ECONOMIC LEGISLATION

A COMPILATION ON ANGOLAN PRIVATE INVESTMENT LAWS

[ADDITIONAL LEGISLATION]

– II VOLUME –

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Economic Legislation – A Compilation of Angolan Private Investment Laws

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A Brief Presentation

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

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

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

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

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DIÁRIO DA REPÚBLICA

N°45 - Series I of June 10, 2003

Law Nº 13/03

Repeal of articles 17 to 50 of Law 6/99 of September 3, 1999

SUMMARY

NATIONAL ASSEMBLY

LAW Nº 13/03

Derogation of Law Nº 6/99 of September 3 – Law on Infringements against the Economy – Repeals articles 17 to 50 of Law 6/99 of September 3, 1999

RESOLUTION Nº 23/03

The Government is recommended to legislate on mandatory acquisitions of the State of public companies and institutions, the execution of which is to be prioritized in the country.

NATIONAL ASSEMBLY

LAW Nº 13/03

OF JUNE 10, 2003

Currently, the standards, principles and rules of Economic Penal Law call for penal intervention as a means to ultimate recourse at the highest level in the State's intervention in the economy.

Law Nº 6/99, of September 3, 1999, does not fulfill that goal which ought to underscore contraventions and give preferentiality to sentences to fine in the punitive system vis-à-vis anti-economic violations.

The regulating of standards as regards the functioning of the economy is amply and more adequately ensured by the types of contravention enshrined in general in Chapter VII of Law Nº 6/99, in combination with other economic infringements, provided for in other special laws or legal decrees.

Until such time as a new Penal Code is approved, the existence of countless elaborate laws and legal decrees raises complex problems on the material accumulation of violations.

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

Derogation Law on Law Nº 6/99 of September 3, 1999 — Law on Infringements against the Economy

ARTICLE 1

(Partial Repeal)

Articles 17 to 50 of Law N° 6/99 of September 3, relating to the types of economic crimes therein provided for are hereby repealed, with their now being applicable, with due adaptations in terms of the degree of sentences, in the following provisions and types of the current Penal Code, with regard to:

a) counterfeiting currency, the types in article 206 and subsequent ones;

b) monopolization and speculation, embezzlement and contraband, the types in articles 275, 276, 279, and 280;

c) bribery and corruption, the types in articles 318 to 323, wherein "public employee" must be taken to mean whomsoever exercises functions in public services as well as in state-owned companies and companies whose capital derives entirely from public funds;

d) the disclosure of trade or industrial secrets, the type in article 462 of the Penal Code;

e) crimes against public, private and cooperative property, of manufactured goods, provided for in article 10 of the Constitutional Law, namely, the types of theft, seizure of an immovable thing and of fraud and other fraudulent actions contained in the same Penal Code, without prejudice to the cumulative application of the sanctions for contraventions, provided for and punished under the terms of paragraphs d) or e) of Nºs 1 and 2 of article 3 of this law.

ARTICLE 2

Article 51 of Law Nº 6/99, of September 3, 1999 shall now read as follows:

«ARTICLE 5I

(Irregular Exercise of Economic Activities)

The following constitute contraventions punishable by a fine of from 10 to 100 days:

a) exercise of activity in a place differing from that stated in the authorization or license;

b) selling retail, by manufacturer, importer or wholesaler, when not licensed for that purpose.»

ARTICLE 3

(Exception to Economic Contraventions)

1. The repeal provided for in article 1 of this law does not invalidate the upholding of the enforcement of the provisions in the Chapter VII on the contraventions provided for in articles 52 to 59 and other General and Final Provisions applicable, as contained in Chapters I and VIII respectively, of Law Nº 6/99, of September 3, 1999, as well as all other special and general economic contraventions contained in different laws and legal decrees relating to the regulation of rules governing the functioning of the economic system expressed in regimes for State intervention in the economy, namely:

a) Decree Nº 38/00 of October 6, 2000 for infringements against accounting systems of commercial companies:

b) Law Nº 1/99, of April 23, 1999 - Law on Financial Institutions - in its articles 107 to 135 on financial or banking violations:

c) Law Nº 5/97, of June 27, 1997 in its articles 19 to 27 on foreign exchange violations;

d) Law Nº 3/92, of February 28, 1992 in its articles 68 to 73 on violations of industrial property rights;

e) Law Nº 3/76, of March 3, 1976 in its article 3 on confiscation for acts of economic sabotage:

f) Decree-Law Nº 28/75, of October 7, 1975, respectively, in its articles 2 on situations of State intervention in private companies, 6 on the opening of an inquiry, and of 27 and subsequent ones of Chapter III on complementary precautions and sanctions in general, and in particular precautions for the safeguard of the interests of the company and precautions to safeguard the rights of the State, among others;

g) the General Tax Code, in its articles 66 to 90 of Chapter VI on the general system of fiscal violations, as well as other current laws or codes on taxation and respective provisions on other special fiscal violations.

2. With regard to one and the same act constituting a contravention or to a situation providing grounds for intervention in private companies, the sanctions applicable as regards Decree-Law Nº 128/75, of October 7, 1975 and of Law Nº 3/76, of February 28, 1976 are not cumulative, it being incumbent on the intervening State body to merely opt for administrative measures and respective sanction applicable which, in one or the other case, appear to be the most appropriate and convenient to safeguard the economic system, public interest and the interests of the company, at the time of the measure being applied.

ARTICLE 4

(Regulation)

This law must be regulated by the Government within a deadline of 60 days.

ARTICLE 5

(Doubts and Omissions)

Any doubts and omissions arising out of the interpretation and application of this law are resolved by the National Assembly.

ARTICLE 6

(Enactment)

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

Seen and approved by the National Assembly, in Luanda, April 2, 2003.

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

Promulgated on May 19, 2003.

Let it be published.

The President of the Republic, José Eduardo dos Santos.

DECREE N° 47/03
OF JULY 8, 2003
Creation of Registry of Company Names

The setting up of a Central Registry of Company Names, as well as defining the procedures and rules for the attribution of companies and company names, has become opportune.

Under the terms of the combined provisions of paragraph f) of articles 112 & 113, both of the Constitutional Law, the Government decrees the following:

ARTICLE 1

(Central Registry of Company Names)

The Central Registry of Company names, hereinafter known as (FCDS) and incorporated as part of the Ministry of Justice, as an executive central service, is hereby created

ARTICLE 2

(Object)

The FCDS - Central Registry of Company Names is a public service whose principal mission is to research, trace, register and issue certificate of admissibility of companies and names for commercial companies.

ARTICLE 3

(Exclusivity)

Companies and names must conform to the principles of exclusivity of correctness and unity, as well as the legal norms applicable to each kind of commercial company.

ARTICLE 4

(Certificates of admissibility or denial)

1. The certificate of admissibility for a company or name must be applied for on its own form, which must mandatorily contain:

a) identification of applicant;

b) declaration of the object;

c) the companies or names required as alternatives, and ranked in order of preference, up to a maximum of three.

2. The certificates referred to in the previous number are requested through one of the following resources:

a) direct from its reception service;

b) by mail;

c) by fax:

d) through the appropriate Companies Registry Office or from the National Notary Office where the articles of incorporation are signed or amended.

3. Application forms for certificates must be correctly filled out and signed by one of the parties forming the company or by another with power of attorney to sign or represent.

4. Presentation of an application for a certificate can be preceded by a personal or telephone request for reservation of the company or name.

ARTICLE 5

(Reservation)

1. Reservation of the company or name merely constitutes presumption that the company or name reserved cannot be confused with any other previously registered.

2. The reservation automatically expires if the application for the certificate has not been correctly formalized within the deadline of 48 hours.

3. When making the reservation, the fee chargeable is stipulated on the respective price list.

4. Subsequent refusal to grant a certificate, because it may lead to confusion, entails reimbursement of the fee charged.

ARTICLE 6

(Reservation procedure)

1. The application, including that of the reservation of the company or name, presented in first place prevails over that which follows it.

2. The order of priority of presentation is defined by the date and hour registered under the terms of the provisions contained in the following numbers.

3. Each application for a certificate and each reservation document are stamped with a reference number, the date and hour of reception.

