



Doing Business in the Republic of the Congo: 2013 Country Commercial Guide for U.S. Companies

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Chapter 1: Doing Business in the Republic of the Congo

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Market Overview

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- The Republic of the Congo (ROC), also known as Congo-Brazzaville or simply Congo, is a country located in Central Africa roughly the size of the U.S. state of New Mexico. ROC is bordered by Gabon, Cameroon, the Central African Republic, the Democratic Republic of the Congo, and the Angolan enclave of Cabinda; ROC also has a 170 km coastline on the Atlantic Ocean.
- The current President, Denis Sassou Nguesso, has been in power since 1997 when he re-gained power at the conclusion of the Civil War; he had previously been President from 1979-1992. His party, the Parti Congolais du Travail (PCT), dominates the National Assembly. Sassou has faced non-existent opposition in the last several presidential elections, and is expected to continue to dominate the political scene.
- The economy is heavily dependent on oil, which accounts for 80% of government revenues. Oil production, however, has been declining and is expected to decline to nominal levels by 2025.
- GDP growth for 2013 is expected to reach 5%, down from 7% in 2012.
- The Republic of the Congo has a large trade surplus, with exports totaling about \$12.35 billion and imports about \$4.75 billion in 2012.
- Congo's biggest trading partners include France, China, the United States, and Italy.
- France is the biggest exporter of goods to Congo.
- The United States is the biggest importer of Congolese goods, mostly petroleum products.
- The ROC government has expressed strong interest in attracting U.S. investment.
- Population is estimated at about 4 million. The population is highly urbanized (about 62%), with the largest population centers being the capital city of Brazzaville, and the port/commercial center of Pointe-Noire.
- Income distribution is extremely skewed, with 46% of the population living below the poverty level of \$1.40 per day, according to the IMF.
- The Republic of the Congo is a member of the World Trade Organization (WTO), the Economic and Monetary Community of Central Africa (CEMAC), and the Bank of Central African States (*Banque des Etats de l'Afrique Centrale*, BEAC.)
- As a CEMAC member, Congo uses the Central African franc (CFA), which is pegged to the euro (CFA 656 = 1 Euro).

Market Challenges

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- The Republic of the Congo is ranked 183 out of 185 in the World Bank's 2013 Ease of Doing Business Index. This ranking highlights the fact that numerous challenges exist in the way business is conducted in Congo including corruption, poor infrastructure, a weak court system, and an inadequately trained workforce.
- The Congolese economy needs to move away from its dependency on the oil sector. Recognizing this, the government has laid out ambitious plans to diversify the economy and develop key sectors such as agriculture, transport, mining and information technology services.
- Absence of a true middle class, lack of western-standard health care, and a tight housing market may make the market less attractive to certain businesses at this time.
- Transportation of goods can be a challenge. Rail, road, and water linkages between the commercial center of Pointe-Noire and the capital city of Brazzaville, as well as connections to Kinshasa (the capital of the neighboring Democratic Republic of the Congo (DRC) just across the Congo River from Brazzaville) are substandard, inefficient, or lacking altogether. Interior linkages are also problematic.

Market Opportunities

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- The petroleum sector still provides some opportunities, as Congo searches for new fields and attempts to keep old fields productive.
- While only a fraction of the size of the oil industry, forestry is currently the second-largest sector of the economy and continues to expand.
- Construction may provide an avenue for investment. Within the framework of its annual "Municipalisation Accélérée," the government has built airports, roads, bridges, buildings, dams and so forth. The National Road linking Pointe-Noire (the ocean gateway) to Brazzaville (the capital city) is in the process of being completed. Construction has recently been monopolized by Chinese interests.
- Congo has much arable land which is not being leveraged.
- Mining opportunities exist; several large mining interests are actively utilizing exploration permits in the hope of launching iron ore mine projects over the next several years. The resource base is such that, properly exploited, this sector could overtake forestry in the coming years.

Market Entry Strategy

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- There is a small U.S. business community in the Republic of the Congo concentrated primarily in the oil sector. These enterprises are located mainly in Pointe-Noire.
- Visiting the Republic of the Congo to meet with key players in the government and the various economic institutions is important for understanding the business environment, possibilities, and limitations. Note that most government entities are based in the capital city of Brazzaville.
- U.S. stakeholders are advised to become familiar with the challenges posed by local infrastructure and a thin labor force prior to any major investment within the country.

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COUNTRY FACT SHEET: CONGO

PROFILE

Population in 2012 (Millions): 4

Capital: Brazzaville

Government: Republic

ECONOMY

	2010	2011	2012
Nominal GDP (Current Billions \$U.S.)	12.0	14.4	13.7
Nominal GDP Per Capita (Current \$US)	3,113	3,631	3,346
Real GDP Growth Rate (% change)	8.8	3.4	3.8
Real GDP Growth Rate Per Capita (% change)	5.7	0.51	0.91
Consumer Prices (% change)	5.0	1.8	5.0
Unemployment (% of labor force)			
Economic Mix in 2011: 76.8% All Industries; 3.7% Manufactures; 19.4% Services; 3.7% Agriculture			

FOREIGN MERCHANDISE TRADE (\$US Millions)

	2010	2011	2012
Congo Exports to World	6,918	0	0
Congo Imports from World	4,369	0	0
U.S. Exports to Congo	254	227	237
U.S. Imports from Congo	3,316	2,420	1,489
U.S. Trade Balance with Congo	-3,062	-2,193	-1,252
Position in U.S. Trade:			
Rank of Congo in U.S. Exports	113	127	125
Rank of Congo in U.S. Imports	53	67	73
Congo Share (%) of U.S. Exports	0.02	0.02	0.02
Congo Share (%) of U.S. Imports	0.17	0.11	0.07

Principal U.S. Exports to Congo in 2012:

1. Machinery, Except Electrical (33.1%)
2. Food & Kindred Products (23.5%)
3. Computer & Electronic Products (8.3%)
4. Chemicals (7.1%)
5. Fabricated Metal Products, NesoI (6.3%)

Principal U.S. Imports from Congo in 2012:

1. Oil & Gas (89.7%)
2. Petroleum & Coal Products (8%)

FOREIGN DIRECT INVESTMENT

	2010	2011	2012
U.S. FDI in Congo (US \$Millions)			
FDI in U.S. by Congo (US \$Millions)			

DOING BUSINESS/ECONOMIC FREEDOM RANKINGS

World Bank Doing Business in 2012 Rank: 183 of 185

Heritage/WSJ 2012 Index of Freedom Rank: 167 of 179

Source: Created by USDOC/ITA/OTII-TPIS from many sources: FDI from USDOC, Bureau of Economic Analysis. US Trade from USDOC, Census Bureau, Foreign Trade Division. Congo Trade with World from United Nations where available. National Macroeconomic data from IMF/World Bank databases including World Economic Outlook and World Development Indicators. .WORLD and other country aggregates are summaries of available UN COMTRADE, IMF and other data, and coverage varies over time and by source, but typically represents greater than 85 percent of world trade and production. Note: Principal U.S. Exports and Imports Are 3-digit NAICS Categories.

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Chapter 2: Political and Economic Environment

For background information on the political and economic environment of the Republic of the Congo, please click on the link below to the U.S. Department of State Background Notes.

<http://www.state.gov/r/pa/ei/bgn/2825.htm>

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Using an Agent or Distributor

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One is not typically required to use an agent or distributor to set up a business in the Republic of the Congo. However, the law does require a company's bylaws or statutes to be registered in the ROC and to be aligned to the Congolese commercial code. Congolese Law requires foreign companies to hire a General Manager who is a resident of the Republic of the Congo.

Establishing an Office

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To establish an office, one will usually need to contact a local lawyer or a local representative of an international law firm (also known as a "Notaire") who will help to make sure that the company's bylaws respect the Congolese standard business code. The company will also need to hire a resident to serve as General Manager.

Franchising

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Franchising follows the same rules as establishing an office in the ROC.

Direct Marketing

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There are no restrictions on foreign firms directly marketing products in the Republic of the Congo as long as such products conform to Congolese law.

Joint Ventures/Licensing

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Joint Ventures/Licensing follows the same procedures as establishing an office in the ROC.

Selling to the Government

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The Congolese government typically publishes public bids to buy or contract with commercial entities through a commercial transaction. Public bids are published for transactions involving amounts above \$100,000 for equipment, supplies and other goods and for transactions above \$40,000 for professional services (i.e. architects, lawyers, consulting services). Below this level, the government may do a simplified process for public bids where three bidders are asked to submit their bids and the bidder with the lowest price is selected.

Distribution and Sales Channels

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Most U.S. products sold in the Republic of the Congo are marketed through Congolese agents. Some prominent examples include Tractafric (selling Caterpillar heavy equipment). Small local firms sell other U.S. products and services. The only locally-produced U.S.-based product is Coca-Cola, which is part of a complete product range (Coke, Fanta, Sprite, etc.) produced under a licensing agreement with a local brewery.

Selling Factors/Techniques

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U.S. companies need to be aware that English is not widely spoken in ROC. The official language is French.

