

## **CONSTITUTION LAW**

The amendments to the Constitutional Law introduced in March 1991 through Law No. 12/91 were mainly aimed at creating the requisite constitutional framework for the establishment of multiparty democracy, broadening recognition and guarantees of the fundamental rights and freedoms of citizens, and constitutionally enshrining the basic principles of a market Economy.

Since it was only a partial revision of the Constitutional Law, as necessary as it was urgent, some constitutionally appropriate and important aspects related to the organisation of a democratic State based on the rule of law were quite rightly left to be properly dealt with in the Constitutional Law, through a second constitutional revision.

As a consequence of the constitutional enshrinement of the establishment of multiparty democracy and the signing, on 31 May 1991, of the Angola Peace Accords, for the first time in the country's history multiparty general elections based on direct and secret universal suffrage were held in September 1992 to chose the President of the Republic and Members of the future Parliament.

Without detracting from the powers of the National Assembly to amend the current Constitutional Law and approve the Constitution of the Republic of Angola, it has become indispensable to proceed with the immediate amendment of the Constitutional Law, as planned, aimed essentially at clarification of the political system, the separation of the functions and the interdependence of sovereign bodies, and also at making the status and guarantees of the Constitution explicit, in accordance with the enshrined principles of building a democratic State based on the rule of law in Angola.

It is indispensable to stability in the country and to the consolidation of peace and democracy that the nation's sovereign bodies, specifically those emerging from the September 1992 general elections, should have at their disposal a clear basic law related to the essential outlines of the political system, the powers of the nation's sovereign bodies, the organization and functioning of the State, until such time as the future legislative body decides, exercises its constitutional amendment powers and approves the Constitution of the Republic of Angola. The present Law on the Amendment of the Constitution introduces, generically, the following major amendments:

The State becomes the Republic of Angola and the legislative body the National Assembly, and the courts are no longer prefixed by the term "People's".

In Part 11, under fundamental rights and duties, a few new articles have been added aimed at reinforcing recognition and guarantees of fundamental rights and duties, based on the principles of the major international treaties on human rights to which Angola has already adhered.

In Part 111, under State bodies, far-reaching changes have been introduced leading to the complete re-drafting of the previous text. The purpose of the changes is to establish clearly that Angola is a democratic State based on the rule of law and a model of State organization founded on the separation of functions and interdependence of sovereign bodies and on a semi-presidential system in which the President of the Republic has an active role. Substantial changes have also been made, for the same purpose, in the part related to the administration of justice and the organization of the judiciary, and the essential outlines of the constitutional status of judicial and Ministry of Justice judges have been set out.

The provisions referring to the monitoring of the Constitution by a Constitutional Court, as well as the procedures, powers and limits of constitutional amendment, are specifically dealt with in a separate part of the Constitutional Law, after the part on National Defenses.

Under these terms, in accordance with Article 51 (a) of the Constitutional Law and using the powers conferred on me by Article 47 (q) of that Law, the People's Assembly approves and I sign and order publication of the following:

#### **ARTICLE 1**

The amendments the Constitutional Law contained in the attached document, which are an integral part of the present Law, have been approved.

#### **ARTICLE 2**

The present Law shall enter into force on the date of publication thereof, without prejudice to the provisions of the following articles.

#### **ARTICLE 3**

1. The People's Assembly shall continue to function until the swearing in of the Members of the National Assembly elected in the legislative elections of 29 and 30 September 1992.
2. The Provincial Popular Assemblies shall cease their mandate on the swearing in of the Members of the National Assembly referred to in the foregoing clause.

#### **ARTICLE 4**

1. During the transitional period referred to in the foregoing article, the President of the Republic shall be the President of the People's Assembly and Head of Government.
2. In the event of the temporary absence or disability of the President of the People's Assembly, meetings thereof shall be directed by a member of the Standing Commission nominated by the President of the People's Assembly.

#### **ARTICLE 5**

1. The term of office of the President of the Republic incumbent on the date of publication of the present Law shall be deemed valid and extended until the swearing in of the President of the Republic elected in the presidential elections of 29 and 30 September 1992.
2. In the event of the death or permanent disability of the current President of the Republic, the Standing Commission of the People's Assembly shall nominate from among its members for a period not exceeding 30 days a Member to hold that office temporarily, and the People's Assembly, on the proposal of the Standing Commission, shall elect an interim President of the Republic until the swearing in of the President of the Republic elected in the next presidential elections by direct and secret universal suffrage.

#### **ARTICLE 6**

Until such time as the Constitutional Court has been instituted, the Supreme Court shall exercise the powers provided for in Articles 134 and 135 of the Constitutional Law.

#### **ARTICLE 7**

Until such time as the High Council of the Judicial Bench is instituted, a full meeting of the Supreme Court shall discharge the duties provided for in Article 132.

## **ARTICLE 8**

Until such time as the High Council of the Ministry of Justice Bench is instituted, the officers of the Attorney General's Office shall discharge the duties assigned to that body.

## **ARTICLE 9**

Until such time as the Judicial Proctorate is instituted, the general duties assigned to it in the Constitutional Law shall be discharged by the Attorney General.

## **ARTICLE 10**

1. Officers in the Angolan Armed Forces shall not be dismissed or relieved of their duties for political reasons.

2. Officers who are members of the High Command of the Armed Forces and the General States thereof shall not be dismissed or relieved of their duties for a period of five years from the date of publication of the present Law, except for reasons of discipline or incapacity, in accordance with the law on the rules of military service.

## **ARTICLE 11**

The members of the Council of the Republic on the date of publication of the present Law shall end their term of office after the general multiparty elections of 29 and 30 September 1992, on the swearing in of the new members of the Council of the Republic, in accordance with Article 77 of the Constitutional Law.

## **ARTICLE 12**

The first legislative session of the National Assembly elected in the general multiparty elections of 29 and 30 September 1992 shall open within thirty days of the publication of the final results of the count or, in the event of a second round of presidential elections, within fifteen days of the swearing in of the President of the Republic.