4. The number, date and hour are placed:

a) on requests for a certificate or reservation presented personally at the FCDS - Central Registry of Company Names, immediately after they have been checked for formal correctness and the respective fee received;

b) on reservation requests via phone, immediately after their corresponding form of support has been filled out;

c) on requests received by fax, immediately after they have been checked for formal correctness;

d) on requests received by mail, immediately after opening of correspondence and verification of the formal correctness of each application and of the respective method of payment.

5. Reference numbers may be made up of different series, namely, for reservation requests, applications presented personally and for requests received by mail.

ARTICLE 7

(Viability of company)

1. Any interested party may request information on the viability of the company or name they wish to use from the FCDS - Central Registry of Company Names reception services.

2. If, at first, the company or name proposed does not appear liable to be confused with any other already registered, its reservation is secured for 48 hours, with the interested party being given the reference number.

ARTICLE 8

(Prohibitions)

1. Public deeds of company formations cannot be drawn up without presentation by the interested parties of the certificate of admissibility for the respective company or name.

2. Similarly, deeds of amendment for companies or names cannot be signed without presentation of the certificate referred to in the previous number.

3. Any amendment to company articles determining the amendment of the object must always be accompanied by the certificate of proof pertaining to the company or name in respect of the new object.

4. That stipulated in the previous number does not apply when the company is exclusively a name-firm.

5. Provisional or permanent company registrations cannot be executed or modified without presentation of the respective certificate of admissibility for the company or name.

6. Similarly, deeds of assignment for establishments ensuing from the transfer of a company cannot be signed without the prior certificate issued by the FCDS - Central Registry of Company Names.

ARTICLE 9

(Sole Traders)

Sole traders indicating the object of the business in the firm cannot be registered at the Companies Registry Office without prior presentation of the firm's certificate of admissibility.

ARTICLE 10

(Prior verification)

The issue of a certificate of admissibility for the name or company is conditional on the prior certification affirming that it or name:

a) is not identical to any other already registered, or in any way similar, liable to create confusion or that can lead to mistakes;

b) respects or adequately reflects the object of the company with regard to its not being misleading or liable to lead to mistakes.

ARTICLE 11

(Territorial scope)

1. The territorial scope of providing exclusivity for a company or name covers the national area.

2. Excluded from that stipulated in the previous number are companies belonging to sole traders, which do not reveal the business exercised, whose territorial scope is that of administrative circumscription.

3. When companies carry out their business within circumscriptive territorial scope and there is no serious possibility of the expansion of same, the FCDS - Central Registry of Company Names may offer, at the request of the interested party, the exclusivity for the company or name in relation to the administrative circumscription.

ARTICLE 12

(Expiry)

1. The right to the use of a company or name expires when the company changes the object of its business.

2. That stipulated in the previous number does not apply to sole traders that simply utilize a name-firm.

ARTICLE 13

(Validity)

1. The certificate is valid for 180 days counting from the date of its issue.

2. The certificate can be renewed only once, provided that 5 days before the end of the validity deadline the applicants prove that the provisional registration or the deed of incorporation have been executed.

3. The renewal referred to in the previous number, may also be exceptionally granted in the case of the applicants proving by way of documentation that it was not possible for them to obtain the provisional registration or draw up the deed and if no negligence on their part in the application or reservation of those acts is duly verified.

ARTICLE 14

(Petition for invalidity)

1. The applicants of the certificate of admissibility for the company or name may request its invalidity before the deadline indicated in N° 1 of the previous article has elapsed, when showing that overriding facts have occurred that obstruct its utilization.

2. An annulment can be turned down by the FCDS - Central Registry of Company Names when it considers the motives invoked as not containing sufficient grounds.

3. Together with the request for annulment, a certificate of admissibility for the same company or name with amendments to its object can be requested.

4. Delivery of the original of the certificate entails its annulment.

ARTICLE 15

(Enactment)

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

Seen and approved by the Cabinet, in Luanda, March 17 of 2003.

Let it be published.

The Prime Minister *Fernando da Piedade Dias dos Santos*.

Promulgated on June 12, 2003.

The President of the Republic, JOSÉ EDUARDO DOS SANTOS

DECREE N° 48/03
OF JULY 8, 2003
Organization and Functioning of the One-Stop Company Formation Bureau (GUE)

Private investment in Angola has, as one of its drawbacks, the bureaucratic difficulties surrounding the launch of entrepreneurial ventures, as are the formation of companies, obtaining of permits and the licensing of establishments.

It is therefore imperative, in a form compatible with the economic reality that corporate life should be facilitated by means of the institution and operating of a One-Stop Company Formation Bureau which, as a public service, consists in the physical installation, in a single local branch or department, of Public Administration services and organisms, dealing more frequently with the processes involved in the formation and functioning of companies.

Under these terms and within the framework of the combined provisions of paragraph f) of articles 112 & 113, both of the Constitutional Law, the Government decrees the following:

ARTICLE 1

(Nature and purpose)

1. The One-Stop Company Formation Bureau (GUE) is a special public inter-organization service whose purpose it is to speed up processes for the formation, amendment or winding up of companies and similar acts, concentrating in one place, for that purpose, branches or departments of all services involved in the process.

2. Under the terms of this diploma, issued by the Cabinet, departments of the One-Stop Company Formation Bureau can be created in Luanda and in other localities where circumstances so demand.

3. The One-Stop Company Formation Bureau's functioning is regulated by the leader of the Government.

ARTICLE 2

(Structure and composition)

1. Without prejudice to other public administration bodies that may be incorporated in it, the One-Stop Company Formation Bureau is composed of branches of the following services:

a) Central Registry of Company Names (F.C.D.S.);

b) A Private Notary Office;

c) A Section of the Companies Registry Office;

d) National Inspectorate of Taxes;

e) National Institute of Statistics;

f) National Printing Office;

g) National Institute of Social Security;

h) National Agency for Private Investment;

i) Provincial Board of Trade;

j) National Internal Board of Trade;

k) Northern Regional Board of Trade.

2. Those members of the Government regulating and supervising the entities involved must permit, through an act of delegation of powers, that their representatives practice the administrative acts inherent to their authority pertaining to the One-Stop Company Formation Bureau's mission.

3. The Notary, with a status equivalent, for all legal intents and purposes, to those of the holders of 1st Class Notary Offices, is empowered to practice all notary acts related to processes for the formation, amendment or dissolution of companies and similar acts, it being incumbent on them to draw up public instruments and determine the date of same.

ARTICLE 3

(Other public or private services and organisms)

Agencies of banking entities, as well as mail and telecommunications offices or of other companies providing public services can be installed close to the One-Stop Company Formation Bureau.

ARTICLE 4

(Competency)

Under the terms of this diploma, the One-Stop Company Formation Bureau is competent to:

a) issue certificate of admissibility;

b) draw up the public deed;

c) proceed with the statistical registration of the company or firm;

d) proceed with the registration on the companies registry and issue appropriate certificate;

e) proceed with publication in the *Diário da República (*official gazette);

f) assign taxpayer number;

g) enroll taxpayers and Social Security beneficiaries of the companies created within the framework of this diploma;

h) issue permit and importation license.

ARTICLE 5

(Provision of services)

The services provided at the One-Stop Company Formation Bureau by the entities involved shall charge a fee, to be established by the Cabinet, earmarked for the maintenance and payment of expenses inherent to its functioning.

ARTICLE 6

(Efficacy of acts)

The acts performed at the One-Stop Company Formation Bureau, shall be taken as having been executed by the competent public services.

ARTICLE 7

(Electronic resources)

The public services integrating the One-Stop Company Formation Bureau, shall, preferentially, utilize electronic resources for the reception and transmission of data and amounts.

ARTICLE 8

(Intermediation)

For the resolution of any request that does not come within its powers, but has a direct or close relation to its purpose, the One-Stop Company Formation Bureau shall proceed with the contacts and diligences

to obtain the necessary authorizations or approvals from the competent entities at the interested parties' own expense.

ARTICLE 9

(Priority)

Petitions presented by the One-Stop Company Formation Bureau to the diverse entities or services, enjoy absolute priority from the entities concerned.

ARTICLE 10

(Personnel and expenditure)

1. Expenditure arising out of the functioning of the GUE - One-Stop Company Formation Bureau is borne by the General State Budget.

