

Angola

Private Investment Law (2015)

Unofficial translation

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The year indicated in brackets after the title of the law refers to the year of publication in the Official Gazette or, when this is not available, the year of adoption of the law.

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Private Investment Law

Law No. 14/15

Official Gazette

[Preamble]

The legal framework on private investment currently in force is no longer adjusted to the bearing that this important instrument of the policies for promotion and attraction of direct foreign investment has on the dynamics of the economic development of the Country;

Private investment, alongside public investment, continues to be a strategic design of the State, for the attraction and mobilization of human, financial, material and technological resources, with a view to the Country's economic and social development, the diversification of the economy and the increase of its competitiveness, the growth of employment supply and the improvement of the populations' living conditions;

Taking into account that the need has arisen to de-bureaucratize, the procedures for the approval of investments, and well as to adapt the fiscal and customs incentives and benefits system to the current dynamics of the economy of the Country, making them more attractive to investors;

The National Assembly, acting by mandate of the people and under the combined provisions of Articles 165.2 and 166.2(d) both of the Constitution of the Republic of Angola, hereby approves the following:

Chapter I. General provisions

Article 1. Subject matter

This law sets forth the general bases for private investment in the Republic of Angola, and defines the principles and the framework for access to the incentives and other facilities to be granted by the State for such type of investment.

Article 2. Scope

- 1) This law applies to foreign investments in any amount, and to national investments in an overall amount equal to or higher than fifty million kwanzas (Kz.50,000,000.00).
- 2) This private investment regime shall not apply to investments made by legal persons governed by private law whose share capital is held, in 50% or more, by the State or another legal person governed by public law, which investments shall be subject to specific regulations.

Article 3. Application of benefits and incentives to the investment

- 1) The benefits and incentives contemplated by this law shall apply to:
 - a. To foreign investments in an overall amount equal to or higher than the kwanza equivalent to one million United States dollars (US\$1,000,000.00);

- b. To national investments in an overall amount equal to or higher than the kwanza equivalent to five hundred thousand United States dollars (US\$500,000.00).
- 2) Whenever an investment referred to in paragraph 1 above is made by a legal person, only this entity shall be granted the status of private investor.
- 3) For the purposes of the preceding paragraphs, consortia, joint ventures and other relevant forms of corporate association, although not foreseen by Angolan law, shall be taken into consideration.

Article 4. Definitions

For the purposes of this law, the following terms and expressions shall have the following meanings:

- a. BNA: the National Bank of Angola, which statutorily exercises the duties as central bank and as the Country's ultimate foreign exchange authority;
- b. Fiscal benefits: such measures as imply a reduction or exemption of the amount to be paid in connection with the taxes in force, with a view to promoting the development of factors at a macroeconomic scale for the Country, as well as to favoring activities of recognized public, social or cultural interest;
- c. Angolan company: the duly incorporated single-shareholder or multiple-shareholder company with registered offices in national territory, whose share capital is held, in 51% or more, by Angolan citizens;
- d. Foreign company: any company which does not fall within the definition set out in subparagraph (c) above;
- e. Private investment: the use in Angolan territory of capital, technology and know-how, capital goods and other goods, in specific economic projects, or the use of funds for the setting-up of new companies, groups of companies or another form of corporate representation of private companies, either national or foreign, as well as the acquisition of all or part of existing companies organized under Angolan law, with a view to implementing or continuing a given economic activity in accordance with the relevant corporate purpose;
- f. Qualified private investment: all investments falling within the scope of Article 3 hereof;
- g. National investment: the implementation of the project by using assets held by residents for foreign exchange purposes, which assets may consist of, other than monetary funds, technology, know-how or capital goods, or originate in financing whether or not obtained abroad;
- h. Foreign investment: the implementation of the project by using assets held by non-residents for foreign exchange purposes, which assets may consist of, other than monetary funds, technology, know-how or capital goods;
- i. Direct investment: all national and foreign investments taking any form which does not come within the definition of indirect investment;