## **ARTICLE 13**

The sovereign bodies emerging from the presidential and legislative elections of 29 and 30 September 1992 shall regulate the form, organization and terms of the said swearing in, after hearing the Supreme Court in the case of the swearing in of the President of the Republic.

## **ARTICLE 14**

The Constitutional Law of the Republic of Angola shall remain in force until the entry into force of the Constitution of Angola, approved by the National Assembly in accordance with the provisions of Article 150 of the Constitutional Law and those ensuing.

Seen and approved by the People's Assembly.

To be published.

Luanda, 25 August 1992.

**THE PRESIDENT OF THE REPUBLIC**

José Eduardo dos Santos

## **Trade & Investment**

Private investment plays a crucial role in the development of the national economy.

Bearing that in mind, it is important therefore to establish a legal system of incentives that, without detriment to the State's essential interests, is sufficiently attractive to potential investors. That is to say, not only offering them credible assurances of legal security and stability for their investments, but above all establishing clear, simple and expeditious rules and procedures for approval processes.

In light of that, it has become both necessary and urgent to reformulate all current private investment legislation, adopting it so that a legal framework can be put in place enabling the setting up of enterprises involving private investments, be they national or foreign.

In line with these terms, and in accordance with paragraph b) of article 88 of the Constitutional Law, the National Assembly approves the following

## **BASIC PRIVATE INVESTMENT LAW**

### **PART I - General Stipulations**

#### **Article 1 (Definitions)**

1. For the purposes of this law, whereas:

a) Private Investment - the employment in national territory of capital, capital and other types of equipment or technology, or the employment of funds earmarked for the incorporation of new companies, or joint ventures, or other forms of corporate representation of private companies, both national or foreign, as well as the total or partial acquisition of already-existing companies incorporated under Angolan law.

b) Private Investor – any resident or non-resident person, individual or corporate, irrespective of their nationality, within the framework of the previous paragraph, making investments in national territory scheduled for the purposes mentioned in that paragraph.

c) National Investor – any resident person, individual or corporate, irrespective of their nationality, making investments in the country with capital domiciled in Angola, without entitlement to transfer dividends or profits abroad.

d) Foreign Investment – the introduction and employment in national territory of capital, capital and other types of equipment or technology and know-how, or the employment of funds entitled, or potentially entitled, to be transferred abroad, under the terms of the current Foreign Exchange Law, earmarked for the incorporation of new companies, or joint ventures, branches, or other forms of corporate representation of foreign companies, as well as the total or partial acquisition of already-existing companies incorporated under Angolan law.

e) Foreign Investor – any non-resident person, individual or corporate, irrespective of their nationality, introducing or employing in national territory, within the framework of the previous paragraph, capital domiciled outside Angola, entitled to transfer profits and dividends abroad.

f) Resident - individual or corporate persons with residence or headquarters in national territory.

- g) Non-resident - individual or corporate persons with residence or headquarters outside the country.
- h) Indirect Investment – all national or foreign investment comprising, individually or cumulatively, the form of loans, subsidies, supplementary capital loans, patented technology, technical processes, industrial secrets and models, franchising, registered trademarks, technical assistance and other forms of access to their employment, either in exclusivity or under licenses restricted to geographical zones or fields of industrial and/or commercial activity;
- i) Direct Investment – all national or foreign investment made in any forms not complying with the definition of indirect investment, referred to in the previous paragraph;
- j) ANIP – the National Private Investment Agency, or another entity that may eventually be set up to take its place to deal with private investment;
- k) Authorizing Entity – the entity or public institution authorized, under the terms of this law, to approve private investment projects;
- l) Special Economic Zones – investment zones considered as special ones, in accordance with criteria defined by the Government.

## **Article 2 (Object)**

This law establishes the general bases for private investment to be made in the Republic of Angola and defines the principles regarding the schemes and procedures providing access to incentives and benefits to be granted by the State for such investment.

## **Article 3 (Special Investment Schemes)**

1. The investment scheme and access to incentives and benefits to be granted to private investments in the realm of oil, diamond and financial institutions are governed by specific legislation and other situations to be specially determined and defined by the State.
2. Nonetheless, the entities authorized to approve the investments referred to in the previous number of this article are obligated to send to the National Private Investment Agency (ANIP), within a period of 30 days subsequent to the approval of each investment, information containing data on the respective investment's overall value, location, form, scheme, and number of new jobs created. It will also send all other relevant information for the purposes of registration, monitoring and centralized statistical control of the private investment. All information whose transmission is legally prohibited will be duly safeguarded.
3. The investments provided for in N<sup>o</sup> 1 of this article are supplementarily subject to that set out in this law.

## **Article 4 (General Investment Policy Principles)**

The private investment policy and the granting of incentives and benefits observe the following general principles:

- a) Free enterprise, except for those areas defined by law as being the reserve of the State.
- b) Assurances of security and protection for investment;
- c) Equitable treatment for both nationals and foreigners and protection of national economic citizenship rights;

d) Respect for and complete compliance with international agreements and treaties;

#### **Article 5 (Promotion of Private Investment)**

1. It is incumbent on the Government to foster the private investment policy, especially when it decisively contributes to the country's economic and social development and the population's general welfare.

2. The entity charged with executing national policy vis-à-vis private investments, as well as promoting, coordinating, steering and monitoring private investments, is the National Private Investment Agency, known by the acronym "ANIP".

#### **Article 6 (Admissibility of Private Investment)**

1. The realization of all types of private investments, provided that they do not go contrary to current legislation and formal procedures.