2. Income generated by the branches forming part of the GUE - One-Stop Company Formation Bureau is allocated to the respective regulatory bodies, under the terms of law.

3. The One-Stop Company Formation Bureau shall have at its disposal administrative personnel and its own auxiliary services.

4. The personnel at the branches, numbering three, shall be assigned by the respective regulatory bodies.

5. All GUE - One-Stop Company Formation Bureau personnel shall be allocated a subsidy to be established by joint executive decree of the Ministers of Public Administration, Employment and Social Security, and Finance.

ARTICLE 11

(Coordination of One-Stop Company Formation Bureau's functioning)

The coordination of the functioning of each One-Stop Company Formation Bureau shall be incumbent on a director nominated by the Cabinet.

ARTICLE 12

(Functioning)

1. It shall be incumbent on the director of the One-Stop Company Formation Bureau to:

a) establish the opening hours of the One-Stop Company Formation Bureau in harmony with the needs of clients, with respect to prevailing legislation;

b) define, apply and supervise the One-Stop Company Formation Bureau's operating procedures;

c) prepare the One-Stop Company Formation Bureau's procedure manual;

d) prepare the One-Stop Company Formation Bureau's budget;

e) recommend to the Government, the creation and closure of branches or other representations at the One-Stop Company Formation Bureau.

2. Internal procedures should be organized in order to be efficient and rapidly respond to clients.

ARTICLE 13

(Repeal)

Decree N° 7/00, of February 3, 2000 is hereby repealed.

ARTICLE 14

(Enactment)

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

Seen and approved by the Cabinet, in Luanda, on March 17, 2003.

Let it be published.

The Prime Minister, *Fernando da Piedade Dias dos Santos*.

Promulgated, June 26, 2003.

The President of the Republic, JOSÉ EDUARDO DOS SANTOS

LAW N° 19/03 OF AUGUST 12, 2003
Concerning Partnership Agreements, Consortia and Joint Ventures

Cooperation agreements between companies have taken on particular importance since the second half of the last century, and especially since the end of the Second World War.

In fact, alliances between companies, in the face of increasingly greater competition, frequently condition their survival in the market. Reasons of a technical nature, technological innovation, rationalization of human and financial resources, as well as of commercial ones, plus factors of a political nature, make associations between companies increasingly more frequent and economically more important, not only on a national level but also on an international one too.

In our country, taking into account the fact of its commercial legislation not having been changed since national independence, regulation, on the level of positive law, for the majority of new alliance agreements between companies, does not exist, although wrought by the dynamics of economic activity, several of these agreements have been signed.

However, the inexistence of legal and regulatory definitions on these models created great difficulties in their interpretation and utilization.

Of these forms of association, aside from many other unnamed ones, the partnership, consortium and joint venture models are of particular importance.

The partnership, regulated by articles 224 to 229 of the Companies Code, is an association that was the subject of various controversies in doctrine and in jurisprudence, not only as to its definition and nature, but also as to the rules applicable to its functioning.

In fact, it was debated as to whether it was an associative agreement or a company agreement (limited partnership), whether or not it gave rise to a new legal entity, what form should be adopted and whether common assets were created or not.

On the other hand and seeing that its regulation suffered from many omissions, it was frequently difficult to characterize, and to determine what supplementary stipulations were applicable. Currently, the legal system established by the Companies Code is already fairly out-of-date, so that it has now become urgent to modernize it, bearing in mind its practical importance.

As to the consortium and joint ventures, these models are not yet regulated in our positive law, which urgently needs to be legislated, as a way, not only of updating our legal system, but to stimulate its utilization and increase security for the parties involved.

It is therefore opportune to legally enshrine these models and establish their legal system, so that they can constitute another instrument in the deepening of cooperation, both national and international, between companies.

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

LAW ON PARTNERSHIP, CONSORTIA AND JOINT VENTURE AGREEMENTS

CHAPTER I
(Partnership)

ARTICLE 1
(Concept)

1. A partnership is an agreement by which an individual or corporate entity (the associate partner) associates themselves to an economic activity exercised by another party (the managing partner), thereby sharing in the profits, or in the profits and losses, resulting out of that business.

2. Sharing in the profits is an essential element of the agreement, but sharing in losses can be dispensed with.

3. A partnership does not result in the creation of a new legal entity.

ARTICLE 2

(Form of agreement)

1. A partnership agreement is subject to being drawn up in writing, except when any assignment of fixed assets is involved, in which case it is only valid if signed as a public deed.

2. Inobservance of the form demanded by the nature of the assets with which the associate partner contributes only annuls all the business if this cannot be converted, under the terms of article 293 of the Civil Code, so that the contribution consists in the simple use and enjoyment of the assets whose assignment requires the special form.

ARTICLE 3

(Contribution of associate partner)

1. An associate partner must provide or undertake to provide a contribution of an equity nature that, when it consists in the constitution of a right or in its assignment, should become part of the managing partner's assets.

2. A cash value must be contractually ascribed to the associate partner's contribution.

3. Associate partners' contributions can be dispensed with in the agreement should they participate in losses.

4. Excepting an agreement to the contrary, default on the part of associate partners suspends the exercise of their rights, legal or contractual, but does not prejudice the undertaking of their obligations being demanded.

ARTICLE 4

(Sharing in profits and losses)

1. The criterion governing an associate partner's share in the profits or losses is determined in the agreement.

2. Failing its having been established in the agreement, but with the managing partner's and associate partner's contributions having been contractually assessed, an associate partner's share in the profits and losses is proportional to the value of their contribution. In the absence of such assessment, an associate partner's share amounts to half of the profits or half of the losses, but the interested party may have legal recourse to request a fair reduction to be made, bearing in mind the circumstances of the case.

3. The associate partner's share in the profits and losses of operations is limited to their contribution.

4. The participation of an associate partner in the losses covers those that result from operations pending at the date of the commencement or termination of the agreement.

5. Of the profits due to an associate partner in relation to a financial year, losses borne in previous financial years are deducted up to the limit of the associate partner's liability.

6. Should the agreement merely establish the criterion governing the manner of sharing in the profits or in the losses, the same criterion governing the sharing in losses or in profits shall be applied.

ARTICLE 5

(Managing partner obligations)

1. Aside from others that may stem from law or the agreement, the managing partner's obligations are to:

a) manage the business with the diligence of a prudent and organized manager;

b) conserve the essential bases of the partnership, being unable, without consent of the associate partner, to cease or suspend the functioning of the company, substitute its mission or change the legal form of its operation;

c) not compete with the company with which the partnership agreement was signed without the express consent of the associate partner;

d) provide the associate partner with justified information on the nature and object of the agreement;

e) present the partnership's financial year accounts.

2. The agreement may stipulate that certain acts of management must not be performed by the managing partner without the prior opinion or consent of the associate partner.

3. The associate partner may request annual auditing of the managing partner's accounts, the cost of which, should these accounts prove to be correct, is borne by the associate partner.

4. The managing partner is accountable to the associate partner for any losses that the latter should have to bear caused by acts of management performed without observance of the contractual stipulations provided for in N° 2 of this article, without prejudice to any other sanctions eventually provided for in the agreement.

5. Except when stipulated to the contrary, by law or by the agreement, changes in the partners or the managing partner's management are irrelevant for the purposes of the partnership.

ARTICLE 6

(Plurality of associate partners)

1. When various persons are linked in one single partnership, to the same managing partner, joint liability by those persons with the latter for accounts receivable and payable is not presumed.

2. The exercise of rights, namely of intervention in management, information and auditing, and the fulfillment of obligations by the various associate partners are regulated in the agreement. Failing this regulation, those rights and obligations are exercised individually and independently by each of them.

ARTICLE 7

(Dissolution of partnership)

Aside from cases expressly provided for in law or in the agreement, the partnership is dissolved in the following cases by the:

a) complete realization of its object;

b) impossibility of realizing its object;

c) duration agreed, if such exists, having elapsed;

d) death or resignation of the managing partner or of the associate partner, under the terms stipulated in the following articles;

e) merger of the managing partner with the associate partner;

f) wishes of any of the contracting parties under the terms of article 10 of this law;

g) bankruptcy or insolvency of the managing partner.