- j. Indirect investment: all national or foreign investments which separately or cumulatively take the form of loans, shareholder loans, supplementary capital contributions, patented technology, technical processes, industrial secrets and models, franchising, registered trademarks and other forms of access to the use thereof, either on an exclusive basis or through licensing limited to geographical areas or industrial and/or commercial sectors;
- k. National investor: any natural or legal person, resident for foreign exchange purposes, who/which makes an investment as provided for in subparagraph (g) above;
- l. Private investor: any natural or legal person who/which, irrespective of their nationality or place of residency/incorporation, makes in national territory investments aimed at the purposes referred to in subparagraph (e) above;
- m. Foreign investor: any natural or legal person who/which makes an investment as provided for in subparagraph (h) above;
- n. Development Cluster: plot of land delimited in advance, adequately fitted with basic power water and telecommunications infrastructures, road and/or railroad accesses, industrial waste treatment and other systems, where the companies contemplating to set up their premises therein may benefit from the facilities granted by law;
- o. National reinvestment: the application in national territory of all or part of the profits earned by a national investment, and which shall comply with the same rules to which national investment is subject;
- p. Foreign reinvestment: the application in national territory of all or part of the profits generated by a foreign investment and which, pursuant to this Law, can be exported; foreign reinvestment shall comply with the same rules to which foreign investment is subject;
- q. Special Economic Zone: an economic geographical area fitted with high-quality infrastructures, delimited and reserved by the State for the implementation of industrial, agricultural, mining and other units, benefiting from simplified administrative and customs procedures, a special labor and migration regime, dedicated public administration structures, specific fiscal benefits and exportation-oriented customs benefits;
- r. Free Trade Zones: delimited areas located in port, airport or border infrastructures, exempt from fiscal and customs charges, offering storage, packaging and blending services and other simple industrial activities requiring a low degree of transformation, as well as distribution and other similar logistics-related activities in connection with trade, transshipment and re-exportation operations, in accordance with such criteria as defined by the Head of the Executive.

Chapter II. Principles and objectives of the private investment policy

Article 5. General principles

The private investment policy and the granting of incentives and facilities shall be governed by the following general principles:

- a. Respect for private property;
- b. Respect for the rules governing the free market and the sound competition between the economic agents;
- c. Respect for free enterprise, except in areas defined by the Constitution as reserved for the State;
- d. Guarantees of security and protection of the investment;
- e. Promotion of the free and effective movement of goods and capital, under the law and within the statutory limits.

Article 6. Principle of political conformity and legal compliance

The private investments made in accordance with this Law shall, irrespective of the form they take, contribute to the progress of the Angolan citizens, the sustainable economic and social development of the Country, and shall comply with the principles and objectives of the national economic policy, the provisions of this Law, its ancillary regulations and such other legislation as may apply.

Article 7. Responsibility for defining and promoting private investment

The Head of the Executive shall define and promote the private investment policy, in particular as regards investments which contribute decisively to the economic and social development of the Country and the general wellbeing of the population.

Article 8. Universal nature of private investment

1) Pursuant to the principle of free economic enterprise, private investments as defined in Article 2 of this Law shall be admissible and may be made throughout national territory, provided that said investments do not contravene the legislation and formal procedures in force.

2) The provisions of paragraph 1 above shall be without prejudice to the possibility of favoring such investments as contribute for the satisfaction of the national development priorities, in particular as regards the implementation of the clusters and of the production chains defined by the Executive, as well as of the special economic zones, the free trade zones or development clusters.

Chapter III. Sectors subject to mandatory association, and private investment zones

Article 9. mandatory association

1) Without prejudice to the Law Defining the Economic Activity Sectors, foreign investment in Angola in the sectors listed below shall only be allowed in case an association is formed with Angolan citizens, State-owned companies or private Angolan companies, in which those are the holders of at least 35% of the share capital and take effective part in the management as provided for in the shareholders' agreement, notably:

- a. Power and water;
- b. Hospitality and tourism;
- c. Transports and logistics;
- d. Civil construction;
- e. Telecommunications and information technologies;
- f. Mass media.

2) The minimum limit set in paragraph 1 above shall be observed throughout the implementation of the investment project, save in case of a justified public interest duly authorized by the entity having powers to approve the investment.

3) Without prejudice to the limit set in paragraph 1 above, changes resulting in a percentage higher than 35% shall not be subject to authorization from the relevant entity.

Article 10. Special economic zones, free trade zones and development clusters

- 1) The Head of the Executive may create Special Economic Zones, Free Trade Zones and Development Clusters, and define their specific legal frameworks.
- 2) The implementation of Special Economic Zones, Free Trade Zones and Development Clusters shall be duly grounded in a strategic plan and specific terms of reference.

Article 11. Special legal regime for the agricultural and fisheries sectors

The Head of the Executive may define a special legal regime for the agricultural, livestock, forestry and fisheries sectors, and for the respective agro-industries and related activities, with the interests of the Angolan economic entrepreneurs being safeguarded.

Chapter IV. Investment operations

Article 12. Types of private investment

Private investment may take the form of national or foreign investment.

