a lesser degree, diamonds revenues. Although Angola has not signed the Extractive Industries Transparency Initiative (EITI), the country has made significant progress in recent years towards bringing the country in line with the EITI revenue transparency standards. Angola now publishes monthly petroleum receipts on the Ministry of Finance's website, including the details of oil production by oil block as well as monthly data on oil production and oil exports (Revenue Watch Institute, Website). The country has also opened its most recent oil concession bidding rounds to increased scrutiny. The government has also conducted audits of Sonangol, and other institutions.

In spite of this progress, major obstacles continue to hamper transparent management of oil revenues. Angola is ranked 47 of the 55 countries assessed by the Revenue Watch Institute's Transparency 2010 Index, with a score of 34 on a 0 to 100 scale, suggesting that although it now provides citizens with information about revenues from the extractive sector, there are still important transparency gaps in one or more specific categories of the index (Revenue Watch Institute, 2010). Bidding processes by which local companies are granted stakes in oil consortia and firms are awarded sub-contracts remains largely opaque. While the government has begun to publish monthly data on diamond revenue, it is not disaggregated to the same level of detail as that of oil revenues. In addition, the country's progress on revenue transparency has not been matched with corresponding openness on public expenditures. Some observers suggest that patronage systems have shifted from the income side of Sonangol to the expenditure side, with practices such as kickbacks in procurement, politically motivated contract awarding, over-billing and sale of state markets below market value (Revenue Watch Institute, Website and Business anti-corruption portal, 2010).

### *Public financial management*

#### **Budget processes**

As mentioned, the Angolan budget has grown at a rapid pace in the post-war area - driven in particular from oil growth which grew more than tenfold between 1997 and 2008 in proportion to GDP (Human Right Watch, 2010). Since 2005, the government has also used billions of dollars in credit lines from China, Brazil, Portugal, Germany, Spain and the EU to rebuild Angola's public infrastructure (CIA, 2011). However, the state institutions involved in the budget process have long been rather weak, due to lack of capacity, weak structures and a lack of oversight institutions (Isaksen, J., Amundsen, I., Wiig A., Abreu, C., 2007).

Reforms have taken place in recent years, in particular in the ministry of finance, the finance committee of the parliament and the supreme audit institution (see below). The government has also introduced with international assistance an integrated financial management system to improve tracking of all government revenues and expenditures at the national and provincial levels. This system was apparently not fully operational as of 2010 (Human Right Watch, 2010).

In spite of progress made, budget processes remain largely opaque in Angola, creating fertile ground for financial mismanagement and embezzlement of public resources. The country scores 26 out of 100 in the **2010 Open Budget Index**. While this score is a significant improvement as compared to 2004's scores (3 %), it remains well below the average score of the 94 surveyed countries. This indicates that the government provides minimal information to the public, making it almost impossible for citizens to hold government accountable for its management of public resources (International Budget Partnership, 2010).

In addition, the country's progress in publishing revenue information has not coincided with a matching openness about public expenditures and there is little effective oversight of how increased revenues are being spent (Revenue Watch Institute, Website). Since 2008, the government publishes its budget proposal prior to legislative approval and has started to publish detailed expenditure reports online, disaggregated by functional category and geographic area. But citizen and parliamentary oversight remains virtually non-existent. Recommendations from the Open Budget index include increasing the comprehensiveness of the Executive's budget proposal, publishing budget documents on the government's website, providing opportunities for public participation in budget processes and increasing the role of the legislature and SAI in budget oversight.

In addition, large amounts of funds are being spent outside of the official expenditure process. Sonangol engages in quasi-fiscal expenditures on the government's behalf such as fuel subsidies or the servicing of the national debt (Revenue Watch Institute, Website). While the company has started recording some payments through the above mentioned integrated financial management system, it does not do so comprehensively enough and there are no external controls over the expenditure decisions themselves.

As a result, leakages and **embezzlement of public funds** are likely to occur. For example, 18 people were arrested in mid-February 2010 in an embezzlement probe at the central bank. All suspects were low-level employees at the central bank and ministry of finance that could have diverted up to USD 137 million dollars. But diversion of public resources appears to not only occur at the lower levels of state institutions. Such concerns are underpinned by survey information (Action for South Africa, 2010) that the president's eldest daughter, several key ministers, and members of the ruling party, are among Angola's 12 richest people.

