ECONOMIC LEGISLATION

A COMPILATION OF ANGOLAN PRIVATE INVESTMENT LAWS

– I VOLUME –

MARIA LUÍSA ABRANTES

ANGOLA TRADE REPRESENTATIVE
ANIP/USA

Economic Legislation – A Compilation of Angolan Private Investment Laws

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Compiled and organized by: Maria Luísa Abrantes
Angola Trade Representative – ANIP/USA

Contents

A Brief Presentation

The Angolan National Agency for Private Investment (ANIP) is a "one-stop government agency", which was set up to provide every type of free institutional support to potential investors wishing to invest in Angola. National and foreign investors are both offered similar opportunities in respect of the country's policy on incentives related to taxation and customs duties, on an equal footing.

To that end, potential investors have at their disposal a series of legal instruments, specifically, laws and decrees, published in the *Diário da República* (government gazette).

For a better understanding of private-investment legislation by foreign investors, and thereby turning it into a vehicle for progress, its translation, initially into English, and the compilation contained in this first volume, have become imperative.

Complementary Legislation will be presented in VOLUME II. A further publication, as Volume III, will contain special private-investment legislation in connection with the geological, mining, and financial institution sectors.

Maria Luísa Abrantes

Angolan Trade Representative – ANIP/USA

NATIONAL ASSEMBLY

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Basic Law for Private Investment

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

Therefore, it is necessary to establish a legal regime of incentives which, not neglecting the basic interests of the State may be sufficiently attractive to prospective investors, affording credible legal protection and stability to their investments, but mainly setting out comprehensible, straightforward and expeditious rules and procedures for the relevant licensing processes.

In light of the above, it is essential to reformulate the legislation governing private investment currently in force, and consequently to adopt a legal framework allowing for the accomplishment of undertakings involving both domestic and foreign private investments.

Under the above terms, and pursuant to paragraph b) of Article 88 of the Constitutional Law, the National Assembly hereby approves the following:

BASIC LAW FOR PRIVATE INVESTMENT

CHAPTER I

General Provisions

ARTICLE 1

(Object)

This law sets forth the general basis of the private investment to be carried out in the Republic of Angola and defines the principles to be followed in the procedure of access to the incentives and aids to be granted by the State to such private investment.

ARTICLE 2

(Definitions)

1. for the purposes of this law:

a) *Private investment* – means the use in national territory of capital, equipment and other assets or technology, the use of funds geared at the creation of new companies, groups of companies or any other form of corporate representation of domestic and foreign private companies, as well as the acquisition of the whole or part of the capital of existing Angolan companies.

b) *Private investor* – means the resident or non-resident individual or legal entity, regardless of nationality, who conducts in national territory investments under the terms of the preceding paragraph and for the purposes therein laid down.

c) *National investor* – means the resident individual or legal entity, regardless of nationality, who conducts investments in the Country with capitals domiciled in Angola, not entitled to transfer dividends or profits abroad.

d) *Foreign investment* – means the introduction and use in national territory of capital, equipment and other assets or technology and know-how or the use of funds capable of being transferred abroad, under the foreign exchange law in force, with a view to the creation of new companies, groups of companies, branches and any other form of corporate representation of foreign companies, as well as the acquisition of the whole or part of the capital of existing Angolan companies.

e) *Foreign investor* – means the resident or non-resident individual or legal entity, regardless of nationality, who introduces or uses in domestic territory, under the terms of the preceding paragraph, capital domiciled abroad and is entitled to transfer profits and dividends abroad.

f) *Resident* – means the individual or legal entity residing or having head offices in national territory;

g) *Non-resident* - means the individual or legal entity residing or having head offices abroad.

h) *Indirect investment* – means the domestic or foreign investment covering, separately or cumulatively, all forms of loans, partners subordinated loans, supplementary payments of capital, licensed technology, technical processes, industrial secrets and patterns, franchising, trademarks, technical assistance and other forms of access to their use, either in exclusive or under the form of restrictive licensing per geographic area or field of industrial and/or trade activity.

i) *Direct investment* – means the domestic or foreign investment operations not covered by the definition of indirect investment set forth in the preceding subparagraph;

j) *ANIP*- means the private investment national agency, *Agência Nacional de Investimento Privado*, or any other entity that may come to replace such agency to handle private investment related matters.

k) *Competent entity* – means the public entity or institution competent to approve private investment projects, under the terms laid down in this law;

l) *Special economic areas* – means the areas of investment considered special, pursuant to the criteria defined by the Government.

ARTICLE 3

(Special investment regimes)

1. The regime of investment and access to incentives and aids to be granted to private investments in the oil industry, diamond extraction and financial institutions is governed by separate legislation and in other situations to be specially determined by the State.

2. The entities competent to approve the investments referred to in the preceding paragraph must submit to the *Agência Nacional de Investimento Privado* (ANIP), within 30 days, information on the relevant overall value, place of investment, form, regulations, number of jobs to be created, and remaining material information for purposes of registration and centralised statistic control of the private investment concerned.

3. The provisions laid down in this law are subsidiary applicable to the investments referred to in paragraph 1 hereabove.

ARTICLE 4

(Investment policy general principles)

The private investment policy and the granting of incentives and aids are carried out in observance of following general principles:

a) free initiative, except in State reserved areas, as defined by law;

b) guarantees of safety and protection of the investment;

c) equal treatment to national and foreign citizens and protection of the rights of economic citizenship of Angolan nationals.

d) Respect for and full compliance with international agreements and treaties.

ARTICLE 5

(Private investment promotion)

1. The Government shall promote the private investment policy, in particular the investment in fields of activity highly conducive to the economic and social development of the country and to the general well-being of the population.

2. The *Agência Nacional de Investimento Privado* (ANIP) is the body entrusted with the enforcement of the national policy as far as private investments are concerned, as well as with the promotion, coordination, direction and supervision thereof.

ARTICLE 6

(Admissibility of private investment)

1. All kinds of private investment may be carried out, provided the same are not contrary to the legislation and formal procedures in force.

2. Private investment may take the form of domestic or foreign investment.

ARTICLE 7

(National investment operations)

Under the terms and for the purposes of this law, the following shall, *inter alia*, be deemed as national investment operations:

a) use of national currency or freely convertible currency;

b) acquisition of technology and know-how;

c) acquisition of machinery and equipment;

d) conversion of credits yielded from any other type of agreement;

e) corporate holdings in Angolan companies and firms domiciled in national territory;

f) appropriation of the financial means raised by loans;

g) creation of new companies wholly-owned by the private investor;

h) expansion of companies and other forms of corporate representation;

i) acquisition of the whole or part of the capital of existing companies and groups of companies;

j) participation in or acquisition of an interest in the capital of new or existing companies and groups of companies, under any form whatsoever;

k) execution and amendment of consortium, joint venture and participation agreements or any other form of association agreement though not foreseen in the legislation in force;

l) total or partial takeover of commercial or industrial establishments, by means of acquisition of the relevant assets or execution of business lease agreements.

m) total or partial takeover of agricultural companies, by means of execution of lease agreements or any other agreements whereby the investor gains possession or operation of such companies

n) operation of real estate developments, in the tourism activity or otherwise, of whichever legal nature;

o) provision of supplementary payments of capital, partners' loans and, in general, loans related to the profit sharing;

p) acquisition of real estate located in national territory, within the scope of private investment projects;

q) assignment, in specific cases and under such terms to be agreed upon with and authorised by the competent authorities, of land use rights, licensed technologies and trademarks, which remuneration is limited to the distribution of profits yielded by the activities where such technologies or trademarks have been or shall be applied;

r) assignment of operation of concession rights and economic, commercial or technologic licenses and rights.

ARTICLE 8

(Forms of realization of national investment)

Private investment acts may be carried out, separately or cumulatively, by means of: a) allocation of equity capital;

b) investment in Angola of liquid assets in bank accounts opened in Angola and held by residents or non-residents;

c) allocation of machinery, equipment, accessories and other tangible fixed assets, as well as inventories or stocks;

d) incorporation of credits and other liquid assets held by the private investor capable of being invested in undertakings;

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 act and contracts carried out without resorting to the foreign exchange reserves of the Country shall, *inter alia*, be deemed as foreign investment operations:

a) introduction of freely convertible currency in national territory;

b) introduction of technology and know-how;

c) introduction of machinery, equipment, accessories and other tangible fixed assets, as well as inventories or stocks;

d) corporate holdings in Angolan companies and firms domiciled in national territory;

e) financial means raised by foreign loans;

f) creation and expansion of branches and other forms of representation of foreign companies;

g) creation of new companies wholly-owned by the foreign investor;

h) acquisition of the whole or part of the capital of existing companies and groups of companies and holding or acquisition of a corporate interest in new or existing companies and groups of companies, under any form whatsoever;

i) execution and amendment of consortium, joint venture and participation agreements or any other form of association agreement permitted by international trade laws, though not foreseen in the legislation in force;

j) total or partial takeover of commercial or industrial establishments, by means of acquisition of the relevant assets or execution of business lease agreements.

k) total or partial takeover of agricultural companies, by means of execution of lease agreements or any other agreements whereby the investor gains possession or operation of such companies

l) operation of real estate developments, in the tourism activity or otherwise, of whichever legal nature;

m) provision of supplementary payments of capital, partners' loans and, in general, loans related to the profit sharing;

n) Acquisition of real estate located in national territory within the scope of private investment projects;

2. The temporary charter of vessels, aircrafts and other means capable of being hired, leased or otherwise temporarily used in national territory, in return for a given freight, is not deemed as foreign investment.

3. The capital investments of less than the equivalent to USD 100,000.00 do not require the prior consent from the *Agência Nacional de Investimento Privado* (ANIP) and do not benefit from the right to repatriate dividends, profits and other advantages foreseen in this law.

ARTICLE 10

(Forms of realization of foreign investment)

1. Foreign investment acts may be carried out, separately or cumulatively, by means of:

a) transfer of funds from abroad;

b) investment of liquid assets in foreign currency bank accounts held by non-residents in Angola;

c) import of machinery, equipment, accessories and other tangible fixed assets, as well as inventories and stocks;

d) integration of technology and know-how.

2. The foreign investment operations listed in subparagraphs c) and d) hereabove must be carried out together with a transfer of funds from abroad, in particular to cover incorporation and start-up expenses.

CHAPTER II

Rights and Duties

SECTION I

Rights

ARTICLE 11

(Status of private investment)

The companies and firms incorporated in Angola for purposes of obtaining aids and incentives to private investment operations, though with foreign capital, have the same legal status as Angolan companies and firms and, unless otherwise stipulated in this Law or in specific legislation, shall be governed by Angolan general law.

ARTICLE 12

(Equal treatment)

1. Under the terms of the Constitution and of the principles laid down in the juridical, political and economic system of the Country, the Angolan State shall give, regardless of the origin of the capital, fair, non-discriminating and equitable treatment to incorporated companies and firms and to property, affording them protection and safety and not hindering the management, maintenance and operation thereof.

2. Any discrimination among investors is strictly forbidden.

3. Foreign investors benefit from the rights attached to the ownership of the invested means, in particular the right to freely dispose thereof, under the same conditions enjoyed by national investors.

ARTICLE 13

(Transfer of profits and dividends)

Upon implementation of the private foreign investment and against evidence of its execution in accordance with the rules set out herein, the foreign investor may transfer abroad, under the conditions laid down in this law and in the foreign exchange law;

a) the distributed dividends or profits, after deduction of the legal amortizations and taxes levied thereon, taking into account the relevant holding in the equity capital of the company or firm concerned;

b) the liquidation proceeds of its investments, including capital gains, after deduction of the taxes levied thereon;

c) any credits, after deduction of the relevant taxes, arising out of acts and contracts considered as private investment operations under this law;

d) the proceeds of indemnities pursuant to paragraphs 3 and 4 of Article 15 hereunder.

e) royalties and other income obtained from indirect investment revenues associated with the assignment of transfer of technology.

ARTICLE 14

(Protection of rights)

1. The Angolan State warrants that all private investors shall have access to Angolan courts for purposes of defending their rights and resorting to the appropriate legal proceedings.

2. In the event of the assets object of private investment being expropriated for important and duly justified reasons of public interest, the State shall pay a fair, prompt and effective indemnity, in such amount as shall be determined in accordance with the applicable legislation.

3. The assets of the private investors must not be nationalised.

4. Should there occur a change in the Angolan political and economical regime and exceptional measures regarding nationalisation be adopted, the State shall pay a fair and prompt cash indemnity for the nationalised property thereunder.

5. The State shall afford full protection to and respect the professional, banking and trade secrecy of the companies and firms incorporated for investment purposes.

6. The rights hereby granted to private investments are ensured without prejudice to other rights laid down in agreements and conventions to which the Angolan State is a party.

7. Should there occur adverse economic and tax alterations, the investments in progress will not be affected thereby for a period of no less than three years and not exceeding five years, under the terms to be laid down in a separate statute.

ARTICLE 15

(Specific guarantees)

1. The rights over industrial property as well as over any intellectual creation are secured pursuant to the legislation in force.

2. Title to land and to other domain resources is guaranteed by the legislation in force and by any other legislation that may be enacted.

3. The State shall not interfere in the management of private companies and in the setting of prices, except as otherwise expressly required by law.

4. The Sate warrants that no license shall be cancelled without the competent judicial or administrative proceedings.

5. The State authorises the direct import of goods from abroad and the separate export of products manufactured by private investors.

ARTICLE 16

(Credit)

Private investors may raise internal and external credit aids under the terms set forth by law.

SECTION II

Duties

ARTICLE 17

(General duties of the private investor)

Private investors must respect the laws and regulations in force and comply with their contractual covenants, and shall be subject to the penalties therein defined.

ARTICLE 18

(Specific duties of the private investor)

The private investor shall, in particular:

a) meet the deadlines for the import of capital and for the implementation of the investment project, in accordance with the contractual commitments undertaken;

b) promote the training of domestic workers and the progressive holding of managerial offices by Angolan citizens, without any kind of discrimination whatsoever;

c) create funds and reserves and make provisions under the terms of the legislation in force.

d) follow the national plan of accounts and accounting standards;

e) respect the rules governing environment protection, hygiene, protection and safety of workers against industrial hazards and deceases and other contingencies foreseen in social security laws;

f) take out and keep valid insurance policies against industrial hazards and deceases of the workers, as well as a liability insurance policy against injuries to third parties or to the environment.

CHAPTER III

Registration and Procedural Regimes

SECTION I

Registration

ARTICLE 19

(Registration of private investment operations)

1. Private investment operations benefiting from the advantages defined in this law must be registered at the *Agência Nacional de Investimento Privado* (ANIP).

2. The registration of private investment operations is made upon relevant approval by the competent authority, regardless of the nature of the investment concerned.

ARTICLE 20

(Private Investment Registration Certificate)

1. Upon approval of a private investment project, the *Agência Nacional de Investimento Privado* (ANIP) issues a Private Investment Registration Certificate (*Certificado de Registo de Investimento Privado – CRIP*) entitling the relevant holder to carry out an investment under the terms therein set forth.

2. The Private Investment Registration Certificate shall contain the complete identification of the investor, the procedural regime, the amount and the economic and financial data of the investment, the way the investment must be made, the investment period, the place of investment, the date and the signature of the head of the *Agência Nacional de Investimento Privado* (ANIP), certified with the relevant Seal.

3. The overleaf of the Private Investment Registration Certificate (PIRC) must contain the rights and obligations of the private investor as laid down herein and bear the signature of the private investor or that of his legal representative.

ARTICLE 21

(Legal effects of Private Investment Registration Certificates)

1. Upon valid issue, Private Investment Registration Certificates shall constitute private investor certificates.

2. Private Investment Registration Certificates evidence the acquisition of the rights and the undertaking of the obligations laid down in this law by the private investor, and shall serve as the basis for all investment operations, access to incentives and aids, obtaining of licenses and registrations, settlement of disputes and other facts resulting from the granting of aids and licenses.

3. The rights conferred by Private Investment Registration Certificates may be exercised directly by its holder or by a duly appointed legal representative.

SECTION II

Access to incentives and aids

ARTICLE 22

(Objectives underlying the granting of incentives and aids)

The incentives and aids set forth in this law may only be granted provided that the relevant investments enable the achievement of some of the following social and economic objectives:

a) stimulation of economic growth;

b) promotion of the economic, social and cultural well-being of the populations, in particular the youth, the elderly, the women and the children;

c) promotion of underprivileged regions of the Country, especially inland regions;

d) increase of national production capacity or of the added value;

e) encouragement of the creation of partnerships between domestic and foreign entities;

f) creation of new jobs for national workers and improve the qualifications of Angolan manpower;

g) transfer of technology and increase of production efficiency;

h) increase exports and decrease imports;

i) increase foreign exchange liquid assets and improve the balance of payments.

j) propitiation of an efficient supply of the internal market;

k) promotion of the technological development, corporate efficiency and quality of the products;

l) rehabilitation, expansion or modernisation of the infrastructure to be used in the conduct of the economic activity.