2. Private investment can take the form of national or foreign investment.

#### **Article 7 (National Investment Operations)**

1. Under the terms and for the purposes of this law, the following procedures and agreements are deemed, among others considered as such, as national investment operations,

a) Utilization of national or freely-convertible currency;

b) Utilization of technology and know-how;

c) Utilization of machinery and equipment;

d) Conversion of credit arising out of any type of agreement;

e) Capital stakes in partnerships and companies incorporated under Angolan law domiciled in national territory;

f) Financial resources resulting from loans;

g) Incorporation of new companies belonging exclusively to a private investor;

h) Expansion of companies or other forms of corporate representation of companies;

i) Total or partial acquisition of already-existing companies or joint ventures;

j) Shares or acquisition of stakes in the capital of companies or joint ventures, whether new or already existing, whatever the form taken;

k) Signing and amendments to agreements of consortia, partnerships, joint ventures, third-party partnerships in capital stakes and any other form of partnership agreement permitted, even when not provided for in current commercial legislation;

l) Total or partial acquisition of commercial and industrial establishments, through acquisition of assets or through assignment of operation agreements;

- m) Total or partial acquisition of farming companies, through leasing agreements or any agreements that cover the exercise of ownership and operation on the part of the investor;
- n) Operation of real estate complexes, tourist or otherwise, whatever their legal nature;
- o) Realization of supplementary capital loans, advances from partners and, in general, loans linked to profit sharing;
- p) Acquisition of real estate located in national territory, when such acquisition is part of private investment projects;
- q) Assignment, in specific cases, and under the terms agreed and sanctioned by authorizing entities, of rights to utilization of land, patented technologies and registered trademarks, whose return is limited to the distribution of profits resulting from activities in which technologies or trademarks have been or were applied;
- r) Assignment of exploration of rights under concession and licenses and rights of an economic, commercial or technological nature.

#### **Article 8 (Forms of National Investment)**

Private investments can be conducted, individually or cumulatively, in the following forms:

- a) Allocation of own funds;
- b) Application in Angola of current assets existing in bank accounts set up in Angola belonging to residents or non-residents;
- c) Allocation of machinery, equipment, accessories and other materials;
- d) Incorporation of credit and other current assets of private investors which may be employed in enterprises;
- e) Incorporation of technologies and know-how.

#### **Article 9 (Foreign Investment Operations)**

1. Under the terms and for the purposes of this law, the following procedures and agreements, made without recourse to the country's foreign-exchange reserves, are deemed, among others considered as such, as foreign investment operations:

- a) Introduction into national territory of freely-convertible currency;
- b) Introduction of technology and know-how;
- c) Introduction of machinery and equipment;
- d) Stakes in partnerships and companies incorporated under Angolan law domiciled in national territory;
- e) Financial resources resulting from loans granted from abroad;

- f) Incorporation and expansion of branches or other forms of corporate representation of foreign companies;
  - g) Incorporation of new companies belonging exclusively to a foreign investor;
  - h) Total or partial acquisition of already-existing companies or joint ventures and stake in or acquisition of shares in the capital of new or already-existing companies or joint ventures, whatever the form taken;
  - i) Signing of and amendments to agreements of consortia, partnerships, joint ventures, third-party partnerships in capital stocks or shares and any other form of partnership agreement permitted under international trade rules, even when not provided for in current commercial legislation;
  - j) Total or partial acquisition of commercial and industrial establishments, through acquisition of assets or through assignment of operation agreements;
  - k) Total or partial acquisition of farming companies through leasing agreements or any agreements that cover the exercise of ownership and operation on the part of the investor;
  - l) Operation of real estate complexes, tourist or otherwise, whatever their legal nature;
  - m) Realization of supplementary capital loans, advances to partners and, in general, of loans linked to profit sharing;
  - n) Acquisition of real estate located in national territory, when such acquisition is part of private investment projects;
2. Transactions involving the temporary chartering of ships, aircraft and other types of goods that can be hired, leased or acquired in any other form for temporary usage in national territory against payment, are not considered as foreign investment operations.
3. The introduction of capital lower in value than the equivalent to USD 100,000 (one hundred thousand US dollars) is not subject to authorization by the ANIP nor does it benefit from entitlement to repatriate dividends, profits and other advantages provided for under this law.

#### **Article 10 (Forms of Foreign Investment)**

1. Foreign investments can be made, individually or cumulatively, in the following forms:
- a) Transfer of funds from abroad;
  - b) Application of current assets in bank accounts in foreign currency, set up in Angola by non-residents;
  - c) Importation of machinery, equipment, accessories and other materials;
  - d) Incorporation of technologies and know-how.
2. The forms described in paragraphs c) and d) must always be accompanied by transfers of funds from abroad, namely, to cover incorporation and start-up expenses.

#### **PART II - Rights & Obligations**

## **SECTION I - Rights**

### **Article 11 (Private Investment Status)**

For all legal purposes, partnerships and companies set up in Angola to obtain benefits and incentives for private investment, even with capital coming from abroad, possess the status of partnerships and companies incorporated under Angolan law, with common Angolan law being applicable to them, insofar as that not regulated otherwise by this law or specific legislation.

### **Article 12 (Equitable Treatment)**

1. Within the framework of Constitutional Law and of the principles that shape the country's judicial, political and economic order, the Angolan State ensures, irrespective of the capital's origin, a fair, non-discriminatory and impartial treatment of incorporated partnerships and companies and of corporate assets, guaranteeing them protection and security and not hindering, in any way, their management, maintenance and operation.

2. Any discrimination vis-à-vis investors is strictly forbidden.

3. Foreign investors are guaranteed the rights arising out of ownership on the resources they have invested, namely entitlement to freely dispose of them, under the same terms of those of a national investor.

### **Article 13 (Transfer of Profits & Dividends)**

Subsequent to the implementation of a private foreign investment and proof of its execution in accordance with the rules defined under this law, entitlement to make transfers abroad, under the conditions defined under this law and foreign exchange legislation, is guaranteed for:

a) Allocated dividends or profits, net of legal amortizations and taxes due, taking into account respective stakes in the shareholder equity of partnership or company.

b) Proceeds from the liquidation of investments, including capital gains, subsequent to taxes due having been settled.

c) Any amounts due to the investor, net of respective taxes, provided for in procedures or agreements that, under the terms of this law, constitute private investment;

d) Proceeds of indemnities, under the terms of N° 3 and 4 of article 15;

e) Royalties or other earnings from indirect investments, linked to granting transfer of technology.

