

REPUBLIC OF ANGOLA

DRAFT

LAW ON THE BASES

FOR

PRIVATE INVESTMENT

Law No. 11/03 of May 13, 2003

Private investment plays a crucial role in the development of the country's economy.

It is therefore necessary to establish a legal system of incentives for private investment which, without neglecting the essential interests of the State, is sufficiently attractive to potential investors, not only offering them credible guarantees of legal security and stability for their investments, but above all establishing clear rules and procedures, both simple and swift, for the respective approval proceedings.

In light of this, there is an urgent need to revive all the legislation in force on private investment, adopting for this purpose a legal framework which allows projects to be undertaken involving private investment whether from nationals or foreign investors.

Therefore, under Article 88, sub-paragraph (b), of the Constitution, the National Assembly hereby approves the following

LAW ON THE BASES FOR PRIVATE INVESTMENT

CHAPTER I General Provisions

Article 1 (Definitions)

1. For the purpose of this law, the following words and expressions shall have the meaning set opposite them:

- (a) **Private Investment** – *the use within Angolan territory of capital, equipment, and other goods or technology, or the use of funds for the setting up of new companies, or groups of companies, or other forms of corporate representation of private companies, both national and foreign, as well as the acquisition of all or part of existing Angolan companies.*
- (b) **Private Investor** – *any individual or organization, resident or non-resident, irrespective of nationality, who makes, under the terms of the preceding paragraph, investments within national territory, for the purposes referred to in such paragraph.*
- (c) **National Investor** – *any resident individual or organization, irrespective of nationality, who makes investments in the Country with capital domiciled in Angola, without the right to transfer dividends or profits abroad.*
- (d) **Foreign Investment** – *the introduction or use in national territory of capital, equipment or other goods or technology and know-how, or the use of funds with the right or susceptible of being transferred abroad under the current Foreign Exchange Law, for purposes of setting up new companies, or groups of companies, branch offices, or other form of corporate representation of foreign companies, as well as the acquisition of all or part of existing Angolan companies.*
- (e) **Foreign Investor** – *any non-resident individual or organization, irrespective of nationality, who brings into, or uses in, national territory, under the terms of the preceding paragraph, capital domiciled outside Angola, with the right to transfer profits and dividends abroad.*
- (f) **Resident** – *individuals or organizations with residence or head-offices in national territory.*

- (g) **Non-resident** – individuals or organizations with residence or head-offices abroad.
- (h) **Indirect Investment** – all national or foreign investment which takes one or more of the following forms: loans, shareholder loans, supplementary capital contributions, patented technology, technical processes, industrial secrets and models, franchising, registered trademarks, technical assistance and other forms of access to the use of the same, either through exclusive franchising or licensing limited to geographical areas or industrial and/or commercial sectors;
- (i) **Direct Investment** – all national and foreign investment which does not come within the definition of indirect investment set out in the preceding paragraph;
- (j) **ANIP** – the National Private Investment Agency or other body which replaces the same and is set up to deal with private investment;
- (k) **Relevant Authority** – The public authority or body with powers to approve private investment projects under this law;
- (l) **Special Economic Zones** – Investment zones deemed to be special, in accordance with criteria defined by the Government.

Article 2 (Subject Matter)

This law sets forth the general bases for private investment in the Republic of Angola and defines the principles governing the regime and procedures for access to incentives and facilities to be granted by the State for such investment.

Article 3 (Special Investment Regimes)

1. The regime for investment and access to incentives and facilities to be granted to private investments in the petroleum, diamond and banking industries shall be governed by special legislation, together with other situations to be determined and defined on special terms by the State.
2. The authorities with powers to approve the investments referred to in the preceding paragraph are nonetheless required to forward to the National Private Investment Agency (ANIP), within 30 days of approval of each investment, a report containing details of the respective total value, the investment location, the form, regime, number of new jobs created, and all other relevant information for purposes of registration, monitoring and centralized statistical control of private investment, save for any information which may not be disclosed under the law.
3. The provisions of this law shall apply to the investments referred to in paragraph 1 above on a subsidiary basis.

Article 4 (General Principles of the Investment Policy)

The policy for private investment and for the granting of incentives and facilities shall conform with the following general principles:

- (a) *Free enterprise, save in areas defined by law as reserved for the State.*

- (b) Guarantees of security and protection of investment;*
- (c) Equal treatment for national and foreign investors and protection of the rights of economic citizenship of nationals;*
- (d) Respect and full compliance with international agreements and treaties.*

Article 5
(Promotion of Foreign Investment)

1. The Government shall promote private investment policy, in particular in order to contribute decisively to the economic and social development of the country and the general welfare of the population.
2. The body responsible for implementing national policy with regard to private investment, and also for promoting, coordinating, supervising and overseeing private investment shall be the National Private Investment Agency, also referred to as “ANIP”.

Article 6
(Admissibility of Private Investment)

1. All types of private investment shall be admissible, provided they do not contravene legislation and the formal procedures in force.
2. Private investment may take the form of national or foreign investment.