ARTICLE 8

(Death of managing partner or associate partner)

1. The death of the managing partner or the associate partner does not terminate the partnership, but it is permissible for the surviving party or the heirs of the deceased to terminate it, by means of a written notification addressed to the other party, within 90 days subsequent to the death.

2. Should the liability of the associate partner be superior to the contribution the latter made or pledged, the partnership shall terminate within the 90 days subsequent to the death, except if, within this deadline, and after being previously notified by the managing partner, the heirs to the associate partner declare that they wish to continue with the partnership.

3. In the case of the partnership being terminated, the associate partner's heirs do not bear losses incurred since the death up to the time of the termination of the partnership agreement under the terms provided for in the previous numbers.

ARTICLE 9

(Resignation of managing partner or associate partner)

Except when stipulated to the contrary in the agreement, the partnership terminates with the dissolution or resignation of the managing partner or the associate partner.

ARTICLE 10

(Dissolution of agreement)

1. Agreements signed for a specified period of time or which have specific operations as their object, may be dissolved earlier by any of the parties with grounds for just cause.

2. Should such just cause arise from a de facto culpable or fraudulent act committed by a party, the other party may demand compensation for any losses suffered with the termination of the partnership agreement.

3. Agreements whose duration is not specified and whose object does not consist in specific operations, may be terminated at the wishes of one of the parties, at any time subsequent to the signing of the agreement, 10 years after its signing.

4. Termination of an agreement under the terms of N° 3 of this article does not exonerate from liability when the exercise of the respective right must be considered unlawful, in accordance with article 334 of the Civil Code.

ARTICLE 11

(Presentation of accounts)

1. The managing partner must present accounts of operations realized within the framework of the partnership, within the deadlines established for the purpose, either legally or contractually.

2. In the event that the agreement does not establish any other period, the accounts must be presented annually, at the end of each fiscal year.

3. The accounts must be presented within the maximum deadline of two months subsequent to the end of the period to which they correspond. When the managing partner is a commercial company, the deadline for presentation of accounts to the Shareholders' Meeting will prevail for this purpose.

4. The accounts must clearly and precisely show all operations in which the associate partner is an interested party, and justify the amount of the associate partner's share in the profits and losses, should such be the case at that time.

5. Failing presentation of accounts by the managing partner or should the associate partner not agree with the accounts presented, a special process for the presentation of accounts is utilized, as governed by article 1014 and subsequent ones of the Civil Action Code.

6. The associate partner's share in the profits or losses is immediately exactable, in the event that the accounts have been presented judicially. When the case is to the contrary, the share in losses, insofar as it exceeds the contribution, must be satisfied within a deadline of not less than 15 days counting from the managing partner requesting satisfaction.

CHAPTER II

Consortium

ARTICLE 12

(Concept)

1. A consortium is an agreement by which two or more individuals, or corporate entities, mutually undertake, in a joint and temporary form, to carry out a certain activity or effect a certain contribution, with a view, namely, to the:

a) realization of preparatory material or legal acts for a certain enterprise or activity;

b) execution of a certain enterprise or activity;

c) supply to third parties of goods or services, equal or complementary in themselves produced by each of the consortium members;

d) search for or exploration of natural resources;

e) production of goods that can be pooled, in kind, between the consortium members.

2. When the realization of the contractual object involves the provision of some contribution, this must consist in a tangible object or in its use. Contributions in cash are only permitted when all the members' contributions are of this kind.

ARTICLE 13

(Form and contents of agreement)

1. A Consortium Agreement is subject to the written form, except when fixed assets have been assigned between the consortium members. In which case, it is only valid if signed as a public deed.

2. The absence of a public deed shall only cause total annulment of the business when the last part of article 292 of the Civil Code is not applicable, and when it is not possible to apply article 293 of the same code. In which case, the contribution is converted into the simple use of the assets whose assignment demands that form.

3. Without prejudice to any imperative norms applicable, the terms and conditions of the agreement are freely established by the parties.

ARTICLE 14

(Amendments to agreement)

1. Amendments to a consortium agreement require the agreement of all the contracting parties, except when the agreement itself dispenses with it, establishing other rules of deliberation.

2. Amendments must follow the form utilized for the agreement.

3. Except by agreement to the contrary, the agreement is not affected by changes in management or of partners which may eventually occur in respect of members when these are corporate entities.

ARTICLE 15

(Types of consortium)

1. A consortium is taken as being internal when:

a) the activities or goods are supplied to one of the consortium members and only it establishes relations with third parties;

b) the activities or goods are supplied direct to third parties by each of the consortium members, without express invocation of this capacity.

2. A consortium is taken as being external when the activities or goods are supplied direct to third parties by each of the consortium members, with express invocation of this capacity.

ARTICLE 16

(Consortium leader, and management and audit board)

1. In the consortium agreement, one of the members is designated as consortium leader, it being incumbent upon it, in this capacity, to perform the internal and external functions that were established contractually for same and namely:

1.1 Internal functions:

a) organize cooperation between the parties in realizing the consortium's object;

b) promote measures necessary to execution of the agreement, employing the diligence of a prudent and organized manager.

1.2 External functions:

a) negotiate any agreements to be signed with third parties, within the scope of the consortium, or their amendments;

b) receive from third parties, during the execution of agreements, any declarations, with the exception of those for the dissolution of such agreements;

c) address declarations to third parties, as provided for in the agreements, except when they involve the amendment or dissolution of agreements;

d) receive from third parties, involved in the agreements, any amounts owed to consortium members;

e) effect reception or shipment of merchandise to consortium members;

f) hire technical, economic, legal, accounting or other consultants adequate to requirements and remunerate those services.

2. Only by special power of attorney can powers be vested in the leader for the signing, amendment or signing of agreements with third parties within the scope of the consortium agreement, as well as powers for representation in law and for transaction.

3. When the powers of representation cannot be specifically related to any or some of the consortium members, they are considered as exercised in the interest and in the name of all.

4. In an external consortium, the agreement may also provide for the creation of a Management and Audit Board, of which representatives of all the members are a part and whose functions must be established in the agreement.

ARTICLE 17

(Obligations of consortium members)

Aside from the general obligations arising out of law and of the agreement, each member must, in particular:

a) refrain from competing with the consortium, unless it be under terms in which this is expressly allowed;

b) provide all information considered important to the other consortium members and, in particular, the leader;

c) permit examination of the activities or goods that, by the agreement, it is obligated to provide to third parties.

ARTICLE 18

(Withdrawal of members)

1. Any of the consortium members may withdraw from it:

a) without culpability, when unable to fulfill the obligations or provide the totality or part of the contributions to which it is bound;

b) when the circumstances provided for in paragraphs b) or c) of N° 2 of article 19 of this law occur in relation to the other member or members, resulting in serious prejudice and the other members do not decide to dissolve the agreement with regard to its breach of contract.

2. In the case referred to in paragraph b) of the previous number, the member withdrawing from the consortium has the right to be compensated, under general terms, for damages arising out of this fact.

ARTICLE 19

(Dissolution of agreement)

1. In the case of just cause, the consortium agreement may be dissolved with regard to any or some of its members, in the face of written declarations emanating from all the others.

2. Considered as just cause for the purposes of the previous number:

a) declaration of bankruptcy or ratification of order;

b) serious or repeated failure, culpable or not, by any of the other members to fulfill their obligations;

c) impossibility, culpable or not, to fulfill the provisions to which it was bound by the agreement.

3. In the cases provided for in paragraphs b) and c) of the previous number, dissolution of the agreement does not affect the right to any compensation eventually owed to the other consortium members.

ARTICLE 20

(Termination of consortium)

1. A consortium is terminated by:

a) unanimous agreement of its members;

b) realization of its object or by the impossibility of its realization;

c) the deadline established in the agreement, if it exists, having elapsed and not being extended;

d) the plurality of its members having been terminated;

e) any other cause provided for in the agreement.

2. Should none of the scenarios provided for in the previous number occur, the consortium shall terminate 10 years subsequent to the date of its signing, without prejudice to eventual express extensions.

ARTICLE 21

(Name of external consortium)

1. External consortium members can operate jointly under the same name, combining all their names or companies with the addition of «Consórcio de ...» or «... em consórcio». However, only the consortium member signing the document where the name is used or that which has been signed by the consortium leader, in the exercise of vested powers, is liable before third parties.