Patience is also required in scheduling meetings, as punctuality is often not practiced.

Electronic Commerce

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Electronic commerce is not widely used in the Republic of the Congo. Internet penetration rate is one of the lowest on the continent due to lack of reliable infrastructure and equipment. However, the country has recently made plans for broadband internet and has an ambitious program for the development of internet services.

Trade Promotion and Advertising

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The general public obtains information through radio, television, and newspaper. The most important newspaper is "Les Dépêches de Brazzaville." Télé Congo and Radio Congo are the most popular television and radio channels.

Pricing

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Nearly all locally sold goods are imported. Customs fees are among the highest in Africa. International and domestic transportation costs are a considerable factor in the cost of goods sold.

Sales Service/Customer Support

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Good customer service, follow-up services, and inventories can confer a significant competitive advantage, as western standards of customer service become more sought-after in local markets.

Protecting Your Intellectual Property

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Several general principles are important for effective management of intellectual property (“IP”) rights in the Republic of the Congo. First, it is important to have an overall strategy to protect your IP. Second, IP is protected differently in the Republic of the Congo than in the U.S. Third, rights must be registered and enforced in the Republic of the Congo, under local laws. Your U.S. trademark and patent registrations will not protect you in the Republic of the Congo. There is no such thing as an “international copyright” that will automatically protect an author’s writings throughout the entire world. Protection against unauthorized use in a particular country depends, basically, on the national laws of that country. However, most countries do offer copyright protection to foreign works under certain conditions, and these conditions have been greatly simplified by international copyright treaties and conventions.

Registration of patents and trademarks is on a first-in-time, first-in-right basis, so you should consider applying for trademark and patent protection even before selling your products or services in the ROC market. It is vital that companies understand that intellectual property is primarily a private right and that the US government generally cannot enforce rights for private individuals in the Republic of the Congo. It is the responsibility of the rights’ holders to register, protect, and enforce their rights where relevant, retaining their own counsel and advisors. Companies may wish to seek advice from local attorneys or IP consultants who are experts in Congolese law. The U.S. Embassy in Brazzaville can provide a list of local lawyers upon request.

While the U.S. Government stands ready to assist, there is little we can do if the rights holders have not taken these fundamental steps necessary to securing and enforcing their IP in a timely fashion. Moreover, in many countries, rights holders who delay enforcing their rights on a mistaken belief that the USG can provide a political resolution to a legal problem may find that their rights have been eroded or abrogated due to legal doctrines such as statutes of limitations, laches, estoppel, or unreasonable delay in prosecuting a law suit. In no instance should U.S. Government advice be seen as a substitute for the obligation of a rights holder to promptly pursue its case.

It is always advisable to conduct due diligence on potential partners. Negotiate from the position of your partner and give your partner clear incentives to honor the contract. A good partner is an important ally in protecting IP rights. Consider carefully, however,

whether to permit your partner to register your IP rights on your behalf. Doing so may create a risk that your partner will list itself as the IP owner and fail to transfer the rights should the partnership end. Keep an eye on your cost structure and reduce the margins (and the incentive) of would-be bad actors. Projects and sales in the Republic of the Congo require constant attention. Work with legal counsel familiar with the ROC laws to create a solid contract that includes non-compete clauses, and confidentiality/non-disclosure provisions.

It is also recommended that small and medium-size companies understand the importance of working together with trade associations and organizations to support efforts to protect IP and stop counterfeiting. There are a number of these organizations that are U.S.-based. These include:

- The U.S. Chamber and local American Chambers of Commerce
- National Association of Manufacturers (NAM)
- International Intellectual Property Alliance (IIPA)
- International Trademark Association (INTA)
- The Coalition Against Counterfeiting and Piracy
- International Anti-Counterfeiting Coalition (IACC)
- Pharmaceutical Research and Manufacturers of America (PhRMA)
- Biotechnology Industry Organization (BIO)

IP Resources

A wealth of information on protecting IP is freely available to U.S. rights holders. Some excellent resources for companies regarding intellectual property include the following:

- For information about patent, trademark, or copyright issues -- including enforcement issues in the US and other countries -- call the STOP! Hotline: **1-866-999-HALT** or register at www.StopFakes.gov.
- For more information about registering trademarks and patents (both in the U.S. as well as in foreign countries), contact the US Patent and Trademark Office (USPTO) at: **1-800-786-9199**.
- For more information about registering for copyright protection in the US, contact the US Copyright Office at: **1-202-707-5959**.
- For more information about how to evaluate, protect, and enforce intellectual property rights and how these rights may be important for businesses, a free online training program is available at www.stopfakes.gov.
- For US small and medium-size companies, the Department of Commerce offers a "SME IP Advisory Program" available through the American Bar Association that provides one hour of free IP legal advice for companies with concerns in Brazil, China, Egypt, India, Russia, and . For details and to register, visit: http://www.abanet.org/intlaw/intlproj/iprprogram_consultation.html

- For information on obtaining and enforcing intellectual property rights and market-specific IP Toolkits visit: www.StopFakes.gov This site is linked to the USPTO website for registering trademarks and patents (both in the U.S. as well as in foreign countries), the U.S. Customs & Border Protection website to record registered trademarks and copyrighted works (to assist customs in blocking imports of IP-infringing products) and allows you to register for Webinars on protecting IP.
- The U.S. Commerce Department has positioned IP attachés in key markets around the world.

Due Diligence

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Any investors in the Republic of Congo will need to conduct a thorough due diligence. On the ground research into prospective sectors of investment and legal requirements is highly recommended.

A typical investor will contact the US Embassy in Brazzaville, other American companies operating in the Republic of the Congo, and companies operating in the same or similar industries in the Republic of the Congo.

Local Professional Services

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Retaining an attorney is not required, but a local attorney may be best placed to handle many of the routine problems that may arise. A list of local attorneys may be obtained at the U.S. Embassy's consular section or through the Embassy's website at <http://brazzaville.usembassy.gov>.

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UNICONGO (Private business support organization with members in Brazzaville and Pointe-Noire. Most U.S. companies with a presence in the ROC are members. Website is in French) <http://www.unicongo.org>

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Petroleum

Overview

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Unit: USD millions

	2010	2011	2012 (estimated)	2013 (estimated)
Total Market Size	5,480	6,210	6,532	6,900
Total Local Production	11,900	13,500	14,200	15,000
Total Exports	10,700	12,150	12,780	13,500
Total Imports	4,280	4,860	5,112	5,400
Imports from the U.S.				
Exchange Rate: 1 USD	495 CFA	472 CFA	510 CFA	500 CFA

Total Market Size = (Total Local Production + Total Imports) – (Total Exports)

Data Sources:

Total Local Production: *World Bank*

Total Exports: *World Bank, IMF and Ministry of Plan*

Total Imports: *The Economist Intelligence Unit*

Imports from U.S.: N/A

Petroleum is the primary source of public revenue in the Republic of the Congo, making up 70% of the national budget, 80% of GDP, and 90% of Exports. In 2011 Congolese oil production reached its peak and is expected to decline gradually in the coming years. When the new oil field called Moho Nord enters into production starting in 2015, Congolese production should become more stable for several years. Moho Nord should also help keep up investment in the petroleum industry. There are currently two American companies active in the oil industry in the Republic of the Congo, Chevron Congo and Murphy Oil Congo. Additional American companies participate in the industry via provision of oil services.

Sub-Sector Best Prospects

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Oil services remain important in both the development of new fields and the maintenance and support of older fields.

Opportunities

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Offshore drilling and exploration remain the principal activities, but some opportunities exist in onshore prospection, refining, research and development, and services (e.g., logistics, construction, drilling, maintenance, and supplies).

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Extractive Industries Transparency Initiative
<http://www.itie-congo.org/>

Forestry Sector

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Unit: USD million

	2010	2011	2012 (estimated)	2013 (estimated)
Total Market Size	8.8	9.8	14.9	48.7
Total Local Production	100.8	121.3	130.7	149.6
Total Exports	92	111.5	115.8	100.9
Total Imports	-	-	-	-
Imports from the U.S.	7.9	9.2	13.2	-
Exchange Rate: 1 USD	495 CFA	472 CFA	510 CFA	500 CFA

Total Market Size = (Total Local Production + Total Imports) – (Total Exports)

Data Sources:

Total Local Production: *Ministry of Economy*

Total Exports: *Ministry of Economy*

Total Imports: *N/A*

Imports from U.S.: <http://www.agoa.info> (AGOA trade data)

Eighty percent of the Republic of the Congo's 22.5 million ha rainforest is commercially viable. The rainforest covers about 60% of the country's total area. Timber export is the ROC's second main export after oil. Okoume, a light hardwood used for plywood, is the most commercially active, but some two dozen species can be marketed. Crude logs make up 90% of timber exports; the remainder are processed woods (mainly plywood).

Sub-Sector Best Prospects

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Possible opportunities exist in processing harvested timber.