Article 7
(National Investment Operations)

1. Under the terms and for the purposes of this law, the following acts and contracts, amongst other considered as such, shall qualify as national investment operations:
 - (a) Use of national currency or freely convertible currency;*
 - (b) Use of technology and know-how;*
 - (c) Use of machinery and equipment;*
 - (d) Conversion of credits deriving from any type of contract;*
 - (e) Capital holdings in companies and enterprises existing under Angolan law and domiciled in national territory;*
 - (f) Financial resources deriving from loans;*
 - (g) Incorporation of new companies wholly owned by private investors;*
 - (h) Expansion of companies or other forms of corporate representation of companies;*
 - (i) Acquisition of all or part of existing companies or groups of companies;*
 - (j) Subscription or acquisition of holdings in new or existing companies or groups of companies, in whatever form;*

TRANSLATION

- (k) Conclusion and amendment of consortium agreements, associations in participation, joint ventures, third parties association with equity shares or holdings, and any other permitted form of association agreement, even if not provided for in the commercial law in force;*
- (l) Total or partial takeover of commercial and industrial establishments through acquisition of assets or through assignments of business operation;*
- (m) Total or partial takeover of agricultural companies, through leases or any agreements which involve the exercise of possession and operation rights by the investor;*
- (n) Operation of real estate complexes, for tourism or other purposes, in whatever legal form;*
- (o) Provision of supplementary capital contributions, shareholder advances and, in general, loans associated with profit sharing;*
- (p) Acquisition of immoveable property located in national territory, when such acquisition is part of private investment projects;*
- (q) The granting, in specific cases, and on terms agreed and permitted by the relevant authorities, of land use rights, rights relating to patented technologies and registered trademarks, where the remuneration is limited to the distribution of profits derived from the business in which such technologies or trademarks have been or are applied;*
- (r) Assignment of the operation of rights over concessions and licenses and rights of an economic, commercial or technological nature.*

Article 8 (Forms of National Investment)

Private investment operations may take one or more of any of the following forms:

- (a) Allocation of own funds;*
- (b) Investment in Angola of funds existing in bank accounts held by residents or non-residents in Angola;*
- (c) Allocation of machinery, equipment, accessories and other materials;*
- (d) Capitalization of credits and other assets of the private investor which may be used in undertakings;*
- (e) Capitalization of technology and know-how.*

Article 9 (Foreign Investment Operations)

1. Under the terms and for the purposes of this law, the following acts and contracts made or entered into without recourse to the country's foreign exchange reserves, shall qualify as foreign investment operations, amongst other considered as such:

- (a) The bringing of freely convertible currency into national territory;*

TRANSLATION

- (b) The introduction of technology and know-how;*
- (c) The introduction of machinery and equipment;*
- (d) Capital holdings in companies and enterprises existing under Angolan law and domiciled in national territory;*
- (e) Financial resources deriving from loans granted abroad;*
- (f) Setting up and expansion of branch offices or other forms of corporate representation of foreign companies;*
- (g) Incorporation of new companies wholly owned by foreign investors;*
- (h) Acquisition of all or part of existing companies or groups of companies and subscription and acquisition of capital in new or existing companies or groups of companies, in whatever form;*
- (i) Conclusion and amendment of consortium agreements, associations in participation, joint ventures, third party association with equity shares and holdings, and any form of association agreement permitted in international trade, even if not provided for in the commercial law in force;*
- (j) Total or partial takeover of commercial and industrial establishments through acquisition of assets or through assignments of business operation;*
- (k) Total or partial takeover of agricultural companies, through leases or any agreements which involve the exercise of possession and operation rights by the investor;*
- (l) Operation of real estate complexes, for tourism or other purposes, in whatever legal form;*
- (m) Provision of supplementary capital contributions, shareholder advances and, in general, loans associated with profit sharing;*
- (n) Acquisition of immovable property located in national territory, when such acquisition is part of private investment projects;*

2. Operations which consist of the temporary freighting of vessels, aircraft or other resources which may be rented, leased or used on any other temporary basis in national territory for consideration shall not qualify as foreign investment.

3. Authorization by the ANIP shall not be required for the introduction of capital of a value of less than USD 100,000.00 (one hundred thousand United States Dollars), nor shall such operations qualify for the right to repatriation of dividends, profits and other advantages provided for in law.

Article 10
(Forms of Foreign Investment)

1. Foreign investment operations may take one or more of any of the following forms:

- (a) Transfer of funds from abroad;*

- (b) Investment of funds in bank accounts in foreign currency, held in Angola by non-residents;*
- (c) Importation of machinery, equipment, accessories and other materials;*
- (d) Capitalization of technology and know-how.*

2. The investment operations stated in (c) and (d) above shall be made in all cases by the transfer of funds from abroad, namely to cover incorporation and installation costs.