2. All consortium members are jointly liable to third parties for damages resulting from the adoption or use of names of the consortium likely to be confused with other existing ones.

ARTICLE 22

(Sharing of amounts)

1. In external consortia, whose object is that provided for in paragraphs b) and c) of article 12 of this law, each of the consortium members shall receive direct the amounts that are owed to it by a third party, except when stipulated in the following numbers and without prejudice, not only to any joint liability between consortium members eventually stipulated with the third party, but also of the powers vested in some of those members by the others.

2. Consortium members may establish in the respective agreement, a distribution of amounts receivable from third parties differing from the result of the direct relations of each of them with the third party.

3. In the case provided for in the previous number and regarding relations between consortium members, the difference to be handed over by one of them to another, is considered received and held for the account of whomsoever is entitled to it, under the terms of the consortium agreement.

4. The procedure established in the previous number equally applies in the case where one of the consortium members does not have, in relation to the third party, material autonomy and the remuneration is therefore encompassed in the amounts received from the third party by one or other of the consortium members.

ARTICLE 23

(Sharing the product of an external consortium activity)

1. In external consortia whose object is that provided for in paragraphs d) and e) of article 12 of this law, each of the consortium members must acquire direct that part of the products to which they are entitled, without prejudice to that stipulated in N° 3 of this article.

2. The agreement must state the exact time at which ownership of the products are considered acquired by each consortium member, in the absence of any contractual stipulation, considering the uses or, failing that and according to the cases, the time at which the product entered into the warehouse or passed through the facilities where the business operation takes place.

3. It may be established in the agreement that the products acquired by a consortium member, under the terms of N°1 of this article, are sold by another member, for the account of that member, with in addition, in this case, the stipulations of the mandate applying.

ARTICLE 24

(Sharing in profits and losses in internal consortia)

When, exceptionally, profits or losses may arise out of the activities and services to be carried out in the internal consortia, and it is agreed between the contracting parties to share in the profits, losses or both, the provisions contained in article 4 of this law apply.

ARTICLE 25

(Relations with third parties)

1. In the relations of external consortium members with third parties, active or passive joint liability between members is not presumed.

2. The stipulation, in agreements with third parties, of fines or other penal clauses incumbent on all the consortium members, does not presume the joint liability of the latter with regard to other active or passive obligations.

3. The obligation to compensate third parties by constitutive fact of civil liability is restricted to that of the external consortium members to which, by law, this liability be attributable, without prejudice to internal stipulations with regard to the spreading of this onus.

ARTICLE 26

(Prohibition of common funds)

1. The constitution of common funds within a consortium is not permitted.

2. The amounts handed over to the respective leader or held by it with authorization of the interested party, are considered delivered under the terms and for the purposes of article 1167 of the Civil Code.

CHAPTER III

Joint Ventures

ARTICLE 27

(Concept)

1. Joint ventures are taken to mean a partnership between individuals, or corporate entities, without prejudice to their legal status, in order to enhance the conditions of the exercise or results of their economic activities.

2. Joint ventures cannot have as their principal purpose the realization and sharing of profits.

3. Joint ventures may have, as their ancillary purpose, the realization and sharing of profits, when expressly authorized in the constitutive agreement.

4. Joint ventures are constituted with their own capital and are recognized as a legal entity.

ARTICLE 28

(Form of agreement)

1. The constitutive agreement for joint ventures is drawn up as a public deed and establishes, namely, the:

a) company;

b) mission;

c) duration, when limited;

d) contributions of members and constitution of capital;

e) members' rights and obligations;

f) management and auditing;

g) extension, dissolution, liquidation and sharing;

h) esignation and resignation of the directors;

i) admission and withdrawal of members from the joint venture.

2. The agreement is subject to the publications demanded by law for the constitution of companies.

3. Amendments to the agreement may only be made by a majority of no less than three-quarters of the number of members and observe the demands of form and publicity required for the constitution of the joint venture.

4. Joint ventures acquire legal status with the registration of the constitutive act at the Companies Registry office.

5. A joint venture is obligated to register with the tax authorities.

ARTICLE 29

(Company)

1. A joint venture company may consist of a name or be formed by the names or companies of all its members or of, at least, one of them, followed by of the addition of «Agrupamento de Empresas» or «A.E.».

2. When the joint venture company does not state the names or companies of all its members, these must be specified in all mandatory publications and in all acts or written agreements in which the joint venture is involved.

3. If, however, the number of members is higher than five, the specification of the name or company of five is sufficient.

ARTICLE 30

(Company registration)

For registration purposes, joint ventures are equivalent to commercial companies.

ARTICLE 31

(Restrictions)

The capacity of a joint venture does not encompass the:

a) acquisition of title to ownership or of other real rights on fixed assets, except should the building be earmarked for the installation of its head office, branch or own services;

b) participation in civil or commercial companies or in other joint ventures;

c) holding of corporate office in any companies, associations or joint ventures.

ARTICLE 32

(Management)

1. Management is exercised by one or more persons, under the terms stipulated in the agreement.

2. The Shareholders' Meeting nominates and dismisses the directors or general managers, as well as establishing their respective remunerations, when appropriate.

3. That stipulated in article 156 of the Companies Code is applicable to directors or general managers alien to the joint venture, even when they have been nominated in the agreement.

ARTICLE 33

(Auditing)

The Shareholders' Meeting shall nominate one or more persons, under the terms of the legislation applicable to commercial companies to monitor management and to issue opinions on the accounts.

ARTICLE 34

(Resolutions)

1. Resolutions passed by partners are taken with the plurality of votes, with one vote to each partner, except when stipulated to the contrary in the agreement.

2. The management presents accounts annually.

ARTICLE 35

(Liability)

1. Company members respond jointly for the joint venture's debts.

2. A joint venture's creditors cannot demand payment of what is owed to them from company members until such time as the joint venture's assets have been processed.

ARTICLE 36

(Acts prohibited to members)

1. The deed of incorporation may specify the acts prohibited to members for the purposes stipulated in articles 157 and 158 of the Companies Code.

2. Failing any contractual stipulation, members of a joint venture are prohibited from engaging in the competitive activity which the latter has as its object.

ARTICLE 37

(Admission of new members and assignment of position)

1. The admission of new members into the joint venture may only take place under the terms of the agreement or, if this be omitted, by a unanimous resolution passed by the joint venture's members.

2. The assignment, among the living or due to death, of each member's part may only take place with the assignment of the respective establishment or company, and with the consent of the joint venture.

ARTICLE 38

(Withdrawal of members)

1. A member of a joint venture may withdraw:

a) under the terms authorized in the agreement;

b) when it opposes any amendment introduced into the joint venture;

c) when at least 10 years have elapsed since its admission and it has fulfilled the obligations undertaken;

2. The withdrawal takes effect 30 days subsequent to notification having been made, in writing, to the management.

ARTICLE 39

(Exclusion of members)

The Shareholders' Meeting may exclude any member, when:

a) the member ceases to exercise the economic activity for which the joint venture serves as a complement;

b) they have been declared bankrupt or insolvent;

c) if they are behind in making the contribution that constitutes their part in the joint venture's expenses, after being notified, in writing, by the management to settle payment within the deadline that has been established, of never less than 30 days.

ARTICLE 40

(Liquidation)

The liquidation of the part of the member that has withdrawn or been excluded and, also, that of the assignor not admitted by the joint venture is made in accordance with that stipulated in article 1024 of the Civil Code.

ARTICLE 41

(Penalties)

1. The joint venture that exercises a directly profitable ancillary activity not authorized by the agreement or that exercises, principally, a directly profitable authorized activity with an ancillary one, shall be, to all intents and purposes, including taxation, subject to the rules of commercial companies in a corporate name.

2. The directors or general managers of a joint venture that find themselves in the circumstances of the previous number are punished individually by a fine, under the terms that come to be regulated, without prejudice to the joint liability of all the members.

ARTICLE 42

(Dissolution)

1. The joint venture is dissolved:

a) under the terms defined in the agreement;

b) at the request of any interested party, in the event of serious violation of the legal norms governing the activity;

c) at the request of the member responding for the joint venture's commitments that are outstanding and in default.

