

ANGOLA

Legal News

(October/November/December 2003)

PRIVATE INVESTMENT

LAND FOR PRIVATE INVESTMENT PROJECTS – Pursuant to Decree No. 99/03, of 28 October 2003, Provincial Governments were granted authority to identify the territorial areas that may be assigned to investment projects, subject to approval from the Minister of Urbanism and Environment. The entity with powers to authorize the concession of these areas to private investors varies in accordance with the amount of the investment: when it is equivalent to USD 5 million or higher, authorization shall come from the Council of Ministers; when the investment is at least equal to USD 2 million but does not exceed USD 5 million, the concession is authorized by the Minister of Urbanism and Environment; when it is less than USD 2 million, authorization shall come from the Governor of the Province where the concession area is located. Investors must apply for the granting of the concession to the National Agency for Private Investment (“ANIP”), which is now the investor’s only contact for this purpose. At least until the entry into force of a new Land Law, the concession of an area for a private investment project shall involve the granting of surface rights, for a period of 25 to 45 years, renewable under conditions to be agreed.

REQUIREMENT TO CONTRACT ANGOLAN COMPANIES TO SUPPLY GOODS AND SERVICES TO THE PETROLEUM INDUSTRY – As per Order (Despacho) No. 127/03, of 25 November 2003, the Ministry of Petroleum regulated the obligation to hire Angolan companies for the supply of various goods and services to the oil industry. Under Order No. 127/03 all contracts for the supply of goods and services to the oil sector must be subject to public tender. The tender process may only be exempted by specific authorization from the Minister of Petroleum in cases of urgency, technical reasons or when there is an absence of other supply sources in the local market. Pursuant to Order No. 127/03 only companies at least 51% owned by Angolan nationals are allowed to take part in the tendering process for goods and services that require little investment and know-how. As for goods and services that require greater investment and know-how, foreign companies may participate in the tendering process, but certain services can only be provided by foreign companies in association with Angolan companies.

ADMINISTRATIVE

FINANCIAL RESPONSIBILITY OF PUBLIC SERVICES AND ENTITIES FOR EXECUTION OF CONTRACTS NOT APPROVED BY AUDIT COURT – Law No. 5/96, of 12 April 1996, subjects to prior review by the Audit Court a number of acts and contracts entered into by public entities; otherwise, such contracts produce no legal effect nor can they be executed. In order to force public entities to comply strictly with this formality, the Audit Court, by means of Resolution No. 7/03, of 21 October 2003, recommends that all services and entities under its jurisdiction to refrain from executing acts and contracts until they are approved by the Court, under pain of violators being personally responsible for payment of the costs associated with such acts and contracts.

OBLIGATION TO INCLUDE BUDGET-COVERAGE CLAUSES IN CONTRACTS EXECUTED BY STATE ENTITIES – As per Resolution No. 8/03, of 21 October 2003, the Audit Court directed that all state agencies and entities under its jurisdiction must include in their contracts a clause on the existence of budget coverage for committed costs, including the budgetary, functional and economic classification of said contracts.

FOREIGN EXCHANGE

ADJUSTMENT OF RULES FOR THE SETTING UP AND OPERATION OF BUREAU DE CHANGE – The Angolan Central Bank (“BNA”) approved Notices Nos. 14/03, 15/03, and 16/03, of 28 October 2003, which adjusted the rules for the setting up and operation of bureau de change. BNA issued new rules on, notably, the reduction of the minimum share capital to set up a bureau de change, the liberalization of exchange rates, as well as new rules on foreign exchange position limits and mandatory publications of information.

FISCAL

NEW PERSONAL INCOME TAX RATES – Executive Decree No. 62/03, of 7 November 2003, which revoked Executive Decree No. 16/01, of 12 April 2001, adjusted the rates of Personal Income Tax. This change of tax rates stems from the need to adjust the income levels of the tax brackets, in line with Angola’s current socio-economic situation so that there is greater balance in the distribution of the tax burden. Therefore, for example, taxpayers whose income is less than Kz 8,500.00 (equivalent to roughly USD 100,00) are now exempt, whereas previously only those whose income was less than Kz 2,000.00 were.

GENERAL

ADJUSTMENT OF FINES FOR BREACH OF HEALTH REGULATIONS – Since 1987 there is a set of Health Regulations in place in Angola (approved by Law No. 5/87, of 23 February 1987), which contain a number of rules aimed at protecting public health, such as the obligation to carry out regular medical examinations on restaurant and hotel staff. The Ministries of Finance and Health have adjusted the values of the fines for breach of said Health Regulations through Joint Executive Decree No. 58/03, of 7 October 2003. Fines are now denominated in Fiscal Correction Units (“UCF”), which means that such fines will be automatically updated. The current value of one UCF is Kz 38.00 (equivalent to USD 0.50). Thus, for example, if the employer does not have a medical examination certificate for the personnel he employs in restaurant or hotel activities, he will be subject to a fine of 1,000 UCF per worker, currently equivalent to Kz 3,800.00.

DEPOSIT OF BIBLIOGRAPHIC WORKS AND DATABASES WITH THE NATIONAL LIBRARY – Law No. 27/03, of 10 October 2003, makes it obligatory to deposit with the Angolan National Library a certain number of copies (from 2 up to 6) of any type of documentation that is part of the national bibliographic heritage. This heritage includes all works that are printed, published or edited in Angola or about Angola. Not only are the authors of the works required to register, but the same obligation impends upon the printing, typographic and reprographic companies. Databases must also be registered with the National Library, except for those of a military or security nature, by identifying the name of the technician responsible for the database and the location of back-up copies.

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