Opportunities

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International organizations including Forest Monitor are currently working with the government to reform the timber industry to improve and enforce transparency, simplify the tax code, expand responsible logging practices, and put in place a new and improved Forest Law. The current Forest Law requires all logging companies to process about 85% of their production, but compliance has been limited given the Republic of the Congo's current lack of technical capacity in this regard.

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Extractive Industries Transparency Initiative
<http://www.itie-congo.org/>

Mining Sector

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Unit: USD thousands

	2011	2012	2013 (estimated)	2014 (estimated)
Total Market Size				
Total Local Production				
Total Exports				
Total Imports				
Imports from the U.S.	14,484	14,823		
Exchange Rate: 1 USD	495 CFA	472 CFA	510 CFA	500 CFA

Total Market Size = (Total Local Production + Total Imports) – (Total Exports)

Data Sources:

Total Local Production:

Total Exports:

Total Imports:

Imports from U.S.: <http://www.agoa.info> (AGOA trade data)

Unable to obtain complete numeric data at this time for the mining sector.

Mining efforts in the ROC are in their infancy; there are presently no large scale operations, only small-scale domestic operations. However, the country is believed to have significant reserves of iron ore, copper, diamonds, phosphates, potash, and gold, among other possibilities. There are currently at least three international companies utilizing exploration permits in hope of commencing iron ore mining operations in the near future. In total, as of 2012, the government of the Republic of the Congo had granted 32 prospecting licenses to 28 companies; 42 exploration permits to 26 companies; and 7 mining licenses to pursue mining interests.

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Mining operations will require support in developing appropriate infrastructure.

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The government is eager to support mining investment as a means of diversifying its economic base away from oil.

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Extractive Industries Transparency Initiative
<http://www.itie-congo.org/>

Machinery and Transportation Equipment

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Unit: USD million

	2011	2012	2013 (estimated)	2014 (estimated)
Total Market Size				
Total Local Production				
Total Exports				
Total Imports	789.93	962.92	1134.17	
Imports from the U.S.	109.03	103.61		
Exchange Rate: 1 USD	495 CFA	472 CFA	510 CFA	500 CFA

Total Market Size = (Total Local Production + Total Imports) – (Total Exports)

Data Sources:

Total Local Production:

Total Exports:

Total Imports: Estimates from Congolese Custom Office

Imports from U.S.: <http://www.agoa.info> (AGOA trade data)

Unable to obtain complete numeric data for this sector at this time.

The Republic of the Congo currently imports machinery and transportation equipment from the U.S. Machinery, much of it related to the petroleum industry, is the top export category from the U.S. to the ROC, according to the Office of the United States Trade Representative.

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No specific sub-sectors identified.

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Given the ROC's interest in infrastructure improvement and investment, machinery and transportation equipment will remain important potential export opportunities for U.S. companies.

Additionally, companies pursuing opportunities in other sectors listed – petroleum, forestry, and mining – will have a need for such equipment to effectively exploit their own investments.

Construction

Overview

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Unit: USD million

	2011	2012	2013 (estimated)	2014 (estimated)
Total Market Size	2,812	3,134	3,672	
Total Local Production				
Total Exports				
Total Imports	1,566	1,712	1,813	
Imports from the U.S.				
Exchange Rate: 1 USD				

Total Market Size = (Total Local Production + Total Imports) – (Total Exports)

Data Sources:

Ministry of Public Works and Délégation Général des Grands Travaux.

Total Local Production:

Total Exports:

Total Imports:

Imports from U.S.:

Unable to obtain complete numeric data for this sector at this time. Total market size reflects only government projects; additional private projects exist. Total imports reflects materials coming into the country for government funded construction projects.

The Republic of the Congo is actively pursuing infrastructure improvement. In recent years, new airports, dams, bridges, roads, and buildings have been constructed. Construction in the country is active, and infrastructure improvement is expected to remain a government priority into the future. The Republic of the Congo has initiated a program called “Municipalisation Accélérée”, which consists of selecting each year a city that will be the beneficiary of a vast program of construction projects to build roads, schools, dams, hospitals, and airports, and ending with the celebration of Independence Day in the selected city or locality every August 15th. This program has benefited six cities so far and has been linked to four national airports, several hospitals and numerous roads. This year the program of “Municipalisation Accélérée” is taking place in Djambala, in the Plateaux Department.

Awarding of contracts, however, is not always transparent. Some contracts appear to have been awarded to Chinese firms on a non-competitive basis, likely due to project funding sources being Chinese government loans to the government of the ROC. Most of the largest contracts between the Congo and China are not published.

Sub-Sector Best Prospects

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Most projects are government funded, and will be awarded by the government of the ROC.

Opportunities

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Large government infrastructure projects should be posted on the Grand Travaux website for public bid. While the government is starting to adhere more and more to this, it still does not always happen in practice. However, interested U.S. entities are advised to monitor this website, as well as cultivate government and business contacts that may help identify opportunities as they arise.

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<http://www.grandstravaux.org/>

Agriculture Sector

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Unit: USD million

	2011	2012	2013 (estimated)	2014 (estimated)
Total Market Size				
Total Local Production				
Total Exports				
Total Imports	125	171	208	
Imports from the U.S.	54.25	58.81		
Exchange Rate: 1 USD	495 CFA	472 CFA	510 CFA	500 CFA

Total Market Size = (Total Local Production + Total Imports) – (Total Exports)

Data Sources:

Total Local Production:

Total Exports:

Total Imports:

Imports from U.S.: <http://www.agoa.info> (AGOA trade data)

Unable to obtain complete numeric data for this sector at this time.

The Republic of the Congo's agricultural sector is limited and cannot satisfy domestic demand. Approximately 40% of the population is engaged in agricultural production, which contributes just 5.5 % to the gross domestic product (GDP). Only 2% of arable land is currently under cultivation. The country relies heavily on food imports, which account for about 80% of domestic food consumption. Imported foodstuffs come mainly from the Democratic Republic of the Congo, France and the United States. France is the largest source of Republic of the Congo's imports.

Sub-Sector Best Prospects

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Infrastructure considerations may dictate the types of products that are feasible to export to the ROC.

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Opportunities exist for exporting food products to the ROC, as well as setting up operations in the ROC for the production and/or processing of food. South African farmers have recently leased land for food production in the ROC, and one U.S. based corporation has a successful flour milling operation.

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Import Tariffs

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The Republic of Congo and its neighbors follow the import tariff structure of Central Africa. Import tariffs include:

- General Systems of Preference – no import tariffs for goods produced within a CEMAC-member country
- Common External Tariff – 5% for category one products (e.g., basic products), 10% for category two (e.g., raw materials), 20% for category three (e.g., intermediate products such as most food), and 30% for category four (all other products).
- Processing Fee (*Redevance d'utilisation du systeme informatique*) –can vary from 20%-60% of the cost of insurance and freight (CIF).

Value Added Tax (VAT) is generally 18%. A reduced VAT of 10% is applicable to mineral water, cement, sugar and chickens produced in the Republic of the Congo. The following products when produced in the Republic of Congo are exempt from VAT: milk products, some agricultural products (e.g.: vegetables, fruits, cereals...), drugs and medical supplies, and fertilizer.

Trade Barriers

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All categories of products may be imported into the ROC with two exceptions – sugar and eggs. Some items such as motor vehicles are heavily taxed (up to 50% duty).

Customs can sometimes inflict unnecessary trade barriers, with arbitrary, irregular, or uneven enforcement of regulations. Lack of understanding of appropriate application and enforcement of customs regulations on the part of government inspectors can contribute to problems.

Import Requirements and Documentation

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A bill of lading and an invoice must accompany all goods entering the Republic of the Congo. Import permits and sanitary certificates are required for farm products (including meat and poultry) and permits must also be secured for hazardous products (weapons, explosives, chemical products).

U.S. Export Controls

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The Republic of the Congo has not been singled out for any specific export controls or embargoes. U.S. companies hoping to export to the ROC should verify requirements with the appropriate governing agency for their specific product.

Temporary Entry

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Some goods enter the ROC duty free on a temporary basis. For certain sectors, such as Petroleum, Mining and Agriculture, the law suspends custom duties in the form of temporary admission (up to 3 years) or exemptions on all entry taxes/duties for the importation of material required in sector operations. Farming equipment, for example, may be exempted.

Labeling and Marking Requirements

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French labeling of the price for all imported and domestic goods is required, but not strictly enforced. However, non-French labeling is a disadvantage in the Republic of the Congo's market. There are no other special labeling or marking requirements.

Prohibited and Restricted Imports

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All categories of products may be imported into ROC with two exceptions – sugar and eggs. The Ministry of the Interior regulates the private import of all firearms and munitions.

Customs Regulations and Contact Information

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The Republic of the Congo belongs to a free trade zone through CEMAC. Member countries include Cameroon, Central African Republic, Chad, the Republic of the Congo (ROC), Equatorial Guinea, and Gabon.

For more information contact:

Customs Office (*Direction Generale des Douanes et Droits Indirect*)
Ministry of Finance
Brazzaville, Republic of the Congo

Standards

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Overview

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The Republic of the Congo standards duplicate French standards, which are sometimes not adapted to the local market. The Republic of the Congo has no central standards or regulatory agency.