2. The death, prohibition, incapacity, bankruptcy, insolvency, dissolution or wishes of one or more members do not determine the dissolution of the joint venture, except when stipulated to the contrary in the agreement.

ARTICLE 43

(Liquidation of joint venture)

The balance of the winding up of a joint venture is shared between the members, in proportion to their contributions when paying up capital, plus further contributions they have made.

ARTICLE 44

(Complementary provisions)

In all that which is not specifically regulated in this law, the provisions applicable to companies in a corporate name are applicable to joint ventures.

CHAPTER IV

Other cooperation agreements

ARTICLE 45

(Other forms of cooperation)

Aside from that provided for in the previous chapters, individuals or corporate entities may sign other cooperation agreements, namely pooling alliances, to be carried out jointly vis-à-vis a common economic object, namely in the following areas:

a) distribution and marketing;

b) production;

c) exploration of natural resources;

d) research, technology and technical assistance;

e) general management.

ARTICLE 46

(Presuppositions)

The signing of cooperation agreements must be underpinned by the following assumptions:

a) equality between the parties;

b) inexistence of legal status;

c) participation of all the parties in the decision-making process;

d) taking of decisions unanimously;

e) creation of friendly forms to resolve conflicts;

f) existence of a joint body to coordinate cooperation, common wishes and actions to obtain the results required.

ARTICLE 47

(Contents of agreement)

Cooperation agreements must contain provisions that enshrine good faith and a spirit of trust between the parties and establish, namely:

a) a precise definition of the agreement's object;

b) the correct stipulation of the parties' rights and obligations;

c) the creation of an organization, more or less complex, in accord with requirements and incorporating at least one deliberative body and one executive body;

d) the form of resolving conflicts.

ARTICLE 48

(Form of agreement)

Cooperation agreements between companies are subject to the written form, except should there be an assignment of fixed assets, in which case they are only valid if signed as a public deed.

CHAPTER V

Final provisions

ARTICLE 49

(Repeal of legislation)

Articles 224 to 229 of the Companies Code in relation to partnership are hereby repealed.

ARTICLE 50

(Doubts and omissions)

Any doubts and omissions arising out of the interpretation and application of this law are resolved by the National Assembly.

ARTICLE 51

(Enactment)

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

Seen and approved by the National Assembly, in Luanda, July 5, 2002.

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

Promulgated on February 27, 2003.

Let it be published.

The President of the Republic, JOSÉ EDUARDO DOS SANTOS.

DIÁRIO DA REPÚBLICA
N° 14 - Series I of April 7, 1995
Decree N° 5/95
On the employment of nonresident foreign workers and qualified national workforce in the corporate sector

Decree Nº 5/95 of April 7, 1995

The right to employment in Angolan territory on the part of nonresident foreign citizens, is understood to mean without prejudice to the regulations of international law and reciprocity clauses agreed between the Angolan State and other States and does not invalidate the application of provisions in law that exclusively reserve the exercise of certain professional activities for Angolan citizens.

Similarly, it has become essential to adopt measures geared toward the elimination of irregularities arising out of the employment of the qualified Angolan workforce, in companies and other foreign employers, safeguarding the rights and interests of the parties involved.

Under the terms of paragraph k) of articles 110 and 113, both of the Constitutional Law, the Government decrees the following:

CHAPTER I

OBJECT AND SCOPE OF APPLICATION

ARTICLE 1

(Object)

1. This decree aims to regulate the employment of the nonresident foreign workforce, as well as that of the qualified national workforce in companies and other foreign employers operating their business activity in Angolan territory.

2. For the purposes of this decree, qualified national workforce is taken to mean, Angolan workers exercising functions that require higher, intermediate or specific and specialized professional training.

3. The regime provided for in this decree for the national workforce is applicable to resident foreign workers.

ARTICLE 2

(SCOPE)

1. The system established in this decree, is applicable to national companies and other foreign employers operating in Angolan territory, except for those that enjoy special schemes established by law, insofar as they refer to the employment of qualified national and nonresident foreign workforces.

2. It is also applicable to the employment of the foreign workforce covered by technical cooperation contracts.

3. The resident and nonresident foreign-labor regime within the sphere of public administration is governed by its own law.

CHAPTER II

EMPLOYMENT OF NONRESIDENT FOREIGN WORKFORCE

ARTICLE 3

(Limits)

1. National or foreign employers, exercising their activity in any part of national territory, should only have recourse to the employment of nonresident foreign workforce, even when unremunerated, provided

their personnel organigram, when it consists of more than 5 workers, is occupied by at least 70% of national workforce.

2. The employment of the remaining 30% should be effected in accordance with law, namely, articles 25 and 26 of Law Nº 3/94.

ARTICLE 4

(Exceptions)

1. When dealing with specialized workers or, taking into consideration the conditions of the labor market, workers who are not normally obtainable in the country, it shall be incumbent on the person responsible for the Administration of Labor, to call for grounds from the employer concerned and, having heard from the regulatory minister, it being open to the latter to gather an opinion from social partners in the sector, to authorize the hiring of nonresident foreign workers, above and beyond the fixed quota under the terms of the Nº 1 of article 3.

2. When dealing with the employment of nonresident foreign workers on a local level, for the reasons described in the previous number, it shall be incumbent on the local body responsible for the Administration of Labor, having consulted the public and private organisms concerned, to authorize the respective job contracts.

ARTICLE 5

(Elements of the Contract)

Aside from that provided for in the legislation concerned, the contracts should contain the obligations undertaken by both the parties, namely, the date of commencement of the assignment and its termination, professional qualifications, functions to be exercised, recompense negotiated and its form of payment.

ARTICLE 6

(Official Procedures)

1. The contract, in triplicate, shall be registered at the job center in the area where the company is located, on request by the employer, when grounds for hire have been proven, with it having to identify the denomination accepted, the branch of activity and attaching thereto:

a) labor permit;

b) the personnel organigram distributed by categories of occupations and nationalities.

2. The application should be handed into the job center up to 30 days before the date of the commencement of the professional activity being embarked upon, with the decision due during the subsequent 15 days.

3. Once the contract is registered, it will be filed at the job center, sealed, with copies having to be returned to the applicant with the annotation and number of registration and the other to be sent to the service overseeing the control of foreigners.

4. The process may be to be turned down should the application not observe the provisions of this decree.

5. A payment of 5% of the basic remuneration value set down in the contract is payable for each contract registration accepted.

ARTICLE 7

(Termination of Contract)

Once the contract comes to an end, or whenever for any motive it is terminated early, the employer should ask the employment services to cancel the registration by means of a written communication.

ARTICLE 8

(Casual Assignments)

1. The use of foreign workers for jobs of a casual nature, when not exceeding 30 days, may be permissible by means of a written communication to the job center in the area where the company is located.

2. The communication referred to in the previous number must be accompanied by documentation proving fulfillment of the provisions applicable to the entry, permanence or residence of foreigners in Angola, with it having to be made on the date of commencement of the assignment.

CHAPTER III

EMPLOYMENT OF QUALIFIED NATIONAL WORKFORCE

ARTICLE 9

(Employment Restrictions)

1. The employment in a new center of activity of qualified national workforce should not cause material or operational prejudice to the previous employer.

2. When a qualified national workforce is involved which has benefited from training at the expense of the previous employer, and considering that stipulated in the previous number, the new employer should compensate the former one, for the amount expended on the training of the worker in question.

3. For the purposes of this decree, training is taken to mean skills acquired through both school or extra-school training, eventually completed through advanced-proficiency or retraining courses, tailored to the exercise of a certain function.

CHAPTER IV

FINAL AND TRANSITORY PROVISIONS

ARTICLE 10

(Fines)

1. Those employers hiring individuals of foreign nationality for their services while failing to abide by that stipulated in this decree, shall be punished, pertaining to each foreign worker with regard to whom a violation is verified, with the fines provided for in the following paragraphs:

a) 10% of the amount of the gross basic salary, relating to the month in which the violation is verified, in the case of this falling within article 3;

b) 50% and 30% of the amount of the basic remuneration, pertaining to each foreign worker with regard to whom a violation is verified, in the case of articles 6 and 7, respectively, being infringed.

2. Without prejudice to any penal liability, re-offending shall be punished by the triplication of the amounts established in the paragraphs of the previous number.