Article 13. National investment operations

Pursuant to and for the purposes of this Law, the following operations and contracts, amongst others, when made within the scope of projects in an amount equal to or higher than that defined in last segment of Article 2.1, qualify as national investment operations:

- a. The use of national currency or of another freely convertible currency domiciled in national territory;
- b. The acquisition of technology and know-how;
- c. The acquisition of machinery and equipment;
- d. The conversion of credits resulting from any type of contract;
- e. The holding of equity interests in the share capital of companies and enterprises organized under Angolan law and domiciled in national territory;

- f. The investment of financial resources resulting from loans, including those obtained abroad, which are subject to prior licensing pursuant to the foreign exchange legislation in force;
- g. The incorporation of new companies wholly owned by the private investor;
- h. The expansion of companies or other forms of corporate representation of companies;
- i. The acquisition of all or part of existing companies or groups of companies;
- j. The subscription or acquisition of an equity interest in the share capital of new or existing companies or groups of companies, in whatever form;
- k. The execution and amendment of consortium agreements, unincorporated joint venture (associação em parti cipação) agreements, joint venture agreements, contracts for the association of a third party with equity interests or capital shareholdings, and any other permitted form of association agreement, although not foreseen in the commercial legislation in force;
- l. The total or partial takeover of commercial and industrial units, by means of the acquisition of assets or of assignment of business operations;
- m. The total or partial takeover of agricultural companies, by means of leases or any agreements entailing the exercise of land possession, use and exploitation rights by the investor;
- n. The exploitation of real estate developments, for tourism or other purposes, irrespective of their legal nature;
- o. The provision of supplementary capital contributions, shareholder advances and, in general, loans associated with profit sharing;
- p. The acquisition of immoveable property located in national territory, when such acquisition is part of private investment projects;
- q. The assignment, in specific cases and as agreed with and approved by the relevant authorities, of rights for the use of land, patented technologies and registered trademarks, the consideration for which is limited to the payment of profits resulting from the activities in which said technologies or trademarks were applied;
- r. The assignment of the benefit of rights over a concession, and licenses and rights of an economic, commercial or technological nature.

Article 14. Forms of national investment

Private national investment operations may take, separately or cumulatively, one or more of the following forms:

- a. Allocation of own funds;
- b. Investment in Angola of funds existing in bank accounts domiciled in Angola and held by residents for foreign exchange purposes, even if such funds result from financing obtained abroad;

- c. Allocation of machinery, equipment, accessories and other tangible fixed assets;
- d. Capitalization of credits and other assets of the private investor which may be used in business undertakings;
- e. Capitalization of technology and know-how, provided that these represent a gain for the business undertaking and their monetary value can be appraised;
- f. Investment of funds in national territory by way of national reinvestment.

Article 15. Foreign investment operations

1) Pursuant to and for the purposes of this Law, the following operations and contracts, amongst others, made without resorting to the Country's foreign exchange reserves, qualify as foreign investment operations:

- a. The bringing of freely convertible currency into national territory;
- b. The introduction of technology and know-how, provided that these represent a gain for the business undertaking and their monetary value can be appraised;
- c. The introduction of machinery, equipment and other tangible fixed assets;
- d. The holding of equity interests in the share capital of companies and enterprises organized under Angolan law and domiciled in national territory;
- e. The incorporation of new companies wholly owned by the foreign investor;
- f. The acquisition of all or part of existing companies or groups of companies, and the subscription or acquisition of an equity interest in the share capital of new or existing companies or groups of companies, in whatever form;
- g. The execution and amendment of consortium agreements, unincorporated joint venture (*associação em parti cipação*) agreements, joint venture agreements, contracts for the association of a third party with equity interests or capital shareholdings, and any other form of association agreement permitted in international trade, although not foreseen in the commercial legislation in force;
- h. The total or partial takeover of commercial and industrial units, by means of the acquisition of assets or of assignment of business operations;
- i. The total or partial takeover of agricultural companies, by means of leases or any agreements entailing the exercise of possession and exploitation rights by the investor;
- j. The exploitation of real estate developments, for tourism or other purposes, irrespective of their legal nature;
- k. The provision of supplementary capital contributions, shareholder advances and, in general, loans associated with profit sharing;
- l. The 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 automobiles, vessels, aircraft or other assets which may be rented, leased or used on any other temporary basis in national territory, for consideration, shall not qualify as foreign investment.

3) Notwithstanding the provisions of paragraph 2 above, the operations referred to therein may qualify as foreign investment, provided that the Executive, expressly and on a case-by-case basis, elects to assign such a status to said operations in view of their significant economic relevance or strategic importance.