ARTICLE 23

(Financial requirements of access)

The investment operations meeting the following financial requirements shall be allowed access to incentives and aids:

a) minimum investment by national citizens of capital domiciled in the Country of USD 50 000.00;

b) minimum investment of capital domiciled abroad, regardless of the nationality of the investor, of USD 100.000.00.

ARTICLE 24

(Economic interest requirements)

The investment operations meeting the following economic interest requirements shall be given access to incentives and aids:

a) investments in the following fields of activity:

   i. agriculture and cattle breeding;

   ii. industry, notably the manufacture of packages, production of machinery, equipment, tools and accessories, recycling of iron and non-iron materials, production of textiles, clothing and footwear, manufacture of wood and its by-products, production of foodstuff, construction materials, information technologies and communications;

   iii. railroad, road, port and airport infrastructure;

   iv. telecommunications;

   v. fishing industry and by-products, including the construction of boats and fishing nets;

   vi. energy and waters;

vii. housing construction;

viii. health and education;

ix. tourism

b) investments in developing areas and in the remaining investment special economic zones, approved based on the criteria and priorities defined by the Government;

c) investments in the free zones to be created by the Government, in accordance with the applicable legislation.

ARTICLE 25

(Procedural regimes)

Access to incentives and aids to private investment operations is given based on the two following procedural regimes:

a) prior declaration regime;

b) contractual regime.

SECTION III

(Prior Declaration Regime)

ARTICLE 26

(Prior declaration)

Under the terms of this law, investment projects in amounts equal to or higher than the equivalent to USD 50,000.00, for national investors, and to USD 100,000.00 for foreign investors, not exceeding the equivalent to USD 5,000,000.00, are subject to the prior declaration regime.

ARTICLE 27

(Competence)

The *Agência Nacional de Investimento Privado* (ANIP) shall approve or reject the investment projects within the scope of the prior declaration regime.

ARTICLE 28

(Submission of the project)

Private investment projects are submitted to the *Agência Nacional de Investimento Privado* (ANIP) together with the supporting documents of identification and legal characterisation of the investor and proposed investment.

ARTICLE 29

(Correction of the projects)

In the event of the projects submitted containing deficiencies or insufficiencies, the competent board shall notify the applicant accordingly to remedy or complete the same within a given period of time.

ARTICLE 30

(Assessment of the project)

1. The *Agência Nacional de Investimento Privado* (ANIP) must assess and decide on an investment project within 15 days of relevant receipt and due compliance with the legal and procedural formalities.

2. The assessment of the investment project is aimed at allowing a prior knowledge of the project and of the relevant economic and financial information and at evaluating the accessibility of the application to aids and exemptions submitted by the private investor.

ARTICLE 31

(Rejection of the project)

1. The rejection of the project may only be grounded on legal reasons and must be formally notified by the *Agência Nacional de Investimento Privado* (ANIP) to the applicant, before the end of the fifteen day period set in paragraph 1 of Article 30 hereabove, with express indication of the corrections required to be made by the investor.

2. The rejection decision may be challenged by the investor by lodging a claim with *Agência Nacional de Investimento Privado* (ANIP) and appealed against to the relevant supervising entity, under the terms of the administrative procedural rules.

3. Should the investor concur with the reasons which led the *Agência Nacional de Investimento Privado* (ANIP) to reject the project, he may remedy the deficiencies or complete the insufficiencies of the project and re-submit the same.

ARTICLE 32

(Acceptance of the Project)

1. Should there be no express rejection of the project on or before the end of the 15 day period set in the preceding paragraphs, the same shall be considered tacitly approved and the applicant will be entitled to carry out the investment concerned under the terms therein laid down.

2. Accordingly, within five days of formal request by the investor, the *Agência Nacional de Investimento Privado* (ANIP) shall register the investment and issue the Private Investment Registration Certificate. In the event of the Private Investment Registration Certificate not being issued by the *Agência Nacional de Investimento Privado* (ANIP) within such five day period, the investor may claim and appeal against such failure under the terms of the legislation governing administrative procedures.

SECTION IV

Contractual Regime

ARTICLE 33

(Characterization of the investment contract)

1. The investment contract is an administrative act, having as parties the State, represented by the *Agência Nacional de Investimento Privado* (ANIP) and the private investor.

2. The investment contract is aimed at defining the rights and obligations of the parties, and must contain basically the following:

a) identification of the parties;

b) administrative nature and purpose;

c) period of validity;

d) definition and quantification of the objectives to be achieved by the private investor within the contractual term;

e) definition of the conditions of operation, management and association and time limits of the undertakings object of the private investment contract;

f) definition and quantification of the aids, tax benefits and other incentives to be granted and to be ensured by the State to the private investor, in consideration of the correct and timely attainment of the objectives;

g) place where the investment will be carried out and the law governing the assets of the investor;

h) mechanisms for the monitoring by the *Agência Nacional de Investimento Privado* (ANIP) of the actions of realisation of the investment in the course of the contractual period;

i) form of settlement of disputes;

j) general definition of the economic and social impact of the project concerned.

3. The investment contract is executed under the form of a private document, and the relevant original shall be filed with the *Agência Nacional de Investimento Privado* (ANIP).

4. In private investments contracts, the parties may covenant that any dispute regarding its interpretation and execution may be settled by means of arbitration.

5. In the event referred to in the preceding paragraph, the arbitration shall be carried out in Angola and governed by Angolan laws.

ARTICLE 34

(Scope)

The projects submitted under the following conditions are subject to the law of contracts:

a) investments equal to or in excess of USD 5,000,000.00;

b) regardless of value, investments in fields of activity the operation of which, pursuant to the law, may only be carried out by means of concession of rights of temporary operation;

c) regardless of value, investments which operation may only, pursuant to the law, be carried out with the participation of public companies.

ARTICLE 35

(Competence and form of approval)

The Council of Ministers shall approve the investment projects within the scope of the contractual regime.

ARTICLE 36

(Submission of the project)

The private investment project is submitted to the *Agência Nacional de Investimento Privado* (ANIP), together with the required supporting documents of identification and legal, economic, financial and technical characterization of the investor and of the proposed investment, as well as those necessary for the accessibility of the application for aids and incentives submitted by the investor.

ARTICLE 37

(Correction of the projects)

Should the projects be submitted with deficiencies or insufficiencies, the *Agência Nacional de Investimento Privado* (ANIP) shall notify the applicant within 15 days of the date of submission setting a period for correction or completion thereof.

ARTICLE 38

(Assessment of the project)

1. The *Agência Nacional de Investimento Privado* (ANIP) shall analyse and reach a decision on the project within 30 days of admission.

2. In the course of said period, the *Agência Nacional de Investimento Privado* (ANIP) analyses and assesses the project and begins negotiations with the investor and, if deemed convenient, seeks the opinion of public administration bodies and other entities.

3. Upon completion of the negotiations with the investor, the *Agência Nacional de Investimento Privado* (ANIP) shall issue an opinion containing the legal, technical and financial assessment of the project and of the application for aids and exemptions submitted by the investor, and shall forward the same, together with the draft investment contract, to the competent entity, for relevant approval within 30 days thereafter.

ARTICLE 39

(Approval of the investment project)

Should the investment project be approved by competent entity, the same shall be returned to the *Agência Nacional de Investimento Privado* (ANIP) for execution of the investment contract, and registration and issue of the relevant Private Investment Registration Certificate (PIRC), following which the private investment operations may be initiated.

ARTICLE 40

(Rejection of the project)

1. Should the project be rejected, the relevant applicant shall be notified accordingly by the *Agência Nacional de Investimento Privado* (ANIP), with a precise indication of the causes underlying such rejection, which may only be grounded on:

a) legal reasons;

b) Inconvenience of the proposed investment, in light of the development strategy defined by the sovereign bodies or of the purposes laid down in the economic and social development plan.

2. The decision to reject the project may be challenged and appealed against under the terms of the administrative procedural rules.

3. Should the investor concur with the reasons that led the competent body to reject the project, he may correct the deficiencies or inaccuracies of the project and re-submit the same.

CHAPTER IV

Tax and Foreign Exchange Regime

SECTION I

General Rules

ARTICLE 41

(General Principle)

The natural persons and the legal entities to which this law applies must observe the tax laws in force, and shall enjoy from the tax benefits and be subject to the penalties therein set forth.

ARTICLE 42

(Taxes on transfers of funds)

Transfers abroad and the sales and other transactions made by the private investor, within the scope of the rights set forth in this law, shall be subject to withholding capital gains tax, under the terms of the tax laws in force and the tax regulations governing private investment.

ARTICLE 43

(Double taxation)

1. The Government shall promote the execution of international agreements with as many countries as possible in order to avoid double taxation.

2. Foreign investors must furnish to the Angolan fiscal authorities evidence of payment of taxes collected in the relevant countries of origin.

ARTICLE 44

(Application of the tax revenues)

1. 25% of the tax revenues obtained from the taxes collected within the scope of private investment operations shall be applied in the setting up and development of the Private Investment System in Angola, in particular in the qualification of national entrepreneurs and in the internationalisation of the Angolan economy, under such terms as shall be laid down in a separate law.

2. These revenues constitute an integral part of the Budget and shall be managed by the *Agência Nacional de Investimento Privado* (ANIP), in its capacity as the supervising entity of the Private Investment System in Angola.

SECTION II

Fiscal Benefits and Foreign Exchange Regime

ARTICLE 45

(Fiscal benefits)

The investment to be carried out under the scope of this law enjoys from fiscal incentives and benefits laid down in separate legislation.

ARTICLE 46

(Foreign exchange regime)

1. The foreign exchange operations underlying the investment acts described in Article 6 hereabove must comply with the provisions laid down in the foreign exchange law.

2. Private investment operations shall comply with the following special rules:

a) application of the foreign exchange market floating rates, freely negotiated according to the laws of supply and demand;

b) obligation of the private investor to negotiate exclusively with financial institutions authorised by law to act as such;

c) possibility of the private investor to acquire its own foreign currency, either for purposes of being introduced in the Country or of making transfers abroad, under the terms of this law.

3. The financial institutions, legally authorised to carry out foreign exchange trade operations and the private investors using such services shall be jointly responsible for the legality and fair dealing of the transactions in which they may be involved under the scope of this law.

4. The Government shall determine the terms under which the supervision and control of the activities described in paragraph 3 above shall be carried out.

5. Those who make inadequate remittances of foreign currencies abroad, in breach of private investment rules, shall be required to repatriate the same to Angola and to pay a fine in an amount equivalent to 200% of the relevant value.

ARTICLE 47

(Suspension of the remittances abroad)

1. The transfers abroad authorised under this law shall be suspended by the Council of Ministers whenever it is considered that the relevant amount is likely to cause serious disturbances to the balance of payments, in which case the Governor of the Central Bank of Angola may exceptionally determine their calendarisation within a period to be determined by mutual agreement.

2. The Government shall define the specific circumstances under which the suspension of remittances of funds shall take place.

CHAPTER V

Import of Capital, Machinery and Equipment

ARTICLE 48

(Import of capital)

1. The licensing of capital import operations must be requested by the applicant to the Central Bank of Angola, through a credit institution authorised to deal in foreign currencies, against production of the Private Investment Registration Certificate (PIRC).

2. For the purposes laid down in paragraph 1 above, upon approval of the investment project and issue of the relevant Private Investment Registration Certificate (PIRC), the *Agência Nacional de Investimento Privado* (ANIP) shall forward to the Central Bank of Angola, with copy to the investor, a duplicate of the Private Investment Registration Certificate (PIRC) and remaining information required by the Central Bank of Angola for purposes of approving the capital import operations requested by the relevant investors.

3. The Central Bank of Angola shall approve the capital operations laid down in this Article within a maximum period of 15 days after submission of the application referred to in the above paragraphs, and shall notify the interested party, within 5 days, any inaccuracy found.

4. The Central Bank of Angola shall forward to the *Agência Nacional de Investimento Privado* (ANIP) information on the foreign exchange operations being carried out within the scope of the private investment.

ARTICLE 49

(Import of machinery, equipment and accessories)

The Ministry for Trade shall carry out the registration of the operations of admission into the Country of machinery, equipment, accessories and other materials to be used in investments benefiting from the aids and exemptions foreseen in this law, upon presentation of the Private Investment Registration Certificate issued in accordance with the relevant requirements laid down in this law.

ARTICLE 50

(Value of the registration of equipment)

The registration of private investment operations under the form of import of machinery, equipment and new or used components, is made at CIF cost (cost, insurance and freight) in foreign currency and its counter value in national currency, at the exchange rate prevailing on the day of relevant discharge.

ARTICLE 51

(Exemption of customs duties)

1. Without prejudice to the provisions laid down in special legislation regarding the qualitative and quantitative listing of customs duty-free means, the import of machinery, equipment and components is hereby exempt from payment of customs duties and fees.

2. The exemption from customs duties on used machinery, equipment and accessories provided for in paragraph 1 above is reduced to 50%.

ARTICLE 52

(Price of the machinery)

The price of the machinery and equipment must be evidenced by means of the competent document drawn up by the pre-shipping inspection entity.

CHAPTER VI

Implementation of the Investment Projects

ARTICLE 53

(Execution of the investment projects)

1. The execution of an investment project shall begin within the period established in the Private Investment Registration Certificate and/or in the Investment Contract.

2. Under duly grounded circumstances and at the request of the private investor, the period referred to in the preceding paragraph may be extended by the *Agência Nacional de Investimento Privado* (ANIP).

3. The execution and management of a private investment project shall be carried out in strict compliance with the authorization conditions and the applicable legislation, and foreign contributions thereto may not be used for purposes other than those authorised, nor vary from the object for which the same was authorised.

ARTICLE 54

(Manpower)

1. The companies and firms incorporated for private investment purposes must employ Angolan workers, give them required vocational training and provide wages and welfare benefits compatible with their qualifications, any type of discrimination against employees being forbidden.

2. Under the terms of the legislation in force, the companies and firms incorporated for investment purposes may employ qualified foreign workers, provided, however, that such companies and firms strictly comply with a training and/or qualification scheme for national workers aimed at the progressive replacement of the foreign workers by Angolan workers.

3. The training scheme must be included in the documentation to be furnished to the entity competent to approve the investment.

4. Foreign workers hired within the scope of private investment projects may have their wages transferred abroad, upon compliance with the legal formalities and deduction of the taxes levied thereon.

5. Qualified Angolan workers with foreign exchange residence for more than 5 years may be hired and shall enjoy the same benefits and rights as those conferred to foreign workers.

6. Scholarship holders, diplomats and those performing duties or meeting commitments abroad on a temporary basis shall not benefit from the advantages laid down in paragraph 5 above.

7. Foreign workers hired under the terms of the preceding paragraphs are subject to the legislation in force in the Republic of Angola.

ARTICLE 55

(Bank accounts)

1. Under the terms of the legislation in force, private investors must open accounts in banks domiciled in the Country, where the relevant financial means will be deposited and through which the internal and external payment operations related with the investment approved under this law will be made.

2. At their own discretion and responsibility, private investors may keep foreign currency in their bank accounts and convert the same, in part, into national currency to gradually carry out the operations foreseen in the preceding paragraph and realise the capital of the private company or undertaking to be incorporated.

3. Commercial banks may not carry out the automatic conversion of imported currency deposited in foreign currency accounts to be used in the performance of private investment operations.

ARTICLE 56

(Monitoring)

With a view to expediting the monitoring of authorised private investments, the companies shall furnish to the competent entity, on an annual basis, information on the development of the undertaking and on the profits and dividends yielded thereby, by filling in the form furnished to that effect by the *Agência Nacional de Investimento Privado* (ANIP), who may seek the assistance of the treasury state departments to ensure compliance with this ruling provision.

ARTICLE 57

(Incorporation and alteration of companies)

1. The incorporation or alteration of companies within the scope of an investment project must be executed by means of public deed.

2. The public deeds of foreign investment acts as set forth in this law may only be executed upon production of the Private Investment Registration Certificate issued by the *Agência Nacional de Investimento Privado* (ANIP) and of the capital import license issued by the Central Bank of Angola under the terms laid down herein, failing which such deeds are rendered null and void.

3. The companies incorporated for purposes of carrying out foreign investment operations under the terms and for the purposes set forth in this law, must produce evidence of the full realization of their capital, within 90 days of the date of issue of the capital import license by the Central Bank of Angola, failing which the public deed of incorporation of the company shall be deemed null and void under the terms of the legislation in force.

4. The *Agência Nacional de Investimento Privado* (ANIP), in conjunction with the Central Bank of Angola, shall be liable to disclose and apply for the nullity of the public deeds of incorporation of companies executed in breach of the provisions laid down in paragraphs 2 and 3 hereabove.