### **Article 14 (Protection of Rights)**

a. 1. The Angolan State guarantees all private investors access to Angolan courts to defend their rights, with their being guaranteed due legal process;

2. In the event of private investment assets being expropriated for significant and duly justified grounds of public interest, the State ensures the payment of a fair, prompt and effective indemnity, whose amount is determined in accordance with the applicable legal rules.

3. Private investor assets will not be nationalized.

4. In the event of changes occurring in the political and economic regime leading to exceptional nationalization measures, the State guarantees a fair and prompt cash indemnity.
5. The State guarantees partnerships and companies, set up for the purposes of private investment, total protection and respect in regard to professional, banking and commercial secrecy codes.
6. Rights granted to private investments within the framework of this law, are ensured, without prejudice to others that may arise from agreements and conventions to which the Angolan State is party.

#### **Article 15 (Specific Assurances)**

1. Industrial ownership rights and patents over all intellectual creation, within the framework of current legislation, are guaranteed.
2. Rights eventually acquired over entitlement to land and other domain-related resources, within the framework of current legislation, or that are eventually approved, are guaranteed.
3. Public non-interference in the management of private companies and the setting of prices, except in those cases expressly provided for in law, is guaranteed.
4. The State guarantees that licenses will not be withdrawn without recourse to respective judicial or administrative processes.
5. Entitlement to directly import assets from abroad, and independently export products produced by private investors, is guaranteed.

#### **Article 16 (Recourse to Credit)**

Private investors can have recourse to internal and foreign credit, within the framework of current legislation.

### **SECTION II - Obligations**

#### **Article 17 (General Private Investor Obligations)**

1. Private investors undertake to respect current laws and regulations, as well as contractual commitments, being subject to the penalties defined therein.

#### **Article 18 (Specific Private Investor Obligations )**

The private investor undertakes, specifically, to:

- a) Observe the deadlines set for the importation of capital and implementation of the investment project, in accordance with commitments undertaken;
- b) Promote the training of national labor and the progressive taking over of management and other posts of responsibility by Angolan nationals;
- c) Set up funds and reserves and set aside provisions within the framework of current legislation;
- d) Apply the chart of accounts and accounting rules established in the country;

e) Respect standards relating to conservation of the environment, hygiene, protection and safety of workers against industrial sickness and accidents, and other contingencies provided for in social security legislation;

f) Take out and maintain up-to-date insurance against industrial accidents and sickness of workers, as well as insurance for third-party civil liability or environmental damage;

### **PART III - Registration & Procedural Schemes**

#### **SECTION I - Registration**

##### **Article 19 (Registration of Private Investment Operations)**

1. All private investment operations benefiting from the advantages defined under this law must be subject to respective registration at the ANIP.
2. Registration is made in the wake of its approval by the authorizing entity, whatever the form in which the investment is submitted.

##### **Article 20**

(Private Investment Certificate of Registration)

1. Once private investment proposals have been approved, the ANIP issues a Private Investment Certificate of Registration, known by its acronym of "CRIP", which will confer on its holder entitlement to invest under the terms referred to therein.
2. A CRIP must contain the investor's full identification, the investment's procedural scheme and amount, as well as its economic and financial characteristics, how it will be put in place, deadline for its implementation, and location. It will also include the date and signature of the ANIP's top-ranking official, authenticated with the official seal in use at that institution. On the CRIP's reverse side must appear the rights and obligations of the private investor as enshrined under this law and the signature of the private investor or latter's legal representative.

##### **Article 21 (Official Function of CRIPs)**

1. Subsequent to their valid issue, the CRIPs constitute private investors' legal entitlement.
2. CRIPs constitute a document proving acquisition of rights and the assumption of obligations by the private investor as enshrined in this law, with their subsequently serving as the basis for all investment operations, access to incentives and benefits, obtaining of licenses and registrations, solution in cases of litigation and other matters arising out of the granting of incentives and benefits.
3. The rights conferred by the CRIP can be directly exercised by the holder or by a duly empowered legal representative.

#### **SECTION II - Access to Incentives & Benefits**

##### **Article 22 (Basis for Granting Incentives & Benefits)**

Incentives and benefits as provided for under this law can only be granted provided that the respective investments are capable of achieving some of the following economic and social goals to:

- a) Incentivate growth of the economy;

- b) Promote the economic, social and cultural well-being of people, in particular, that of youth, the elderly, women and children;
- c) Promote less-favored regions, mainly in the country's hinterland;
- d) Increase national productive capacity or raise value-added;
- e) Provide opportunities for partnerships between national and foreign entities;
- f) Advance the creation of new jobs for national workers and raise the professional qualification of Angolan labor;
- g) Obtain the transfer of technology and increase productivity;
- h) Increase exports and lower imports;
- i) Increase current foreign-exchange assets and the equilibrium of the balance-of-payments situation;
- j) Efficiently supply the internal market;
- k) Promote technological development, entrepreneurial efficiency and quality of products;
- l) Revamp, expand or upgrade infrastructure earmarked for economic activity.