Article 16. Forms of foreign investment

1) Foreign investment operations may take, separately or cumulatively, one or more of the following forms:

- a. Transfer of own funds from abroad;
- b. Investment of foreign currency funds existing in bank accounts domiciled in Angola and held by non-residents for foreign exchange purposes, and which may be re-exported pursuant to the applicable foreign exchange legislation;
- c. Investment of funds in national territory by way of foreign reinvestment;
- d. Importation of machinery, equipment, accessories and other tangible fixed assets;
- e. Capitalization of technology and know-how.

2) The investment operations described in subparagraphs 1(d) and 1(e) above shall in all cases be made together with a transfer of funds from abroad, namely to cover incorporation and installation costs and the paying-up of the share capital.

Article 17. Shareholders' loans

Shareholders' loans may not be in an amount higher than 30% of the amount of the investment made by the incorporated company, and shall only be reimbursable three (3) years after the date on which they were recorded in the company's accounts.

Article 18. Indirect investment limit

Whenever the national or foreign investor intends to make operations qualifying as indirect investment under this Law, said operations shall not be in excess of 50% of the total amount of the investment.

Chapter V. General guarantees, rights and duties of the private investor

Section I. Standard guarantees

Article 19. Status of the domestic companies

Commercial companies incorporated under the Angolan legislation, even with foreign capital, shall for all legal purposes qualify as companies organized under Angolan law, and shall be subject to the Angolan legislation in force.

Article 20. Protection of rights

- 1) The Angolan State guarantees to all private investors the right of access to the Angolan courts for the defense of their rights, and due legal procedure, protection and security.
- 2) In the event that the assets subject of private investment are expropriated or requisitioned for compelling and duly justified reasons of public interest pursuant to the law, the State guarantees the payment of a fair, prompt and effective compensation, the amount of which shall be determined in accordance with the applicable terms of the law.
- 3) The State guarantees to the private investor protection and respect for professional, banking and trade secrecy, pursuant to the law.
- 4) The rights granted to private investments under this Law shall be guaranteed without prejudice to such other rights as derive from agreements and conventions to which the Angolan State is party.
- 5) Foreign investors are guaranteed the rights deriving from the ownership of the resources they invest, namely the right to freely dispose thereof, on the same terms as national investors.

Article 21. Other guarantees

- 1) Intellectual property rights and rights over all intellectual creations are guaranteed under the legislation in force.
- 2) Such rights as may be acquired in terms of possession and use, under an appropriate title, of land, as well as other domain resources, are guaranteed under the legislation in force.
- 3) The non-interference from public authorities in the management of private enterprises is guaranteed, except in such cases as are expressly provided for in the law.
- 4) The State guarantees that licenses shall not be cancelled without the relevant judicial or administrative procedures.
- 5) The right to import goods from abroad and to export products manufactured by private investors is guaranteed, without prejudice to the applicable rules on protection of the domestic market.

Section II. Rights

Article 22. Transfer of profits and dividend

Upon implementation of a private foreign investment project, and on presentation of evidence that such investment has been made, the investors are guaranteed the right to transfer abroad:

- a. The dividends or profits distributed;
- b. The proceeds resulting from the liquidation of their investments, including capital gains, upon payment of the taxes due;
- c. The proceeds of indemnities;

d. Royalties or other earnings resulting from indirect investments, associated with the transfer of technology.

Article 23. Recourse to credit

- 1) Private investors may resort to credit within Angola or abroad, under the legislation in force.
- 2) The proceeds resulting from credit within Angola extended to foreign investors or to commercial companies of which they are the majority owners shall only be accepted as funds to be applied in the projects upon their implementation in full.

Section III. Duties

Article 24. General duties of private investors

Private investors are required to abide by this Law and the other legislation in force in the Republic of Angola, as well as by their contractual undertakings, being subject to the penalties defined therein.

Article 25. Specific duties of private investors

Private investors shall be subject to the following specific duties:

- a. To comply with the time periods set for importation of capital and implementation of the investment project, in accordance with the commitments assumed;
- b. To promote the training and engagement of the Angolan workforce, and the progressive Angolanization of management and supervising positions;
- c. Not to commit any acts or omissions qualifying as discrimination, and not to promote exclusion factors between national and foreign employees by reason of salary or social standing, and to grant to the Angolan employees occupational positions, salaries and social benefits equal to those granted to their foreign fellow workers of the same academic level or grade and technical and professional qualifications;
- d. To pay the taxes, charges and all other contributions due under the law;
- e. To create funds and reserves and make provisions in accordance with the legislation in force;
- f. To apply the accounting plan and the accounting rules provided for in the law;
- g. To comply with the rules on environmental protection, pursuant to the legislation in force;
- h. To comply with the rules on health, safety and hygiene at work for the prevention of occupational illnesses, accidents at work and other contingencies provided for in the labor legislation;
- i. To take out and maintain updated insurance against accidents at work and occupational illnesses suffered by their employees;
- j. To take out and maintain updated third party liability insurance and insurance against environmental damage.