## Revenue administration

Corruption in the **tax and customs systems** undermines the government's capacity to generate revenues. According to Global Integrity, tax officials enjoy wide discretionary powers to interpret tax laws, which are almost never enforced uniformly and without discrimination. This offers opportunities for well connected individuals to avoid paying taxes. Similarly, companies encounter opaque and cumbersome procedures when clearing imports, which provide incentives for bribery and facilitation payments.

## Public procurement

The **Angolan procurement system** is also considered a high risk area for investors. Procurement laws are not fully enforced, creating many opportunities for abuse. According to a 2007 Chr. Michelsen Institute report on the Angolan budget processes, the procurement system is affected by inefficient and costly procedures and practices, with a number of procurement procedures and practices being either un-economic, inefficient or not in compliance with recommended best practices. Weak procurement organisation and capacity at all levels, both in Luanda and in the provinces, including poor record-keeping within ministries, also create fertile ground for corruption (Isaksen, J., Amundsen, I., Wiig A., Abreu, C., 2007).

A new law on procurement was recently approved by parliament which also applies to the petroleum sector (see below). However, it is still early to assess how these new rules will be enforced in practice, as, according to some experts consulted within the framework of this query, rules of exemption are traditionally very often applied in Angolan procurement processes.

According to the US Department of State (2009), high level government officials reportedly receive substantial kickbacks from private companies in exchange for lucrative government contracts. The World Economic Forum's Global Competitiveness report 2010-2011 also points toward favouritism in designing policies and awarding contracts, with a substantial proportion of public funds routinely diverted to companies, groups and individuals close to the political elite or resorting to bribery.

More specifically, informed sources report that government officials, particularly from the presidential inner circle, are the main businesspeople and private

investors in the country. According to Rafael Marques de Morais, the most important business contracts involving the state benefit mostly government officials' private business interests in association with foreign enterprises. An example of such schemes is the Thales-Sadissa joint venture through which the head of the state oil company and Angola's ambassador to France have entered into a multi-billion dollar partnership with the French defence company Thales to supply communications equipment to the Angolan military. This is despite Angolan legislation prohibiting these two officials' participation in such a deal (Africa File, 2009). Reportedly, Miguel da Costa, the Angolan ambassador to France abused his position as ambassador by negotiating with the French authorities on a deal that benefited him personally (Pearce, J., 2010).

## 2 Anti-corruption efforts in Angola

Recent statements by President Jose Eduardo dos Santos seem to indicate a willingness to combat government corruption: he has called for a "zero tolerance" policy against corruption in a speech to his party in November 2009. However, in spite of a general trend towards more transparency regarding both oil revenues and government expenditures, most observers question the political will to reform. Angola's legal and institutional anti-corruption framework is reported to be poor. According to Global Integrity (2008), Angola suffers from "one of the worst overall anti-corruption frameworks" in the world and scores very poorly in terms of government accountability, administration and civil service, oversight and regulation, as well as anti-corruption and rule of law (Global Integrity, 2008). Insufficient safeguards and a lack of checks and balances make government accountability difficult to enforce.

### Legal Framework

The legal framework against corruption is considered highly inadequate, scattered across different supporting pieces of legislation, some of them outdated.

The **Penal code 1886** and the **Law of Crimes against the Economy** criminalise active and passive corruption, attempted corruption as well as extortion. As of 2008, bribery of foreign officials was not covered by the legal framework. In 1996, the **Law of the High Authority Against Corruption** was passed, providing

for the creation of an anti-corruption agency. But it has not been put into practice to date. In March 2010, the parliament passed the **Public Probity Law**, which required all government officials to declare their wealth, including revenues, bonds and shares, or any other kind of property and valuables, domestic or abroad. However, no effective review mechanism has been established to monitor public officials' asset.<sup>4</sup> According to Global Integrity (2008), there is no legislation to protect whistleblowers from retaliation, either in the private or public sector.

The **Law on Access to Administrative Documents**, passed in 2002, guarantees open access to public documents, as well as the right to request information on the existence of documents on particular subjects. In practice, however, the **State Secrets Law 2002** and the **Law on National Security** hamper the implementation of freedom of information provisions by preserving the government's right to classify information with high discretion. Most journalists and NGOs in Angola say the government has systematically used the State Secrets Law to prevent information disclosure (Revenue Watch Institute, 2010).

The Angolan parliament approved a long-awaited **Anti-Money Laundering and Terrorism Financing Law** in May 2010, which comprises 60 articles and, with regard to criminal responsibility of persons, includes sanctions of up to 24 years in prison.