ARTICLE 58

(Extension of the object)

1. The extension of the object of the company or firm into unauthorised fields of activity involving an alteration in the aids and exemptions granted and the values to be transferred abroad, should that be the case, requires the prior approval of the *Agência Nacional de Investimento Privado* (ANIP).

2. The increases of capital to meet investments to be carried out within the scope of the projects in progress must be approved by the *Agência Nacional de Investimento Privado* (ANIP).

3. The increases of capital of companies incorporated for purposes of performing foreign investment operations without capital import must be notified to the *Agência Nacional de Investimento Privado* (ANIP).

ARTICLE 59

(Entry in the records of the Registry of Companies)

1. Pursuant to the legislation in force, the companies incorporated for purposes of performing the foreign investment operations approved within the scope of this law, as well as any alteration to existing companies incorporated for purposes of alike nature, must be entered in the records of the Registry of Companies.

2. Likewise, the branches and other forms of representation of foreign companies must be entered in the records of the Registry of Companies, such registration being subject to the issue of the competent license by the Central Bank of Angola and approval of the pertaining documents by the competent entity.

ARTICLE 60

(Assignment of the contractual position of the foreign investor)

1. The total or partial assignment of contractual or corporate position with relation to the foreign investment requires the prior consent from the *Agência Nacional de Investimento Privado* (ANIP) and the national investor concerned, if any, shall have a pre-emption right in equal terms.

2. The pre-emption right referred to in the preceding paragraph is a legal right and the non-compliance therewith may be challenged by the aggrieved party within 180 days of the date of assignment of contractual position concerned.

ARTICLE 61

(Tenders and direct negotiations)

Whenever private investment projects are preceded by a public tender or direct negotiation, the legal procedures laid down in this law shall apply, mutatis mutandis.

ARTICLE 62

(Dissolution and winding-up)

1. The companies and firms incorporated for purposes of performing the investments laid down in this law shall be dissolved under the circumstances set out in the relevant by-laws and incorporation deed and also:

a) by expiry of the investment period set in the relevant contract;

b) by resolution of the shareholders, provided the obligations arising out of the Private Investment Registration Certificate and/or the enforcement of the Investment Contract have been complied with;

c) by the full realization of the corporate object or superseding impossibility to carry the same out, duly evidenced by the *Agência Nacional de Investimento Privado* (ANIP);

d) by the non-realisation of the capital required for purposes of operating the undertaking within the period set in the authorisation, provided the obligations arising out of the Private Investment Registration Certificate and/or of the Investment Contract have been complied with;

e) by the superseding illegality of its corporate object;

f) by bankruptcy of the company;

g) by gross deviation in the realisation of the corporate object of the undertaking;

h) in the remaining cases foreseen in the legislation in force;

2. The initiative to dissolve the company under the circumstances described in subparagraphs a), d) , e) and g) of the preceding paragraph may be taken by the *Agência Nacional de Investimento Privado* (ANIP).

3. The dissolution and winding up of companies or firms incorporated for foreign investment purposes shall be governed by company laws in force.

CHAPTER VII

Infringements and Penalties

ARTICLE 63

(Infringements)

1. Without prejudice to other legal provisions, the fraudulent or wilful non-compliance of the legal obligations arising out of this law and remaining foreign investment laws shall be deemed as an infringement.

2. In particular, an infringement shall be deemed to have occurred, whenever:

a) contributions from abroad are used for purposes other than those that have been authorised;

b) commercial acts are performed outside the scope of the authorised project;

c) billing allows for capital to leave the Country or deceives the obligations to be complied with by the company or association, in particular tax obligations;

d) training actions are not carried out or foreign workers are not replaced by Angolan workers under the conditions and periods foreseen in the investment project;

e) the annual information referred to in Article 56 of this law is not submitted.

3. The over invoicing of the prices of the machinery and equipment imported under the terms of this law constitutes an infringement of foreign exchange law and is liable to the payment of a fine of up to 200% of the actual value of the machine concerned, according to the seriousness of the infringement, without prejudice to other penalties foreseen by law.

4. Price fluctuations up to 5% of the actual value of the machinery and equipment are not considered infringements.

5. The faked import of machinery, equipment and other assets or the misrepresentation of the relevant value, taking advantage of the privileges set out by law, shall be deemed, under the criminal law in force, as crime of forgery of goods or fraudulent statement.

ARTICLE 64

(Penalties)

1. Without prejudice to other penalties especially foreseen by law, the infringements referred to in the preceding paragraph are liable to the following penalties:

a) fine, in kwanzas, ranging from the equivalent to USD 1,000,00 and USD 100,000.00; the minimum and maximum amounts will be increased up to three times the relevant amount in case of recurrence.

b) forfeiture of the exemptions, fiscal incentives and other aids granted;

c) revocation of the investment authorisation.

2. Failure to carry out a project within the period set in the authorisation or extended period may cause the revocation of the investment authorisation.

ARTICLE 65

(Competence to apply penalties)

1. The penalty foreseen in subparagraph a) of the preceding paragraph is imposed by the *Agência Nacional de Investimento Privado* (ANIP) and the penalty foreseen in subparagraph c) is imposed by the entity that approved the project under the terms of this law.

2. The penalty foreseen in subparagraph b) of the preceding article is applied in accordance with specific legislation thereon.

ARTICLE 66

(Procedures and appeals against penalties)

1. The investor must be heard before any type of penalty is imposed upon him.

2. In determining the penalty to be imposed, the circumstances involving the performance of an infringement must be taken into account, the degree of fault, the benefits sought and obtained with the infringement and the damages caused thereby.

3. The private investor may challenge or appeal against the penalty imposed upon him under the terms of the applicable legislation.

CHAPTER VIII

Final and Transitory Provisions

ARTICLE 67

(Former investment projects)

1. The provisions laid down in this law do not apply to investment projects authorised before its coming into force, which remain, until completion, governed by the provisions and specific terms or contracts under which they were authorised.

2. However, private investors may request the *Agência Nacional de Investimento Privado* (ANIP) to have their approved projects governed by this law, which shall be decided by the competent entity, in accordance with the relevant value and/or characteristics, under the terms of this law.

3. The investment projects currently awaiting approval shall be analysed and decided under the terms of this law, taking advantage, mutatis mutandis, of the formalities already carried out.

ARTICLE 68

(Revocation of legislation)

1. Law 15/94 of 23rd September and the legislation which is inconsistent with the provisions of this law are hereby revoked.

2. Unless contrary to the provisions of this law, and for as long as it is not reviewed, the enabling legislation governing private investments remains in force.

ARTICLE 69

(Regulations)

The Government shall enact regulations to this law whenever its efficient enforcement requires clarification and specification of the rules and principles herein set forth.

ARTICLE 70

(Doubts and omissions)

The doubts and omissions arising out of the interpretation and enforcement of this law shall be settled by the National Assembly.

ARTICLE 71

(Entry into force)

This law enters into force 15 days after its publication. Seen and approved by the National Assembly, in Luanda, on the 1st April 2003.

May it be published.

The President of the National Assembly *Roberto António Victor Francisco de Almeida* Ratified on 2nd May 2003

The President of the Republic. JOSÉ EDUARDO DOS SANTOS

NATIONAL ASSEMBLY

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25th July 2003

Law 17/03
of 25th July

Law on Taxes and Customs Incentives for Private Investment

The existence of a General Tax Law is common practice in many States and constitutes an instrument of rationalization, embodiment and stability to the tax systems.

In fact, the creation of a legal framework capable of attracting private investment calls for the adoption of a fiscal incentives policy with concerted social and economic policies instruments.

The tax incentives to be granted, under this law, constitute an exceptional fiscal advantage that should be embodied in the Fiscal Incentives Code when approved, with a view to ensuring the harmonisation of the substantive and procedural tax laws.

The tax incentives set out in this law have as priority the reconstruction and development of the country as part of an integrated policy that privileges productive investment – agriculture and industry – and human resources - health and education – and road, railroad, port, airport, telecommunications, power and water infrastructure.

Under these terms and pursuant to subparagraph f) of Article 90 of the Constitutional Law, the National Assembly hereby approves the following:

LAW ON TAXES AND CUSTOMS INCENTIVES FOR PRIVATE INVESTMENT

ARTICLE 1

(Scope)

This law governs the procedures, types and forms of concession of tax and customs incentives within the scope of the Private Investment Base Law.

ARTICLE 2

(Objectives)

The concession of tax and customs incentives to investment projects, under the terms of this law, is aimed at the accomplishment of the following objectives:

a) Manufacture of essential goods to be sold on the internal market to meet the basic needs of the populations;

b) Priority development of underprivileged regions, in particular those that have high poverty and long-term unemployment levels and lack infrastructure or that have been destroyed or are in need of improvements;

c) Rehabilitation, implantation or modernisation of infrastructure designed for the operation of the production activity or for the provision of services;

d) Technological innovation in the production of goods or provision of services and scientific development geared to enhancing the efficiency, the quality of goods and services and the productivity;

e) Increase of currency imports and corresponding improvement of the balance of payments.

ARTICLE 3

(Eligibility criteria)

The tax and customs incentives shall be granted in accordance with the following criterion:

a) branch of industry;

b) development zone;

c) special economic area;

ARTICLE 4

(Priority Sectors)

For the purposes of this law, priority is given to the following sectors:

a) farming and cattle-breeding;

b) processing industry;

c) fishing and derivatives industry;

d) civil construction

e) health and education;

f) road, railroad, port, airport, telecommunications, energy and water infrastructure;

g) heavy cargo and passenger equipment;

ARTICLE 5

(Development zones)

For purposes of concession of tax and customs incentives to investment operations, the Country is divided in the following development zones:

Zone A – Province of Luanda, the capital-municipalities of the Provinces of Benguela, Huíla, Cabinda and the Municipality of Lobito;

Zone B – Remaining municipalities of the provinces of Benguela, Cabinda and Huíla and Provinces of South-Cuanza, Bengo, Uíge, North-Cuanza, North-Luanda and South- Luanda.

Zone C – Provinces of Huambo, Bié, Moxico, Cuando, Cubango, Cunene, Namibe, Malanje and Zaire.

ARTICLE 6

(Special economic zone)

The definition and listing of the incentives to investments to be carried out in the special economic zones are laid down in a separate law.

ARTICLE 7

(Incentive eligibility criteria)

1. Investment projects are eligible to incentives according to:

a) their insertion in sectors classified as priority;

b) their contribution to the B and C development zones;

2. The criterion referred to in the preceding paragraph is not cumulative, and constitutes a mere indicator of reference for regional or local economy.

ARTICLE 8

(Requirements)

The taxpayers wishing to benefit from the fiscal incentives must, cumulatively:

a) meet the legal and tax conditions for the conduct of their activity;

b) not have any outstanding debts to the State and to the Social Security and not have any debts in arrears to the financial institutions;

c) keep a proper set of accounts adequate to the demands of assessment and monitoring of the investment project.

ARTICLE 9

(Customs duties)

1. For the period determined in the following paragraph, the investment operations shall be exempt from the payment of customs duties and fees, except from the stamp duty and fees levied on the provision of services and on the goods and equipment used in the launching and development of an investment operation, including heavy and technological vehicles.

2. The period of exemption referred to in the preceding paragraph is of three years for investments carried out in Zone A and of four and six years for investments carried out in Zones B and C, respectively.

3. Should the equipment to be imported be second-hand equipment, the exemption provided by paragraph 1 above will be granted for the period of time set in the preceding paragraph cut down to half.

4. Investments in goods incorporated or consumed directly in the production of other goods are further exempt from the payment of customs duties and fees, with the exception of the stamp duty and other fees due for the provision of services, for a period of five years from the date of commencement of production activity, including test runs.

5. The incentives laid down in the preceding paragraphs shall not be granted for equipment, accessories and spare parts and raw materials produced in national territory and not used exclusively and directly in the project.

ARTICLE 10

(Industrial Tax)

1. The profits yielded from investments carried out in Zone A, Zone B and Zone C are exempt from the payment of industrial tax for a period of 8, 12 and 15 years, respectively.

2. The sub-contractors hired for the execution of the investment project are also exempt from the payment of industrial tax levied on the price of works carried out in Zone C and for the same period of time.

3. The exemption period shall begin to run on the day of commencement of production activity.

ARTICLE 11

(Investment expenditure assessed as costs)

In addition to the exemption periods provided by the preceding article, the investment operations foreseen in this law may consider the following expenses as costs for purposes of determination of the taxable income:

a) up to 100% of the expenses incurred in the construction and repair of road, railroads, telecommunications, water supply and social infrastructure for the workers, their families and local inhabitants;

b) up to 100% of the expenses incurred in vocational training in all fields of social and productive activity;

c) up to 100% of the expenses incurred in investments carried out in the cultural sector and/or purchase of works of art of Angolan authors and creators, provided however that, when classified as such, the same remain in the Country and are not sold for a period of 10 years.

ARTICLE 12

(Capital Gains Tax)

1. The companies that promote the capital investments covered by this law shall be exempt from the payment of capital gains tax, for a period of time determined by the following paragraph, levied on the profits distributed to the partners.

2. The exemption laid down in the preceding paragraph is granted for periods of up to 5, 10 and 15 years for investments carried out in Zones A, B and C, respectively.

ARTICLE 13

(Conveyance Tax)

The companies that promote investment operations covered by this law are exempt from the payment of conveyance tax for the land and real property acquired and used in the project. This exemption must be applied for to the competent tax department.

ARTICLE 14

(Other investments)

1. Investments between the equivalent to USD 50,000,00 and USD 250,000.00, according to their nature, location and relevance for regional or local economy are eligible to the following tax incentives:

1.1 Relief to half of customs duties and fees, except for stamp duty and fees payable for services provided over imported equipment to be used in the construction and supply, including vehicles with more than 3.5 tons of gross weight and raw materials, in particular:

a) investments in new undertakings, with a favourable impact on the region and that also involve construction and/or rehabilitation of economic and social infrastructure;

b) investments in the expansion, rehabilitation or modernisation of commercial or industrial units, in particular, those that have been destroyed by the war;

c) investments in priority sectors and/or in Zone C;

d) investments that ensure the creation of more than 10 full-time jobs for national workers.

2. When the equipment to be imported is second-hand equipment, the fee referred to in paragraph 1 above shall be reduced to 75%.

3. The incentives laid down in the preceding paragraph will only be granted when the equipment and accessories and spare parts to be imported are not manufactured in national territory or when manufactured in national territory, clearly fail to meet the requirements inherent to the nature of the project to be implemented.

4. The following investments are exempt from the payment of industrial tax for a period of up to ten years:

a) investments in new undertakings and in the rehabilitation of destroyed or paralysed undertakings in the priority areas (Zone C);

b) investments in agriculture, cattle breeding and food industry;

c) investments creating 50 or more full-time jobs for national citizens.

5. The following investments are exempt from the payment of industrial tax for a period of up to five years:

a) investments in new undertakings and in the rehabilitation, extension and modernisation of paralysed undertakings in Zones A and B;

b) investments in other industrial sectors, housing, provision of specialized services and technological development;

c) investments creating 30 or more full-time jobs for national citizens.

6. The profits distributed to the partners of companies shall be exempt from the payment of capital gains provided the same are invested in:

1. the provinces covered by Zones A and B for a period of up to five years;

2. the provinces covered by Zone C for a period not exceeding ten years;

7. The dividends obtained from investments made in Zone A in the first three years, and in Zones B and C, in the first five years, if reinvested, shall be exempt from taxation.

ARTICLE 15

(Medium and long distance transport)

1. The import of new means by individuals or legal entities conducting the medium and long distance transport of cargo and passengers in costal vessels and vehicles with more than 3.5 tons of gross weight is exempt from the payment of customs duties.

2. In case of second-hand means, not exceeding three years of useful life, the applicable rate is reduced to 50%.

ARTICLE 16

(Private educational establishments and clinics)

1. The income obtained from private educational establishments integrated in the national education system, and from clinics integrated in the national health service, is subject to the payment of income tax at the rate of 20%.

2. The rate set in the preceding paragraph is reduced to 10% whenever private educational establishments and clinics offer, free of charge, 10% of their capacity to lower class students, under such terms as shall be laid down in regulations.

ARTICLE 17

(Legal Obligations)

1. The right to statutory tax incentives resulting directly from the law shall not release the taxpayer from being recorded under the General Registration of Taxpayers, nor from the compliance with the remaining legal obligations and formalities prescribed by the fiscal authorities, with a view to assessing its eligibility to the incentive.

2. The right to the statutory tax incentives prescribed by this law shall be exercised upon compliance with the relevant tax obligations, upon evidence that the conditions precedent for the concession of the incentive concerned have been met.

3. The taxpayers benefiting from the tax incentives laid down in this law shall divulge such fact in their official documents.