CHAPTER II Rights and Duties

SECTION I Rights

Article 11 (Private Investment Status)

Companies and enterprises incorporated in Angola for the purpose of obtaining facilities and incentives for private investment, even when incorporated with capital from abroad, shall qualify, for all legal purposes, as companies and enterprises existing under Angola law, and shall be subject to general Angolan law, save as otherwise provided for herein or in specific legislation.

Article 12 (Equality of Treatment)

1. Under the Constitution and the principles forming the legal, political and economic order of the country, the Angolan State shall guarantee, irrespective of the origin of the capital, fair, non-discriminatory and equitable treatment to companies and enterprises incorporated and to their respective assets, assuring them protection and security and not hindering, in any way, their management, maintenance or operation.
2. Any discrimination between investors is strictly prohibited.
3. Foreign investors are guaranteed the rights deriving from the ownership of the resources they invest, namely the right to dispose freely of the same, on the same terms as national investors.

Article 13 (Transfer of Profits and Dividends)

Once a private foreign investment has been implemented, and on presentation of proof that such investment has been made in accordance with the rules established herein, it is hereby guaranteed the right to transfer abroad the following, on the terms defined herein and in foreign exchange legislation:

- (a) Dividends or profits distributed, after deduction of legal depreciation and taxes due, in view of the respective holdings in the share capital of the company or enterprise;*
- (b) The proceeds resulting from liquidation of investments, including capital gains, after payment of the taxes due;*

TRANSLATION

- (c) Any sums which may be due, after deduction of the respective taxes, as provided for in acts or contracts which qualify as private investment under this law;*
- (d) The proceeds of indemnities under Article 15.3 and 15.4;*
- (e) Royalties or other earnings resulting from payments of indirect investments, associated with the transfer of technology.*

Article 14 (Protection of Rights)

1. The Angolan State guarantees all private investors the right of access to the Angolan Courts for the defense of their rights and due legal procedure.
2. In the event of the assets constituting private investment being expropriated for strong reasons and justified public interest, the State guarantees payment of a fair, prompt and effective compensation, of an amount to be determined in accordance with the applicable terms of the law.
3. The assets of private investors shall not be nationalized.
4. In the event of changes to the political and economic regime, resulting in exceptional nationalization measures, the State hereby guarantees fair and prompt compensation in cash.
5. The State hereby guarantees companies and enterprises constituted for the purpose of private investment total protection and respect for professional, banking and trade secrets.
6. The rights granted to private investments under this law shall be guaranteed without prejudice to others deriving from agreements and conventions to which the Angolan State is party.

Article 15 (Specific Guarantees)

1. Intellectual property rights and rights over all intellectual creations are hereby guaranteed under the legislation in force.
2. Rights which may be acquired over the land and other domanial resources are hereby guaranteed under the legislation in force, or any legislation which may subsequently be approved.
3. It is hereby guaranteed the public non-interference in the management of private companies and in price formation, save as expressly provided for in the law.
4. The State hereby guarantees that licenses shall not be cancelled, without the respective judicial or administrative procedures.
5. The right to import goods directly from abroad and to export autonomously products produced by private investors is hereby guaranteed.

Article 16 (Recourse to Credit)

Private investors may have recourse to credit within Angola or abroad, under the legislation in force.

SECTION III

Duties

Article 17

(General Duties of Private Investors)

Private investors shall undertake to abide by the laws and regulations in force, and by contractual undertakings, being subject to the penalties defined therein.

Article 18

(Specific Duties of Private Investors)

In particular, private investors shall:

- (a) Comply with the deadlines for the importation of capital and for implementation of the investment project, in accordance with the commitments assumed;*
- (b) Promote the training of Angolan workers and the gradual Angolanization of management and other positions of responsibility;*
- (c) Create funds and reserves and make provisions in accordance with the legislation in force;*
- (d) Apply the accounting plan and the accounting rules in force in the country;*
- (e) Comply with rules relating to environmental protection, health and safety at work for the prevention of occupational illnesses, accidents at work and other eventualities provided for in social security legislation;*
- (f) Take out and maintain updated insurance against accidents at work and occupational illnesses suffered by its employees, together with third party insurance and insurance against environmental damage.*

CHAPTER III

Registration and Procedural Rules

SECTION I

Registration

Article 19

(Registration of Private Investment Operations)

1. All private investment operations which qualify for the advantages defined herein shall be registered with ANIP.
2. The registration shall be made after the approval by the relevant authority, irrespective of the form of the investment.

Article 20

(Certificate of Private Investment Registration)

1. Once the private investment proposals have been approved, the ANIP shall issue a Private Investment Registration Certificate, hereinafter called "CRIP", granting the holder the right to invest under the terms specified on such certificate.

2. The CRIP shall state the complete identity of the investor, the procedural regime, the size of the investment and the respective economic and financial characteristics, the form in which the investment is to be made, the deadline for making the investment, the investment location and the date and signature of the highest ranking director of the ANIP, authenticated by the embossed seal used by the agency. On the reverse, the CRIP shall state the rights and duties of private investors as set forth herein, and be signed by the private investor or his legal representative.