Standards Organizations

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The ROC follows CEMAC general standards (www.cemac.int). As a member of the World Trade Organization (WTO), it is required to adhere to the Agreement on Technical Barriers to Trade (TBT).

NIST Notify U.S. Service

Member countries of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with other Member countries. **Notify U.S.** is a free, web-based e-mail subscription service that offers an opportunity to review and comment on proposed foreign technical regulations that can affect your access to international markets. Register online at Internet URL: <http://www.nist.gov/notifyus/>

Conformity Assessment

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There are no special conformity assessment requirements.

Product Certification

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There are no special product certification requirements.

Accreditation

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There are no special accreditation requirements.

Publication of Technical Regulations

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The US Embassy in Brazzaville has no particular knowledge of published technical regulations.

Labeling and Marking

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There are no special labeling or marking requirements.

Contacts

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Ministry of Commerce
Brazzaville, Republic of the Congo
Tel.
Fax

Trade Agreements

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The Republic of the Congo is a member of the World Trade Organization (WTO). It is also a member of CEMAC and its free trade area.

Web Resources

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Ministry of Finance: <http://www.mefb-cg.org/actus/actualites.html>

Economic and Monetary Community of Central Africa (CEMAC): <http://www.cemac.int>

Economic Community of Central African States (ECCAS): <http://www.ceeac-eccas.org/>

NOTE: CEMAC has six member countries and ECCAS has ten member countries.

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Chapter 6: Investment Climate

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Openness to Foreign Investment

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The Republic of the Congo (ROC), also known as Congo-Brazzaville, is a central African nation roughly the size of the state of New Mexico. Its population is estimated at 4.1 million inhabitants, who are located mostly in the three major cities of Brazzaville, Pointe-Noire, and Dolisie. Owing to its central location, International Ship and Port Facility Security (ISPS) certified deep-water ocean port (the only one in the Gulf of Guinea region), low population density, and access to regional waterways, the ROC is seeking to become a transportation hub for the region and hopes to become an emerging economy by 2025.

After almost three decades of a centrally-planned economy, Congo entered a period of broad liberalization at the end of the 1980s. With assistance from the IMF and the World Bank, the Congo implemented various structural adjustment programs to create a private sector-based market economy. Since 1992, the ROC has been governed under a constitution based on the principles of representative democracy.

Although the informal sector is an important component of the Congolese economy, it does not generate significant revenues for the Congolese treasury. The Congolese government relies heavily on the oil industry, which generates roughly 80 percent of its fiscal revenue, and represents approximately 70 percent of the Congo's gross domestic product (GDP). Other major economic sectors include timber, mining, and telecommunications.

The agriculture and fishing sectors account for about five percent of the Congolese GDP. The government currently works most closely with the World Bank, European Union, South African and Brazilian governments and private sectors on agriculture projects.

The ROC imports approximately \$400 million in food products each year, which represents at least 80 percent of Congolese food consumption. Most of these imports pass through the Brazzaville port by boat from Kinshasa, the capital of the neighboring Democratic Republic of the Congo (DRC). Less than three percent of available farm land is currently used for agriculture. The government signed an agreement in 2011 with a cooperative of South African farmers for a 99-year lease of 80,000 hectares of arable land, which has thus far produced modest corn yields.

The ROC reached the “completion point” in the Heavily Indebted Poor Countries (HIPC) and the Multilateral Debt Relief Initiative on January 28, 2010, which initially generated \$1.9 billion in debt service savings, and which may eventually total more than \$4 billion in overall debt relief.

China continues to loan money to the ROC government for the construction of large scale infrastructure projects that are then universally awarded to Chinese contractors in non-publicly available tender offers. Current infrastructure projects underway by Chinese firms include: roads and highways, airports, apartment buildings, ministries, cement factories, and hydroelectric dams. Some of the financial transactions between the ROC and China have recently been uncovered as violating the terms of the CFA Zone Agreement between the ROC (as a member of the Central African Bank community) and the European Union (formerly an agreement directly with France).

The economic indicators for the upcoming year remain positive with a GDP growth rate estimated at around 5.3 percent in 2013. This represents a continuous, though slow, decline from several years of double-digit GDP growth rates. This slowed growth is attributable to diminishing petroleum production as active fields begin to produce less and planned fields have failed to come into production. Nevertheless, the ROC government has an opportunity to take advantage of its strong economic position by investing in sectors that will strengthen the country’s investment climate, such as: education, health, electricity, roads, railroads, and telecommunications. Investment to date in these areas has been slow, erratic, and often ineffective.

Congo’s investment climate is constrained by corruption. An IMF Extended Credit Facility program has helped push the number of publicized tender offers to around 80 percent, but the selection process remains largely obscured. Government spending is not backed by substantiated figures and audits. Contract terms are not generally available to the public.

Despite challenges, the ROC is a country with enormous investment potential. It has considerable and varied natural resource wealth, a strategic location with an ISPS-certified port and a capital city located within site across the river from the enormous DRC market at Kinshasa, and a relative dearth of market-based competition.

The ROC government has expressed a strong desire to increase the amount of foreign direct investment (FDI), though it has not made the necessary efforts to reduce the costs and difficulties associated with investment in Congo. Bureaucracy and corruption

continue to stifle the amount of FDI in the country. There are strong social taboos against public and private discussion of corruption.

In order to create a business in the ROC, investors must provide to the “Centre de Formalites des Entreprises” (CFE) two copies of the company by-laws, two copies of capitalization documents (e.g. a bank letter or an affidavit), a copy of the company’s investment strategy, the company-approved financial statements (if available), and ownership documents or lease agreements for the company’s office in the ROC.

The CFE is designed to provide all services under one roof in order to facilitate the opening and closing of businesses. CFE has offices in Brazzaville, Pointe-Noire, N’kayi, Ouessou and Dolisie.

The cost of registering a business depends on the type of company being registered. Registration fees range from \$244 for a small company with a capitalization below \$2,000 to \$4,500 for a large company with a capitalization that exceeds \$200,000.

A local partner is not required to start up a business in Congo, but country managers must either be Congolese or foreign nationals that have been residents for two or more years. The entire business registration process should take an average of three weeks, according to the CFE, though the World Bank’s Ease of Doing Business Index puts the required time at closer to six months. Additional government licensing and permits may be required, depending on the nature of the business.

Despite the existence of the CFE, decision making with respect to FDI is often delayed due to ineffective centralized decision making. Some U.S. companies have experienced lengthy delays in their pursuit to invest in the Congo due to overlapping authority within the country’s decision making apparatus.

The Investment Charter, established by Law 6–2003 on January 18, 2003, offers a range of guarantees to foreign investors including no discrimination or disqualification on all types of investment and equal treatment under Congolese law.

In addition, Congo is party to the Organization for the Harmonization of Business Law in Africa (OHADA), a type of commercial code adopted by 16 African countries that governs investments and business practices.

There are no known pending lawsuits in regard to the investment code in Congolese commercial courts. However, lawsuits have been filed at OHADA’s tribunal in Abidjan, Cote D’Ivoire relating to investors doing business in the ROC. In principle, the judicial system upholds the sanctity of contracts; parties also may appeal to foreign or international justice courts for any necessary relief.

Investors report that the commercial environment in Congo has improved relative to the early post-war days, but not substantially in the last few years. Many feel that they have good working relations with government officials, but corruption, especially among “informal” tax collectors, is still widespread. In January 2013, the Congolese government created an Agency for the Promotion of Investments (API) to promote economic diversification through expanding the pool of external investors. API has a consulting agreement with the Mauritius Board of Investment.

Weak infrastructure, including poor transportation systems, lack of broadband internet, and inconsistent electric and water supply, present one of the biggest hurdles for most foreign direct investment. However, the government is conscious of these shortcomings and asserts its desire to make improvements in infrastructure. Internet, in particular, may improve in 2013 after link-up to the West African Cable System and the continued work on a Central African Backbone broadband sharing program.

The 2013 national budget will once again provide nearly 80 percent of discretionary spending for infrastructure improvements, though \$1.2 billion of that is set aside for rebuilding part of Brazzaville after a munitions depot explosion in March 2012. A road network that will connect Congo's major cities is underway and may be completed as early as 2015, though delays have continued to push back estimates. Modern, high quality airports are under construction or completed in most major cities. Two new cement factories, a gas-electric plant, and three hydroelectric projects were completed or started in 2012. The deep-water port in the economic capital of Pointe-Noire received International Ship and Port Facility Security certification in 2011, and thus is eligible to receive from and send shipments directly to the United States.