ARTICLE 18

(Recognition of the tax and customs incentives)

The tax incentives are automatic and result directly from the law.

ARTICLE 19

(Prior Consultation)

1. Before the conditions precedent to the fiscal and customs incentives set forth in this law have been met or even before the commencement of the project, the interested parties may request the Investment Promotion Agency to issue an opinion on a given taxable situation not yet accomplished.

2. The opinion given on the application submitted under the terms of the preceding paragraph shall be notified to the interested party and shall be binding on the relevant tax department, which must act accordingly if the conditions precedent laid down herein are met, unless otherwise required by a judicial decision.

3. The opinion referred to in the preceding paragraph is final and binding and shall not release the interested parties from applying for recognition of the relevant tax benefit, pursuant to the law.

4. Upon submission of the recognition request preceded by prior consultation, the same will be attached to the application of the interested party, and the entity with competence to carry out the recognition shall accept the former opinion, insofar as the hypothetic situation object of prior consultation shall coincide with the *de facto* situation object of the recognition application, without prejudice to the adoption of the tax benefit control measures required by law.

ARTICLE 20

(Remittance of the processes)

Copy of the approved processes shall be forwarded to the Ministry of Finance, through the Customs and Tax National Directorates.

ARTICLE 21

(Supervision)

The individuals and the private or public legal entities to whom tax and customs incentives are granted, either automatically or upon prior recognition, shall be supervised by the Investment Promotion Agency and other competent entities, under the terms of the law, for verification of observance of the conditions precedent to the concession of incentives and of compliance by the beneficial taxpayers with the obligations imposed on them.

ARTICLE 22

(Penalties)

Preventive, suspensive or extinctive sanctions will only be applied to tax and customs incentives on grounds of fiscal infringement related with the benefits granted.

ARTICLE 23

(Extinction of tax and customs incentives)

1. The tax and customs incentives are extinguished:

a) If of temporary nature, upon expiry of the period for which they were granted;

b) If of a conditioned nature, upon verification of the conditions precedent to termination;

c) By revocation, in case of breach of the legal or contractual obligations of the taxpayer, for reasons imputable to the taxpayer.

2. The extinction of the tax and customs incentives shall cause their automatic replacement by the General Taxation System.

3. The tax and customs incentives granted to the acquisition of goods aimed at investment operations shall be deemed invalid should such goods be disposed of or otherwise used without the consent of the National Private Investment Agency, without prejudice to other penalties or consequences prescribed by law.

ARTICLE 24

(Transfer of the tax and customs incentives)

The right to benefit from incentives may be transferred with the prior consent of the Ministry of Finance, after consultations with the National Private Investment Agency, provided that the assumptions based on which their were granted and the duties arising of the investment project are maintained, and the relevant applicant shall be served notice within 8 days of receipt of the request.

ARTICLE 25

(Transitory Provisions)

1. The tax and customs incentives granted before the coming into force of this law shall be governed by the provisions prevailing on the date they were granted.

2. The provisions laid down in the preceding paragraph also apply to incentives requested before the coming into force of this law and which decision is taken hereafter.

3. The tax and customs incentives laid down in this law may be granted to investments carried out from 1st January to 31st December 2002, provided that the Investment Promotion Agency shall consider the same to be relevant for national, regional or local development, promote the creation of jobs and that they comply with the remaining requirements set forth in this law.

4. No later than 60 days of the date of entry into force of this law, the investors shall apply for the concession of the incentives set forth under paragraph 3 above.

5. The benefits granted under the preceding paragraph are not cumulative with any other benefits.

ARTICLE 26

(Revocation)

The legislation which is inconsistent with the provisions of this law is hereby revoked.

ARTICLE 27

(Doubts and omissions)

The doubts and omissions arising out of the interpretation and enforcement of this law shall be settled by the National Assembly.

ARTICLE 28

(Regulations)

The Government shall enact regulations to this law within 30 days hereafter.

ARTICLE 29

(Entry into force)

This law shall enter into force on the date of its publication. Seen and approved by the National Assembly, in Luanda, on the 2nd April 2003. The President of the National Assembly *Roberto António Victor Francisco de Almeida*

Ratified on 23rd May 2003

To be published.

The President of the Republic. JOSÉ EDUARDO DOS SANTOS

NATIONAL ASSEMBLY
Law Nr. 16/03
of July 25, 2003

Voluntary Arbitration Law

Arbitration constitutes a privileged extrajudicial mechanism not only for private operators, but also for the State itself, in the resolution of eventual conflicts over patrimonial rights, considered obtainable through law. Allied to its confidential nature and its being propitious to the withdrawal of legal actions, it also affords freedom to the parties involved in the process to select and nominate Arbitrators,.

In light of the inevitable political and economic process that is opening up our country and, consequently, provoking an increase in economic, commercial and industrial relationships, not only on an internal-market level, but also on an international one, it has become expedient and essential to confer greater legal protection, certainty and provisions in that concerning the resolution of any eventual litigation arising out of those internal and international relationships.

Arbitration, as a private extrajudicial process for resolving litigation, provides a practical and essential complement to state tribunals, since it ultimately leads to greater efficacy, efficiency and a dignifying of the general system used to administer justice.

In that context, it is therefore essential, in this domain, to provide our country and its legal system with a pertinent and more modern legislation, tailored to the dynamics and transformations wrought in today's world.

Under these terms, and within the framework of paragraph *b)* of article 88 of the Constitutional Law, the National Assembly approves the following:

VOLUNTARY ARBITRATION LAW

CHAPTER I

(The Arbitration Agreement)

ARTICLE 1

(Arbitration Agreement)

1. All those who have a contractual faculty at their disposal may, within the framework of this law, appeal to an Arbitral Tribunal to resolve litigation with regard to obtainable rights, by means of an Arbitration Agreement, provided that, special law does not exclusively submit them to a Judicial Court or necessary arbitration.

2. Minors, or persons who are prohibited or disqualified to so, cannot sign Arbitration Agreements, even through the intermediary of their legal representatives, but, in cases of inheritance, the litigation in which they are the interested parties may be settled by an Arbitral Tribunal under the terms and within the framework of the Arbitration Agreement signed by the inheritors.

3. The State and, in general, public corporate entities, may only sign Arbitration Agreements, within the following terms:

a) to settle issues regarding private-law relationships;

b) administrative agreements;

c) in cases especially established by law.

ARTICLE 2

(Types of Arbitration Agreement)

1. An Arbitration Agreement may take the form of a promissory clause or an arbitrational undertaking.

2. The promissory clause is an agreement in accordance with which the parties undertake to settle, by means of arbitrators, litigation arising out of a specific legal contractual or extra-contractual relationship.

3. An arbitrational undertaking is an agreement in accordance with which the parties undertake to settle by means of arbitrators the actual litigation, irrespective of whether or not it belongs in a Judicial Court.

4. The parties may, in the Arbitration Agreement, extend the respective subject to other issues related to the litigation, conferring on the arbitrators, namely, the power of specifying, completing, updating and, inclusively, reviewing the agreements or the legal relationships determining the Arbitration Agreement.

ARTICLE 3

(Arbitration Agreement Requisites)

1. Without prejudice to special law demanding a more solemn one, the Arbitration Agreement must be drawn up in a written form.

2. An agreement is considered as drawn up in a written form when it is inserted in any document signed by the parties, or in any example of correspondence exchanged between them, which stand as written proof. That is to say, through telecommunications, whether these instruments directly title the agreement signed or refer to another written document or written proof containing an Arbitration Agreement.

3. The parties must specify, in the promissory clause, the litigious relationships or the legal facts from which it may stem, and, in the arbitrational undertaking, establish the subject of the litigation with the greatest precision possible.

4. The parties may revoke, by accord and in writing, the Arbitration Agreement until such time as the arbitrational decision is handed down.

ARTICLE 4

(Annulment of Arbitration Agreement)

1. An Arbitration Agreement is considered null and void when:

a) it is not in line with the form prescribed by law;

b) if it has been signed in contravention of the imperative norms in article 1 of this law;

c) the promissory clause does not specify the legal facts from which the litigious relationship should arise;

d) the arbitrational undertaking does not establish the subject of the litigation or, should it not be possible to proceed with its determination by any other means.

2. The annulment of a contract does not entail the annulment of the Arbitration Agreement, except when it is shown that such would have not been signed without the agreement in question.

ARTICLE 5

(Expiry of Agreement)

1. The arbitrational undertaking expires and the promissory clause ceases to be effective, in that which concerns the litigation submitted to the decision of the Arbitral Tribunal, when:

a) any of the arbitrators die, recuse themselves, remain permanently impeded from the exercise of arbitration or their designation is nullified and, in any of those cases, is not substituted, in accordance with article 11 of this law;

b) unable to obtain, when the tribunal is a collective one, a majority on the deliberations;

c) the decision has not been handed down within the deadlines established in accordance with article 25 of this law.

2. Except when stipulated to the contrary, the Arbitration Agreement does not expire and the Arbitral Tribunal does not become extinct with the death of any of the parties or with its dissolution, it being a corporate entity.

CHAPTER II

(The Tribunal)

ARTICLE 6

(Composition of Tribunal)

1. The Arbitral Tribunal may consist of a sole arbitrator, or of various arbitrators, never of an even number.

2. Should the number of arbitrators not have been established in the Arbitration Agreement or later in writing signed by the parties, or it is not addressed in them, the tribunal shall consist of three arbitrators.

ARTICLE 7

(Designation of Arbitrators)

1. The parties may select, in the Arbitration Agreement or later in writing signed by them, the arbitrator or arbitrators who will form the tribunal, or establish how they are to be designated.

2. Should the parties not have designated an arbitrator or arbitrators or established the process for their designation and no agreement has been made between them regarding this designation, each of the parties shall indicate an arbitrator, unless they agree upon, as each of them indicates, more than one, and in equal number, it being incumbent on the arbitrators thereby designated to choose and designate the arbitrator who shall complete the tribunal's composition.

ARTICLE 8

(Requisites for Arbitrators)

Arbitrators may be designated as individual people who enjoy the full legal exercise of their civil capacity.

ARTICLE 9

(Freedom of acceptance)

1. Accepting designation as an arbitrator is entirely optional. However, should the office have been accepted, it is only admissible to decline on the grounds of a higher intervening cause that makes it impossible for the appointee to exercise the function.

2. The office is considered accepted whenever the person designated unequivocally reveals their intention of acting as an arbitrator, or fails to declare, in writing and addressed to any of the parties, within the eight days subsequent to communication of the designation, that they do not wish to accept the task.

3. Any arbitrator who, having accepted the office, unjustifiably recuses themselves from the exercise of their function shall respond civilly for any damages arising thereof.

ARTICLE 10

(Recusal)

1. It is the duty of whosoever is invited to exercise the functions of an arbitrator, to immediately provide knowledge of all circumstances that might raise doubts regarding their impartiality and independence. This duty to provide information, incumbent on both parties, shall be upheld throughout the course of the arbitral proceedings.

2. A designated arbitrator may only be recused when circumstances exist liable to generate grounds for doubt regarding their impartiality and independence, or should they manifestly not possess the qualification that has been previously agreed upon by the parties.

3. A party may only recuse the arbitrator they themselves have designated, or in whose designation they have participated, owing to reasons that only come to light subsequent to that designation.

4. Failing agreement, the party wishing to recuse the arbitrator must explain, in writing, its motives for recusal to the Arbitral Tribunal, within eight days counting from the date at which they had knowledge of the constitution of the Arbitral Tribunal, or of the date at which they had knowledge of any relevant circumstance, under the terms of No. 2 of this article, or should the recused arbitrator not recuse themselves or resign, or should the other party not accept the recusal, it is incumbent upon the Arbitral Tribunal to decide on this.

5. Should the formal request for recusal be turned down, the party asking for recusal may, within 15 days counting from the communication of the refusal, appeal to the tribunal or to the authority or entity mentioned in article 14 of this law, which decides on the recusal, with such a decision not liable to appeal. While this request is pending, the Arbitral Tribunal may, including the recused arbitrator, proceed with the arbitral proceedings and hand down decisions, except for the final decision.

ARTICLE 11

(Substitution of Arbitrators)

Should any of the arbitrators die, recuse themselves, be recused or remain impeded in any permanent way from the exercise of their functions, or should their designation or nomination be nullified, they shall be substituted, according to the rules applicable to the designation or nomination with appropriate adjustments.

ARTICLE 12

(Chairman of the Tribunal)

1. When a tribunal is composed of more than one arbitrator, it shall choose its chairman from among its members, unless the parties have agreed upon another solution, and in writing, before acceptance by the first arbitrator.

2. Should it not be possible to designate the chairman under the terms of the previous number, such selection and nomination shall be made by the process established in article 14 of this law.

3. It is incumbent upon the Chairman of the Arbitral Tribunal to prepare the proceedings, draw up the preliminary investigation, conduct the work at the hearings and direct the debates, except when there is an agreement to the contrary.

ARTICLE 13

(Procedures for setting up the Tribunal)

1. Excepting an agreement by the parties to the contrary, or different provision in the applicable regulation, the party wishing to submit the case to an Arbitral Tribunal must notify the other party of this fact.

2. Notification of recourse to arbitration may be made by any means, provided that it is possible to prove its receipt by the addressee.

3. The notification must contain the following elements:

a) identification of the parties;

b) intent that the litigation is to be submitted to arbitration;

c) indication of the Arbitration Agreement;

d) subject of the litigation, should it not already appear in the Arbitration Agreement.

4. Should it be incumbent upon the parties to opt for one or more arbitrators, the notification should include the designation of the arbitrator or arbitrators by the notifying party, as well as the invitation addressed to the other party, so that it can designate the arbitrator or arbitrators it is allowed to designate.

5. Should a sole arbitrator have to be designated by agreement of the parties, the notification must contain an indication of the arbitrator proposed and an invitation to the other party, so that it can accept.

6. In the event of the designation falling to a third party, and its not yet having been carried out, the party shall notify the third party to do so, and shall communicate the designation made to both parties.

ARTICLE 14

(Nomination of Arbitrators)

1. Whenever the designation of an arbitrator or arbitrators by the parties, or by the arbitrators, or by third parties, does not taken place under the terms provided for in the previous articles, their nomination shall be incumbent upon the Presiding Judge of the Provincial Court in the place established for the arbitration or, failing that being established, in the petitioner's domicile, or the Provincial Court of Luanda in the event of the petitioner's domicile being abroad.

2. The nomination may be requested after 30 days subsequent to the notification provided for in number 2 of article 13, in those cases contemplated in numbers 4 and 5 of the same article, or within the same deadline as of the designation of the last of the arbitrators to whom falls the selection and designation, in the cases mentioned in number 2 of article 6 and in number 2 of article 7, all pertaining to this law.

3. The judicial authority mentioned in number 1 of this article, shall decide within 30 days and with its not being subject to appeal, regarding the nomination or nominations that were requested, subsequent to a prior hearing of the parties, but always taking into consideration the need to nominate independent, impartial arbitrators endowed with the qualification that has been previously agreed by the parties.

4. Should the parties have designated, by written agreement, another authority or entity to nominate the arbitrators provided for in this article, the provisions of the previous numbers apply with the appropriate adjustments. However, failing nomination by that authority or entity, legal intervention may be requested, under the terms of this article.

ARTICLE 15

(Professional Conduct of Arbitrators)

Arbitrators must, in the exercise of their role in settling conflicts, show themselves to be worthy of the honor and inherent responsibilities, with their neither being able to represent nor act in the interest of the parties, and with their undertaking to make decisions independently, and impartially, with integrity and in good faith, and to contribute to ensuring an expeditious and fair process.

CHAPTER III

(The Arbitral Procedure)

ARTICLE 16

(Rules for Proceedings)

1. In the Arbitration Agreement, or later in writing, the parties may agree on the rules to be observed during the arbitral proceedings.

2. Should the agreement mentioned in the previous number not have been signed before acceptance of the first arbitrator, it shall be incumbent upon the arbitrators to define the rules to be observed.

3. The parties' agreement may stem from the selection of the arbitral rules of an institutional arbitrational body or by electing for this body to proceed with the arbitration.

ARTICLE 17

(Place of Arbitration)

1. The place of arbitration shall be determined by accord of the parties contained in the Arbitration Agreement, or later in writing, and, failing an accord before acceptance of the first arbitrator, it shall be established by the arbitrators.

2. Excepting agreement by the parties to the contrary, that stipulated in the previous number does not prejudice the meeting of the Arbitral Tribunal in any place that it considers appropriate for consultations between its members or the practice of any acts related to the proceedings.

ARTICLE 18

(Principles)

Arbitral procedure should observe the following principles:

a) the parties shall be treated with absolute equality;

b) at all stages of the proceedings, the right to challenge shall be guaranteed, with the defendant being summoned to defend;

c) both parties must be heard, orally or in writing, before the handing down of the final decision.