Article 21
(Legal Effects of CRIP)

1. Once duly issued, the CRIP shall qualify as title of private investor.
2. CRIPs shall serve as documentary proof of acquisition of the rights and acceptance of the duties of private investors as set forth herein, and shall serve as the basis for all investment operations, access to incentives and facilities, for obtaining licenses and registration, resolution of disputes and other facts deriving from the granting of facilities and incentives.
3. The rights granted by CRIPs may be exercised directly by the holder or by a legal representative duly mandated.

SECTION II
Access to Incentives and Facilities

Article 22
(Objectives of the Granting of Incentives and Facilities)

The incentives and facilities provided for herein shall only be granted when the respective investments allow the achievement of one of the following economic and social objectives:

- (a) Stimulate economic growth;*
- (b) Promote the economic, social and cultural well being of the population, in particular of young people, senior citizens, women and children;*
- (c) Promote the more disadvantaged regions, specially in the interior of the country;*
- (d) Increase the country's industrial capacity or raise the value added;*
- (e) Create partnerships between national and foreign individuals and organizations;*
- (f) Favour the creation of new jobs for Angolan workers and to increase the skill level of the Angolan workforce;*
- (g) Obtain the transfer of technology and increase industrial efficiency;*
- (h) Increase exports and reduce imports;*
- (i) Increase foreign exchange holdings and improve the balance of payments;*
- (j) Promote effective supply of the domestic market;*
- (k) Promote technological development, corporate efficiency and product quality;*

TRANSLATION

- (l) *Rehabilitate, expand or modernize infrastructures intended for economic activity.*

Article 23
(Monetary Access Requirements)

Investment operations which meet the following monetary requirements shall be permitted access to incentives and facilities:

- (a) A minimum amount of investment for capital domiciled in Angola, belonging to Angolan nationals, of USD 50,000.00;
- (b) A minimum amount of investment for capital domiciled abroad, irrespective of the nationality of the investor, of USD 100,000.00.

Article 24
(Economic Interest Requirements)

Investment operations which meet the following requirements for economic interest shall be permitted access to incentives and facilities:

- (a) *Investment operations in the following economic sectors:*
- i. Agriculture and cattle farming;*
 - ii. Manufacturing industry, namely the manufacture of packaging, production of machinery, equipment, tools and accessories, manufacture of textiles, clothing and footwear, manufacture of wood and by-products, production of foodstuffs, construction materials, information and communication technology;*
 - iii. Rail, road, harbor and airport infrastructures;*
 - iv. Telecommunications;*
 - v. Fisheries and related by-products, including construction of vessels and manufacture of nets;*
 - vi. Energy and water;*
 - vii. Housing promotion.*
- (b) *Investments in development zones and other special economic zones for investment, approved in accordance with criteria and priorities defined by the Government.*
- (c) *Investments in free trade zones to be created by the Government, in accordance with a specific law on this subject.*

Article 25
(Procedural Regimes)

Access to incentives and facilities for private investment operations shall be processed under two procedural regimes:

- (a) *Prior Declaration Regime;*
- (b) *Contractual Regime.*

SECTION III
Prior Declaration Regime

Article 26

(Prior Declaration)

Investment proposals with a value equal to or greater than the equivalent to USD 50,000.00 (fifty thousand United States Dollars), for national investors, or USD 100,000.00 (one hundred thousand United States Dollars), for foreign investors, up to a maximum amount equivalent to USD 5,000,000.00 (five million United States Dollars) shall be subject to the prior declaration regime, as set forth herein.

**Article 27
(Powers)**

The ANIP shall have powers to approve or reject investment procedures under the prior declaration regime.

**Article 28
(Submission of Proposal)**

The private investment proposal shall be submitted to ANIP together with the document required for the identification and legal classification of the investor and the planned investment.

**Article 29
(Correction of Proposals)**

If the proposals submitted are defective or insufficient, the relevant authority shall notify the proponent, setting a deadline for correcting or improving the proposal.

**Article 30
(Review of Proposals)**

1. After receipt of the proposal, and when all legal and procedural formalities have been completed, the ANIP shall have a period of 15 (fifteen) days to review the proposal and reach a decision.
2. Review of the proposal shall seek to provide advance knowledge of the project and the respective economic and financial details, and to assess the relevance of the application for the granting of facilities and exemptions requested by the private investor.

**Article 31
(Rejection of Proposals)**

1. Proposals may only be rejected on strictly legal grounds, and ANIP shall notify the proponent of such grounds within the 15-day deadline provided for in Article 30.1, expressly indicating the adjustments which the investor should make.
2. A petition challenging the decision to reject a proposal may be submitted to ANIP, or an appeal brought to the entity supervising ANIP, under the rules on administrative procedure.
3. If the investor agrees with the causes invoked by ANIP for rejection of the proposal, he may correct the errors or inaccuracies in the proposal and re-submit it.

