

NATIONAL ASSEMBLY

Law 11/03

13th May

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:

PRIVATE INVESTMENT BASE LAW

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 State 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 Registro 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

- iii. foodstuff, construction materials, information technologies and communications;
 - iv. railroad, road, port and airport infrastructure;
 - v. telecommunications;
 - vi. fishing industry and by-products, including the construction of boats and fishing nets;
 - vii. energy and waters;
 - viii. housing construction;
 - ix. health and education;
 - x. 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