Article 26. Supplemental rate of investment income tax

1) The share of the amount of dividends or profits distributed to natural or legal persons which exceeds their participating interest in the shareholder's equity shall be subject to the obligation of paying a supplemental rate of investment income tax as follows:

- a. 15%, when the excess is up to 20%;
- b. 30%, when the excess is higher than 20% and up to 50%;
- c. 50%, when the excess is higher than 50%.

2) The provisions of paragraph 1 above shall not apply to dividends and profits reinvested in the Country.

Chapter VI. Fiscal and customs benefits, and foreign exchange regime

Section I. General rules

Article 27. General principle

The legal or natural persons covered by this Law are required to comply with the fiscal legislation in force, they may enjoy the statutory fiscal benefits, and shall be subject to the same penalties.

Article 28. Accounting nature of the incentives

- 1) For the purposes of this Law, fiscal benefits are deemed fiscal expenditure.
- 2) For the purposes of paragraph 1 above, the procedures for determining them and ensuring their accounting control shall be defined in specific regulations.
- 3) Deductions to the taxable income, accelerated amortizations and depreciations, tax credit, exemption and reduction of tax rates, contributions and importation duties, deferred payment of taxes, and such other measures of an exceptional nature as benefit the taxpayer making the investment constitute fiscal benefits or incentives.

Article 29. Objectives for granting incentives

The incentives and facilities provided for herein shall be granted taking the following economic and social objectives into consideration:

- a. Stimulate economic growth;
- b. Promote the economic, social and cultural wellbeing of the populations, in particular of young people, senior citizens, women and children;
- c. Promote the most disadvantaged regions, especially in the interior of the Country;
- d. Increase the national production capacity, by means of the use of local raw materials, and increase the added value of the goods produced in the Country;
- e. Promote the creation of partnerships between national and foreign entities;

- f. Favor the creation of new jobs for Angolan workers and increase the skill level of the Angolan workforce;
- g. Obtain the transfer of technology and increase production efficiency;
- h. Increase exports and reduce imports;
- i. Increase foreign exchange holdings and improve the balance of payments;
- j. Promote an effective supply of the domestic market;
- k. Promote technological development, corporate efficiency and product quality;
- l. Rehabilitate, expand or modernize the infrastructures intended for economic activities.

Article 30. Exceptional Nature of the Incentives and Benefits

- 1) The fiscal incentives and benefits are of an exceptional nature, are not granted automatically or indiscriminately, nor are they unlimited in time.
- 2) The Angolan companies which invest the minimum amount provided for in Article 3.1(b) shall benefit from a special regime of deductions to their taxable income, as well as from accelerated amortizations and depreciations, in such terms as will be defined in specific regulations.
- 3) The granting of fiscal incentives and benefits is analyzed in objective terms, in accordance with the criteria set forth in the chart attached to this Law.
- 4) The criteria set forth in the chart attached to this Law allow the granting of a progressive reduction of Industrial Tax, Property Conveyance Tax and Investment Income Tax, provided that the investments comply with such cumulative requirements as are considered important for the Angolan economy, from the standpoint of the need to attract qualified investments.
- 5) The fiscal benefits cease immediately upon the investor having benefitted from tax savings not paid to the State in an amount equivalent to that of the investment made, or upon a maximum period of 10 years having elapsed.

Article 31. Exceptional granting of incentives

The Head of the Executive may grant fiscal benefits on an exceptional basis as a result of negotiations within the scope of the private investment contractual regime, to investments in an overall amount in excess of the kwanza equivalent to fifty million United States dollars (US\$ 50,000,000.00), and which create at least 500 or 200 jobs for Angolan citizens in Zones A and B, respectively.

Article 32. Management of the incentives system

The fiscal and customs incentives and benefits system shall be managed by the Head of the Executive.

Article 33. Customs incentives and benefits

The granting and cessation of customs benefits and incentives shall observe the taxation regime established in the Importation and Exportation Duties Customs Tariff .

Article 34. Cessation of fiscal benefits

- 1) Fiscal benefits cease:
 - a. On expiry of the period for which they have been granted;
 - b. When the conditions for their termination are met;
 - c. By revocation of the investment authorization as provided for in Article 59.1(c).
- 2) Upon cessation of the fiscal benefits, the general taxation regime shall be automatically reinstated.