#### **Article 23 (Monetary Requirements for Access)**

Access to incentives and benefits for investment operations is permitted to those fulfilling the following monetary requirements:

- a) The minimum limit of investment for capital domiciled in the country, belonging to a national, is USD 50,000 (fifty thousand US dollars);
- b) The minimum limit of investment for capital domiciled abroad, irrespective of investor's nationality, is USD 100,000 (one hundred thousand US dollars);

#### **Article 24 (Requirements of Economic Interest )**

Access to incentives and benefits for investment operations is permitted to those fulfilling the following requirements of economic interest:

- a) Implementing investment in the following sectors of activity:
  - i. Agriculture and livestock;
  - ii. Industry, namely the manufacture of packaging, production of machinery, equipment, tools and accessories, textile, clothing and footwear, manufacture of wood and its derivatives, production of foodstuffs, construction materials, IT and communications;
  - iii. Railway, highway, seaport and airport infrastructure;
  - iv. Telecommunications;
  - v. Fishery and by-products industry, including the construction of ships and nets;
  - vi. Power and water;
  - vii. Housing development.

b) Implementing investments in development hubs and in other special economic zones of investment, approved in accordance with criteria and priorities defined by the Government.

c) Implementing investments in free zones set up by the Government, in accordance with specific law on the subject;

#### **Article 25 (Procedural Schemes)**

Access to incentives and benefits by private investment operations is processed according to two procedural schemes:

a) Prior Declaration Scheme;

b) Contractual Scheme.

### **SECTION III - Prior Declaration Scheme**

#### **Article 26 (Prior Declaration)**

Under the terms of this law, proposals for investments are subject to the prior declaration scheme when their value is equal to or more than the equivalent of USD 50,000 (fifty thousand US dollars), for national investors, or USD 100,000 (one hundred thousand US dollars), for foreign investors, up to a maximum limit equivalent to USD 5,000,000 (five million US dollars).

#### **Article 27 (Authorizations)**

It is incumbent upon the ANIP to approve or reject investment processes coming within the framework of the prior declaration scheme.

#### **Article 28 (Submission of Proposal)**

A private investment proposal must be submitted to the ANIP accompanied by those documents indispensable to the identification and legal characterization of the investor and planned investment.

#### **Article 29 (Amendment to Proposals)**

Should proposals be submitted in an inadequate or unsatisfactory manner, the authorizing entity will notify the proponent, establishing a deadline for their amendment or perfecting.

#### **Article 30 (Appraisal of Proposal)**

1. Subsequent to reception of a proposal, and after all legal and bureaucratic formalities having been fulfilled, the ANIP has a period of 15 (fifteen) days in which to appraise it and come to a decision.

2. The appraising of a proposal is aimed at providing opportunities to gain prior knowledge of a project, together with its economic and financial data. It also includes assessing the pertinence of the request for access to benefits and exemptions requested by the private investor.

#### **Article 31 (Rejection of Proposal)**

1. The rejection of a proposal can only be based on grounds of a strictly legal nature, with the proponent being formally advised by the ANIP, before the 15-day period provided for in article 30, N° 1 expires, with an express indication of the amendments the investor must make.

2. In the face of a rejection decision, a complaint can be lodged with the ANIP and recourse had to the entity regulating the ANIP, in accordance with the rules governing administrative procedures.

3. Should investors agree with the motives expressed by the ANIP in rejecting a proposal, they can correct the omissions or mistakes in the proposal and resubmit it.

#### **Article 32 (Acceptance of Proposal)**

1. Should there be no express rejection of a proposal up to the end of the period of 15 (fifteen) days defined in the previous articles, it shall be deemed as having been accepted, which confers on the proponent entitlement to carry out the investment within the terms of the proposal submitted.

2. To that end, the ANIP is obligated to register and issue the Private Investment Certificate of Registration (CRIP), within a period of five days subsequent to a formal request by the investor. In the event of not obtaining the CRIP inside that deadline, the investor can lodge a complaint and appeal, within the framework of legislation governing administrative procedures.

#### **SECTION IV - Contractual Scheme**

##### **Article 33 (Characterization of Investment Agreement)**

1. An investment agreement is of an administrative nature, with the parties to it being the State, represented by the ANIP, and the private investor.

2. A private investment agreement aims to define the rights and obligations of the parties and essentially contains the following details:

a) Identification of parties;

b) Administrative nature and object of agreement;

c) Duration of agreement;

d) Definition and quantification of goals to be achieved by the private investor within the contractual deadline;

e) Definition of the conditions of operation, management, partnership and deadlines in the undertakings which are the subject of the private investment agreement;

f) Definition and quantification of benefits, tax breaks and other incentives to be granted and ensured by the State in relation to the private investor, such as their exact quid pro quo and punctual compliance with goals set;

g) Monitoring mechanisms by the ANIP of what has to be implemented in respect of investments during the contractual period;

h) Form of resolution when recourse is had to litigation;

i) General definition of project's envisaged economic and social impact.

3. An investment agreement is drawn up as a private document, with the respective original being filed at the ANIP's services.

4. It is acceptable for private investment agreements to stipulate different ways on how to decide on legal interpretations and that their execution can be resolved by recourse to arbitration.

5. In the cases referred to in the previous number, arbitration must take place in Angola and the law applicable to an agreement must be that of Angolan law.

#### **Article 34 (Scope)**

Proposals falling within the following conditions are subject to the contractual scheme:

a) Investments whose value is equal to or more than USD 5,000,000 (five million US dollars);

c) Irrespective of their value, investments in areas whose operation, within the framework of the law, can only be made through the concession of temporary operation rights;

d) Irrespective of their value, investments whose operation, within the framework of the law, can only be made with the mandatory participation of the public business sector;

#### **Article 35 (Authorization & Form of Approval)**

It is incumbent on the Cabinet to approve investment projects falling within the contractual scheme.

#### **Article 36 (Submission of Proposal)**

A private investment proposal must be submitted to the ANIP, accompanied by those documents necessary for the identification and legal, economic, financial and technical characterization of the investor and the planned investment, as well as to assess the pertinence of the request for access to benefits and exemptions requested by the investor.

#### **Article 37 (Amendment of Proposals)**

Should proposals be submitted in an inadequate or unsatisfactory manner, the ANIP will notify the proponent, within a period of 15 (fifteen) days as of the date of the proposal's submission, establishing a deadline for its amendment or perfecting.