According to the **regulations for realisation of public expenditure**, major procurements require competitive biddings, but no strict formal requirements limit the extent of sole sourcing and control mechanisms are missing at all levels (Global Integrity, 2008). According to the Chr. Michelsen Institute, there are several problems related to procurement in Angola, including weaknesses in the legal framework and lack of enforcement, inefficiency and costly procedures, as well as weak audit and anti-corruption mechanisms. Laws and regulations relating to public procurement are written and promulgated but not adequately publicised or enforced. There is no oversight mechanism to ensure regular application of procurement regulations,

<sup>4</sup> According to an expert consulted within the framework of this query, the declarations are to be put in "sealed envelopes" and can only be opened if the declaration's owner has been accused of and processed for a crime.

and there are no procurement audits (Isaksen, J., Amundsen, I., Wiig A., Abreu, C., 2007). Unsuccessful bidders cannot ask for an official review of the bidding process but can challenge the decision in court. There are neither conflict of interest regulations for public procurement officers nor regulations for prohibiting companies guilty of major violations of procurement regulations (i.e. bribery) from participating in future procurement bids.

A new **Procurement Law** was approved by parliament in August 2010 with a view to address some of these challenges. The new law is intended to ensure that procurement complies with the principles of economic competitiveness, efficiency and effectiveness and sets the principles of a fair and equitable treatment of all bidders to promote fairness, competition, equality, probity and transparency in bidding processes. In particular, the law establishes a cross-sectoral central procurement agency (AllAfrica.com, 2010).

The **Promotion of Angolan Private Entrepreneur Law 2003** grants Angolan-owned companies preferential treatment in government tenders for goods and services as well as for public contracts.

In terms of its international commitments, Angola has signed but not ratified the **African Union Convention on Preventing and Combating Corruption**. In August 2006, the country ratified **UNCAC** and is legally bound by the terms of the convention. It has signed but not ratified the **United Nations Convention Against transnational Organised Crime**. In 2004, Angola also joined the **African Peer Review Mechanism**, which was interpreted as a sign of political will, as it subjects the country to periodic review of its commitment to political and economic governance reforms. As already mentioned, Angola has not signed-up to the Extractive Industries Transparency Initiative, but it has taken several steps in line with EITI and attends its conferences as an observer (Freedom House, 2007).

## Institutional framework

### *The High Authority Against Corruption*

Despite passing legislation on the creation of an anti-corruption agency as early as 1996, Angola failed to establish an independent body with the mandate to investigate and prosecute corruption-related cases. According to Global Integrity (2008), the High Authority Against Corruption exists only by law.

### *The Office of the Ombudsman*

The Office of the Ombudsman was established in 2005. Its director is appointed by a majority of two-thirds of the national parliament for a four-year term that can be extended with an additional four-year term. Although there is no evidence of political interference, the current ombudsman is considered by some groups to be politically influenced (Business Anti-Corruption portal, 2010). The ombudsman can only make recommendations, and there is little evidence of serious investigations conducted since its creation. The ombudsman reports to the Commission of the National Assembly on a biannual basis but these reports are not made publicly available. Up until now, investigations have been limited except for some prison visits, which have led to no reports. Citizen complaints have been received, but there is little information on their follow-up. The government gives superficial attention to the ombudsman's reports and rarely acts on its recommendations (Global Integrity, 2008).

### *The Court of Accounts*

The *Tribunal de Contas* (Court of Accounts) is the supreme audit institution in Angola. The director is appointed by the president for one seven-year term only. The law does not stipulate the terms for the directors' removal from office and the independence of the tribunal has yet to be tested. The agency has extensive powers and can initiate investigations. In spite of these relatively strong legal powers, its competence, skills and capacity as a relatively new institution need to be strengthened for it to function effectively. According to Global Integrity (2008), the tribunal sends its audit reports to the court's judges who make the decision on whether to approve, investigate further, or prosecute. The findings and recommendations as a tribunal are neither known to the public nor discussed in parliamentary debates (Isaksen, J., Amundsen, I., Wiig A., Abreu, C., 2007).