Measure	Year	Index/Ranking
*TI Corruption Index	2012	144 out of 176
Heritage Economic Freedom	2012	167 out of 179
World Bank Doing Business	2013	183 out of 185
**MCC Government Effectiveness	2012	3%
MCC Rule of Law	2012	6%
MCC Control of Corruption	2012	3%
MCC Fiscal Policy	2012	97%
MCC Trade Policy	2012	10%
MCC Regulatory Quality	2012	3%
MCC Business Start Up	2012	3%
MCC Land Rights Access	2012	14%
MCC Regulatory Quality	2012	3%

* Transparency International

** Millennium Challenge Corporation

Conversion and Transfer Policies

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The Republic of the Congo is a member of the CFA Franc Monetary Zone (Communauté Financière Africaine - CFA), a member of the Central African Economic and Monetary Community (CEMAC), and a member of the Bank of the Central African States (Banque des Etats de l'Afrique Centrale – BEAC). BEAC serves as the Central Bank for Cameroon, Central African Republic, Chad, Republic of the Congo, Equatorial Guinea and Gabon. The BEAC monitors electronic transfers into and out of the CEMAC Zone where there is a commercial interest to do so.

The common currency used in the Republic of the Congo and other CEMAC members is the CFA Franc (F CFA). The CFA Franc is linked to the Euro and is treated as an intervention monetary unit at a fixed exchange rate of 1 Euro: 655.957 F CFA. This agreement guarantees the availability of foreign exchange and the unlimited convertibility of the CFA Franc. It also provides considerable monetary stability to the Republic of the Congo and other countries of the CEMAC. The exchange rate between the CFA Franc and the U.S. dollar fluctuates according to the rate between the euro and the U.S. dollar.

Foreign investors may hold local bank accounts. There is no difficulty obtaining foreign exchange from any of the major commercial banks, which are subsidiaries of French, Moroccan, or African banks. There are no U.S.-based banks, but transfers directly to and from the U.S. are possible.

There are no legal restrictions on converting or transferring funds associated with an investment, including remittances, but CEMAC regulations require banks to record and report the identity of customers engaging in transactions over \$10,000. Additionally, financial institutions must maintain records of large transactions for five years. The ROC authority for exchange control is the General Director of Monies and Credit (DGMC). Investors are authorized to remit on a legal parallel market with approval from the DGMC.

Expropriation and Compensation

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There is no evidence that foreign investors are discriminated against in any fashion or have been subjected to expropriation of assets, which would violate the constitution. Foreign and national firms established in the ROC operate on an equal legal basis.

Companies operating entirely within the ROC may be owned by foreign investors, but the Ministry of Labor requires that country manager-level employees either be Congolese nationals or foreign nationals resident in Congo for more than two years. Local hiring of qualified manager-level employees is difficult for most companies, however, and many have sought successfully to overcome this requirement on a case-by-case basis.

Dispute Settlement

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The majority of foreign private companies based in the Republic of the Congo are invested in the oil and timber sectors. Relations between the government and the oil companies are regulated on the basis of Production Sharing Agreements (PSAs). Although there have been some reports of constraints on recovering value added tax (VAT) reimbursements or customs fees under those agreements, very few private investment disputes involving foreign businesses have been lodged in recent years. Those disputes that have tend to focus on personnel disputes rather than legal formation or capital management.

The Republic of the Congo is a member of the World Trade Organization (WTO) and is a party to other international treaties governing trade and commerce. Binding international arbitration of investment disputes is accepted.

Public Law 6-2003, which established the country's Investment Charter, states that investment disputes will be subject to settlement under Congolese law. However, independent settlement or conciliation procedures can be enacted by either party. These procedures are governed by:

- The convention regulating the Community Justice Court;
- The treaty of October 17, 1993, implementing the Organization for the Harmonization of Business Law in Africa (OHADA);
- The International Center for the Settlement of Investment Disputes (ICSID).

Performance Requirements and Incentives

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Presidential decree No: 2004-30 of February 18, 2004, defines the requirements for foreign and national companies to benefit from incentives offered by the Congolese Investment Charter. Four types of incentives are considered:

- (a) Incentives to export.
- (b) Incentives to reinvest the company's profit in the Congo.
- (c) Incentives for businesses in remote areas or areas which are difficult to access.
- (d) Incentives for social and cultural investment.

Some incentives have included diminishing and exempted taxes (company tax is currently 38 percent) and customs duties over a 5-10 year span, reduction by 50% of registration fees, and accelerated depreciation under the general tax structures. For companies owned at least 25 percent by resident companies, other incentives include minimized exposure to dividend taxes (10 percent), capital gains tax reductions, deductions for business expenditures, reduced rents, and deductible remunerations. Other incentives are available by negotiation during the incorporation process.

The ROC government does not maintain local-purchasing or production requirements. The Ministry of Commerce operates price controls on roughly four dozen staple products, including food and fuel. The Ministry of Commerce also subsidizes certain products to make the domestic market more profitable for some companies, notably the sugar company SARIS, which might otherwise seek to export additional supply.

In the oil and forestry sectors, companies are required to respect the environment, particularly regarding water pollution safeguards and forest regeneration. All forestry companies, both foreign- and locally-owned, are required to process 85 percent of their

timber in the country and to sell it abroad as furniture or otherwise transformed wood. According to the law, companies are allowed to export up to 15 percent of their wood product as natural timber. In 2012, nearly half the ROC's timber concession holders had their licenses suspended until the end of the year for failure to meet the processing requirement.

The timber industry in Congo increasingly requires international certification, most often Forest Stewardship Council (FSC) certification. Though a number of Chinese-owned timber companies in the ROC's west and south still operate without certification, most northern timber companies, including Singapore's Olam, which now operates the largest concessions formerly run by the state-owned CIB, are FSC-certified. These companies may benefit from promised government incentives in the future as the ROC continues to participate in a Voluntary Partnership Agreement (VPA) with the European Union's Forest Law Enforcement and Governance Transparency (FLEGT) program and with the United Nations' Reducing Emissions from Degradation and Deforestation (UN REDD).

There are no known performance enforcement procedures for foreign companies. There are no known restrictions on U.S. or other foreign firms participating in Congolese government-financed or -subsidized research and development programs.

There are no legally onerous visa, residence, or work permit requirements, but low-level corruption in the immigration and customs sectors often proves challenging to overcome. Tariffs and import price controls are applied to a number of staple food goods with the goal of augmenting local purchasing, but often with the result of forcing imported goods into the more expensive local black market.

Right to Private Ownership and Establishment

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The law stipulates that each individual, without distinction of nationality, residing in the territory of the Republic of the Congo, has the right to establish a business in agriculture, mining, industry, forestry, handicrafts, commerce or services in accordance with existing policies. Local and foreign investors have the right to own and establish lawful business enterprises and all forms of remunerative activity.

The Republic of the Congo guarantees the legal right and freedom of private business to:

- Import or export raw materials or products, equipment and materials necessary for economic activity;
- Define their own production, commercial and hiring policies; and
- Select suppliers and customers and set prices.

At present, the oil, timber, agriculture, and general commerce sectors are led predominantly by foreign investors.

Protection of Property Rights

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As a member of the Central African Economic and Monetary Community (CEMAC), the Congo is automatically a member of the African Intellectual Property Organization (AIPO). AIPO is charged with issuing a single copyright system that is enforceable in all member states. As a member of the World Trade Organization (WTO), the Congo must ensure that its legislation conforms to trade-related aspects governing intellectual property.

The Ministry of Commerce and other interested ministries work together to address issues related to counterfeit products and other items entering the country illegally. Containers of contraband items, such as medical supplies and food products, have been seized and destroyed by local authorities.

Transparency of Regulatory System

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Transparency in the government's economic management system is an ongoing concern. The Public Finance Law of 2000 governs transparency and public management. Nevertheless, transparency presents the greatest hurdle to FDI as investors work to navigate an opaque regulatory bureaucracy. Companies that have previously and successfully navigated the bureaucracy, including those with Embassy support, have proven to be helpful to prospective investors in overcoming this burden, but government policies and practice have not helped to establish "clear rules of the game." Instead, personal contacts remain the most important informal rule.

From 2006-2009, the ROC, working with the International Monetary Fund and the World Bank, designed and began implementation of significant changes in the area of public finance and management of Congo's natural resources. A forestry code was adopted, a government procurement system was designed and implemented, major changes were made in the management of revenue from oil production, a national anti-corruption commission was established, new debt management procedures were adopted, and a system for monitoring public spending was developed. These reforms, if fully implemented, will vastly increase the transparency and efficiency of government economic management.

Proposed laws and regulations are not published in draft form for public comment. Non-governmental organizations and intra-governmental task forces have sought to improve government transparency with little success.

Efficient Capital Markets and Portfolio Investment

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The Republic of the Congo does not have a stock exchange. ROC-based companies may be listed on the Douala Stock Exchange (DAC) or the CEMAC Zone Stock Exchange (BVMAC). Monetary and credit policies are set up by the BEAC within the CEMAC framework. The main objective is to ensure the stability of the common regional currency.

The privatization of the Congo's main commercial banks has been completed. However, the commercial banks provide credit and services primarily to large clients involved in

the sectors of: oil, forestry, telecommunications, import-export, and services. The Congo's informal economy is predominantly cash-based and commercial banks serve only a small segment of the market.