**Article 32
(Acceptance of Proposal)**

1. If the proposal is not expressly rejected within the 15 (fifteen) day deadline referred to in the preceding Articles, it shall be deemed accepted, and shall entitle the proponent to carry out the investment on the terms set out in the proposal submitted.
2. To this end, ANIP shall register and issue, within five days of receiving a formal application from the investor, the Private Investment Registration Certificate (CRIP); should the investor fail to obtain the CRIP within this period, the investor may file a petition or an appeal, as provided under administrative law.

SECTION IV Contractual Regime

Article 33 (Investment Contract)

1. An investment contract is an administrative contract, entered into between the State, represented by ANIP, and the private investor.
2. A private investment contract sets out the rights and duties of the parties, and shall contain the following essential information:
 - (a) *Identification of the parties;*
 - (b) *Administrative nature and subject matter of the contract;*
 - (c) *Duration of the contract;*
 - (d) *Definition and quantification of the objectives to be undertaken by the private investor for the duration of the contract;*
 - (e) *Definition of the conditions for operation, management, association and deadlines in the undertakings to which the private investment contract relates;*
 - (f) *Definition and quantification of the facilities, fiscal benefits and other incentives to be granted and guaranteed by the State to the private investor, in return for precise and prompt attainment of the objectives established;*
 - (g) *Procedures for monitoring by ANIP of the investment activities over the contract period;*
 - (h) *Form of dispute resolution;*
 - (i) *General definition of the foreseen economic and social impact of the project.*
3. The investment contract is executed in the form of a private document, the respective original being filed at ANIP offices.
4. Private investment contracts may provide that disputes as to their interpretation and implementation may be resolved by arbitration.
5. In the cases referred to in the preceding paragraph, the arbitral proceedings shall take place in Angola and the contract shall be governed by Angolan laws .

Article 34 (Scope)

TRANSLATION

Proposals which meet the following conditions shall be subject to the contractual regime:

- (a) Investments of more than or equal to USD 5,000,000.00 (five million United States Dollars);*
- (b) Irrespective of value, investments in business sectors which under the law may only be carried out on a concession basis;*
- (c) Irrespective of value, investments in business sectors which, under the law, may only be carried out with the participation of public sector companies;*

Article 35
(Powers and Form of Approval)

Investment projects subject to the contractual regime shall be approved by the Council of Ministers.

Article 36
(Submission of Proposal)

The private investment proposal shall be submitted to ANIP, together with the documents required for the identification and legal, economic, financial and technical characterization of the investor and the planned investment, and in order to assess the relevance of the application for access to facilities and exemptions requested by the investor.

Article 37
(Correction of Proposals)

If the proposals submitted are defective or insufficient, ANIP shall notify the proponent, within 15 days of the date of submission, setting a deadline for correction or improvement of the proposal.

Article 38
(Review of Proposal)

1. Once a proposal has been admitted, ANIP shall have a period of 30 (thirty) days from the date of submission of the proposal in order to review it and comment.
2. During this period, ANIP shall analyze and assess the proposal, and initiate negotiations with the investor, consulting such public administrative bodies or other institutions as it sees fit.
3. When negotiations with the investor have been concluded, ANIP shall issue a recommendation containing a legal, technical, financial and economic review of the project and the application for facilities and exemptions submitted by the investor, and shall forward such recommendation, together with a draft contract, for approval by the relevant authority, which shall have thirty (30) days in which to reach a decision.

Article 39
(Approval of Investment Proposal)

If the relevant authority decides to approve the proposal, the draft shall be returned to ANIP for signature of the contract, registration and issue of the respective CRIP, with private investment operations commencing thereafter.

Article 40
(Rejection of Proposal)

1. If the relevant authority decides to reject the proposal, the proponent shall be formally notified of this by ANIP, setting out the precise causes for rejection, which may only be based on:

(a) Legal grounds

(b) Inappropriateness of the planned investment, in the light of the development strategy defined by the sovereign bodies or the objectives established in the economic and social development plan.

2. A petition or an appeal may be brought against a decision of rejection pursuant to administrative procedural rules.

3. If the investor agrees with the causes invoked by the relevant body as grounds for rejecting the proposal, he may correct the faults or inaccuracies and re-submit the proposal.

CHAPTER IV
Fiscal and Foreign Exchange Regime

Section I
General Rules

Article 41
(General Principle)

Individuals and organizations covered by this law shall be subject to compliance with the fiscal legislation in force, enjoying the same fiscal benefits set forth therein and being subject to the same penalties.

Article 42
(Tax on Transfers)

1. Transfers abroad, sales and other transactions, made by private investors, within the framework of the rights set out in this law, shall be subject to capital gains tax withheld at source, under the fiscal and tax legislation and the special tax regime for private investment.

2. After the investment capital has been recouped, in accordance with the legislation on this matter, the remittance of profits and dividends abroad shall be taxed, during the first 5 years, at 50% more than the value of tax prior to such recouping. After the first five years, such remittances shall be taxed at 100% more than such value.

3. Profits and dividends from private investments which are reinvested shall be exempt from capital gains tax.

**Article 43
(Double Taxation)**

1. The Government shall seek to conclude international agreements with as many countries as possible with a view to avoiding double taxation.
2. Proof of payment of taxes in Angola shall be provided to foreign investors to serve as proof that taxes charged in the countries of origin of the respective investors have been paid abroad.