Section II. Fiscal and customs incentives and benefits

Article 35. Development zones

For the purposes of granting fiscal incentives to investment operations, the Country is divided into the following development zones:

- a. Zone A – Province of Luanda, the municipalities of the provincial capitals of Benguela and Huíla, and the municipality of Lobito;
- b. Zone B – Provinces of Cabinda, Bié, Cunene, Huambo, Cuando Cubango, Lunda-Norte, Lunda-Sul, Moxico, Zaire, Bengo, Cuanza-Norte, Cuanza-Sul, Malanje, Namibe, Uíge and the other municipalities of the provinces of Benguela and Huíla.

Article 36. Special economic zones and development clusters

Save as otherwise provided for in specific statutes, the incentives applicable to the Special Economic Zones and Development Clusters are those defined in this Law.

Article 37. Free trade zones

- 1) The importation and exportation operations, as well as the industrial or logistic support activities, carried out in the free trade zones without connection with the internal market are deemed made outside of the national jurisdiction and exempt from any fiscal or customs charge.
- 2) The importation and exportation operations carried out in the free trade zones originating in or destined to the internal market are subject to the general fiscal and customs regime, as well as to the fiscal incentives framework provided for in this Law.

Article 38. Granting of fiscal incentives

Fiscal incentives shall be granted on the basis of a case-by-case analysis of the projects and are limited to what is provided for in this Law.

Article 39. Requirements

Private investors who wish to benefit from fiscal incentives pursuant to this Law shall meet all the following requirements:

- a. Be legally qualified to carry out their business;
- b. Have no outstanding debts to the General Tax Administration or to the Social Security System;

- c. Not be in arrears on loans from the financial system;
- d. Have organized accounts, adequate in respect of the requirements for assessment and monitoring of the investment project, in such terms as will be defined in specific regulations.

Article 40. Duration of fiscal benefits

The criteria for the granting of the reduction in terms of Industrial Tax, Property Conveyance Tax and Investment Income Tax set forth in Article 30.5 range from one (1) to ten (10) years, in keeping with the following system:

- a. For investments which obtain between ten (10) and thirty (30) percentage points for tax reduction: four (4) years;
- b. For investments which obtain between thirty-one (31) and fifty (50) percentage points for tax reduction: six (6) years;
- c. For investments which obtain between fifty-one (51) and seventy (70) percentage points for tax reduction: eight (8) years;
- d. For investments which obtain between seventy-one (71) and one hundred (100) percentage points for tax reduction: ten (10) years.

Article 41. Resumption of the obligation to pay taxes

Upon expiry of the exemption or general incentive time period, the taxes due in connection with the investment project shall be paid, even in case the investor submits a request for increase of the investment.

Article 42. Reinvestment, modernization and expansion

The projects for reinvestment, modernization and expansion shall benefit from fiscal incentives to be granted by the body having approval powers, on the basis of the incentives chart referred to in Article 30 and subject to a prior opinion of the Ministerial Department in charge of Finance.

Article 43. Tax obligations

- 1) Fiscal incentives do not relieve the private investors from their obligation to enroll in the general taxpayers' registry, from complying with the other statutory obligations and the formalities imposed by the tax authorities, nor from the case-by-case verification of the incentive granted to them.
- 2) The right to any of the statutory fiscal incentives provided for in this law shall be exercised at the time set for compliance with the tax obligations, by means of the demonstration and verification of the preconditions set forth for the relevant incentive.
- 3) Taxpayers who benefit from fiscal incentives set forth in this Law shall disclose such a benefit in their annual financial statements.

Section III. Foreign exchange regime

Article 44. Foreign exchange operations and remittances abroad

The foreign exchange operations relating to the operations referred to in Articles 13, 15 and 22 of this Law shall be subject to the rules set forth in the foreign exchange legislation.

Chapter VII. Procedural rules on investment

Article 45. Contractual regime

- 1) All private investment projects are subject to the contractual regime, as the exclusive procedural regime.
- 2) Although there may be different levels of approval, the contractual regime is characterized by necessarily requiring a negotiation between the candidate investor and the relevant Governmental authorities on the specific terms of the investment, which negotiation may also cover the incentives and benefits sought within the scope of an investment contract, without prejudice to the objective factors aimed at assessing the regularity, merits, relevance and convenience of the investment project.
- 3) The provisions of paragraph 2 above shall be without prejudice to the private entities' right to challenge and appeal against the decisions made by the relevant Governmental body which are detrimental to them, under the terms defined in the law.