Banks do not yet provide adequate credit to small businesses, which appears to be a constraint on the country's economic growth and development. The country's largest credit union, Mucodec, provides small and micro-loans to businesses and private individuals. Several banks, including United Bank of Africa and La Congolaise de Banque, are planning to begin offering loans of up to \$100,000 to private individuals and small businesses in 2013.

Competition from State Owned Enterprises

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Several state-owned enterprises (SOEs) have been privatized, including the national flour company (MINOCO), the national sugar company (SARIS), and the banking companies UCB and CAIC. The U.S. firm Seaboard successfully privatized MINOCO in 2000. A number of parastatal companies remain.

During the 1970s and 1980s, the Congolese economy was dominated by state-owned companies. However, the promulgation of Law 24/94 on August 10, 1994, which introduced a framework for privatization, and its addendum, Law 10/95 introduced on April 17, 1995, which identified specific sectors to be privatized, ushered in a new economic era that is receptive to national, private and foreign investments.

SOEs were divided into two categories of privatization: (a) the first consisted of six major public companies supporting the oil, transport, telecommunication, water and electricity sectors; and, (b) the second included all other agricultural and industrial companies in the farming, forestry, hotel, banking, transport and transit sectors. The General Office of Privatization within the Ministry of Industrial Development and the Promotion of the Private sector is responsible for monitoring privatization.

Existing SOEs report to their respective line ministries -- the extent is dependent on the relative influence of the SOEs. Corporate governance regulation of SOEs requires non-state corporate directorship. In practice, this requirement is not met, including by the National Petroleum Company of Congo (SNPC).

Private companies may compete with public companies under the same terms and conditions, and in some cases have successfully won contracts sought by SOEs. SOEs are subject to budget restraints under the law. For the SOEs operating in the non-oil sector, these restraints seem to be sufficiently monitored, and the SOEs are subject to civil society and media scrutiny. SNPC, though, has not been well-monitored and continues to present transparency challenges.

SOEs are required to publish annual reports, which must be audited by state auditors. SOEs are, in theory, subject to the same domestic accounting rules as non-SOEs.

The most important SOEs are not Congolese, however, but rather Chinese. Chinese parastatals with operations in the Congo win the majority of infrastructure and

construction tender offers. These contracts are associated with other loan and extractive rights contracts and are generally obscured from public view.

Corporate Social Responsibility

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Corporate social responsibility (CSR) is a well-known concept in the ROC and is viewed favorably by local communities. The petroleum companies have been the primary CSR actors, but telecommunication and transport companies, as well as banks, have increasingly been visible CSR actors, with resulting positive public perceptions. All CSR actors appear to follow accepted CSR principles. The ROC government has actively promoted CSR, which has helped to finance hospitals, schools, feeding programs, road construction, and broadband internet link-up.

Political Violence

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Multi-party democracy, established during the National Conference in 1991, experienced severe trials in the early 1990s and eventually led to the civil wars that severely damaged Brazzaville and other Congolese cities from 1997-1999. Peace accords were signed in 2003 and stability has returned. There have not been any significant incidents of politically-motivated damage to projects or installations since post-war reconciliation.

Corruption

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Corruption, including bribery, raises the costs and risks of doing business. Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It also deters international investment, stifles economic growth and development, distorts prices, and undermines the rule of law.

It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing, and to have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in foreign markets should take the time to become familiar with the relevant anticorruption laws of both the foreign country and the United States in order to properly comply with them, and where appropriate, they should seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U. S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

U.S. Foreign Corrupt Practices Act: In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in

furtherance of such a corrupt payment while in the United States. For more detailed information on the FCPA, see the FCPA Lay-Person's Guide at:

<http://www.justice.gov/criminal/fraud/>

Other Instruments: It is U.S. Government policy to promote good governance, including host country implementation and enforcement of anti-corruption laws and policies pursuant to their obligations under international agreements. Since enactment of the FCPA, the United States has been instrumental to the expansion of the international framework to fight corruption. Several significant components of this framework are the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Antibribery Convention), the United Nations Convention against Corruption (UN Convention), the Inter-American Convention against Corruption (OAS Convention), the Council of Europe Criminal and Civil Law Conventions, and a growing list of U.S. free trade agreements. This country is party to [add instrument to which this country is party], but generally all countries prohibit the bribery and solicitation of their public officials.

OECD Antibribery Convention: The OECD Antibribery Convention entered into force in February 1999. As of March 2009, there are 38 parties to the Convention including the United States (see <http://www.oecd.org/dataoecd/59/13/40272933.pdf>). Major exporters China, India, and Russia are not parties, although the U.S. Government strongly endorses their eventual accession to the Convention. The Convention obligates the Parties to criminalize bribery of foreign public officials in the conduct of international business. The United States meets its international obligations under the OECD Antibribery Convention through the U.S. FCPA.

UN Convention: The UN Anticorruption Convention entered into force on December 14, 2005, and there are 158 parties to it as of November 2011 (see <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>). The UN Convention is the first global comprehensive international anticorruption agreement. The UN Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Antibribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. The Republic of the Congo is a party to the UN Convention.

OAS Convention: In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention against Corruption (OAS Convention), which entered into force in March 1997. The OAS Convention, among other things, establishes a set of preventive measures against corruption, provides for the criminalization of certain acts of corruption, including transnational bribery and illicit enrichment, and contains a series of provisions to strengthen the cooperation between its States Parties in areas such as mutual legal assistance and technical cooperation. As of December 2009, the OAS Convention has 34 parties (see <http://www.oas.org/juridico/english/Sigs/b-58.html>)

Council of Europe Criminal Law and Civil Law Conventions: Many European countries are parties to either the Council of Europe (CoE) Criminal Law Convention on Corruption, the Civil Law Convention, or both. The Criminal Law Convention requires criminalization of a wide range of national and transnational conduct, including bribery, money-laundering, and account offenses. It also incorporates provisions on liability of legal persons and witness protection. The Civil Law Convention includes provisions on compensation for damage relating to corrupt acts, whistleblower protection, and validity of contracts, inter alia. The Group of States against Corruption (GRECO) was established in 1999 by the CoE to monitor compliance with these and related anti-corruption standards. Currently, GRECO comprises 49 member States (48 European countries and the United States). As of December 2011, the Criminal Law Convention has 43 parties and the Civil Law Convention has 34 (see www.coe.int/greco.)

Free Trade Agreements: While it is U.S. Government policy to include anticorruption provisions in free trade agreements (FTAs) that it negotiates with its trading partners, the anticorruption provisions have evolved over time. The most recent FTAs negotiated now require trading partners to criminalize “active bribery” of public officials (offering bribes to any public official must be made a criminal offense, both domestically and trans-nationally) as well as domestic “passive bribery” (solicitation of a bribe by a domestic official). All U.S. FTAs may be found at the U.S. Trade Representative Website: <http://www.ustr.gov/trade-agreements/free-trade-agreements>.

Local Laws: U.S. firms should familiarize themselves with local anticorruption laws, and, where appropriate, seek legal counsel. While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department’s U.S. and Foreign Commercial Service can provide assistance with navigating the host country’s legal system and obtaining a list of local legal counsel.

Assistance for U.S. Businesses: The U.S. Department of Commerce offers several services to aid U.S. businesses seeking to address business-related corruption issues. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting their due diligence as part of the company’s overarching compliance program when choosing business partners or agents overseas. The U.S. Foreign and Commercial Service can be reached directly through its offices in every major U.S. and foreign city, or through its Website at www.trade.gov/cs.

The Departments of Commerce and State provide worldwide support for qualified U.S. companies bidding on foreign government contracts through the Commerce Department’s Advocacy Center and State’s Office of Commercial and Business Affairs. Problems, including alleged corruption by foreign governments or competitors, encountered by U.S. companies in seeking such foreign business opportunities can be brought to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center “Report A Trade Barrier” Website at tcc.export.gov/Report_a_Barrier/index.asp.

Guidance on the U.S. FCPA: The Department of Justice’s (DOJ) FCPA Opinion Procedure enables U.S. firms and individuals to request a statement of the Justice Department’s present enforcement intentions under the anti-bribery provisions of the FCPA regarding any proposed business conduct. The details of the opinion procedure are available on DOJ’s Fraud Section Website at www.justice.gov/criminal/fraud/fcpa. Although the Department of Commerce has no enforcement role with respect to the

FCPA, it supplies general guidance to U.S. exporters who have questions about the FCPA and about international developments concerning the FCPA. For further information, see the Office of the Chief Counsel for International Counsel, U.S. Department of Commerce, Website, at http://www.ogc.doc.gov/trans_anti_bribery.html. More general information on the FCPA is available at the Websites listed below.

Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials, and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of corruption by virtue of being parties to various international conventions discussed above.

Public sector corruption, including bribery of public officials, remains a challenge for U.S. firms operating in the Republic of the Congo. The ROC has signed and ratified the UN anticorruption convention and participates in regional anti-money laundering agreements. Nonetheless, corruption is almost invariably linked to doing business in the country. Tender offers are irregularly publicized. There is an absence of substantiated figures on government spending. Contract terms are not transparent, and bribes are regularly solicited, though Congolese law prohibits bribery. Recourse in the judicial system is limited as court cases are themselves subject to corruption and political influence. Despite the pervasiveness of corruption in the Congolese investment climate, the country is making progress in putting in place mechanisms to address the challenges. Such efforts have included improved participation by diplomatic missions, international organizations, and international financial institutions in review of government programs.