**Article 44
(Allocation of Fiscal Revenues)**

1. Twenty five per cent of all fiscal revenues derived from taxes collected from private investment shall be used to set up and develop the new private investment system in Angola, in particular for the purpose of increasing the capacity of national entrepreneurs and internationalizing the Angolan economy, on terms to be regulated.
2. These revenues shall be part of the General State Budget and shall be managed by ANIP as the body responsible for coordinating the new private investment system in Angola.

**Section II
Fiscal Benefits and Foreign Exchange Regime**

**Article 45
(Fiscal Benefits)**

Investments made under this law shall enjoy incentives and fiscal benefits, detailed in separate legislation.

**Article 46
(Foreign Exchange Regime)**

1. The foreign exchange operations associated with the acts referred to in Article 6 shall be subject to the rules established in foreign exchange legislation.
2. The following special rules are hereby set forth for private investment operations:
 - (a) *Use of the foreign exchange market of floating rates, freely negotiated in accordance with the laws of supply and demand;*
 - (b) *Private investors shall negotiate solely with duly authorized financial institutions;*
 - (c) *Possibility of the private investors acquiring their own foreign currency, either to be brought into the country, or for transfers abroad, under the terms of this law;*
3. The financial institutions legally authorized to trade in foreign exchange and private investors who have recourse to such institutions shall be jointly and severally liable for the regular and smooth conduct of the transactions in which they take part under this law. The Government shall regulate the forms of supervising and controlling these activities.
4. Individuals or organizations which promote irregular remittances of foreign currency abroad, in breach of the rules established for private investment, shall repatriate to Angola the foreign currency irregularly transferred, plus a fine of 200% of the value of the irregular remittance.

Article 47
(Suspension of Remittances Abroad)

1. Transfers abroad, guaranteed under this investment law, shall be suspended by the Council of Ministers whenever they are of such a value as may cause serious disruptions to the balance of payments, in which case the governor of the National Bank of Angola may determine, as an exceptional measure, that such transfers be phased over a period of time to be negotiated by mutual agreement.
2. For the duration of a situation of imbalance in the balance of payments, the Government may create temporary para-fiscal charges on imports and transfers abroad relating to travel, in order to create a monetary reserve at the National Bank in order to reinforce foreign exchange reserves and holdings.
3. The Government shall issue regulations on the actual forms in which remittances are suspended and resumed and in which the para-fiscal charges referred to in this Article are collected.

CHAPTER V
Importation of Capital, Machinery and Equipment

Article 48
(Importation of Capital)

1. Licensing of capital importation operations shall be requested directly by the proponent from the National Bank of Angola, through a credit institution authorized to trade in foreign exchange, by means of presentation of the Private Investment Registration Certificate (CRIP).
2. For the purposes referred to in paragraph 1 of this Article, after approval of the investment and once the CRIP has been issued, ANIP shall immediately forward by official letter to BNA, with copy to the investor, a copy of the CRIP and all other relevant details in order for BNA to license the capital importation operations requested by the respective investors.
3. BNA shall license the capital operations referred to in this Article within a maximum of 15 days of receipt of the application referred to in the preceding paragraphs, the applicant being notified within 5 days of any inaccuracy in such application.
4. BNA shall forward to ANIP reports on foreign exchange operations made in connection with private investment, whenever such operations take place.

Article 49
(Importation of Machinery, Equipment and Accessories)

Operations related to machinery, equipment and other materials brought into the country for investment benefiting from the facilities and exemptions provided for in this law, shall be registered with the Ministry of Commerce upon presentation of the Private Investment Registration Certificate (CRIP), issued in accordance with the formal requirements defined in this law for the issuing of such certificate.

Article 50
(Registration Value of the Equipment)

TRANSLATION

Private investment in the form of the importation of machinery, equipment and related components, new or used, shall be registered at CIF (cost, insurance and freight) value in foreign currency and the respective equivalent amount in national currency, at the exchange rate ruling at the date of disembarkation.

Article 51
(Exemption from Customs Duties)

1. Without prejudice to provisions which may be made in relation to the listing of the types and quantities of goods exempt from customs charges and duties in special legislation on this matter, the importation of machinery, equipment and related components to be incorporated in the capital invested under this law shall be exempt from customs charges and duties.

2. For used machinery, equipment and accessories, the exemption provided for in the preceding paragraph shall be reduced to 50%.

Article 52
(Prices of Machinery)

1. Proof shall be provided of the price of machinery and equipment in the form of a reliable document issued by the pre-shipment inspection authority.

2. Over-invoicing of the prices of equipment and machinery imported under this law shall be a foreign exchange offence and be subject to payment of a fine of up to 200% of the real value of the machinery, depending on the seriousness of the case, without prejudice to other penalties provided for in law.