Article 46. Nature and structure of the investment contract

- 1) The investment contract is an administrative contract entered into between the Angolan State, represented by the direct or indirect administration body to which the Head of the Executive delegates the relevant authority, and the private investor.
- 2) The private investment contract sets out the rights and obligations of the parties, and shall contain, amongst other provisions, the following essential information:
 - a. Identification of the parties;
 - b. Reference to the administrative nature and subject matter of the contract;
 - c. Duration of the contract;
 - d. Definition and quantification of the objectives to be achieved by the private investor for the duration of the contract;
 - e. Definition of the conditions for exploitation, management, association and the time periods of the business undertakings provided for in the private investment contract;
 - 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 the precise and prompt fulfilment of the objectives set;
 - g. Location of the investment and the legal regime of the investor's assets allocated to the project;
 - h. Procedures for the Government's monitoring of the investment activities throughout the contract period;

- i. Dispute settlement mechanism, with a detailed indication of the venue and arbitral proceedings in case this extrajudicial dispute settlement mechanism is chosen;
 - j. General yet duly grounded definition, in an appendix, of the foreseen economic, social and environmental impact of the project, whenever applicable.
- 3) Private investment contracts may provide that disputes as to their interpretation and performance may be settled by arbitration.
- 4) In the cases referred to in paragraph 3 above, the arbitral proceedings shall take place in Angola and the law applicable to the contract and to the proceedings shall be Angolan law.

Chapter VIII. Development of investment projects

Section I. Importation of capital, machinery and equipment

Article 47. Capital importation

The capital importation operations shall comply with such rules as defined in specific regulations of the monetary and foreign exchange authority.

Article 48. Registration value of the equipment

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 its equivalent in national currency, at the BNA's reference exchange rate ruling on the day of submission of the customs declaration.

Article 49. Price of machinery

For the purposes of this Law, the price of machinery and equipment shall be validated by means of a reliable document issued by a pre-shipment inspection authority.

Section II. Implementation of investment projects

Article 50. Implementation of the projects

- 1) Implementation of investment projects shall commence within the time period established in the relevant investment contract.
- 2) In duly justified cases and upon request of the private investor, the time period referred to in paragraph 1 above may be extended by the Head of the Executive.
- 3) Private investment projects shall be implemented and managed in strict compliance with the terms of the authorization and the applicable 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 51. Labor force

- 1) Private investors are required to employ Angolan workers, guaranteeing them the necessary vocational training and affording them salary and other employment conditions consistent with their qualifications, any type of discrimination being prohibited.
- 2) Private investors may, in accordance with the legislation in force, employ qualified foreign workers, whilst complying with a strict plan for training and/or development of Angolan technical staff with a view to the progressive filling of those positions by Angolan workers.
- 3) The training plan shall be included in the documentation to be submitted to the relevant authority for approval of the investment.

Article 52. Technical assistance

The parameters for admissibility of technical assistance are defined in the general legislation on the matter and in the foreign exchange regulations in force.

Article 53. Bank accounts

- 1) Under the legislation in force, private investors are required to have accounts with banks domiciled in Angola, in which they deposit their respective financial resources and through which they make all domestic and foreign payment operations relating to the investment approved under this Law.
- 2) Private investors may, at their discretion and risk, keep in their bank account monies in foreign currency and partially convert them into national currency in order to gradually carry out the domestic payment operations referred to in paragraph 1 above and to pay up the share 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 opened for the purpose of private investment operations.

Chapter IX. Incorporation of and changes to companies

Article 54. Incorporation and changes

- 1) In case the investment project involves the incorporation of a commercial company, the assignment of equity interests in a private limited liability company, the sale and purchase of shares in a joint stock company, and the assignment of contractual rights and obligations, such acts shall be formalized as required by law.
- 2) The share capital of the companies incorporated by way of private investment shall comply with the provisions of the Companies Law.

Article 55. Expansion of the purpose of the investment contract

The expansion of the purpose of the investment contract, whether or not such expansion implies a variation of the structure of the facilities and benefits granted, shall require the prior authorization from the relevant authority for approval.

Article 56. Systemic integration

In the event of private investment projects being preceded by open tendering or another type of public procurement procedure, the procedures established herein shall apply with such adaptations as may be necessary or convenient to integrate the various contractual mechanisms for establishing economic relationships between the State and the private entities, thus avoiding a duplication of proceedings.