ARTICLE 19

(Representation of the Parties)

The parties may be represented or assisted by an appointed attorney.

ARTICLE 20

(Initiation and Dissolution of the Arbitral Tribunal)

1. Excepting that stipulated in the N° l of article 13, the Arbitral Tribunal has to be initiated on the date of the arbitration notification to the defendant, but only takes place in relation to the tribunal as of the notification to the parties of the nomination of all arbitrators in accordance with articles 13 and 14, pertaining to this law.

2. The proceedings either terminate with the deposit of the arbitrational ruling or, in the event of that mentioned in number 4, with confirmation of the ruling ratifying its dissolution.

3. Withdrawal of the petition in whole, or part, is freely permissible at any stage of the proceedings.

4. Dissolution of the Arbitral Tribunal is only permitted should the other party not oppose it within the deadline provided for in No. 3 of article 29 of this law.

ARTICLE 21

(Evidence)

1. All legally-admissible evidence may be produced in relation to the Arbitral Tribunal, at the formal request of the parties or unofficially.

2. When the evidence to be produced depends on the will of one of the parties or of a third party, and these refuse to collaborate, the interested party, with authorization from the Arbitral Tribunal, or the latter itself, at the formal request of any of the parties, may appeal to the Judicial Court in the place where the arbitrational hearing is held, for the evidence to be produced in relation to the latter.

3. The Judicial Court must carry out the acts solicited, within the confines of its authority and in observance of the rules for the production of evidence to which it is bound, and send the results to the Arbitral Tribunal.

ARTICLE 22

(Provisional Measures)

1. Excepting agreement by the parties to the contrary, the Arbitral Tribunal may conduct, at the request of any of the parties, the taking of provisional measures related to the subject of the litigation, namely, the provision of guarantees that it deems appropriate.

2. That stipulated in the previous number does not impede the parties from formally requesting from the competent Judicial Court, within the framework of the regulations applicable to civil proceedings, the procedures therein provided for that they deem adequate to prevent or safeguard the infringement of rights.

ARTICLE 23

(Fees)

Remuneration of the arbitrators and of others involved in the proceedings, as well as their being shared between the parties, should be the subject of an agreement between the parties and the arbitrators, unless they result from the arbitration rules and regulations chosen under the terms of article 16 of this law.

CHAPTER IV

(The Hearing)

ARTICLE 24

(Applicable Law)

1. The parties may agree, in the Arbitration Agreement, or later in writing, that the Arbitral Tribunal rule according to equity or according to certain uses and customs, whether national or international.

2. Failing written agreement, the Arbitral Tribunal shall rule according to constituted law.

3. In the decisions taken on the basis of uses and customs, the Arbitral Tribunal is obligated to respect the public-order principles of positive Angolan law.

ARTICLE 25

(Decision Deadline)

1. Excepting that another course of action should be established in an Arbitration Agreement, or later in writing, before acceptance of the first arbitrator, the arbitrational ruling should be handed down within six months counting from the date of the acceptance of the last arbitrator designated.

2. The parties may, by written agreement, prorogate the deadline agreed upon or, failing such an agreement, that established in the previous number.

3. Those arbitrators who, without just grounds, impede the arbitrational decision from being taken within the deadline shall answer, within the framework of law, for damages caused.

ARTICLE 26

(Deliberation)

1. When there are various arbitrators, the decision is taken in the presence of them all and by a simple majority, excepting should, by agreement of the parties, a greater number of votes have been demanded.

2. The parties may agree, in the event of the hypothesis of not obtaining the majority demanded, that the decision be taken by the arbitrator acting as chairman or that the case be decided according to the vote expressed by him/her.

3. The parties may agree, or the arbitrators resolve, unanimously, that issues related to the proceedings raised during the course of arbitration be decided by the arbitrator acting as chairman.

ARTICLE 27

(Elements Required for Arbitrational Decision)

1. The decision of the Arbitral Tribunal must be summed up in writing and should contain:

a) identification of the parties;

b) reference to the Arbitration Agreement;

c) subject of the litigation;

d) identification of each arbitrator;

e) place of arbitration, location and date on which the ruling was handed down;

f) decision taken and respective grounds;

g) signatures of the arbitrators.

2. The ruling does not have to contain grounds, with such having been agreed upon by the parties, when, during the course of the proceedings, they reach agreement with regard to the decision on the litigation and in the case of renunciation.

3. Grounds for a decision handed down according to equity need only contain a declaration of the facts affirmed as proven.

4. The number of signatures should be equal, at the very least, to that of the majority of the arbitrators, always indicating the reason why the others did not sign, as well as of those who were out-voted.

5. The costs of the proceedings, and their division between the parties, are established in the final decision.

ARTICLE 28

(Renunciation of Agreement and Binding Ruling)

1. Should the parties decide to resolve the matter between them, they must, by means of a formal request, present to the Arbitral Tribunal, the terms of the agreement by which they decided to abandon the case, or attach it to the signed agreement, asking for its ratification and official termination of the arbitral proceedings in the formal request.

2. The formal request, in the first case, or the signed agreement, must be signed by the parties, with presential authentication or underwritten by a legal representative with powers of attorney.

3. With no move being made to contest the renunciation agreement, it is sufficient for the arbitrational decision to limit itself, in that which concerns the deciding party, to reproducing the terms and clauses agreed upon and ratifying them.

ARTICLE 29

(Renunciation and Binding Ruling)

1. When the party that applied for arbitration withdraws from it, and being free to do so, it must communicate its decision to the Arbitral Tribunal, by means of a formal request signed by it, with presential authentication or underwritten by a legal representative with powers of attorney.

2. In the case provided for in the previous number, the Arbitral Tribunal, recognizing that the conditions established in No. 3 or in No. 4 of article 20 of this law have taken place, it shall limit itself to ratifying the renunciation and deciding in conformity.

3. Should the renunciation not be a free one, the formal request of the desisting party should be notified to the other party, which may contest within 10 days.

4. Failing contestation, the binding ruling stipulated in the final part of No. 2 of this article shall be applied.

5. Should the Arbitral Tribunal, despite contestation from the other party, decide to ratify the renunciation under the terms of No. 6 of article 20 of this law, the binding ruling must specify the grounds for the decision taken.

ARTICLE 30

(Notification and Deposit)

1. The Chairman of the Arbitral Tribunal shall send notification of the decision to the parties by registered letter or by any other means of communication capable of proving that it was received, attaching thereto an integral copy of the decision handed down.

2. Any of the parties may, within 10 days counting from the date of the notification, appeal to the Arbitral Tribunal for the amendment of any calculation, copying, typographical, or similar inaccuracies, or that throws

light on any lack of clarity or doubts on the arbitrational ruling, with the deadline to appeal only starting to run after the parties have been notified of the decision rendered on the formal petition requesting such amendment or clarification.

3. Should the Arbitral Tribunal consider the request justified, it must proceed with any rectification or clarification within 30 days subsequent to receipt of that request. The respective decision is an integral part of the arbitrational decision.

4. Excepting agreement by the parties to the contrary, when the arbitrational decision has been confirmed, it is deposited at the Provincial Court Secretariat where the arbitration takes place.

5. Binding rulings on the dissolution of the Arbitral Tribunal are not deposited.

6. The deposit shall be notified to the parties.

7. The Presiding Judge of the Provincial Court shall attribute authority to one of the secretaries to deposit the arbitral rulings handed down in the area coming under its jurisdiction.

ARTICLE 31

(Decision Regarding Competence)

1. It is incumbent upon the Arbitral Tribunal to pronounce on its own competence, even if, for that purpose, there is a need to review the inaccuracies contained either in the Arbitration Agreement, or the agreement of which it is part, or as to the applicability of that agreement to the conflict.

2. The parties may only charge incompetence of the tribunal, as well as the irregularity of its constitution before the presentation of the defense with regard to the grounds, cause, or jointly with this, or at the first available opportunity subsequent to knowledge of a higher intervening fact that gave rise to any of the inaccuracies cited.

3. The decision of the Arbitral Tribunal by means of which it declares itself competent to decide the issue may only be reviewed by a Judicial Court after the handing down of the arbitrational decision, in a court of law, or by contesting its execution, under the terms of articles 34 and 39 of this law.

ARTICLE 32

(Extinction of Jurisdictional Power)

1. The jurisdictional power of the Arbitral Tribunal becomes extinct with confirmation of the arbitrational decision or of the decision handed down under the terms of No. 3 of article 30 of this law.

2. The Jurisdictional Power of the Arbitral Tribunal also becomes extinct with confirmation of the binding decision on the renunciation of the Arbitral Tribunal.

ARTICLE 33

(Purposes of Arbitrational Ruling)

The arbitrational decision produces the same effects between the parties as do judicial sentences and, being condemnatory ones, can be enforced.

CHAPTER V

(Challenging the Decision)

ARTICLE 34

(Annulment of Decision)

1. The arbitrational decision may be annulled by a Judicial Court on any of the following grounds:

a) the case cannot be resolved by arbitration;

b) it has been handed down by an incompetent tribunal;

c) the Arbitration Agreement has expired;

d) it has been handed down by an irregularly constituted tribunal;

e) it does not contain grounds;

f) there has been a violation of the principles mentioned in article 18 of this law and that has decisively influenced settlement of the litigation;

g) the tribunal knew of issues of which it was not permitted to have knowledge or did not pronounce on issues that it should have reviewed;

h) the tribunal has not, whenever it rules according to equity and the uses and customs under the terms of article 24 of this law, respected the public-order principles of the Angolan legal order.

2. The grounds provided for in paragraph b) of the previous number may only be invoked in those cases in which the Arbitral Tribunal has, under the terms of article 31 of this law, been declared competent or if the tribunal is charged with incompetence on due occasion for not having taken any decision.

3. The grounds for annulment provided for in paragraph d) of the previous number may only be considered should the party invocating it have raised the charge of the irregularity before the termination of the deadline established in No. 2 of article 31 of this law, and that has influenced the outcome of the litigation in a decisive manner.

4. In the case of the grounds mentioned in the first part of paragraph g) of number 1 of this article, annulment does not prejudice the validity of the decision regarding those issues of which the tribunal was permitted to have knowledge.

5. In the case of the grounds mentioned in the second part of paragraph g) of number 1 of the previous article, the annulment is only admissible when not having knowledge of the issues in question has had a decisive influence on the resolution of the litigation.

6. The right to appeal annulment of the arbitrational decision cannot be renounced.

ARTICLE 35

(Legal Formalities)

1. A petition for annulment to be placed before the Supreme Court, should be filed within 20 days, counting from the date of notification of the arbitrational ruling.

2. Should the arbitrational decision be appealed, the annulment may only be reviewed and decided by way of appeal.

3. The initial formal request in an annulment petition must contain the grounds on which its intent is based, with the rules of the appeal being subsidiarily applicable to the aggravated situations provided for in the Civil Proceedings Code.

ARTICLE 36

(Appeals)

1. Should the parties not have renounced this faculty previously, the same appeals that would have applied to the ruling had it been handed down by the Provincial Court, apply to the arbitrational ruling.

2. Appeals are filed with the Supreme Court and processed under the terms of the Civil Proceedings Code, with appropriate adjustments, but the filing deadline is 15 days.

3. The faculty attributed to the Arbitral Tribunal to rule according to equity implies the renouncement of appeals.

CHAPTER VI

(The Execution of the Decision)

ARTICLE 37

(Execution)

1. The parties must execute the arbitrational decision in the precise terms determined by the Arbitral Tribunal.

2. Once the deadline established by the Arbitral Tribunal for the voluntary fulfillment of the ruling terminates, or, failing that stipulation, within 30 days subsequent to notification of the ruling, without its having been complied with, the interested party may formally request its enforced execution before the Provincial Court, within the framework of Civil Proceedings Law.

ARTICLE 38

(Enforced-Execution Proceedings)

1. The proceedings for enforced execution adhere to the terms of summary execution proceedings, irrespective of the value of the cause.

2. A formal request for execution should be accompanied by authenticated copies of the following documents:

a) arbitrational ruling, its rectification, or clarification;

b) proof of the notification, and of the ruling's deposit.

ARTICLE 39

(Contestation of Execution)

1. Contestation of an enforced execution is admitted on the grounds provided for in articles 813 and 814 of the Civil Proceedings Code, when cause for annulment is alleged or corresponding pending action of annulment is encountered.

2. The contestation should be drawn up within eight days counting from the date of the citation of the proceedings in which it was made.

3. The judicial decision applied to contestation of the execution is not liable to appeal.

CHAPTER VII

(International Arbitration)

ARTICLE 40

(Concept)

1. International arbitration is taken to mean that which brings into play international-trade interests, namely, when:

a) the parties to an Arbitration Agreement have, at the time of the agreement's conclusion, their establishments in different states;

b) the place of arbitration, the location of the execution of a substantial part of the obligations resulting from the legal relationship giving rise to the conflict, or the place with which the subject of litigation has a closer relationship, should it be located outside of the state in which the parties have their establishment;

c) the parties have expressly agreed that the subject of the Arbitration Agreement have links with more than one state.

2. For the purposes of the previous number, it means that:

a) should a party have more than one establishment, that which has a closer link with the Arbitration Agreement, is taken into consideration;

b) should a party not have an establishment, their habitual residence shall count for this purpose.

ARTICLE 41

(Supplementary Rules)

Failing express stipulation by the parties, the provisions of this law are applicable to international arbitration, with appropriate adjustments, and without prejudice to that established in this chapter

ARTICLE 42

(Language)

1. The parties may, by agreement, freely choose the language or languages to be used in the arbitral proceedings. Failing such agreement, the Arbitral Tribunal shall determine the language or languages to be used in the proceedings.

2. The agreement or determination mentioned in the previous number apply to any written declaration by one of the parties, to any oral procedure and to any ruling, decision or communication of the Arbitral Tribunal, unless that has been specified in another form.

3. The Arbitral Tribunal may order that any item related to the proceedings be accompanied by a translation in the language or languages agreed upon by the parties or chosen by the Arbitral Tribunal.

ARTICLE 43

(Applicable Law)

1. The Arbitral Tribunal shall decide the case in accordance with the law chosen by the parties to be applied to grounds for cause.

2. Any designation according to the law or legal system of a determined state shall be considered, excepting express indication to the contrary, as directly designating the legal material rules of that state and not of its conflicts-of-law rules.

3. Failing designation by the parties, the tribunal shall apply the law resulting from the application of the conflicts-of-law rule that its deem applicable in kind.

4. The tribunal may only decide according to equity, or proceed with a friendly resolution, when expressly authorized by the parties.

5. In any case, the Arbitral Tribunal shall take into consideration the uses and customs of international trade applicable to the subject of the Arbitration Agreement.

ARTICLE 44

(Appeals)

The decision of the Arbitral Tribunal cannot be appealed, excepting that the parties have agreed the possibility to appeal and regulated its terms.

CHAPTER VIII

(Final and Transitory Provisions)

ARTICLE 45

(Institutionalized Arbitration)

The Government shall define, by means of decree, the system granting competence to certain judicial persons to carry out voluntary institutionalized arbitration, specifying in each case, the general or specialized character of such arbitrations, as well as the rules for the reviewing and eventual revoking of authorizations granted, when such is justified.

ARTICLE 46

(Alteration to Civil Proceedings Code)

The following precepts of the Civil Proceedings Code are amended and substituted under the terms of this article:

«ARTICLE 90»

(Competence to Execute Based on Ruling)

1.....

2. Should the decision have been handed down by an arbitrator in an arbitration case that has taken place on Angolan territory, the Provincial Court in the place where the arbitration is held is competent to carry out its execution.

ARTICLE 814

(Execution Based on Arbitrational Decision)

1. Not only those grounds provided for in the previous article, but also those on which the judicial annulment of the same decision may be based, are grounds for contesting an execution based on an arbitrational ruling.

2. The tribunal shall unofficially turn down a request for execution when it recognizes that the litigation could not have been committed to a decision by arbitrators, because of its being submitted, by special law, exclusively to the Judicial Court, or to necessary arbitration, or due to litigious right not being obtainable by its holder».

ARTICLE 47

(Legal Remissions)

The legal remissions contained in articles 1525 to 1528 of the Civil Proceedings Code on the voluntary Arbitral Tribunal system's provisions should be considered as made for this law, with essential adjustments.

ARTICLE 48

(Repeal)

1. Title I of Book IV - Voluntary Arbitral Tribunal - of the Civil Proceedings Code is hereby repealed.

2. Article 36 of the Legal Court Fees Code is repealed.

ARTICLE 49

(Judicial Court Fees)

1. The court fee charged for appeals made, under the terms of article 36, for duly requested execution proceedings and drawn-up contestations, under the terms of articles 37 to 39, all pertaining to this law, is that established in the Legal Court Fees Code for the corresponding acts, with any adjustments deemed appropriate.