### *The judiciary*

The judiciary faces many challenges that undermine its ability to effectively prosecute corruption. The judicial system is characterised by understaffing, underdevelopment, inefficiency, and a lack of infrastructure and technical resources (Freedom House, 2007). But beyond these problems, most experts and assessments identify lack of political independence as one of the greatest challenge facing the Angolan justice system. This lack of independence seriously

undermines its capacity to act as an effective check on executive powers (Bertelsmann Foundation, 2010; Freedom House, 2010; Global Integrity, 2008). The President has the authority to appoint many members of the judiciary without legislative input or approval, including Supreme Court judges. Senior members of the judiciary are often MPLA party members, casting serious doubts on the country's judicial independence. This view is shared by the authors of a Chr. Michelsen Institute report which considers that a separation of powers between the executive, legislative and the judiciary does not exist in Angola and questions the government's political will to have a functioning court system (Isaksen, J., Amundsen, I., Wiig A., Abreu, C., 2007).

In addition, courts are hampered by a lack of training and infrastructure, a large backlog of cases and widespread corruption (Freedom House, 2010). Due to a lack of infrastructure and personnel, inadequate financial resources and corruption, only a few municipal courts are operational, creating large backlogs of cases and depriving many citizens of access to the formal justice system. As a result, traditional or informal court systems are utilised (Freedom House, 2010).

### Other stakeholders

Freedom of association, expression, assembly and demonstration are guaranteed by the Angolan constitution. However, in practice, civil society and the media face many challenges of a political, financial and logistical nature that restrict the free exercise of their constitutional rights.

### Media

In spite of constitutional guarantees and an easing of media restrictions since 2002, the media continues to face state interference and harassment which limits the emergence of a truly independent media. Journalists are driven to self censorship by the threat of dismissal, detention or other forms of harassment by the authorities (Freedom House, 2010). Libel and defamation of the president and his representatives are criminal offences, sanctionable by fines and imprisonment. The Law on State Secrecy also allows government to classify information and prosecute those who publish it.

The national media is dominated by the state: while the 2006 Press Law ended the state monopoly on television, the state owns the only daily newspaper and

national radio station as well as the main TV station. The government has tried to co-opt the private media. For example, the first private TV station, TV Zimbo, was launched in 2008 but its capital is reportedly owned by a media group close to President dos Santos (Bertelsmann Foundation, 2010).

While there are now 12 private weekly newspapers and four private radio stations operating in Luanda, independent media have in general a very limited outreach beyond the capital city. Few radio stations are allowed to broadcast nationally. For example, the Catholic Church was the first to introduce an independent radio station, but the authorities prevented it from broadcasting outside the capital in 2009 (Freedom House, 2010). In addition, independent media face major technical and financial limitations as well as a lack of requisite infrastructure for newspaper distribution. The country's high illiteracy rate (59%) and poor living standard constitute further obstacles to citizens' exposure to print media. Only an estimated 38% of the population own a radio while only 14% own a TV set (Bertelsmann Foundation, 2010). Similarly, internet access is also limited to a small portion of the population.

### Civil society

According to the Bertelsmann Foundation (2010), the government tends to deal with NGOs as social service providers and there is only limited space for civil society's activities beyond service delivery. As a result, civil society organisations are generally politically weak, lack experience, and are unwilling to engage in politically sensitive issues such as transparency, budget or revenue monitoring. CSOs working on corruption-related issues are subsequently rather small, having a limited membership base, and are often dependent on foreign funding or subject to political interference. Except for a few human rights organisations, NGOs working on good governance and public finance are still embryonic in Angola (Amundsen I and Abreu, C., 2006). In particular, revenue transparency is a very sensitive area to work on for NGOs, as they are frequently threatened with closure or prosecution when speaking out on corruption or revenue transparency (Revenue Watch Institute, 2010). The prominent activist Sarah Wykes for example was arrested by Angolan security forces and charged with crime against state security in 2007 when doing research on transparency in the oil sector for Global Witness (US Department of State, 2009).

*External partner***The international community<sup>5</sup>**

International pressure has played an important role in promoting anti-corruption reform in the specific context of Angola, in particular through the **IMF** and its key member governments (Human Right Watch, 2010). In particular a new stand-by agreement signed in 2009 between the Angolan government and the IMF could foster greater accountability over the use of oil revenues. In principle, such an agreement should include full disclosure of the government's oil revenues, a public audit of Sonangol, and an audited account of public expenditures. While the agreement does not fully include such requirements, especially with regard audit of government expenditures, it includes a commitment to publish a 2008 audit of Sonangol. As already mentioned, the government has also made significant progress in terms of the disclosure of oil revenues.