#### **Article 38 (Appraisal of Proposal)**

1. Subsequent to the entry of a proposal, the ANIP has a period of 30 (thirty) days as of the date of the proposal's submission in which to appraise it and come to a decision.

2. During this period, the ANIP will study and assess the proposal, and establish negotiations with the investor, calling upon public administration sectors and other institutions whose opinion is considered pertinent.

3. Once negotiations with the investor have been completed, the ANIP will issue an opinion containing the legal, technical, financial and economic appraisal of the project and the request for benefits, and send it, accompanied by the draft agreement, for approval by the authorizing entity, with the latter having 30 (thirty) days in which to arrive at a decision.

### **Article 39 (Approval of Investment Proposal)**

Should the authorizing entity decide to approve it, the draft is returned to the ANIP for the agreement to be signed, along with the registration and issue of the respective CRIP, in accordance with which the private investment operations will be initiated.

### **Article 40 (Rejection of Proposal)**

1. Should a decision be made to reject the proposal, the proponent must be formally advised of this by the ANIP, together with a precise indication of the grounds on which the rejection is based, which can only be warranted on the following:

a) Justifications of a legal nature

b) Inconvenience of the planned investment, in light of the development strategy defined by sovereign entities or of goals laid down in the economic and social development plan.

2. In the face of an unfavorable decision regarding an investment, a complaint and appeal can be lodged, within the framework of rules governing administrative procedures.

3. Should investors agree with the grounds invoked by the authorizing entity in rejecting a proposal, they can correct the omissions or mistakes in the proposal and resubmit it.

## **PART IV - Taxation & Foreign Exchange Regulations**

### **Section I - General Rules**

#### **Article 41 (General Principle)**

Corporate or individual persons covered by this law are subject to compliance with current tax legislation, being entitled to the same established tax benefits and being subject to the same penalties.

#### **Article 42 (Tax on Transfers)**

1. Transfers abroad, sales and other transactions, made by private investors, within the framework of the rights established under this law, will be taxed at source, through the capital gains tax, within the framework of fiscal and tax legislation and that specifically regulating the private investment tax scheme.

2. Subsequent to the capital invested having been amortized, within the framework of legislation governing the matter, the remittance of profits and dividends abroad is taxed, during the first 5 years, by more than 50% of the value of taxation before amortization of the capital. After the first 5 years, it will be taxed by more than 100% of that value.

3. Private investment profits and dividends that are reinvested are exempt from the payment of capital gains taxes.

#### **Article 43 (Double Taxation)**

1. The Government will promote the establishment of international agreements with the largest possible number of countries with a view to avoiding double taxation.

2. Supply of proof of payment of taxes by foreign investors in Angola is mandatory as a means to prove that taxes levied in the countries of origin of the respective investors have been duly settled.

#### **Article 44 (Purpose of Tax Revenue)**

1. Twenty-five percent of all tax revenue arising out of taxes collected within the private investment framework is earmarked to go to the putting in place and development of the new private investment system in Angola, especially to capacitate the national business community and globalize the Angolan economy, under terms to be regulated.
2. This revenue will become an integral part of the General State Budget and be managed by the ANIP, as the entity coordinating the new private investment system in Angola.

### **Section II - Tax Benefits & Foreign Exchange Regulations**

#### **Article 45 (Tax Benefits)**

Investments to be carried out under the terms of this law enjoy incentives and tax benefits, under the terms of specific legislation.

#### **Article 46 (Foreign Exchange Regulations)**

1. Foreign exchange operations involving the procedures referred to in article 6 are subject to the regulations established under foreign exchange legislation.
2. The following special rules for private investment operations are established:
  - a) Application of the exchange market's floating rates, freely negotiated according to the laws of supply and demand;
  - b) Private investors are compelled to deal exclusively with officially-authorized financial institutions;
  - c) Possibility of private investors acquiring their own foreign currency, either to bring it into the country, or to carry out transfers outside the country, under the terms of this law;
3. Financial institutions officially authorized to conduct foreign exchange business and private investors having recourse to them are jointly liable for the legality and good faith of transactions they realize within the framework of this law. The Government shall regulate the forms of monitoring and control of these activities.
4. Those who promote the irregular remittance of currency abroad, violating the rules established for private investment shall be obligated to repatriate any irregularly transferred currency back to Angola, plus a fine of 200% on the value of the irregular remittance.

#### **Article 47 (Suspension of Remittances Abroad)**

1. Transfers abroad, guaranteed under the terms of this investment law, shall be suspended by the Cabinet whenever their amount is likely to cause serious imbalances on the balance-of-payments situation. A case in which the governor of the central bank - Banco Nacional de Angola (BNA) - may exceptionally determine their scheduling over a period negotiated by mutual agreement.

2. While the balance-of-payments situation remains imbalanced, the Government may temporarily introduce levies of a quasi-taxation nature on imports and transfers abroad for travel purposes, earmarked to set up a monetary reserve at the central bank to bolster foreign-exchange reserves and current assets.

3. The Government shall regulate the exact forms of suspension of remittances, their reactivation and collection of the quasi-taxation levies referred to in this article.

## **PART V - Importation of Capital, Machinery & Equipment**

### **Article 48 - (Importation of Capital)**

1. The licensing of capital-importation operations must be requested by the proponent direct from the Banco Nacional de Angola, through a credit institution authorized to conduct foreign exchange business, by submitting the Private Investment Certificate of Registration (CRIP).

2. For the purposes referred to in number 1 of this article, subsequent to approval of the investment and issue of the respective CRIP, the ANIP will officially send a copy of the CRIP and all other pertinent data immediately to the BNA, with the investor's knowledge, so that the BNA can license the capital-importation operations requested by investors.

3. The BNA must license the capital operations provided for in this article up to a maximum deadline of 15 (fifteen) days subsequent to the entry of the application referred to in the above numbers, with the interested party having to be informed, within a period of 5 (five) days, of any mistake detected.