2. The court fee charged for actions for the intended annulment of an arbitrational ruling, in accordance with this law, in Provincial Courts, is that established for civil actions of equal worth, reduced to half.

3. For the nomination of arbitrators and the deposit of arbitral rulings, the minimum court fee established in the Legal Court Fees Code is charged for any act practiced in the Provincial Courts.

ARTICLE 50

(Doubts and Omissions)

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

ARTICLE 51

(Regulation)

This law must be regulated with 90 days counting from its coming into force.

ARTICLE 52

(Enactment)

This decree comes into force 60 days subsequent to its publication.

Seen and approved by the National Assembly, in Luanda, on April 27, 2003.

The Speaker of the National Assembly, *Roberto António Victor Francisco de Almeida*

Promulgated on May 23, 2003

Let is be published

Directive Nr. 4/03
of February 28, 2003

On the Transfer of Dividends

Law 15/94 of September 23, 1994 on Foreign Investment, stipulates under No. 2 of article 8 that a foreign investor is guaranteed the right to transfer abroad, under the terms of foreign exchange legislation, dividends and distributed profits after the deduction of legal amortizations and taxes due, taking into account the respective capital holdings of the foreign investor.

Given the need to stipulate the terms and conditions of such transfers;

According to the terms and combined stipulations of No. 4 of Article 37 of Law No. 1/99 of April 23, 1999 and Article 58 of Law 6/97 of July, 1997, it is hereby determined that:

ON THE TRANSFER OF DIVIDENDS

CHAPTER I

(General Conditions)

ARTICLE 1

(Scope)

The current directive sets out the required procedures by which foreign investors, under the terms of foreign exchange legislation, may transfer abroad dividends and distributed profits after the deductions required by law and the payment of taxes due.

ARTICLE 2

(Authorization)

The operations referred to in the previous Article are authorized by the central bank, Banco Nacional de Angola, by issuing a Currency Payment Authorization (BAPIC-Boletim de Autorização de Pagamento de Invisíveis Correntes) by means of which the foreign currency may be acquired and deposited abroad.

ARTICLE 3

(Suspension of authorization)

The annual transfers of profits and dividends referred to in the previous Article may exceptionally be suspended or spread over time by decision of the Governor of the Banco Nacional de Angola, if the amounts involved are sufficiently large so as to cause or significantly worsen balance of payments difficulties.

ARTICLE 4

(Reinvestment)

Authority to rule on reinvestment applications resides with the Foreign Investment Institute, except in the case of financial institutions covered by Article 19 of Law No. 15/94, whereby authority lies with the Banco Nacional de Angola.
The Foreign Investment Institute shall inform the Banco Nacional de Angola of the reinvestment authorizations it has issued.

CHAPTER II

(Procedures)

ARTICLE 5

(Requirements)

1. To transfer profits or dividends, interested parties should submit the following documents to the credit institution concerned:

a) A document issued by the Finance Ministry confirming that all respective fiscal obligations have been met;

b) A copy of the balance sheet and income statement for the financial year or financial years in question accompanied by the report for each financial year by an independent auditor who has been duly legalized by the Finance Ministry;

c) a statement issued by the auditors confirming that the profits result from the company's activity in the financial year or financial years referred to and indicating whether profits were calculated before or after any transfers required under current legislation;

d) official confirmation from the regulatory authority of compliance with the terms on which the investment was authorized;

e) in the case of companies, a statement from the relevant corporate board or the minutes of the shareholders' meeting that decided on the distribution of profits;

f) when authorizing the transfer of profits and dividends, the Banco Nacional de Angola shall issue a BAPIC, sending it to the credit institution concerned for the application of the market exchange rate or for its deposit in a current account denominated in foreign currency.

2. Applications to transfer dividends should be submitted to the Banco Nacional de Angola during the first half of the financial year following the financial year for which the dividends were issued.

3. The documents referred to in Paragraphs a) and e) should be previously authenticated by a notary.

4. Without prejudice to the mandatory requirement for authorization and licensing by the Banco Nacional de Angola, applications relating to entities subject to special foreign exchange regimes should be made in compliance with the applicable regulations.

5. Requests to transfer profits and dividends resulting from the activities of financial institutions should be submitted to the Banking Supervisory Board of the Banco Nacional de Angola.

ARTICLE 6

(Deadlines)

On receipt of an application of the type referred to in the previous Article, the Banco Nacional de Angola should consider and reach a decision on the request within 30 days.

ARTICLE 7

(Rejected Applications)

The Banco Nacional de Angola shall formally advise the interested party when an application is rejected, informing the said party of the reasons for the rejection.

ARTICLE 8

(Amendments to Applications)

If an application is submitted that fails to comply with the formal requirements set out in the current directive, the Banco Nacional de Angola shall notify the interested party so that the irregularity can be amended.

ARTICLE 9

(Expiry of license)

The BAPIC referred to in Article 2 of the current Directive expires after 90 days, after which time it may be extended at the request of the interested party.

CHAPTER III

(Sanctions)

ARTICLE 10

(Sanctions)

Without detriment to other sanctions provided for in current legislation, infringements of the current directive are subject to the sanctions stipulated by Law No. 5/97 of June 27, 1997.

CHAPTER IV

(Final Provisions)

ARTICLE 13

(Previous applications)

The current directive does not apply to applications relating to financial years prior to 2002.

ARTICLE 14

(Ratification)

This Directive takes immediate effect.

Publication authorized.

Luanda, February 7, 2003.

The Governor, Amadeu de J. Castelhano Maurício.

NATIONAL ASSEMBLY

Law Nr. 5/97

27 June, 1997

Foreign Exchange Law

Considering, due to the reorganization of the financial system it is imperative that norms and principles which have been valid until the present time, be updated, for they have become obsolete, to reconcile the operation of the financial institutions with the current phase of the economic development in the country.

In that sense, the intention of the law aims is to conduct a profound revision of the above mentioned norms, in order to improve the discipline of foreign exchange operations, as well as establish a basic juridical-legal framework to regulate foreign exchange trade in a manner that takes into account the legitimate interests of the State and other economic entities

In those terms, under the provisions of art 88 of the Constitution the National Legislative Assembly approves the following:

FOREIGN EXCHANGE LAW

CHAPTER I

(General Provisions)

ARTICLE 1

(Objective)

The objective of the following charter is to regulate financial and commercial operations which have and effective or potential effect on the balance of payments.

ARTICLE 2

(Scope of application)

This law and its complementary charters and regulations applies to

a) foreign exchange operations

b) trade in foreign exchange

ARTICLE 3

(Foreign exchange authority)

The National Bank of Angola is the foreign exchange authority in the Republic of Angola. It can delegate power on other entities for specific activities.

ARTICLE 4

(Residency)

1. For the effects of the current charter, the following are considered residents in the territory of Angola:

a) individuals that normally reside in the country;

b) corporations with headquarters in the country;

c) branches, agencies or any type of representation in the country of foreign corporations;

d) funds, institutes and public agencies with financial and administrative autonomy, with headquarters in the national territory;

e) national diplomatic officials, consular representatives or similar in the exercise of their office outside of the country, as well as their family members;

f) Angolan nationals, living abroad for more than 90 days and less than a year, who are students or are in the exercise of public functions.

2. For the effects of the current charter, the following are considered non-residents:

a) individuals that normally reside abroad;

b) corporations with headquarters abroad;

c) individuals who have been away from the country for more than a year

d) branches, agencies or any form of representation located abroad of corporations with headquarters in Angola;

e) diplomatic officials, consular representatives or the like, who are serving in Angola, as well as their family members.

3) The National Bank of Angola may decide in special cases, doubts which may arise as to the quality of resident or non resident of a given entity.

CHAPTER II

(Foreign exchange operations)

ARTICLE 5

(Definition)

The following are considered foreign exchange operations:

a) the acquisition or alienation of coined gold, gold bars or any non crafted gold.

b) the acquisition or alienation of foreign currencies

c) the opening and operation of checking accounts in foreign currency in the country by non residents

d) the payment of any transaction in goods, current or capital accounts

ARTICLE 6

(Concept of foreign currency)

For the effects of this charter and the complementary legislation and regulations, foreign currency is considered to be the legal tender (bills or coins) of the issuing country and any other means of payment to be made abroad, expressed in the currency or account units that are used in international compensations or payments.

ARTICLE 7

(Mandatory brokerage)

Foreign exchange operations can only be performed by a financial institution authorized to perform foreign exchange trade.

ARTICLE 8

(Compensation)

Total or partial payment of goods, current account and capital transactions as compensation for credits or debits derived from identical or different transactions must be authorized by the National Bank of Angola.

ARTICLE 9

(Opening and operation of accounts)

1. Residents as defined for foreign exchange purposes, may open and operate checking accounts in foreign currency at financial institutions with headquarters in the country.

2. Resident individuals may open and operate checking accounts in foreign currency at financial institutions with headquarters outside the country

3. Non residents as defined for foreign exchange purposes, may open and operate checking accounts in national or foreign currency at financial institutes domiciled in the national territory

4. The National Bank of Angola must define the terms and conditions under which residents and non residents may hold accounts as described in paragraphs 1 and 2 of this article.

CHAPTER III

(Operation of Foreign Exchange Trade)

ARTICLE 10

1. We understand by the operation of foreign exchange trade the customary execution on their own behalf or for third parties, of foreign exchange operations.

2. The operation of foreign exchange trade must be specifically authorized by the National Bank of Angola under the terms of the applicable legislation.

ARTICLE 11

(Special Cases)

The National Bank of Angola may authorizes entities linked to tourism, specifically hotels, travel agents, tour operators and duty free shops, to buy and sell foreign currency, travelers checks or other payment instruments from their respective clients, under the terms and provisions established by the Bank.

ARTICLE 12

(Information duty)

Those entities authorized to operate in foreign exchange trade, must submit to the National Bank of Angola, the information, statistics or data which it may request in keeping with the instructions given and within the time limits and conditions set by the Bank.

CHAPTER IV

(Import, Export, Re-export of gold, currency or letters of credit)

ARTICLE 13

(Operations in gold)

1. The import, export or re-export of coined gold, gold bars or other non crafted gold is under the exclusive jurisdiction of the National Bank of Angola.

2. The domestic and international transit of coined gold, gold bars or non crafted gold must be authorized by the National Bank of Angola under the conditions and terms it determines.

ARTICLE 14

(Imports, export and re-export of currency)

1. The import, export or re-export of legal tender, in bills and coins, national or foreign, as well as travelers checks and other instruments of payment can only be performed by institutions authorized to operate in for-

eign exchange trade through a special authorization issued by the National Bank of Angola, under its terms and conditions.

2. The provisions in the above paragraph are applicable to the export of national currency not in circulation.

ARTICLE 15

(Import, export and re-export of letters of credit)

The import, export and re-export of letters of credit, assigning actions or obligations must be conducted under the terms of the applicable legislation.

ARTICLE 16

(Control)

Customs will only clear packages containing gold - coined or not - bills and coins, travelers checks and other instruments of payment as well as letters of credit if the corresponding import, export or re-export upon presentation of the corresponding authorization as issued by the National Bank of Angola.

ARTICLE 17

(Circumstancial measures)

In case of difficulties in the balance of payments, as well as disturbances in the operation of financial markets, after informing the Government, the Bank of Angola may establish through a notification, restrictions and other conditions to the operations described in this law.

CHAPTER V

(Complementary charters)

ARTICLE 18

(Operations with goods, intangibles* and capital)

We define by the decree the general principles to be followed by import, export and re-export operations as well as operations in current account and capital.

CHAPTER VI

(Infractions and sanctions)

ARTICLE 19

(Transgressions)

The following are considered violations liable to penalties under the terms of this charter:

a) The operations of foreign exchange trade that breach the provisions of article 10 of this law.

b) The performance of operations that breach the provisions of articles 7, 9, 13 and 15 of this law.

c) Any breach against the provisions under the charters mentioned in article 18 of this law.

ARTICLE 20

(Sanctions)

1. The penalty for transgressions defined in paragraph a) of the above article of this law will be a fine of between: KzR:300,000,000.00 and KzR: 40,000,000,000,00.

2. The penalty for transgressions defined in paragraphs b) and c) of the above article of this law will be a fine of between: KzR: 600,000,000.00 and KzR: 100,000,000,000.00

3. The penalties defined in the above paragraphs will vary (within their brackets) according to the value of the operation and the objective and subjective severity of the infraction, without prejudice to the provisions of the following article of this law.

4. If there were any alterations in foreign exchange rates, or whenever deemed necessary or timely, the Bank of Angola may propose to the Government an alteration in the value of the fines, either in the minimum or the maximum amounts specified.

ARTICLE 21

(Ranking of sanctions)

1. The amount of the fine can never be less than the economic profit realized by the offender.

2. If the agent condemned for a foreign exchange violation, commits a second offense within two years of the previous condemnation, the minimum and maximum limits established in article 20 of this law, will be doubled.

3. The sanctions defined in this charter will be applied with no prejudice to other penal and disciplinary responsibilities provided in other legislation or regulations.

ARTICLE 22

(Responsibility of corporations and their directors)

1. Corporations and companies, even if their incorporation is deemed irregular, and non incorporated associations have joint and several liability in the payment of fines and legal costs imposed on their directors, employees or agents for violations punishable under the terms of this law.

2. Those responsible for the administration of corporations, even when irregularly incorporated, and non incorporated associations, who within their capacity did not oppose the illegal practice, are individually and subsidiarily liable for the payment of the fine and legal costs, even if the corporation has been dissolved or is undergoing settlement procedures.

ARTICLE 23

(Accessory sanctions)

The repetition of the violations defined in paragraph a) article 19 of this law as well as those defined in paragraph b) of the same article, as defined in paragraph 2 of the above article may also punished by:

a) Seizure by the State of the assets used or obtained through the illicit activity.

b) Temporary or permanent interdiction from occupying positions in the administration of any institution subject to the supervision of the National Bank of Angola;

c) Interdiction for up to 3 years from performing any foreign exchange operations.

ARTICLE 24

(Statute of limitation)

1. Processes for foreign exchange violations will prescribe 5 years after the infraction.

2. Fines and accessory sanctions prescribe in the same period, to be counted form the date of the final sentence.

ARTICLE 25

(Fact finding and process)

1. The National Bank of Angola is the agency competent to perform the investigation of foreign exchange violations and institute the process, it may inspect any institution and seize the assets used or gained through the illicit activity

2. Police authorities and other entities or public services must cooperate with the National Bank of Angola when necessary.

3. The application of the fines and other sanctions defined in this charter fall under the jurisdiction of the Governor of the National Bank of Angola

4. The decisions made under the terms of the above paragraph may be appealed under the general provisions of the law.

ARTICLE 26

(Disposition of the Fines)

The fines will be paid to the State

ARTICLE 27

(Forcible collection of fines)

1. The collection of fines, if there has been no appeal and have not been voluntarily paid, fall under the regulations for tax foreclosures.

2. The copy of the judicial decision is the basis for the foreclosure and should be sent to the competent court for its implementation.

3. In case of appeal and final condemnation, the collection of fines will fall under foreclosure regulations which must be processed within the judicial system.

CHAPTER VII

(Final and transitory provisions)

1. The regulations provided for under this law must be drafted by the Government, following the proposal to be submitted by the National Bank of Angola within 90 days of its publication.

2. The National Bank of Angola has jurisdiction to define the regulations and procedures to be adopted in foreign exchange operations as well as to publish or transmit instructions, of a technical character or other, necessary for the adequate implementation of the legal framework for those operations.

3. The instructions mentioned in the above paragraph will be valid as of the date of their publication or transmission, except when there are provisions to the contrary.

4. This law is applicable to foreign investment in all areas which are not regulated by a specific legislation.

ARTICLE 29

(Revocation)

1. Any legislation contrary to the provisions of this charter, namely Law No9/98, 2 July, is hereby revoked.

2. Any other complementary norms and regulations in force , not in contradiction with this charter will maintain its validity.

ARTICLE 30

(Doubts and omissions)

Doubts an omissions that may arise from the interpretation and application of this law shall be resolved by the National Legislative Assembly.

ARTICLE 31

(Entry into force)

This law will enter into force on the date of its publication

Seen and approved by the National Assembly in Luanda, 19 February 1997

Roberto Antonio Victor Francisco de Almeida the President of the National Assembly

Enacted on 23 April 1997

Order to publish signed by JOSÉ EDUARDO DOS SANTOS President of the Republic

NATIONAL ASSEMBLY
Law Nr. 14/03
of 18th July, 2003

Corporate Development of Private Angolan Enterprises Law

Equitable economic and social development, together with the distribution of wellbeing and quality of life in a market economy, will never be complete while such development is not performed and primarily driven by Angolan citizens, families and public and private institutions. That is to say, by means of economic initiatives or by holding the ownership rights on manufactured goods and, consequently, of their benefits, in conjunction with the fair and social redistribution of national wealth and social comfort.