As the second largest consumer of Angolan oil and despite its significant interest in the Angolan extractive industries, the **US government** has been one of the first to explicitly denounce corruption and mismanagement in the oil and diamond industries and has consistently called for greater transparency and accountability. According to Human Rights Watch, the Obama administration is following this path.

**French/Angolan relations** illustrate how Angola can retaliate against countries who try to address corruption in the country. In 2004, the government did not renew a major French oil company's license for a small oil block in apparent retaliation over the arrest of Pierre Falcone, one of the main facilitators of the ongoing "arms-for-oil" scheme referred to as "Angolagate" (see above). The concession was instead awarded to China's Sinopec.

**The role of China**

In recent years, **China** has increased its economic and diplomatic involvement in Angola, with oil exploration and production the main areas of Chinese investment in the country. This engagement has made Angola China's largest African trading partner (Corkin, L., 2011). In addition, China has made major investments

in reconstruction efforts, including the building and rehabilitation of a new airport, railways, hospitals schools and roads (Mai, V. A. and al, 2007).

Most Chinese infrastructure aid to Angola comes in the form of advanced credit lines, with the country having reportedly received several billion dollars in oil backed loans from China since 2004. Such loans exchange guarantees of oil supplies against reconstruction work (Cramer-Flood, E., 2011). In particular, China's Exim Bank has been a key instrument in promoting economic cooperation between China and Angola, providing a total of USD 10.5 billion in credit between 2004 and 2010 to the Angolan government. Tied to these loans is the agreement that 70% of reconstruction-related public tenders will be awarded to Chinese companies (Corkin, L., 2011). Chinese construction firms benefit from such deals by working directly on Angolan infrastructure, which, in addition to creating attractive business opportunities, facilitate to Chinese capacity to extract resources and provides employment for Chinese workers (Cramer-Flood, E., 2011).

There are major transparency concerns associated with Chinese involvement in Angola, which are extensively covered by various reports and media articles. A comprehensive picture of China's total involvement in Angola is not publicly available and no one knows exactly how many contracts exist, how they are awarded, and how many Chinese firms operate in Angola. There are no statistics available on Chinese employment rates in the country, but there are reasons to believe that Chinese infrastructure projects employ almost exclusively Chinese workers (Cramer-Flood, E., 2011). The rise of China as Angola's trading partner is often cited in the literature as a factor likely to hamper governance reforms in the country, as China has so far avoided addressing transparency and governance issues as part of its dialogue with the Angolan government. The Chinese-Angolan partnership is seen by both parties as a win-win relationship, and President dos Santos himself refers to the Chinese/Angolan relations as a "pragmatic" partnership with no "political preconditions" (Human Right Watch, 2010).

However, while there are transparency concerns associated with the Chinese-Angolan economic partnership, the author of a Chr. Michelsen Institute brief points out that Western banks and governments are also entering the Angolan market and provide oil-backed credit lines akin to those provided by China (Corkin, L., 2011).

<sup>5</sup> This section is mainly drawn from the Human Right Watch 2010 report: „Transparency and Accountability in Angola“

The argument that Chinese firms apply lower ethical conditions than western companies that could reverse progress made in fighting corruption (Hurst, C., 2008) is not necessarily well-founded. Very little empirical research has been conducted to assess whether and to what extent the rise of China as a major economic partner has had a disruptive impact on Angola's overall governance landscape. According to some experts consulted in the framework of this query, this argument may be overstated, as competition among Chinese firms for obtaining contracts could tend to strengthen project performance. In addition, there is little evidence that Chinese companies behave much differently than their western competitors. An in-depth case study of corporate social responsibility (CSR) activities of multinational corporations operating in the oil sector in Angola suggests that oil companies – irrespective of their origin – do not address governance problems in Angola and that CSR appears to be used strategically by corporations to increase their chance of winning licenses and contracts (Wiig, A. and Kolstad, I, 2010).

There are also positive indications that China is moving towards implementation of the UNCAC. A national anti-corruption body has been established and the country has revised its **Criminal Law** in recent years which now include provisions that criminalise both active and passive corruption in the public sector as well as extortion and money laundering and. China also amended its Criminal Law in February 2011, including a **provision** which criminalises paying bribes to foreign officials and to officials of international public organisations. This is largely seen as a major step forward in the implementation of the G20 Anti-Corruption Action Plan, which was agreed upon at the Seoul Summit in November 2010.

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