The national Anti-Corruption Commission was created in September 2009 by the Anti-Corruption Law. The commission's main function is to manage and track the implementation of anti-corruption and governance enhancement measures adopted by the government. This commission helped identify "ghost workers" on the national payroll.

Congo's success at reaching the completion point in the Heavily Indebted Poor Countries debt relief program in January 2010 was the result of the government's implementation of processes to ensure tighter budget controls. The HIPC agreement brought about \$1.9 billion in debt relief in 2010, equivalent to a 32.4 percent reduction in Congo's sovereign debt. The debt relief is intended to increase the resources available to the Congolese government to finance poverty reduction programs, fight corruption, and support on-going financial and structural reforms.

Congo also committed itself through HIPC to bringing the internal controls and accounting system of the state-owned oil company SNPC up to internationally recognized standards, preventing conflicts of interests in the marketing of oil, requiring officials of SNPC to publicly declare and divest any interests in companies having a business relationship with SNPC, and implementing an anti-corruption action plan with international support and monitoring by the IMF. While the most recent Extractive Industries Transparency Initiative report covering oil receipts from 2011 shows matching private company remissions and government revenue, it appears that the SNPC still continues to substantially underreport revenues.

As its oil revenues are expected to decrease in the coming years, the ROC has sought to diversify its economy through a number of other sectors, including most notably the mining sector. In the past, the mining sector has been rife for corruption, which led to a suspension in 2004 of the ROC from the Kimberley Process. The ROC was reinstated to the Kimberley Process following improvements in monitoring the mining sector, but it is as yet unclear whether the sector has the oversight necessary to monitor the expected boom of increased production – mostly in iron ore – in the coming years.

The timber sector is experiencing many of the same challenges as the mining sector. As noted before, many of the timber concessions have been FSC-certified, but supply chain corruption concerns still exist as timber exports are expected to increase.

Anti-Corruption Resources

Some useful resources for individuals and companies regarding combating corruption in global markets include the following:

- Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a “Lay-Person’s Guide to the FCPA” is available at the U.S. Department of Justice’s Website at: <http://www.justice.gov/criminal/fraud/fcpa>.
- Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: http://www.oecd.org/departement/0,3355,en_2649_34859_1_1_1_1_1,00.html. See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: <http://www.oecd.org/dataoecd/11/40/44176910.pdf>.
- General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: http://www.ogc.doc.gov/trans_anti_bribery.html.
- Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at: http://www.transparency.org/policy_research/surveys_indices/cpi/2009. TI also publishes an annual *Global Corruption Report* which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See <http://www.transparency.org/publications/gcr>.
- The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 213 countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See <http://info.worldbank.org/governance/wgi/index.asp>. The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: <http://data.worldbank.org/data-catalog/BEEPS>.

- The World Economic Forum publishes the *Global Enabling Trade Report*, which presents the rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See <http://www.weforum.org/s?s=global+enabling+trade+report>.
- Additional country information related to corruption can be found in the U.S. State Department's annual *Human Rights Report* available at <http://www.state.gov/g/drl/rls/hrrpt/>.
- Global Integrity, a nonprofit organization, publishes its annual *Global Integrity Report*, which provides indicators for 106 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: <http://report.globalintegrity.org/>.

Bilateral Investment Agreements

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On February 12, 1990, the People's Republic of the Congo signed a Bilateral Investment Treaty (BIT) with the United States. The treaty entered into force on August 13, 1994. It is unclear whether the ROC will respect all of the terms of the BIT if challenged, as it was negotiated prior to the ROC's transition to a new constitution, but the government appears to protect these principles in practice. International law principles on ascension to treaties following government transitions should govern the situation.

BITs with France and China have been in place for many years, as well as fiscal agreements with other CEMAC countries. Commercial and bilateral agreements to safeguard investments have been signed with several African nations, including South Africa in 2005 and Namibia in 2007. Because Congo is considered a lower middle income country, it is not eligible for a number of trade agreements open to Least Developed Countries.

OPIC and Other Investment Insurance Programs

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The Overseas Private Investment Corporation (OPIC) is active in the Republic of the Congo with a political risk insurance program covering MINOCO (Minoterie du Congo SA), a flour mill company owned and operated by the Seaboard Corporation. The Republic of the Congo is also a member of the Multilateral Investment Guarantee Agency (MIGA).

In the event OPIC should pay an inconvertibility claim, the U.S. dollar value in local currency will be dictated by the CFA zone agreement, which pegs the local CFA to the euro at a fixed rate of about 655:1. Thus, the prevailing dollar-euro exchange rate will dictate claim amounts. There are no current plans to devalue the CFA relative to the euro, which would need to be negotiated by the BEAC on the part of the ROC and other CEMAC countries.

Labor

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The state civil service bureaucracy is the country's largest employer, with an estimated 80,000 employees, though this is as little as 1/3 the size of the civil service prior to the 1990's. The World Bank and other international lending institutions have pressed for reform in public sector hiring practices. Unemployment among Congo's youth is approximately 50 percent, as young workers seeking to leave the rural agricultural economy find limited opportunities in urban centers, with state-owned enterprises, or in public service. Prior to the transition to a democratic government, college graduates of the state's Marian Ngouabi University were guaranteed civil service positions. Though this practice was abolished, the perception of guaranteed employment despite field of study or academic achievement appears to remain. As a result, the potential educated work force is largely trained in skills unrelated to the country's current needs. This problem is slowly improving with the help of businesses, which have placed an emphasis on engineering, management, and technical skills.

Except for members of the police, gendarmerie and armed forces, the Congolese constitution provides workers with the right to form unions and to strike, subject to conditions established by law. The Labor Code allows for collective bargaining; however, collective bargaining is not widespread due to the social and economic disruption and extreme hardship that occurred during much of the 1990s. There are regular work strikes over non-payment against both public and private institutions, but these have largely taken place without violent incident.

The Labor Code establishes a standard work period of seven hours per day and 35 hours per week.

Foreign-Trade Zones/Free Ports

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As a member of the Central African Monetary Community (CEMAC), the Republic of the Congo belongs to a free trade zone which includes Cameroon, Central African Republic, Chad, Equatorial Guinea and Gabon. Within this zone, imports are subject to very low or even zero customs duties. The CEMAC zone is also considered a preferential trade area, for the Congo and the other member countries.

Four foreign trade zones, also known as special economic zones (SEZs), are in the planning process. Memorandums of understanding were signed with the Governments of Mauritius and Singapore to solicit technical expertise on developing these special economic zones. In 2009, the Ministry to the Presidency in charge of Special Economic Zones, the first of its kind in Africa, was created to administer the nascent trade zones. The Ministry has hired a number of international consultants to assist in the creation of these SEZs, which are envisioned as offering a competitive quality of life, single-window export-import assistance, minimal to zero tax and duty, and a number of other incentives. As of the beginning of 2013, only a few companies -- all Chinese -- have signed onto the SEZs.

Foreign Direct Investment Statistics

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Congo's economy relies primarily on exploitation of natural resources rather than industrial production. Hence, foreign direct investment (FDI) is concentrated in the oil

and forestry sectors, and increasingly in the mining sector. The government has increased its activity to attract investments in the telecommunications and banking sectors, and consequently investments in both sectors have risen. While FDI inflows have increased, outflows remain minimal.

Year	FDI Stocks (US\$)	FDI Inflows (US\$)*	% GDP
2009	12,987,000,000	1,862,000,000	158.5
2010	15,196,000,000	2,209,000,000	141.0
2011	18,127,000,000	2,931,000,000	136.9

Source: United Nations Conference on Trade and Development Congo Fact Sheet (2012)

* NB: FDI Inflow does not include figures for intra-CEMAC movement

The Congolese Government's Center for Customs Statistics (DGDDI-DPS) did not complete compilation of 2012 export-import figures and only published irregular monthly figures during 2012. The IMF estimated the ROC's GDP in 2012 at \$13.74 billion. The inflation rate rose substantially to 5.15 percent, but is expected to remain under 3 percent for several years to come.

In 2011, Congolese exports to the United States represented 21.6 percent of total exports and were valued at \$2.33 billion and consisted mainly of oil and mineral fuels, and wood products. Goods imported to the Republic of the Congo from the United States represented approximately one-fifth of imports and were valued at \$2.38 billion, consisting of vehicles, machinery, chemicals, and meat products. U.S. foreign direct investment in the Republic of the Congo was \$285 million in 2010.

Following are some major companies registered as foreign businesses by the Congolese Chamber of Commerce.