4. The Banco Nacional de Angola will send data on foreign exchange operations, conducted within the scope of private investment, to the ANIP, whenever these take place.

### **Article 49 (Importation of Machinery, Equipment & Accessories)**

The registration of operations involving entry into the country of machinery, equipment, accessories and other materials for investments, enjoying the benefits and exemptions provided for under this law, is performed by the Ministry of Trade and depends on the submission of the Private Investment Certificate of Registration (CRIP), issued in accordance with the formal requirements defined under this law for the issue of such a certificate.

### **Article 50 (Registration of Equipment Value)**

The registration of a private investment taking the form of the importation of machinery, equipment and their components, either new or used, is made according to their CIF (cost, insurance & freight) value in foreign currency and its equivalent in national currency, calculated at the rate of exchange on the day of disembarkation.

### **Article 51 (Exemption from Customs Duties)**

1. Without prejudice to that which may eventually be established in terms of the qualitative and quantitative schedule of resources exempt from customs tariffs and duties in special legislation governing the matter, under the terms of this law, the importation of machinery, equipment and their components to be incorporated in the capital invested is exempt from customs tariffs and duties.

2. For used machinery, equipment and accessories, the exemption provided for in the previous number is lowered to 50%.

### **Article 52 (Prices of Machinery)**

1. The price of machinery and equipment is subject to proof being provided by an official document passed by the pre-embarkation inspection entity .
2. The inflated invoice-pricing of machinery and equipment imported, under the terms of this law, constitutes a foreign-exchange violation and is subject to the payment of a fine of up to 200% of the real value of the piece of equipment, according to the gravity of the case, without prejudice to other sanctions provided for in law.
3. Oscillations in prices of up to 5% of the real value of machinery and equipment will not be considered a violation.
4. Anyone falsely importing or attributing a false value to machinery, equipment and other goods, taking advantage of the benefits attributed by this law, shall be liable to prosecution for the crime of falsifying merchandise or making false declarations, within the framework of current penal legislation.

## **PART VI - Implementation of Investment Projects**

### **Article 53 (Execution of Projects)**

1. The execution of an investment project must be initiated within the deadline stipulated in the respective CRIP and/or Investment Agreement.
2. In duly fundamented cases, and at the request of the private investor, the deadline referred to in the previous number can be extended by the ANIP.
3. The execution and management of a private investment project must be performed in strict conformity with the conditions of its authorization and applicable legislation. Furthermore, funds coming from abroad cannot be applied in a form or for purposes differing from those that have been authorized, nor can they diverge from the object that has been authorized.

### **Article 54 (Workforce)**

1. Partnerships and companies set up for the purposes of private investment are obligated to employ Angolan workers, guaranteeing them the necessary professional training and providing them with wage and social conditions compatible with their qualifications, with any type of discrimination being forbidden.
2. Partnerships and companies set up for the purposes of private investment can, within the framework of current legislation, hire qualified foreign workers, but they must however fulfill a rigorous plan for training and/or qualifying national technicians, aimed at progressively filling posts with Angolan workers. The training plan referred to in this number must form part of the documentation to be submitted to the authorizing entity for approval of the investment.
3. Foreign workers hired within the framework of private investment projects are entitled to transfer their salaries abroad, subsequent to legal formalities having been complied with and net of taxes due.
4. Qualified Angolan workers with foreign-exchange residence abroad for more than five years can be hired, benefiting from the same privileges and rights attributed to foreign workers. Excluded from this possibility are people on scholarships, diplomats and anyone working abroad on temporary posts or assignments.
5. Foreign workers hired under the terms of the previous numbers are subject to legislation prevailing in the Republic of Angola.

### **Article 55 (Bank Accounts)**

1. Within the framework of current legislation, private investors are compelled to have accounts in banks domiciled in the country, where they will deposit respective monetary resources and through which they will conduct all internal and external payment operations related to the investment approved under the terms of this law.
2. On their own criterion and liability, private investors can maintain monetary sums in foreign currency in their bank accounts and frequently convert them into national currency to gradually realize the operations provided for in the previous number and pay-up the capital of companies or private enterprises to be set up.
3. Commercial banks are prohibited from automatically converting currency imported and deposited in foreign currency accounts, earmarked for the realization of private investment operations.

### **Article 56 (Monitoring)**

To facilitate the monitoring of the realization of authorized private investments, companies must annually supply the authorizing entity with data on the development of enterprises and on their profits and dividends. Companies must fill out the form that will be sent to them by the ANIP for that purpose, with this institution being able to call upon the authorized entities of the Ministry of Finance to guarantee compliance with this stipulation.

### **Article 57 (Company Incorporations & Changes)**

1. Should an investment project involve the incorporation of or changes in companies, these must be drawn up by public deed.
2. Consistent with this law, no public deed relating to procedures constituting foreign investment operations can be drawn up without submission of the CRIP issued by the ANIP and respective capital-importation license issued by the BNA, within the framework of this law. Failing which, any procedures connected to it will be nullified.
3. Companies set up for the realization of foreign investment, under the terms and for the purposes stipulated under this law, are obligated to provide proof that the capital stock has been fully paid-up. This must be done within a period of 90 (ninety) days as of the date of the issue of the capital-importation license by the BNA. Failing which, any procedures incorporating the company, within the framework of current legislation, will be nullified .
4. It is incumbent upon the ANIP, in coordination with the BNA, to denounce and request the annulment of any procedures incorporating companies realized in contravention to that provided for in numbers 2 and 3 of this article.

### **Article 58(Diversification of Corporate Mission)**

1. Diversifying a partnership or company mission to areas of activity not expressed in the authorization to invest, which changes the structure of the benefits and exemptions granted and of the amounts to be transferred abroad, when that is the case, is contingent on the ANIP's prior authorization.
2. Capital increases for investments forming part of projects underway must be approved by the ANIP.
3. Capital increases in companies set up for the realization of foreign investment that do not include the importation of capital must be notified to the ANIP.

