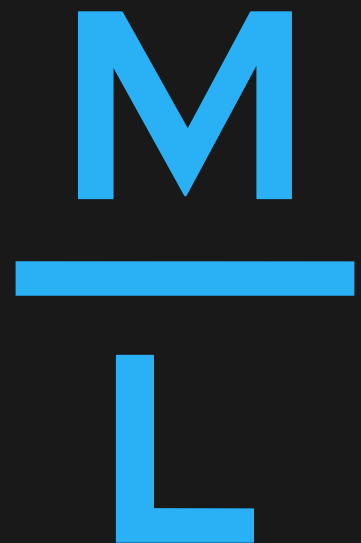


MORAIS LEITÃO
GALVÃO TELES, SOARES DA SILVA
& ASSOCIADOS

ALC
ADVOGADOS

GUIDE TO DOING BUSINESS IN ANGOLA

October 2020



$$\frac{M}{L}$$

CONTENTS

1. INTRODUCTORY CHAPTER	10	6. FINANCIAL MARKET	39
2. GENERAL FRAMEWORK FOR FOREIGN PRIVATE INVESTMENT	12	6.1 Financial institutions	39
2.1 External Private Investment	13	6.2 Type of financial system	39
2.1.1 External Private Investment	13	6.3 Structure of the banking system	41
2.1.2 Repatriation of capitals	13	6.4 Possibility of obtaining bank loans by foreign investors	41
2.2 Tax and financial benefits for private investment	14	7. TAX LEGISLATION	42
2.3 Process for approving private investment projects	15	7.1 Corporate taxes	43
2.4 Rights and Duties of the Investor	16	7.1.1 Business Income Tax	43
2.4.1 Rights and Guarantees of the Investor	16	WHO IS TAXED	44
2.4.2 Duties of the Investor	17	MAJOR TAX EXEMPTIONS AND EXCLUSIONS	44
3. MAIN LEGAL TYPES OF COMMERCIAL ESTABLISHMENT	18	WHAT IS TAXED	44
3.1 Limited liability Companies	18	BUSINESS INCOME TAX RATES	46
3.1.1 Types, incorporation and registration processes	18	NON-RESIDENT TAXPAYERS WITH PERMANENT ESTABLISHMENT IN ANGOLA	47
PRIVATE LIMITED COMPANIES	19	PERMANENT ESTABLISHMENT	47
PUBLIC LIMITED COMPANIES	20	NON-RESIDENT TAXPAYERS WITHOUT A PERMANENT ESTABLISHMENT IN ANGOLA	48
3.1.2 Common Aspects	22	TRANSFER PRICING	48
3.2 Possibility of formation of joint venture and respective requirements	25	LARGE TAXPAYERS STATUTE	48
3.3 Forms of local representation	25	ASSESSMENT AND PAYMENT ON ACCOUNT OF BUSINESS INCOME TAX	50
4. FOREIGN EXCHANGE LEGISLATION	26	WITHHOLDING OF BUSINESS INCOME TAX ON SERVICES	50
4.1 Foreign-exchange transactions	26	AUTONOMOUS TAXATION	50
4.1.1 Current invisible operations	27	7.1.2 Investment Income Tax	51
4.1.2 Capital operations	29	RESIDENT AND NON-RESIDENT TAXPAYERS WITH PERMANENT ESTABLISHMENT IN ANGOLA	51
4.1.3 Merchandise operations	31	TAX RATE AND LIQUIDATION	52
4.2 Special foreign exchange legislation applicable to the oil industry	32	TAXPAYERS NOT RESIDENT IN ANGOLA (WITH NO PERMANENT ESTABLISHMENT)	53
5. REGULATION OF IMPORTS AND EXPORTS	35	7.1.3 Employment Income Tax	53
		MAIN EXEMPTIONS AND DEDUCTIONS	54
		TAXATION GROUPS	54
		DETERMINATION OF THE TAXABLE AMOUNT	54
		EMPLOYMENT INCOME TAX RATES	55
		SOCIAL SECURITY CONTRIBUTIONS	56