A) Oil Sector:

- Chevron Overseas
- CMS Nomeco Congo
- Eni Congo
- Murphy West Africa
- Prestoil
- Total E&P Congo

B) Forestry sector:

- Asia Congo Industries
- CIB-Olam
- Congo Dejia Wood Industry
- Entreprise Christelle Sassou-Nguesso
- Foralac

- IFO
- Likouala Timber
- Taman Industries
- Thanry CongoTrabec
- Sicofor

C) Banking sector:

- BCI (Banque Commerciale Internationale)
- Banque Congolaise de l'Habitat
- BGFIBANK
- Banque Espirito de Santo Congo
- Crédit du Congo
- EcoBank
- La Congolaise de Banque
- Mutuelle Congolaise D'Épargne et de Crédit (Mucodec)
- Société Général du Congo
- United Bank of Africa
- Banque Postale du Congo

D) Communication sector:

- Airtel Congo
- MTN
- Warid Telecommunication
- Azur

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Chapter 7: Trade and Project Financing

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How Do I Get Paid (Methods of Payment)

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Payment is usually made by bank wire transfers for amount larger than \$2,000 and directly by check or cash if the amount is less than \$2,000.

How Does the Banking System Operate

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The Bank of the Central African States (BEAC), headquartered in Cameroon, regulates the banking system. Overall authority for Republic of the Congo's banking system rests with the Ministry of Finance.

Within the BEAC is the Banking Commission of Central African States (COBAC), which ensures the legality of the operations carried out by financial institutions. BEAC issues the currency and controls liquidity within the zone. The interest rate structure is common to all member countries of the zone. Within the CEMAC zone, the CFA franc circulates freely and may be freely converted to other currencies through the banking system. Credit cards are used infrequently. Foreign-issued credit cards may not work in the Republic of the Congo. VISA is the most universally accepted, but there is no guarantee that U.S.-issued card chips will be compatible with local vendors.

The Republic of Congo's banking system includes eleven commercial banks. Commercial banks offer most corporate banking services, or can procure them from overseas. Local credit to the private sector is limited and expensive, but available to both foreign and local investors on equal terms. The country's main economic actors, the oil companies, finance themselves outside of the Republic of the Congo. Commercial banks have transferred excess liquidity to correspondent banks outside the region.

Foreign-Exchange Controls

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CEMAC regulations require banks to record and report the identity of customers engaging in large transactions. Additionally, financial institutions must maintain records of large transactions for five years. CEMAC regulations do not stipulate a threshold amount for transactions to be reported. Any wire transfer in excess of \$2,000 for individual and \$20,000 for corporation need to file a special authorization with the DGMC (Direction Générale de la Monnaie et du Crédit).

U.S. Banks and Local Correspondent Banks

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There are no U.S. Banks or Local Correspondent Banks in the Republic of the Congo.

Project Financing

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Projects may be financed through national or international institutions. The World Bank as well as the Development Bank of Central Africa States (BDEAC) have initiated projects in the Republic of the Congo.

Web Resources

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Export-Import Bank of the United States: <http://www.exim.gov>

Country Limitation Schedule: http://www.exim.gov/tools/country/country_limits.html

OPIC: <http://www.opic.gov>

Trade and Development Agency: <http://www.tda.gov/>

SBA's Office of International Trade: <http://www.sba.gov/oit/>

USDA Commodity Credit Corporation: <http://www.fsa.usda.gov/cc/default.htm>

U.S. Agency for International Development: <http://www.usaid.gov>

The Bank of the Central African States (BEAC): <https://www.beac.int/>

The Development Bank of Central African States (BDEAC): <http://www.bdeac.org/>

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Chapter 8: Business Travel

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Business Customs

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The Republic of the Congo inherited the French legal system after independence in 1960. Business law is mostly based on French law. There is an initiative that has set up a common Business Law for most French speaking countries in Africa called OHADA (Organisation pour l'Harmonisation du Droit des Affaires en Afrique).

Travel Advisory

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In the Republic of the Congo, petty thievery is fairly common. U.S. citizens should maintain security awareness at all times. More information on traveling to the Republic of the Congo may be obtained through the Consular Information Sheet at http://travel.state.gov/travel/cis_pa_tw/cis/cis_1092.html

Visa Requirements

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Per latest State Department travel information at the time of this writing, a passport, visa, and evidence of yellow fever vaccination are required for entry. Visitors to the Republic of the Congo should also have a letter of invitation and/or written proof of a hotel reservation for presentation to immigration officials upon arrival. In some cases, invitation letters must be endorsed by local immigration authorities prior to the bearer's arrival in the country. Possession of a valid visa is often not sufficient for admission to the Congo as immigration requirements are unclear and arbitrarily enforced.

Until January 2010, Congolese embassies and consulates issued unique visas for entry to the Republic of Congo. Visas should be identical regardless of where they are issued; however, some Embassies and Consulates, including the Congolese Consulate in New York, have not started issuing the new universal visas. The new Congolese visas are a passport-page-sized sticker with a map outline of the Republic of the Congo in the background. If you attempt to enter Congo with one of the old visas, you may be denied entry.

Additional information on entry requirements may be obtained from the [Embassy of the Republic of the Congo](#), 4891 Colorado Ave., N.W., Washington, D.C. 20011, telephone (202) 726-5500, or from the [Permanent Mission of the Republic of the Congo to the United Nations](#), 14 E. 65th St., New York, NY, 10021, telephone (212) 744-7840. Overseas inquiries should be made at the nearest Congolese embassy or consulate.

U.S. Companies that require travel of foreign businesspersons to the United States should be advised that security evaluations are handled via an interagency process. Visa applicants should go to the following links.

State Department Visa Website: <http://travel.state.gov/visa/>

American Embassy Brazzaville: http://brazzaville.usembassy.gov/visa_services.html

Telecommunications

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Telecommunications are generally adequate and reliable. Local and long distance telephone service is available 24 hours a day. Cellular service is available in the major cities and the interior of the country. Telephone rates are much higher than those in the U.S. Local connection to the Internet is not reliable at the moment, although there is some talk that the installation of broadband internet service is imminent.

Transportation

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International airlines serving the Republic of the Congo are Air France, Air Cote d'Ivoire, Equatorial Congo Air (ECair), Ethiopian Airlines, InterAir, Royal Air Maroc, RwandAir, South African Airways, Kenyan Airways, and Lufthansa. There are no direct flights to the United States of America. Direct flights to Paris are available four times per week from Brazzaville (capital city) and Pointe-Noire (economic city). Flights are also available to Frankfurt (via Libreville). There are direct flights to capitals in Central and West Africa, as well as to Addis Ababa, Casablanca, and Johannesburg.

Brazzaville International Airport, called Maya-Maya International Airport, is ten minutes from the city center. The ROC has a poor road network, but airports can be found in major cities – e.g., Pointe-Noire, Dolisie, Ouesso etc. Various airlines provide domestic flights including Trans Air Congo, Equatorial Congo Air (ECair) and Canadian Airlines.

Rail service is available between Pointe-Noire and Brazzaville only.

Taxis are available in Brazzaville and Pointe-Noire. Car rental is available but expensive. The major hotels offer bus service to and from the airports for international flights.

Language

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French is the Republic of the Congo's official language. English is not widely spoken.

Health

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Medical facilities are limited. A list of doctors may be obtained through the Embassy's consular section or at http://travel.state.gov/travel/tips/health/health_4971.html .

Malaria is endemic in the Republic of the Congo. Malaria suppressants are strongly recommended and should be begun prior to arrival.

Travelers should drink only bottled water or bottled drinks. Hygiene at restaurants varies, but at more expensive restaurants is generally good.

Local Time, Business Hours, and Holidays

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Local time is GMT+1

Note: The working days for civil servants and employees of private companies typically begin at 7:30 am and conclude at around 3:30 pm (civil servants may finish a little earlier, private employees a little later), with a thirty minute lunch break.

Congolese Holidays in 2013 are:

January 1	New Year's Day
April 1	Easter Monday
May 1	Labor Day
May 09	Ascension
May 20	Whit Monday
June 10	Reconciliation Day
August 15	Independence Day
November 1	All Saints Day
November 28	Congolese Republic Day
December 25	Christmas Day

The American Embassy also observes U.S. federal holidays.

Web Resources

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State Department Visa Website: <http://travel.state.gov/visa/index.html>

United States Visas.gov: <http://www.unitedstatesvisas.gov/>

American Embassy Brazzaville: <http://brazzaville.usembassy.gov/>

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Chapter 9: Contacts, Market Research and Trade Events

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Contacts

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American Embassy Brazzaville

Ambassador – Christopher W. Murray
Deputy Chief of Mission – Margaret B. Diop
Economic/Commercial Officer – Kristine Knapp
Economic/Commercial Specialist – Andy Bemba

U.S. Mailing Address:
2090 Brazzaville Place
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<http://brazzaville.usembassy.gov/>

Market Research

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To view market research reports produced by the U.S. Commercial Service please go to the following website: <http://www.export.gov/mrktresearch/index.asp> and click on Country and Industry Market Reports.

Please note that these reports are only available to U.S. citizens and U.S. companies. Registration to the site is required, and is free.

Trade Events

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Please click on the link below for information on upcoming trade events.

<http://www.export.gov/tradeevents/index.asp>

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