In fact, one of the keystones of development has to be underpinned by private national free enterprises – by Angolan citizens, families and institutions.

To that end, it is incumbent upon the State to create and offer, according to a principle of the most favorable, priority, or preferential treatment, legal, material and institutional conditions helping to ease unequal competition with foreign investors, at the same time that it aims to nurture synergies between both national and foreign private investors.

Within that framework, under the terms of paragraph m) of article 89 of the Constitutional Law, the National Assembly approves the following:

CORPORATE DEVELOPMENT OF PRIVATE ANGOLAN ENTERPRISES LAW

CHAPTER I

Gerneral Provisions

ARTICLE 1

(Scope, object of application, purposes and economic sectors)

1. The objective of this law is to establish the standards, principles and forms of subsidized support for private national companies and correlated private national initiatives and investments, so that, within the system of an open market economy, freely competing with foreign enterprises and investments, they may benefit from the best of conditions in the exercise of their fundamental economic rights and freedoms.

2. This “support scheme” is aimed at sponsoring national companies in all sectors of economic activity: in particular, those involving agri-livestock, industrial mining and manufacturing, commerce, finance and services.

ARTICLE 2

(Subjective scope of application)

This law applies to the public sponsors of corporate development and private concessionaires or beneficiaries of incentives, and other forms of support, covering micro, small, medium and large companies, under the terms hereinafter provided for.

ARTICLE 3

(General principles)

Intervention in the development of private national companies must be governed by the following general principles:

a) Principle of free enterprise and competition for concessionaires;

b) Principle of free negotiation and joint accord between sponsors and concessionaires;

c) Principle of publicity and respect for trade secrets;

d) Principle of preferential treatment for concessionaires, as private national companies and partners in national development;

e) Principle regarding legally-binding aspect in attainment of targets undertaken;

f) Principle of integrity and merit;

g) Principle controlling bureaucratic processing;

h) Principle of safeguarding guarantees.

ARTICLE 4

(Free enterprise and competition)

1. It is entirely up to potential concessionaires, as direct or indirect economic agents, to exercise free choice and decision in any initiatives involving the incorporation of companies, or enterprises relating to companies already incorporated, which they believe to be viable and capable, with sustainability, of meriting one or more forms of support within the current corporate-development framework, submitting themselves to assessment by the authorities responsible for sponsoring the intervention support that is required.

2. The mere acceptance of a proposal does not necessarily legally bind the sponsoring authorities to granting support, but merely the assessment of its viability and the initiation of negotiations and a joint-accord process.

ARTICLE 5

(Free negotiation and joint accords)

1. The concession process initiated by means of an application or proposal is primarily governed by free business negotiations between the sponsoring and concessionaire parties in terms of the prerequisites of technical, economic and financial merit, plus the integrity and viability of the economic enterprise or project being assessed, on the one hand, and of the conditions, models and limits of the types of support available, on the other.

2. The provision in No. 1 above is personified as such for economic accords, combining public and private interests, applicable to projects relating to medium- and large-sized companies. These shall establish the support to be granted, along with obligations and quid pro quos, deadlines for fulfillment and attainment of targets, whose realization the concessionaires are legally bound to adhere to in relation to the State or other public sponsoring authorities, depending on circumstances.

3. The agreement provided for in No. 2 equally prevails for each and every accord existing between the parties that have agreed on the concession of any particular public support, even though such omits any mention of quid pro quos.

4. Accords of the type provided for in the previous number may be substituted either by means of any other modes adapted or completed by way of additional accords, for the purpose of the provision in No. 2.

5. Projects relating to micro companies or small companies shall be governed by a simplified and administratively-controlled scheme, to be regulated, which may be applied, until new regulations are made, to those schemes in force for funds already created and earmarked for micro-credit, with their appropriate fine-tuning.

ARTICLE 6

(Respect for trade secrets and publicity)

1. Joint accord procedures shall adhere to transparency principles in respect of publicity and administration, under the general terms of Administrative Procedure regulations, and special ones with regard to public limited tenders or direct negotiation, depending on circumstances, within the limits imposed by fair competition in a market economy, under the terms of the following numbers.

2. Public sponsors, in light of the principles applied to fair competition, are obligated to maintain trade secrets, in relation to actual or potential third-party competitors, regarding information, whether it concerns commercial, industrial, or technical data, or that in regard to negotiating strategies, which they have obtained from a candidate, during the course of negotiation procedures applying for benefits to develop a corporate project.

3. The right to administrative, procedural and extra-procedural information, which people have as regards administrative procedures, by reason of the principle of transparency, and by payment of the fees charged for certificates, must be met merely in relation to public documents or elements, or whose nature and contents are not the subject of commercial or industrial secrecy, or the internal life of a company coming within the confines of its right to privacy, and when the said confidential or personal data covered by the right to privacy have been expurgated.

4. Disclosure of information and documents regarding elements classified as coming under the heading of trade secrets or their equivalent, may only be made in cases consented to by the parties concerned or during the course of criminal proceedings or transgressions brought against same parties in court and at the behest of the judicial authorities or those handling a preliminary hearing on the transgressions in question.

5. The general terms of concession agreements and of administrative orders ratifying decisions on their approval, must be published in the *Diário da República* (government's gazette*),* with a summary of same, or description of support granted, merely being required as an attachment.

ARTICLE 7

(Principle of preferential treatment)

1. The preferential treatment given to Angolan concessionaires, serves to ease unfavorable and unequal conditions existing in competition between national and foreign investors, as well as contributing to the constitution, consolidation and strengthening of the participation of Angolan citizens in the ownership and management of national wealth, in a free open-market economy.

2. Preferential treatment consists of a series of real rights, of concession, operation, preference, priorities, privileges and other benefits that, under the competition conditions provided for in this law, can be granted primarily to private Angolans, who fulfill the concession prerequisites, ranking in priority immediately behind the rights of concession and preference legally attributed to state-run companies and other public corporate entities.

3. The Government shall regulate the preferential-treatment criteria to the extent that, without prejudice to the principles of equality, integrity and merit, among others, all national citizens and companies are entitled to, offering special and effective conditions of preferential treatment to displaced and mutilated persons, demobilized soldiers, and families seriously affected by the war.

ARTICLE 8

(Legally-binding aspect regarding attainment of target commitments)

Concessionaires once having obtained support are bound, in general, to achieve the economic and corporate targets to which they have committed in the agreement procedures granting support, as well as to other obligations hereinafter provided for, failing which they shall lose benefits, and without prejudice to execution of the legal guarantees to which the State and other public sponsors are entitled, as provided for in this law.

ARTICLE 9

(Integrity and merit)

1. The concession of incentives and other support provided for in this law as regards medium- and large-sized projects depends upon the technical integrity and management capabilities of the people involved in the company or enterprise, as well as on the merit of the corporate project or proposal serving as grounds for the application for support.

2. The criteria for ascertaining technical integrity and management capabilities are determined in relation to the professional curriculum or experience of the people concerned, among other additional elements attesting to the credibility of the proponents.

3. The merit of a project is ascertained in relation to the following criteria:

a) Economic interest of the project's or proposal's national or regional scope, assessed both in terms of its importance and of the greater or lesser implications of the project's scale for the sector of economic

activity in question, or of its contribution toward the creation of jobs, and the economic and social development of the country or region;

b) Soundness or consistency of the project assessed in relation to the commitment contained in the business strategy or plan, the human, technical and financial resources involved or programmed, as well as the quality and integrity of the foreign partnerships involved;

c) Other key and additional elements, discretionarily assessed by the public sponsoring authorities, or especially suggested by the proponents.

4. Any assessment of the integrity and merit of applications for support for micro or small companies shall be made with appropriate adjustments vis-à-vis the lesser implications in size and nature of the respective projects, in regulatory terms, in relation to the credibility offered by the people involved, jointly or otherwise, whether by direct and personal knowledge of the local sponsoring authorities, or by the provision of guarantees by third parties, or by the assets and other indicative elements belonging to the project, when such is the case.

ARTICLE 10

(Bureaucratic processing)

1. The bureaucratic handling of processes involved in the granting of support for the development of national companies is governed by those principles governing administrative procedures, namely, those of legality, impartiality, proportionality and selectivity, without prejudice to the principle of free negotiations and business arrangements between public and private parties, applicable under the terms of article 5, and any others specifically regulated.

2. Selectivity is applicable on the basis of pondering the criteria of the greater or lesser opportunity and aptness for the national, regional or local economic interest of the projects concerned, ascertained in relation to their greater or lesser suitability to approved economic policies and plans.

ARTICLE 11

(Securing guarantees)

1. Any granting of support must be contractually secured by guarantees, whether, in general, for the attainment of the targets undertaken, or whether, in particular, for recovery by the State or other public sponsors, of the capital loaned and any other credit granted.

2. The guarantees to be provided by the concessionaires, according to circumstances, and deemed as most appropriate, and established by way of negotiation, may be the following:

a) The general guarantees for credit commitments, provided for in the Civil Code, in accordance with standard capital-market practices or those for financing, without prejudice to any subsidized interest rates and other incentives eventually granted;

b) The possibility of a public sponsor assuming, during an initial and temporary phase, the capacity of partner in a specific part of the capital stock of the beneficiary company through a subsidized seed or venture-capital scheme, until such time as the company becomes economically viable, and in accordance with terms to be established in the corporate articles or a joint-venture agreement;

c) A public sponsor may designate its own representative in the company to monitor the progress of the project benefiting from subsidized support or by having a seat on the management board, and holding exceptional vetoing powers on decisions conducive to mismanagement or that put the viability of the company at risk, in accordance with terms to be established in the corporate articles or a joint-venture agreement.

3. The omission of guarantees provided for in agreements, under the terms of the previous numbers, confers on the State and other public sponsors granting assistance, the following special guarantees:

b) Legal mortgages on the concessionaire company's fixed and movable assets, put up as collateral for the repayment of loans, under the applicable terms, with the appropriate adjustments cited in paragraph b) of article 705 of the Civil Code;

c) General privilege rights regarding guarantees for credit incurred as a result of loans, or guarantees and respective interest, according to applicable terms, with appropriate adjustments to the provision in article 736 of the Civil Code, which are activated when there is a lack or insufficiency of fixed assets to offset the legal mortgages provided for in the previous paragraph.

CHAPTER II

Intervention in the Development of National Companies

SECTION I

Sponsors and Concessionaires

ARTICLE 12

(Sponsors)

The sponsors of this corporate-development intervention scheme are:

a) The State;

b) Authorized public institutes, under the same terms provided for in the previous paragraph, acting as partners of the State in the attainment of the objectives established in article 1, within the terms and just limits of their respective independent powers of corporate and asset management, free negotiation, and as sectorial regulators;

c) State-run companies acting as partners of the State in the attainment of the objectives established in article 1, within the terms and just limits of their respective independent powers of corporate and asset management, free negotiation, and as sectorial regulators;

d) Privately-run entities, in an associative or institutional form, which, as capital-stock partners, or in another capacity, cooperate with the State and other public corporate entities for the purposes of sponsoring economic and social development.

ARTICLE 13

(The State)

The State, as a public corporate entity, exercises intervention in the development of national companies under the following terms:

a) By means of the definition and approval of national, regional and sectorial, economic and financial policies, and economic and territorial development plans, as well as general directives on its development policy for national companies;

b) Creating and managing public funds, personalized or otherwise, as part of its development policy for national companies.

c) Fostering and realizing joint measures with private national or foreign funds, whose trustees are prepared to allocate them for the purpose of developing national companies;

d) Granting incentives or approving applications or proposals via its competent ministerial departments and non-personalized public, central and provincial services, taking into account the economic sector of the activity involved and of the territorial scope of the entity or project benefiting from support, under the regulatory terms of the respective statutory and basic powers.

ARTICLE 14

(Public institutes and funds)

1. The Government designates the public institutes and public funds of a legal and autonomous administrative and financial nature that may accept, negotiate accept and grant proposals for the incorporation of national companies or the sponsoring of national companies' projects, with a view to acquiring the support provided for in this law.

2. The provision in this law does not prejudice the system for public institutes and funds whose attributions and powers already fulfill and conform to the profile required for the purposes of intervening in the development of national companies, as regulated by this law.

3. The Government may assign a percentage of public revenue deriving from the income tax levied on mineral concessions, in general, and oil companies, in particular, as well as from other sources deemed suitable, to set up or bolster public funds earmarked for the purposes of this corporate-development scheme.

ARTICLE 15

(State-run companies)

1. State-run companies of a medium and large size with adequate financial capabilities may, in the exercise of their independent management, financial, and asset-related powers, receive and negotiate sponsorship proposals, either as subsidized or merely assisted ones, from national companies belonging to the respective activities or business sectors of common interest, and whose profiles conform to the regulations and principles of this law and other regulatory decrees.

2. For the purposes of the provision in No. 1 above, state-run companies can, as may be deemed as best and most acceptable, within the limits of their financial autonomy, or in the best interests of the profitability of their business:

a) Take up stakes, as subsidized seed or venture capital, in the capital stock of companies when the viability profile and soundness of the respective proposed business plan or project have shown themselves to warrant such;

b) Provide, in whole or part, duly guaranteed financing, or simply financing guarantees to be obtained by the national proponent companies from other national or foreign credit institutions.

3. Stakes taken up, as subsidized seed or venture capital, must be divested, preferentially to the other Angolan stockholders in the company, or in second order of priority to national citizens, companies or institutions, and, failing those, to foreign investors, as soon as the economic and financial viability of the beneficiary company has been assured, should no other system have been stipulated in the corporate articles or a joint-venture agreement.

ARTICLE 16

(Sponsoring partners)

Partners of the State and other public corporate entities sponsoring the development of private national companies are:

a) National economic associations of companies or of economic and specialized professional interests, legally and properly incorporated, which agree to sign cooperation agreements for support with public sponsors, for the purposes of developing private national companies;

b) National credit or financial institutions, legally and properly incorporated, which, under reciprocal-benefit accords, agree to sign cooperation agreements with public sponsors, for the creation of mixed funds or the allocation and management of private funds put in place for the development of private national companies;

c) Other recognized private national institutions, in line with a resolution passed by the Cabinet, as partners for the development of private national companies.

ARTICLE 17

(Concessionaires)

Concessionaires or beneficiaries of different forms of support for the sponsorship of private companies, hereinafter provided for:

a) Angolan citizens, acting under the terms defined by this law;

b) Angolan companies, hereinafter defined as such by this law;

c) Private institutions of public utility, hereinafter defined as such by this law.

ARTICLE 18

(Economic citizenry)

1. Angolan citizens may be direct or indirect beneficiaries of corporate-development support, as well as the holders of the rights granted, individually, jointly, or as stockholders, under the following terms and conditions:

a) In an individual name in their capacity as sole proprietors of a company or a farming, commercial or industrial establishment in an individual name;

b) In a family name or title in legal and regulatory or consuetudinary terms, depending on circumstances, in relation to the kind of company already established or to be established, and land rights that serve as a basis for the economic activity in question.

2. Property of Angolan citizens is taken to mean, as an individual, the holder of a real or company right, of concession, operation, exclusivity, or one of another nature, under the terms of the Civil and Commercial Codes, for an individual person with Angolan citizenship.

3. The property of Angolan citizens holding as a family a real or company right, of concession, operation, exclusivity, or one of another nature, is taken to mean:

a) Co-owned by various Angolan citizens, whether in the form of a company or establishment in an individual name, or in the form of a group, or non-personalized association of citizens linked by family relationships, or in the form of companies of family interests with a capital stock subscribed and retained 100% by Angolan citizens who are linked by family ties, and incorporated as such, namely according to models for companies managing family assets, under terms to be regulated;

b) Co-owned by Angolan citizens in the declared interest of the respective family, according to the rules of consuetudinary rights, applicable to support for traditional farming activities and the enhancement of technical operating conditions, under terms to be regulated.

ARTICLE 19

(Angolan companies)

1. For the purposes of the statute granting eligibility for national corporate-development support, as provided for in this law, an Angolan company is taken to mean, all companies in an individual name or formed, legally and properly, as established or incorporated companies, with registered head offices in national territory, and entirely owned by Angolan citizens, as individuals or as a family, or at least 51% of the capital stock is owned by Angolan citizens or Angolan companies, either exclusively or jointly.

2. In order to confirm the legal status of an Angolan company, in case of doubt or suspicion of fraud, it may be called upon at any time to prove the citizenship of the alleged Angolan citizens declared as stockholders, as well as of the current stockholder structure of the Angolan company declared as a partner.