ARTICLE 11

(Indemnities)

The non-application of that stipulated in Chapter II is liable to an indemnity under the terms of general law.

ARTICLE 12

(Deployment of Fines)

Fines resulting from the application of that stipulated in this decree shall revert to support actions promoting employment.

ARTICLE 13

(Administration of application)

The Inspectorate-General of Labor shall be encharged with oversight of this decree, as well as the application of the fines established therein.

ARTICLE 14

(Doubts and Omissions)

Any doubts and omissions raised in the interpretation and application of this decree shall be resolved by the person responsible for the Administration of Labor.

ARTICLE 15

(Repeal)

All provisions contrary to that stipulated in this decree are hereby repealed.

ARTICLE 16

(Enactment)

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

Seen and approved by the Cabinet.

LAW N° 10/94 OF AUGUST 31
(Add Law No. 8/03 of April 18th)
Privatizations

The process of restructuring the corporate sector of the State has, up until to now, had as its principal legal support Decree N° 32/89, of July 15, 1989 and Decree N° 8-F/91, of March 16, 1991. Decrees that satisfactorily enable the accomplishment of purposes aimed at reorganizing, restructuring and re-adjusting companies belonging to the state sector, as well as transferring them to the private sector, or creating forms of association between the State and private companies.

However, in a market economy framework, encompassing the values pointed out above, the privatization and reprivatization of state sector companies assume particular importance, justifying, without affecting them within the context of the restructuring process as a whole, special treatment.

Whereas the definition of the bases for the divestment of State assets constitutes the absolute reserve of the National Assembly's legislative powers:

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

PRIVATIZATIONS LAW

CHAPTER I

General Provisions

ARTICLE 1

(Scope)

1. This law establishes the general framework for the privatization of companies, shareholdings and other assets belonging to the State, not coming within the absolute reserve of the public sector.

2. This law applies to small- medium- and large-size state companies, and state assets, with small businesses excluded, as defined in article 1 of Decree N° 34/89, of July 15, 1989, which ought to be governed by Decree N° 60/91, of October 18, 1991 and respective regulation.

3. The divestment of the State's inhabitable real estate assets continues to be governed by Law N° 19/91, of May 21, 1991.

ARTICLE 2

(Objectives)

The essential objectives of privatization are to:

a) increase the efficiency, productivity and competitiveness of the economy and of companies;

b) reduce the weight of the State in the economy and develop the private sector;

c) foster enterprise and boost national corporate capacity;

d) enable an ample participation of Angolan citizens in the ownership of the capital of companies, by means of an adequate spread of capital, paying particular attention to the workers of the companies themselves and to small investors;

e) foster competition between economic agents;

f) reserve State assets and enhance other national interests.

ARTICLE 3

(Definition of policy)

It is incumbent on the Government to put in place its privatization policy in accordance with the program.

ARTICLE 4

(Types)

Privatization can be total or partial, and encompass not only transfers of ownership, but also the cession of exploration, companies, assets or shareholdings to be privatized.

CHAPTER II

Divestment of companies, state assets and shareholdings

ARTICLE 5

(Transformation into commercial company)

1. State Economic Units to be privatized are transformed, by a Decree-Law issued by the Cabinet for companies classified as large, and by joint executive decree of the Minister of Finance and the regulatory body for the companies classified as medium and small, into commercial companies, under the terms of this law.

2. The decree operating the transformation shall also approve the company's bylaws, which shall be governed by commercial legislation.

3. For the purposes of that stipulated in the previous numbers, a state economic unit transformed into a commercial company may maintain its status up until divestment by the State of the respective capital stock.

4. The commercial company arising out of the transformation continues to enjoy the legal status of the transformed state economic unit, maintaining all its legal or contractual rights and obligations.

5. The decree approving the transformation constitutes to serve as title for all the acts of registration of the commercial company, which shall be made, unofficially, with exemption from rates and fees.

6. The decree operating the transformation, under the terms of the previous numbers, shall also approve the model, modalities, eventual limits and restrictions, and the privatization processes to abide by.

ARTICLE 6

(Prior assessment)

The privatization process, not only of ownership, but also of the operation of state companies, state assets and of the shareholdings of the State or of state companies in commercial companies is always preceded by an assessment performed by entities accredited for the purpose, which are reputable and independent, selected by the Office for Corporate Restructuring, which is responsible for steering the operation.

ARTICLE 7

(Privatization process and modalities)

1. Privatization of ownership shall be carried out, alternatively or cumulatively, by the following processes:

a) divestment of assets;

b) divestment of shares or interests representing the capital stock of companies,

c) capital increases in companies.

2. Privatization shall be carried out, as a rule, by means of public tender, only having recourse to limited tender or direct negotiation in absolutely exceptional cases.

3. The modalities, limits and restrictions of privatization processes should be duly publicized, case by case.

ARTICLE 8

(Public tender)

1. A public tender is open to all those entities fulfilling the generally-established conditions, proceeding to the selection of the bidders by way of comparative appraisal and assessment of the candidates.

2. The conditions demanded of candidates, the way in which their comparative appraisal, assessment and selection is conducted, as well as other procedures vis-à-vis the public tender shall be established in the General Specifications drawn up by the Negotiating Committee, referred to in article 12 of this law.

ARTICLE 9

(Limited tender)

1. A limited tender is open only to a restricted number of candidates specifically qualified and short-listed, through which the comparative appreciation, assessment and selection of the proposals shall be made.

2. In all other respects, the public tender process is applicable to the limited tender.

ARTICLE 10

(Direct negotiation)

1. Direct negotiation consists in the award of the object to be privatized, wholly or merely in part, to one or more jointly interested parties, without putting it out to tender.

2. With regard to a direct negotiation, the existence of general specifications is mandatory, which shall specify the conditions of the transaction.

ARTICLE 11

(Prohibition of acquisition)

Prohibited from acquiring shares in the companies, shareholdings and other assets of the State to be privatized, when a direct negotiation or limited tender are involved, are:

a) members of the Government holding office;

b) all officials directly involved in conducting the processes.

ARTICLE 12

(Management of processes)

1. The organization of a tender, appraisal of proposals and the negotiation of each process, including those processes vis-à-vis limited tender and direct negotiation, are the responsibility of a Negotiating Committee appointed for each process.

2. The said Committee shall be appointed by the Minister of Finance and shall be composed as follows:

– representative of the Ministry of Finance, who shall coordinate;

– representative of the regulatory body for company;

– representative of the Office for Corporate Restructuring;

– representative of the Foreign Investment Agency, whenever there is a prospect of foreign investment in the process;

– representative of the company.

3. In the case of divestment of state assets not formed into state companies, of shareholdings of the State or of state companies in commercial companies, the Minister of Finance and the regulatory body shall determine by joint executive order, concurrently with the appointment of the Committee referred to in the previous number, as well as determining the model, modalities, eventual limits and restrictions, and the privatization processes to abide by.

ARTICLE 13

(Authority to approve the execution of privatization operations)

1. It is incumbent on the Minister of Finance to ratify the assessment, as well as the results approved by the Negotiating Committee, referred to in article 12 of this law, irrespective of the size of the company.

2. It is incumbent on the Cabinet to approve the execution of the privatization operations of companies classified as large on a recommendation from the Minister of Finance.

3. It is incumbent on the Minister of Finance to approve the execution of the privatization operations of companies classified as of medium- and small-size, as well as of other assets and of shareholdings of the State or of state companies in commercial companies.

ARTICLE 14

(Participation of managers, staff and workers, and other small investors)

During the course of privatization operations, a part of the capital of the company to be privatized may be reserved for its managers, staff and workers, and other small investors, with this part never being equal to or higher than half in those companies classified as of medium- or large-size.

CHAPTER III

Cession of exploration and management agreements

ARTICLE 15

(Cession of exploration agreements)

Cession of exploration agreements are subject to the same rules applying to the divestment of ownership of state companies and other assets of the State.

ARTICLE 16

(Management agreements)

A management agreement is not considered as a privatization operation. However, the validity of this agreement is subject to the following cumulative conditions:

a) favorable opinion from the Office for Corporate Restructuring, to which the regulatory body must send the draft management agreement in advance;

b) ratification of the management agreement by the Minister of Finance.