3. Variations in price of up to 5% of the real value of equipment and machinery shall not qualify as an offence.

4. Any person who falsely imports or assigns a false value to machinery, equipment or other goods, benefiting from the advantages offered by this law, shall be deemed to commit the crime of falsification of merchandise or of misrepresentation under the criminal law in force.

CHAPTER VI
Implementation of Investment Projects

Article 53
(Execution of Projects)

1. Implementation of investment projects shall commence within the deadline established in the respective CRIP and/or Investment Contract.

2. In duly justified cases and upon request of the private investor, the deadline referred to in this preceding paragraph may be extended by the ANIP.

3. Private investment projects shall be implemented and managed in strict compliance with the terms of the authorization and the relevant legislation, and contributions from abroad may not be applied in a way or for a purpose other than those for which they have been authorized, nor may such contributions be diverted from the object for which they were authorized.

Article 54
(Labor Force)

TRANSLATION

1. Companies and enterprises incorporated for the purposes of private investment shall employ Angolan workers, guaranteeing them the necessary vocational training and providing them with salary and other employment terms compatible with their qualifications, any type of discrimination being prohibited.
2. Companies and enterprises incorporated for the purposes of private investment may, in accordance with the legislation in force, employ qualified foreign workers, whilst complying with a rigorous plan for training and/or development of Angolan technical staff with a view to the gradual occupation of these posts by Angolan workers. The training plan referred to in this paragraph shall be included with the documentation to be submitted to the relevant authority for the purpose of approval of the investment.
3. Foreign workers hired for private investment projects shall enjoy the right to transfer their salary abroad, after complying with the legal formalities and deduction of the taxes due.
4. Qualified Angolan workers resident abroad for foreign exchange purposes for more than five years may be hired, enjoying the same benefits and rights as assigned to foreign workers. Scholarship recipients, diplomats and all those performing temporary duties abroad are excluded from the provisions of this paragraph.
5. Foreign workers hired on the terms of the preceding paragraphs shall be subject to the laws in force in the Republic of Angola.

Article 55 (Bank Accounts)

1. Under Angolan law, private investors must have accounts with banks domiciled in Angola, in which they shall deposit the respective financial resources and through which they shall make all domestic and foreign payment operations relating to the investment approved under this law.
2. Private investors may, as they see fit and at their own risk, keep in their bank account monies in foreign currency and partially convert them into national currency in order to carry out gradually the operations provided for in the preceding paragraph and to paid-up capital of the company or private undertaking to be incorporated.
3. Commercial banks are prohibited from automatically converting currency imported and deposited in foreign currency accounts for the purpose of private investment operations.

Article 56 (Monitoring)

In order to facilitate the monitoring of the implementation of authorized private investments, companies shall provide annually to the relevant authority, information on the development and the profits and dividends of undertakings, completing the form sent to them for this purpose by ANIP, which agency may have recourse to the relevant bodies of the Ministry of Finance in order to ensure compliance with this rule.

Article 57 (Incorporation and Amendment of Companies)

1. If the investment project involves the incorporation or amendment of companies, such acts shall be formalized by notary deed.

TRANSLATION

2. No notary deed relating to acts which qualify as foreign investment operations as defined herein may be drawn up without presentation of the CRIP issued by ANIP and the relevant capital importation license issued by BNA, in accordance with this law, and under penalty of nullity of the acts to which it relates.
3. Companies incorporated for the purpose of foreign investment, under the terms and for the purposes established herein, shall provide proof that the share capital has been paid up in full, within 90 days of the date of issue of the capital importation license by BNA, under penalty of nullity of the acts of incorporation of the company, in accordance with the legislation in force.
4. The ANIP, acting in coordination with BNA, shall have powers to terminate and request the nullity of acts of incorporation of companies carried out in contravention of the provisions of paragraphs 2 and 3 of this Article.

Article 58 (Expansion of the company object)

1. The expansion of the object of a company or enterprise to include areas of business not included within the scope of the investment authorization, which implies alteration of the structure of the facilities and exemptions granted and the values to be transferred abroad, if applicable, shall require the prior authorization of the ANIP.
2. Any increase in capital for investment projects in progress shall be approved by BNA.
3. The ANIP shall be notified of any increase in the share capital of companies incorporated for the purposes of foreign investment which do not involve the importation of capital.

Article 59 (Registration with Companies Registry)

1. Companies incorporated for the purpose of investments approved under this law, and any amendment to existing companies for the same purposes, shall be registered with the Companies Registry under the legislation in force.
2. Branch offices and other forms of representation of foreign companies shall also be registered with the Companies Registry, being this registration dependant on presentation of the license issued by the National Bank of Angola and on the documents that will be registered containing the mark of the relevant authority.

Article 60 (Assignment of Foreign Investment Contract)

1. The total or partial assignment of the contract or of the capital holdings relating to the foreign investment shall require the prior authorization of the ANIP, and at all times the national investor concerned, if any, shall have a right of first refusal under equal circumstances.
2. The right of first refusal referred to in the preceding paragraph shall be of a legal nature, and failure to observe the same may be challenged by any interested party who considers that his interests have been damaged, within 180 days of the date of transfer of the disputed contract assignment.