3. Considered on a par with a national company, for the purposes of this law, is any company incorporated by foreign investors, and with registered head offices abroad, but wishing to invest in Angola and due to economic and financial-engineering reasons, in conjunction with other globalization-related advantages in respect of national companies, have national citizens, companies or institutions (defined as such in these legal terms), holding one or more stakes in their respective capital stock, equivalent to at least 60%.

ARTICLE 20

(Angolan institutions)

For the purposes of the statute granting eligibility for national corporate-development support, as provided for in this law, Angolan institutions are taken to mean, those institutions legally and properly incorporated with their principal headquarters in national territory, and whose stated mission is to sponsor national companies in which Angolans hold shares, in addition to the realization of activities contributing to national economic and social development, (including activities of a cultural, scientific and social-solidarity nature), needing support for the creation and consolidation of the self-sustainable bases of their statutory objectives and that, as such, have obtained, in legal terms, recognition as a public utility.

ARTICLE 21

(Concessionaires' obligations)

Concessionaires benefiting from any support granted are obligated to:

a) Develop all efforts in order to achieve, in general, the economic-viability targets set for their companies or projects and enterprises as a quid pro quo for the benefits granted;

b) Meet their obligations in amortizing loans and other obligations inherent to debt and guarantee-related charges;

c) Register legal mortgages, should any be required, in favor of the State and other public sponsors, under the terms of this law and of the economic-development agreements signed;

d) Supply the public sponsoring authorities with all information, elements and documents that will enable them to monitor and oversee the beneficiary company or enterprise, with a view to guaranteeing the attainment of the economic targets undertaken;

e) Cooperate with all public authorities intervening in the economy, namely, the Ministries of Finance, of Planning and of Territorial Planning, in terms of the good location of corporate projects and of contributions to the best execution of targets for economic and territorial development plans;

f) Any other specific obligations in agreements granting assistance.

SECTION II

Developing Private National Companies

ARTICLE 22

(Models)

For the purposes of this law, the following are the incentive and support models that the State and other public sponsors may grant, depending on circumstances and the respective concession authorizations in light of their nature:

a) Tax incentives;

b) Financial assistance;

c) Technical support;

d) Special rights, privileges and patrimonial guarantees.

ARTICLE 23

(Tax incentives)

1. Projects for the setting up or expansion of private national companies shall benefit from the following tax incentives, according to the financial-viabilization requirements or merit of each one, under terms to be regulated:

a) Exemption from or reduction of industrial tax or other taxes levied on income derived from business activities or concession rights;

b) Exemption from or reduction of customs duties levied on the importation of material and capital equipment;

c) Exemption from or reduction of taxes or rates on the concession or enjoyment of general and special mining rights and land rights;

d) Other tax benefits already provided for in laws and legal decrees applicable to the mining, oil, industrial, and services sectors, and other economic activities.

2. Each year, within the context of proposals for laws approving the General State Budgets, the Government shall recommend regulation of the execution of the framework for the tax-incentive schemes provided for in the previous number.

ARTICLE 24

(Financial incentives)

Projects for the incorporation or expansion of private national companies, according to the requirements and availabilities of public funds allocated for corporate-development purposes, or of the nature and source of privately-financed funds or credit lines, may benefit from the granting of the following financial assistance:

a) Subsidies;

b) Financing;

c) Subsidized venture capital;

d) Access to private joint-management funds;

e) Financing guarantees.

ARTICLE 25

(Subsidies)

1. All assistance of a financial nature, attributed as full grants to concessionaires and not, as such, reimbursable by them, are considered as subsidies.

2. Subsidies assigned within the development-support framework shall always be strictly conditioned to their being allocated to the purposes designed for the beneficiary company or establishment, identified as such in the negotiating process, and for the attainment of the corporate targets undertaken in the respective concession agreement, failing which suspension or loss of same will take place, without prejudice to other guarantees for the confiscation of assets acquired through the misappropriation of funds, under the terms provided for in this law.

3. Whenever possible, and while taking into consideration the greater or lesser extent of the total amount, the granting and utilization of the subsidy must always be calendarized and made available for periodic or scheduled installments and in relation to the provision of proof of its allocation, as well as of progress made in realizing the respective project's targets.

4. In order to guarantee fulfillment of the restricted nature of corporate-development subsidies, the Government shall regulate, and public sponsoring authorities shall preferentially grant, the following subsidy models, whenever the case or situation is apt for such an adjustment:

a) Subsidizing of the acquisition costs of raw materials or technical capital equipment and parts, accessories, farm equipment and implements, and seeds;

b) Compensation for companies operating public collective transportation services and the supply of goods or other public services under difficult conditions;

c) Awards attributed following the provision of proven positive entrepreneurial results; namely, crop prizes.

5. Corporate-development subsidies are subject to the regulations and instructions prevailing for constitutive and regulatory decrees regarding public funds earmarked for such purposes.

ARTICLE 26

(Financing)

1. All support making financial or capital funds available to concessionaires provided by public sponsoring authorities, and which are reimbursable, are considered as public financing for corporate development, and may assume the following contractual models:

a) Loans;

b) Subventions.

2. All financial assistance constituting credit agreements between public and private parties are considered as loans, even though interest rates may be subsidized and the conditions of the reimbursement of capital

loans and of interest payments may be established under conditions more favorable than those on the capital markets.

3. Interest-free loans granted, are considered as subventions, when reimbursement of the capital made available may be established under conditions favorably adaptable to the project's nature and complexity, and its location in depressed regions of national territory, in terms of infrastructure or any other lack of resources.

4. Loans and subventions may be partly subsidized by the State, and partly by institutes and/or state-run companies and also, partly, by private credit institutions, or by access to private, national or foreign, funds, in cases where the scale of the project, volume of capital involved and the necessity of spreading responsibilities and guarantees so demands, in order to enable the project's viability and financial security.

5. Failing special regulatory norms, Civil and Commercial Code regulations applicable to credit agreements, according to circumstances, shall be applied.

ARTICLE 27

(Subsidized venture capital)

With private stockholders participating in the capital stock of a national company to be incorporated, which the State, a public institute, or a state-run company agree, solely or jointly, to underwrite, and when the economic viabilization and economic interest of the project for national or regional economic development calls for it as the most adequate and solid solution, it is considered as having subsidized venture capital.

ARTICLE 28

(Private funds under joint management)

1. The State, public institutes, personalized public funds and state-run companies may allocate financial assistance to concessionaires that have presented such applications, as well as access to private corporate-financing funds, whether underpinned by their opinion as to the prerequisites of the viability of corporate projects and of the integrity of their motivators and of their national economic interest, or by some other method, agreed upon with the trustees of the private funds and the concessionaires, or by means of the negotiation and agreement of guarantees or of incentives and quid pro quos to be provided to the private financiers.

2. Public services and institutes or state-run companies may be designated not only to attract private funds available for the purposes of No. 1, but also to act, in partnership with national and foreign credit institutions, as trustees and co-managers of the private funds made available, with a view to an efficient and secure realization of the purposes of private and national corporate development.

3. The public and private parties mentioned in No. 2 above may sign an agreement for the management of funds and incentives, interlocking the quid pro quos and guarantees granted.

4. Private funds attracted by public institutes and companies are deposited at national credit institutions, or their agents abroad, which have been chosen by the parties as partners to handle the banking services, by way of management agreements or any other means.

ARTICLE 29

(Financing guarantees)

1. The State, public institutes and state-run companies which have approved corporate projects and for which they do not have the funds to provide other models of financial assistance, may, according to their criteria of opportunity, or discretionary suitability of interests, provide financing guarantees that can be granted by other financial institutions, and which are demanded by them of the concessionaires, namely:

a) Special guaranties, or other forms for guaranteeing loans as practiced on national and international capital markets;

b) Guarantee of issue of bonds.

2. The scheme for providing financing guarantees derives from civil and commercial legislation, should no other be agreed upon in the individual case, and without prejudice to the possibility of its specific regulation in relation to the specifics of the corporate-development support, and which experience gained in its application may eventually recommend.

ARTICLE 30

(Technical support)

The State, through its central or provincial technical services, public institutes and state-run companies may indicate, in corporate-development agreement processes, the provision of technical-assistance supports, which are within the range of their own technical capabilities.

ARTICLE 31

(Special rights and privileges)

The special rights, privileges and guarantees that may be granted by the public authorities sponsoring development are the following:

a) Commercial or industrial operating rights, exclusively, jointly, or competitively, to a specific economic activity, or provision of territorially-specific services;

b) Mining concession or exploration rights, exclusively, jointly, or competitively, to a specific territorial area under the terms and in conformity with applicable mining legislation;

c) Oil exploration and production rights, jointly or subsidized, to a specific territorial area, under the terms and in conformity with oil- company agreements and applicable oil-company legislation;

d) Preference rights, ranking immediately behind state-run companies or corporate entities, in those cases of the selling to third parties, on the part of foreign investors, of their contractual exploration and production rights pertaining to mining or oil company concessions, or to the operating of public services, infrastructures, or establishments belonging to the State or local authorities;

e) Preference rights, ranking immediately behind state-run companies or corporate entities, in tenders for the supply of goods and services, and public-works contracts, provided that the conditions offered in respect price and quality are equivalent.

ARTICLE 32

(Special guarantees)

Those concessionaires that have benefited from the granting of corporate-development support and have incorporated a national company, or started a corporate project coming within the scope of the concession, enjoy, depending on the circumstances:

a) General guarantee regarding utilization of the benefits granted, in relation to their strict allocation to corporate purposes, and other deadline conditions, together with the possibility of their prorogation, established in the concession agreement;

b) Special guarantee as to irreversibility of the effects of nationalizations and confiscations or any other means, to protection against any demands by third parties or of ex-holders of ex-nationalized or ex-confiscated assets and acquired rights, within the framework of the privatization system or of this corporate-development scheme;

c) Possibility of stipulating other special guarantees or advantages in concession agreements, which in light of the specificity, complexity, or particular size of the corporate project, were negotiated, deemed appropriate, and established in the concession agreement.

CHAPTER II.

Final and Transitory Provisions

ARTICLE 33

(Direct and regulated application)

1. The provisions of this law shall be regulated by Government decree without prejudice to the direct application of provisions that by their very nature do not need the intercession of regulatory provisions or those that relate to matters possessing their own regulation.

2. The provisions of pre-existing regulatory decrees relating to corporate-development matters and the exercise by citizens and national companies of their fundamental economic rights and freedoms, namely, regarding public funds, tax incentives and technical and financial assistance, previously regulated, must continue to be applied and interpreted in conformity with the regulations and principles of this law, without prejudice to their derogation insofar as they could run contrary to these provisions.

ARTICLE 34

(Safeguard of previous situations)

1. The enactment of this law does not prejudice the validity and effectiveness of the situations, rights and obligations constituted in the previous legal framework, under the terms of the pre-existing legal and regulatory decrees mentioned in the previous article.

2. The provision in No. 1 above does not hinder, nor in any other way prejudice, the obligation of the public parties, in cases in which it is deemed appropriate, from promoting the reformulation of their already-existing administrative and contractual procedures, in order to best adapt them to the regulations and principles of this law.

ARTICLE 35

(Enactment)

This law comes into force on the date of its publication.

Seen and approved by the National Assembly, in Luanda, ……. ..., 200..

Let it be published

Luanda, ……. ..., 200..

The Speaker of the National Assembly, Roberto António Victor Francisco de Almeida

The President of the Republic. JOSÉ EDUARDO DOS SANTOS

NATIONAL ASSEMBLY

Law Nº 8/03
of April 18, 2003

Law of Alteration to Privatization Law

Whereas the interpretation and application of articles 2 and 3, Nº 2, of Law Nº 19/91, of May 25, on the one hand and of Nº 3 of article 1 of Law Nº 10/94, of August 31, on the other, has resulted in situations that are not too clear with regard to powers to proceed with the divestment of the State's real-estate assets earmarked for commerce, hotels, industry and freelance professions:

Whereas there is still a need for the better adaptation and adjustment of the Privatization Law to the reality, with the regulatory authorities no longer playing such a key role:

Not only is it intended that conflicts of authority in the divestment process of the State's real-estate assets should be avoided, but also to define other aspects that enable improvements and agility;

In these terms, within the framework of paragraph *m)* of article 89 of the Constitutional Law, the National Assembly approves the following:

LAW OF ALTERATION TO PRIVATIZATION LAW

ARTICLE 1

(Scope)

Article 1 of Law Nº 10/94, of August 31, Privatization Law, shall hereinafter have a Nº 4 reading as follows:

«4. This law is the decree to which Nº2 of article 3 of Law Nº 19/91, of May 25, refers».

ARTICLE 2

(Definition of policy)

Article 3 of Law Nº 10/94, of August31, shall hereinafter read as follows:

«ARTICLE 3

(Definition of policy)

1. The Government shall be encharged with executing the privatizations policy in accordance with its program as approved by the National Assembly.

2. Ministers of Finance and those with regulatory powers shall, by means of a decree, be encharged with defining the model and modalities for the transfer of the ownership of buildings and corporate assets, state assets and shareholdings, which should be ratified by the Prime Minister, whenever major companies are involved.

3. The regulatory Minister shall be encharged with presenting strategy proposals for the privatization of companies, subject to the said Minister's regulatory powers, which are more suited to the goals of the respective strategies and sectorial policies.

4. The Office for Corporate Restructuring shall be encharged with issuing technical opinions with regard to the model and modalities for the transfer of ownership, ensuring the coordination of the technical execution of the respective processes, as well as consolidating the proposal for the Annual Privatization Program.

5. The Office of Corporate Restructuring shall be encharged with coordinating the divestment process and the transfer of ownership, as well as the State's stakes in companies and buildings earmarked for commerce, hotels, industry and freelance professions and others not earmarked for inhabitation, as well as the signing of leases and cessation-of-operation agreements or the practice of other legal acts with regard to same, in conformity with defined procedures and authorities».

ARTICLE 3

(Buildings not earmarked for inhabitation)

The management of leases on buildings earmarked for commerce, hotels, industry and freelance professions and others not earmarked for inhabitation, while not yet divested, is the responsibility of the Ministry of Urbanism and Environment.

As soon as the model is approved together with the modalities for the privatization of any particular building belonging to the State or a part of same that is earmarked for commerce, hotels, industry, freelance professions and others not earmarked for inhabitation, the management of leases signed with the Ministry of Urbanism and Environment, as well as income arising thereby, shall be subject to a concrete proposal made by the Negotiating Committee to the Minister of Finance, who shall make a decision on same.

For the purposes of public deeds referring to the sale of real-estate assets belonging to the State earmarked for commerce, hotels, industry, freelance professions and others not earmarked for inhabitation, legal stipulations on the subject shall be observed, namely that stipulated in Executive Decree Nº 68/94, of October 6, issued by the Minister of Justice.

ARTICLE 4

(Administration of public limited companies)

The directors of public limited companies are not mandatorily shareholders, with their being able to be any private individuals with full legal capacities or corporate entities provided that they accordingly designate the individual persons to hold office in their name.

Article 172 of the Companies Act is revoked in this part.

ARTICLE 5

(Management of processes)

Article 12 of Law Nº 10/94, of August 31, Privatization Law, shall henceforth read as follows:

«ARTICLE 12

(Management of processes)

1. The organization of the tender, assessment of proposals and the negotiation of each process, including those processes for limited tenders and direct adjustment, shall be conducted by a Negotiating Committee nominated for each process.

2. The said Committee shall be nominated by the Minister of Finance and shall be made up as follows:

Representative of the Ministry of Finance, who shall coordinate;

Representative of the body regulating the company;

Representative of the Office of Corporate Restructuring;

Representative of the Institute of Foreign Investment, whenever there is the prospect of foreign investment being involved in the process;

Representative of the company.

3. In the case of the divestment of real-estate assets belonging to the State, whenever mixed buildings are owned in condominium, that is to say, with apartments and offices of the company earmarked for commerce, hotels, industry, freelance professions and others not earmarked for inhabitation, a representative of the Ministry of Urbanism and Environment shall also sit on the Negotiating Committee.

4. Processes with regard to small autonomous parts earmarked for commerce, hotels, industry, freelance professions and others not earmarked for inhabitation shall be conducted under the terms of Decree Nº 34/89, of July 15».

ARTICLE 6

(Autonomy)

The Office of Corporate Restructuring is legally attributed administrative autonomy, as well as financial and patrimonial powers.

ARTICLE 7

(Regulation)

The Government shall, within a period of 90 days as of the publication of this law, regulate Nº 10/94, Privatization Law.

ARTICLE 8

(Resolution of doubts & omissions)

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

ARTICLE 9

(Enactment)

This law comes into force immediately.

Seen and approved by the National Assembly, in Luanda, February 28, 2003.

The Speaker of the National Assembly, *Roberto António Victor Francisco de Almeida*

Promulgated on March 27, 2003.

Let it be published.

The President of the Republic. JOSÉ EDUARDO DOS SANTOS

January 2005

Washington, D.C. – USA