CHAPTER IV

Final Provisions

ARTICLE 17

(Destination of income)

Income arising out of privatizations is primarily utilized, separately or jointly, for:

a) economic and financial recovery of the State corporate sector;

b) unemployment fund;

c) professional training;

d) development of small businesses.

ARTICLE 18

(Budgetary role)

The income produced by privatizations, as well as its application, shall be declared in the General State Budget each year.

ARTICLE 19

(Guarantee of workers' rights)

1. The workers of privatized companies or assets retain the rights and obligations to which they are entitled.

2. In the event of a privatization operation entailing dismissals of workers, their replacement and retraining shall be made, under the terms of prevailing labor and social security legislation.

ARTICLE 20

(Repeal of legislation)

1. Decree N° 8-F/91, of March 16, 1991, as well as all legislation which is contrary to that stipulated in this law is hereby repealed.

2. Similarly, Law N° 9/91, of April 20, 1991, is hereby repealed, in that which is contrary to this law, being expressly excepted without its article 6, which provides for the minimum number of shareholders of public limited companies.

ARTICLE 21

(Exclusion of previous operations)

This law does not affect the validity of those privatization operations carried out before its enactment, provided that they were performed in observance of legislation then prevailing, namely, of Decree N° 8-F/91, of March 16, 1991, which are thereby exempt for all intents and purposes.

ARTICLE 22

(Resolution of doubts and omissions)

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

ARTICLE 23

(Resolution of doubts)

In that which is not contrary to that stipulated in this law, and until such as time as it is revised, all regulatory legislation on the restructuring of the State corporate sector continues to be applicable.

ARTICLE 24

(Enactment)

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

Seen and approved by the National Assembly, in Luanda, on July 6, 1994.

The Speaker of the National Assembly, *Fernando José de França Dias Van-Duném.*

The President of the Republic, JOSÉ EDUARDO DOS SANTOS.

LAW N° 5/02
OF APRIL 16, 2002
On Delimiting Sectors of Economic Activity

The ample political and academic debate developed in the mid-80s of the 20th century, within the scope of the implementation of the Economic and Financial Recovery Program (SEF) constituted a first step with regard to drawing up a series of structural measures that, among other issues, lead to the downsizing of the role of the State in the economy.

Taking into account that the experience of recent years in the domain of private intervention in economic activity showed that despite Law N° 13/94, of September 2, 1994 - Delimitation of Economic Activity Law, having constituted a major advance in the process of opening up the economy, it is, in certain precepts, out of step with the modern economic reality, characterized by a increasingly greater intervention by the private sector in areas up until now considered the exclusive reserve of the State.

It is therefore opportune to adapt the law to the current demands of the economy and lay the groundwork so that the private sector may be more broadly involved in national economic activity, thereby contributing to a speedier development and growth of the economy;

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

DELIMITATION OF SECTORS OF ECONOMIC ACTIVITY LAW

ARTICLE 1

(Concept)

For the purposes of this law, economic activity is considered that which is destined for the production and distribution of goods and the provision of services, as a business and to a profitable end, through ownership, concession, management or other legal form of title to the respective resources.

ARTICLE 2

(Sectors of economic activity)

Economic activity is developed within the scope of the public, private, cooperative, and communitarian sectors.

ARTICLE 3

(Coexistence of sectors)

The State guarantees the coexistence of the different sectors of economic activity and of the respective forms of ownership and management in which same are conducted, conferring on all equal protection, opportunity and support.

ARTICLE 4

(Public sector)

The public sector of the economy covers those economic activities engaged in by the State or by other public entities, irrespective of the corporate or associative form that they present.

ARTICLE 5

(Forms of exercise in the public sector)

Economic activities may be exercised in the public sector by:

a) the State, direct;

b) state-owned companies;

c) public institutes and other similar public entities;

d) commercial companies with public capital;

e) commercial companies and other forms of privately-owned companies in which the State holds a stake in the capital stock with privileged interest or shares or a dominant position.

ARTICLE 6

(Private sector)

1. The State guarantees the exercise of private economic activity, which may be carried out freely under the terms defined in the Constitutional Law, within the limitations contained in prevailing legislation.

2. The Government may grant incentives and facilities to private enterprises if they come with the scope of development programs.

3. The private sector covers those economic activities engaged in by private individuals or private corporate entities.

ARTICLE 7

(Forms of exercise in private sector)

Economic activities may be exercised in the private sector by:

a) individuals;

b) commercial companies and other associative forms, whose capital is held exclusively by private individuals or private corporate entities.

ARTICLE 8

(Cooperative sector)

The cooperative sector covers economic activities practiced by legally-constituted cooperatives, under the terms of applicable law.

ARTICLE 9

(Communitarian sector)

The communitarian sector covers economic activities engaged in by local communities or by family communities, under terms that are to be eventually legally defined for this sector.

ARTICLE 10

(Reserve of the State)

1. Reserve of the State is taken to mean the series of areas in which economic activities may only be exercised, under title of ownership or management of the respective resources, provided that there is intervention or participation by the State or other entities which, under the terms of this law, belong to the public sector.

2. The reserve of the State can be absolute, controlled or relative.

ARTICLE 11

(Absolute reserve)

1. The series of areas in which economic activities may only be exercised by entities in which the State holds the entire capital stock constitute the absolute reserve of the State.

2. The following areas are the absolute reserve of the State:

a) production, distribution and marketing of defense matériel;

b) banking business, in that which pertains to the functions of the central and issuing bank;

ownership of infrastructures relating to seaport and airport activities;

ownership of infrastructures forming part of the basic telecommunications network.

3. In relation to paragraph a) of the previous number, the Government may, however, authorize, in exceptional cases and for imperative reasons, the exercise of business by companies arising out of association with the public sector, in which mandatorily it holds a majority stake in the capital stock, with other entities, namely foreign ones, provided that they hold exclusivities of a technological nature or hold a dominant position in international markets of an oligopoly structure in which the public sector does not have, by itself alone, the capacity to penetrate.

ARTICLE 12

(Controlled reserve)

1. Controlled reserve of the State covers economic activities in those areas listed below, which may be developed by state-owned companies or by companies in whose capital the State holds a privileged or dominant position.

2. The following areas are the controlled reserve of the State:

a) basic postal services;

b) local infrastructures, when they constitute an extension of the basic telecommunications network.

ARTICLE 13

(Relative reserve)

1. Relative reserve of the State covers economic activities in those areas listed in N° 2 of this article, which can be carried out by companies or entities not belonging to the public sector, by way of concession agreements.

2. The following areas are the relative reserve of the State:

a) basic sanitation;

b) production, transportation and distribution of electrical energy for public consumption;

c) uptake, treatment and distribution of water for public consumption by means of fixed networks;

d) operation of seaport and airport services;

e) rail transportation;

f) regular air transportation of domestic passengers;

g) complementary postal and telecommunications services;

h) infrastructures that do not belong to the basic network, as well as of respective telecommunications services.

3. As to public urban transport, the Government must determine in what circumstances, for reasons of public utility, private companies should operate by way of a concession agreement.

4. The exploration of natural resources, which under the terms of the Constitutional Law come under State ownership, can only be made under temporary concession or some other system that does not entail the assignment of ownership, even when developed by companies in the public sector.

5. The operation of international air transportation can only be made through concession to companies formed exclusively by public capital, which must sign accords to share traffic with designated foreign companies under the terms of applicable national and international legislation.

ARTICLE 14

(Public investment)

1. Private, national and foreign investment is allowed in the areas of reserve of the State, under the terms of this law.

2. The State respects and protects the ownership of private investors and grants them the support and incentives provided for in law.

ARTICLE 15

(Doubts and omissions)

Any doubts and omissions arising out of the interpretation and application of this law are resolved by the National Assembly.

ARTICLE 16

(Repeal of legislation)

All legislation contrary to that stipulated in this law, namely Law N° 13/94, of September 2, 1994, is hereby repealed.

ARTICLE 17

(Regulation)

This law must be regulated by the Government within the deadline of 120 days.

ARTICLE 18

(Enactment)

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

Seen and approved by the National Assembly, in Luanda, on February 21, 2002.

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

Let it be published.

The President of the Republic, José Eduardo dos Santos.

January 2005

Washington, D.C. – USA