Chapter X. Offenses and penalties

Section I. Statutory types of offenses

Article 57. Concept of offense

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

Article 58. Types of offenses

For the purposes of this Law, the following shall qualify as offences:

- a. The use of resources from abroad for purposes other than those for which they have been authorized;
- b. The issuing of invoices which allow for the outflow of capital or which elude the obligations to which the company or association is subject, namely those of a fiscal nature;
- c. Failure to provide training or to replace foreign workers by Angolan workers on the terms and within the time periods established in the investment contract;
- d. The unjustified failure to make the investment within the contractually agreed time periods;
- e. Failure to submit the annual information to the body in charge of monitoring, in such terms as will be defined in specific regulations;
- f. Forgery of merchandises and misrepresentations;
- g. Over-invoicing of the prices of machinery and equipment imported under the terms of this Law.

Section II. Penalties

Article 59. Fines and other penalties

1) Without prejudice to such other penalties as are especially provided under the law, the offences referred to in Article 58 shall be subject to the following penalties:

- a. A fine ranging from one million kwanzas (Kz.1,000,000.00) to fifty million kwanzas (Kz.50,000,000.00), with the lower and upper limits being tripled in the event of repeated offence;
- b. Forfeit of fiscal benefits and incentives and other facilities granted under this Law;
- c. Revocation of the investment authorization.

- 2) Failure to implement the projects within the time periods established in the authorization or within any extension granted may be subject to the penalty provided for in subparagraph 1(c) above, together with the payment of a fine in an amount corresponding to one-third (1/3) of the investment value, save in case of a demonstrated force majeure event.
- 3) In the cases provided for in paragraph 2 above, the assets belonging to the purported investor which are domiciled in the Republic of Angola shall revert to the Angolan State.
- 4) Without prejudice to the penalties provided for in this Law, the offense described in Article 58(f) shall also be punished under the terms of the Criminal Laws

Chapter XI. Final and transitional provisions

Section I. Transitional provisions

Article 60. Special investment regimes

- 1) The private investment regimes, as well as the rights, guarantees and incentives inherent thereto, in the petroleum, mining and banking industries, and such other business sectors as may be defined by law, shall be governed by specific statutes.
- 2) The provisions of this Law, in particular those defining penalties, shall apply on a subsidiary basis to all matters not addressed in the special investment regimes created pursuant to paragraph 1 above.

Article 61. Private investment in a lower amount

- 1) Without prejudice to Article 3.1 of this Law, investors who do not intend to benefit from fiscal incentives shall be subject to the general provisions applicable to commercial activities and enterprises, and to the foreign exchange regulations in force, but shall always be the subject of registration in such terms as will be defined in specific regulations.
- 2) Investments made pursuant to paragraph 1 above grant to the foreign investor the right to repatriate profits, dividends or other gains, provided that the conditions set forth in the applicable foreign exchange regulations are met.
- 3) The procedures for registration of the capitals relating to the investments referred to in paragraph 1 above shall be defined in a specific statute.
- 4) As a condition for the right to transfer dividends, all investments in an amount lower than the minimum set in Article 3 which were authorized pursuant to previous legal regimes shall be the subject of registration in accordance with the foreign exchange regulations in force.

Article 62. Partaking of official fees, charges and fines

Without prejudice to such appropriations as are allocated by the General State Budget to the bodies involved in the review, negotiation, approval and monitoring of private investment processes, these entities shall be entitled to partake in the official fees, charges and fines to be borne by the investors.

Article 63. Private National Investment Abroad

Private national investment abroad shall comply with the requirements of the Foreign Exchange Law and the other applicable legislation, and shall ensure the public interest in terms of the reentry of the capital exported and of such income as may have been earned abroad in connection with the investment project.

Article 64. Previous investment projects

1) This Private Investment Law and its regulations shall not apply to investments approved prior to their coming into force, which investments shall continue, until completion of their implementation, to be governed by the provisions of the legislation, and the terms or the specific contracts, on the basis of which the authorization was granted.

2) The provisions of paragraph 1 above shall not apply to those private investors who expressly request to have their projects which have already been approved subject to the provisions of this law, and the relevant authority for approval shall decide on said request in keeping with the value or characteristics of the project, under the terms of this Law.

3) Fiscal and customs incentives and benefits and other facilities already granted under the preceding laws shall remain in force throughout the time periods set, which shall be subject to no extension whatsoever.

4) Investment projects pending on the date this law comes into force shall be reviewed, and a decision shall be made, under the regime herein established, with the procedures already followed being maintained, adapted as necessary.

Section II. Final provisions

Article 65. Repealing provision

The Private Investment Law approved Law 20/11, of 20 May 2011, is hereby repealed.

Article 66. Doubts and omissions

Any doubts or omissions arising from the interpretation and implementation of this Law shall be resolved by the National Assembly.

Article 67. Effective date

This Private Investment Law shall come into force on the date of its gazetting.

Appendix

Fiscal Incentives Chart referred to in Article 30.3

[Not included. See source document]

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