### **Article 59 (Company Registration)**

1. Companies set up for the realization of investments approved within the framework of this law, as well as changes in already-existing companies, for the same purposes, are subject to company registration, within the framework of current legislation.
2. Equally subject to company registration are branches and other forms of representation of foreign companies, with such registration being contingent on submission of the license issued by the Banco Nacional de Angola and the authorizing entity's official endorsement on the documents to be registered.

### **Article 60 (Assignment of Foreign Investment Contractual Position)**

1. The total or partial assignment of a contractual or shareholding position with regard to foreign investment must be made with prior authorization from the ANIP. Moreover, national investors, should they exist, are always entitled, under identical circumstances, to exercise preference rights.
2. The preference entitlement referred to in the previous number is a legal one, and its non-observance can be challenged by any interested party deeming that they have been discriminated against. This must be done within a period of 180 (one hundred and eighty) days as of the date of the assignment of the contractual position that is to be challenged.

### **Article 61 (Tenders & Direct Adjudications)**

In the event that private investment projects are preceded by public tenders or direct adjudications, the procedures laid down in this law are applied, with any adaptations considered necessary or convenient.

### **Article 62 (Dissolution & Liquidation)**

1. Partnerships and companies set up for investments, conducted within the framework of this law, are dissolved in the cases provided for in the respective agreement or incorporation procedures and, in addition, in light of:
  - a) Elapse of the deadline set in the investment agreement;
  - b) Resolution passed by shareholders, provided that obligations arising out of the CRIP and/or of the application of the investment agreement have been complied with;
  - c) Full realization of the corporate mission or its impossible fulfillment in the interim, with proof provided by the ANIP;
  - d) Non-realization of the capital needed for the enterprise to operate within the deadline set in the authorization, provided that obligations arising out of the CRIP and/or private investment agreement have been complied with;
  - e) Corporate mission proving to be illicit in the interim;
  - f) Bankruptcy of company;
  - g) Manifest divergence in realization of an enterprise's corporate mission;
  - h) In all other cases provided for in current legislation.

2. The proposal for dissolution in the cases provided for in paragraphs a), d), e) and g) can emanate from the ANIP.

3. The dissolution and liquidation of partnerships or companies set up for the purposes of foreign investment are subject to current commercial legislation.

## **PART VII - Violations & Sanctions**

### **Article 63 (Violations)**

1. Without prejudice to that enshrined in other legal diplomas, the fraudulent or culpable noncompliance with the legal obligations to which the private investor is subject under the terms of this and other legislation on private investment, constitutes an infringement.

2. Constituting infringements are, namely:

a) Use of funds coming from abroad for purposes other than those for which they have been authorized;

b) Practice of commercial procedures outside the scope of the authorized project;

c) Practice of invoicing facilitating the exit of capital or evasion of obligations to which a company or partnership is subject, namely those of a taxation nature;

d) Non-execution of training procedures or the non-replacement of foreign workers by national ones under the conditions and to the deadlines provided for in the investment proposal;

e) Failure to produce the annual information mentioned in article 56 of this law.

### **Article 64 (Sanctions)**

1. Without prejudice to other sanctions specifically provided for in law, the infringements mentioned in the previous article are liable to the following sanctions:

a) Fines, varying between the equivalent of one thousand and one hundred thousand US dollars, with the minimum and the maximum triply increased in the case of repeated violations;

b) Loss of exemptions, tax incentives and other benefits granted;

c) Canceling of investment authorization.

2. The non-execution of projects within the deadlines set in authorizations or prorogations is liable to the sanction provided for in paragraph c) of the previous number.

### **Article 65 (Application of Sanctions)**

1. The sanction provided for in paragraph a) of the previous article is applied by the ANIP and that provided for in paragraph c) by the entity that approved the investment, under the terms of this law.

2. The sanction provided for in paragraph b) of the previous article is applied within the framework of specific legislation governing the matter.

Article 66  
(Sanction Procedures & Appeals)

1. Before the application of any sanctionary measure is conducted, it is mandatory that the private investor be given a hearing.
2. When determining the sanction to be applied, all circumstances involving the perpetration of the violation must be taken into consideration, together with the degree of culpability, the benefits sought and obtained, in perpetrating such a violation and its damaging consequences.
3. Private investors can lodge a complaint or appeal against a sanctionary decision, within the framework of current legislation.

**PART VIII - Final & Transitory Stipulations**

**Article 67 (Previous Investment Projects)**

1. This law and its regulation does not apply to investments authorized prior to its enactment, since these, up until their respective term, continue to be governed by the stipulations of specific legislation and the terms or agreements through which their authorization has been granted.
2. Nonetheless, private investors may apply to the ANIP to submit their already-approved projects under the regulations established by this law, with the authorizing entity deciding on such approval, in accordance with their value and/or characteristics, under the terms of this law.
3. Investment projects pending up until the enactment of this law will be studied and decisions taken with regard to them under the terms of this same law, with any necessary adaptations being made in relation to legal procedures already fulfilled.

**Article 68 (Repeal of Legislation)**

1. Law N° 15/94, of September 23, 1994 is hereby repealed, as well as any other legislation contrary to that enshrined in this law.
2. That which is not contrary to that enshrined in this law, and failing its being amended, legislation regulating private investments will continue to be applied.

**Article 69 (Regulation)**

The Government shall regulate this basic law whenever its efficient application calls for the rules and principles contained in it to be clarified and specified.

**Article 70 (Doubts & Omissions)**

Any doubts and omissions arising out of the interpretation and application of this law shall be resolved by the National Assembly.

**Article 71 (Enactment)**

This law shall come into force fifteen days subsequent to its publication in the official gazette, *Diário da República*.

Seen and approved by the National Assembly  
Let it be published

Luanda, \_\_\_\_ \_\_\_\_\_ 2003

The Speaker of the National Assembly, Roberto de Almeida

The President of the Republic, José Eduardo Dos Santos