Article 61 (Tendering and Direct Negotiation Procedures)

In the event of private investment projects being preceded by open tendering or direct negotiation procedures, the procedures established herein shall apply, adapted as may be necessary or convenient.

Article 62
(Winding up and Liquidation)

1. Companies and enterprises incorporated for the purpose of investments made under this law shall be wound up in the cases provided for in the respective articles of association or incorporation title, and also:

- (a) On expiry of the term established in the investment contract;*
- (b) By resolution of the shareholders, provided that the duties deriving from the CRIP and/or application of the investment contract have been performed;*
- (c) On full attainment of the company objects or in the event of supervening impossibility, as confirmed by ANIP;*
- (d) On failure to pay the essential capital for the operation of the undertaking within the deadline established in the authorization, provided that the duties deriving from the CRIP and/or the private investment contract have been performed;*
- (e) In the event of the company objects becoming unlawful, due to supervening circumstances;*
- (f) On bankruptcy of the company;*
- (g) Due to manifest deviation from the attainment of the objects of the undertaking;*
- (h) In all other cases provided for in the legislation in force.*

2. In the cases provided for in sub-paragraphs (a), (d), (e) and (g), the initiative to wind up companies or enterprises may be taken by ANIP.

3. Companies or enterprises incorporated for foreign investment purposes shall be wound up and liquidated in accordance with the commercial legislation in force.

CHAPTER VII
Offences and Penalties

Article 63
(Offences)

1. Without prejudice to the provisions of other legislation, willful or negligent breach of the legal duties to which a private investor is subject under this law and other legislation on private investment shall qualify as an offence.

2. The following shall namely qualify as offences:

- (a) The use of contributions from abroad for purposes other than those for which they have been authorized;*
- (b) Carrying out business outside the scope of the authorized project;*

TRANSLATION

- (c) The issuing of invoices which permit the outflow of capital or which elude the duties to which the company or association is subject, namely those of a fiscal nature;*
- (d) Failure to provide training or to replace foreign workers by Angolan workers on the terms and within the deadlines established in the investment proposal;*
- (e) Failure to submit the annual information referred to in Article 56 of this law.*

**Article 64
(Penalties)**

1. Without prejudice to other penalties especially provided under the law, the offences referred to in the preceding Articles shall be subject to the following penalties:

- (a) A fine, varying between the equivalent of one thousand to one hundred thousand United States Dollars, the lower and upper limits being doubled in the event of a repeated offence;*
- (b) Forfeit of exemptions, fiscal incentives and other facilities granted;*
- (c) Cancellation of investment authorization.*

2. Failure to carry out projects within the deadlines established in the authorization or within any extension granted may also be subject to the penalty provided for in sub-paragraph (c) of the preceding paragraph.

**Article 65
(Powers to apply penalties)**

1. The penalty provided for in sub-paragraph (a) of the preceding Article shall be applied by ANIP and that provided for in sub-paragraph (c) by the authority which approved the investment under this law.

2. The penalty provided for in sub-paragraph (b) of the preceding Article shall be applied under the terms of the specific legislation on the matter.

**Article 66
(Procedures and Appeals against Penalties)**

- 1. The private investor concerned shall be heard prior to any penalty being applied.
- 2. In determining the penalty to apply, all the circumstances surrounding the offence, the degree of fault, the benefits sought and obtained through the offence and the damages resulting therefrom shall be taken into account.
- 3. Private investors may file a petition or appeal against decisions to apply penalties under the terms of the legislation in force.

**CHAPTER VIII
Final and Transitional Provisions**

**Article 67
(Previous Investment Projects)**

TRANSLATION

1. This law and its regulations shall not apply to investments authorized before they came into force, which investments shall continue, until completion, to be governed by the provisions of the legislation and the terms of the specific contracts under which the authorization was granted.
2. However, private investors may apply to ANIP to have their projects that have already been approved subject to the provisions of this law, and the relevant authority shall decide on approval of the same, in accordance with the value and/or characteristics of the project, under the terms of this law.
3. Investment projects pending on the date on which this law comes into force shall be reviewed and a decision reached under this law, the procedures already followed being accepted, adapted as necessary.

Article 68
(Repeal of Legislation)

1. Law No. 15/94, of 23 September 1994, is hereby repealed, together with all legislation which is inconsistent with the provisions hereof.
2. The regulations governing private investment shall continue to be applied insofar as they are not inconsistent with the provisions hereof, and until such time as they may be revised.

Article 69
(Regulations)

The Government shall issue regulations for this law on the bases for private investment whenever effective application requires further clarification and detail on the rules and principles contained herein.

Article 70
(Doubts and omissions)

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

Article 71
(Effective Date)

This law shall come into force fifteen days after publication in the Diário da República.

Seen and approved by the National Assembly

Be it published

Luanda, 2003

The President of the National Assembly, Roberto de Almeida

The President of the Republic, José Eduardo dos Santos