7.2	Real estate taxes	56			
7.2.1	Real Estate Income Tax	56			
	MAIN EXEMPTIONS AND DEDUCTIONS	56			
	REAL ESTATE INCOME TAX RATES	57			
7.2.2	Real Estate Transfer Tax	57			
7.2.3	Stamp Duty	57			
	MAIN EXEMPTIONS AND DEDUCTIONS	59			
7.3	Excise duties	59			
7.3.1	Value Added Tax	59			
	WHO IS TAXED	60			
	WHAT IS TAXED	60			
	THE TAXABLE AMOUNT	61			
	MAIN EXEMPTIONS	61			
	VAT RATES	61			
	PAYMENT AND CAPTIVATIONS	62			
7.3.2	Special Consumption Tax	62			
7.3.3	Customs Duties	63			
	PRINCIPAL EXEMPTIONS AND DEDUCTIONS	63			
	CUSTOMS DUTIES RATES	64			
	SPECIAL PROCEDURES	64			
7.4	Tax incentives for private investment in Angola	65			
7.4.1	New Private Investment Act	65			
7.4.2	Special Economic Zones	68			
7.4.3	Fostering Angolan business	68			
7.4.4	Micro, small and medium-sized Angolan enterprises	69			
7.4.5	Patronage Act	70			
7.5	Special tax legislation	70			
7.5.1	Collective investment schemes' taxation	70			
7.5.2	Mining activities' taxation	71			
	WHO IS TAXED	71			
	WHAT IS TAXED	72			
	INCOME TAXES	72			
	MINERAL RESOURCES VALUE TAX (ROYALTY)	73			
	SURFACE CHARGE	73			
	ARTISANAL OR NON-INDUSTRIAL LEVY	74			
	SPECIAL CUSTOMS DUTIES UNDER MINING LEGISLATION	74			
7.5.3	Taxation of petroleum activities	74			
	MAIN EXEMPTIONS AND DEDUCTIONS	76			
	PETROLEUM INCOME TAX	76			
	PETROLEUM PRODUCTION TAX	78			
	PETROLEUM TRANSACTION TAX	78			
	SURFACE CHARGE	79			
	CONTRIBUTION TO ANGOLAN STAFF TRAINING (TRAINING LEVY)	79			
8.	REAL ESTATE INVESTMENT	80			
8.1	Restrictions on private ownership	80			
8.2	Land rights	81			
8.2.1	Purchase and sale contract	81			
8.2.2	Forced acquisition of direct ownership by the leaseholder	82			
8.2.3	Tenure agreement for the establishment of civil dominium utile	82			
8.2.4	Special concession contract for the formation of leasehold rights	82			
8.2.5	Tenancy agreement for the granting of the right of temporary occupancy	83			
8.3	Concession contracts	84			
8.4	Rental	86			
8.5	Land registry	89			
8.6	Tourism	90			
9.	CAPITAL MARKETS	93			
9.1	Introduction	93			
9.2	Markets	93			
9.3	Capital Markets Commission	94			
9.4	Occasional and regular disclosure of information	95			
	QUALIFIED SHAREHOLDINGS	95			
	ANNUAL AND BIENNIAL FINANCIAL INFORMATION	95			
	DISCLOSURE OF PRIVILEGED INFORMATION	96			
	COMMUNICATION OF TRANSACTIONS BY CORPORATE OFFICERS	96			
9.5	Take-over Bids	97			
	GENERAL RULES	97			
	MANDATORY TAKE-OVER BID	97			
	OTHER RULES	98			
9.6	Public offerings of subscription and distribution	98			
	GENERAL RULES	98			
	DEFINITION OF PUBLIC OFFER	99			
	PRIVATE OFFERINGS	99			
9.7	Prospectus	100			
	INFORMATION	100			
	LIABILITY FOR THE PROSPECTUS REGARDING A PUBLIC OFFERING	101			
	EXCLUSION OF LIABILITY	102			
	LIABILITY REGARDLESS OF FAULT	102			

JOINT LIABILITY	102
COMPENSATION	102
9.8 Intermediary activities	103
9.9 Collective investment undertakings	104
9.10 Securitisation investment undertakings	105
9.11 Private equity	107
9.12 Sanctioning regime	108
CRIMES	109
INFRACTIONS	109
9.13 Debt securities	110
9.14 Prevention and combat of money laundering, financing of terrorism and proliferation of weapons of mass destruction	110
10. PUBLIC PROCUREMENT	112
10.1 Public Contracts Law	112
10.2 Court of Auditors	115
11. LAND USE AND URBAN PLANNING	116
12. ENVIRONMENTAL LICENSING	118
13. PUBLIC-PRIVATE PARTNERSHIPS	120
14. LABOUR RELATIONS	123
14.1 Types of employment contracts	123
14.2 Hiring non-resident foreign citizens	124
14.3 Remuneration	125
14.4 Working hours	126
14.5 Vacations, holidays and absences	127
14.6 Termination of the employment contract by the employer	128
14.7 Authorisations and communications required for employers	129
14.8 Collective bargaining	130
14.9 Social Security and employees' protection	131
15. IMMIGRATION AND THE MECHANISM FOR OBTAINING VISAS AND RESIDENCE PERMITS FOR FOREIGN CITIZENS	133
15.1 Types of visas	133
15.2 Power to authorize the grant and extension of visas	135
15.3 Visa Cancelling	136
15.4 Agreements with other countries	136

16. INTELLECTUAL PROPERTY	138
16.1 Copyright	138
16.2 Industrial property	139
17. MEANS OF DISPUTE RESOLUTION	141
17.1 Judicial system	141
17.1.1 Organisation and general rules of jurisdiction	141
17.1.2 Recognition of foreign judgements and enforceability of national judgements through foreign courts	143
17.1.3 International competence of Angolan courts	143
17.2 Non-judicial means of resolving disputes	144
17.2.1 Arbitration	144
17.2.2 Mediation	146
18. COMBATING MONEY LAUNDERING	147
19. MAJOR SECTORS OF ACTIVITY	150
19.1 Mining	150
19.2 Fisheries	153
19.3 Maritime transportation	155
19.4 Electric sector	158
19.4.1 Authorisation for the undertaking of activities	160
19.4.2 Licensing of electrical facilities	161
19.4.3 Commercial relations and access to networks	162
TIED AND NON-TIED SUPPLY	162
ACCESS TO NETWORKS	164
SUPPLY OF ELECTRICITY	165
DISPUTE RESOLUTION	166
19.4.4 Tariffs	167
19.5 Petroleum	168
19.5.1 The petroleum sector	168
19.5.2 Prospecting licence	169
19.5.3 Petroleum concession	170
19.5.4 Public tender	172
19.5.5 Investment risk during the exploration period	174
19.5.6 Local content	174
19.5.7 The downstream and midstream sectors	174
19.5.8 Performance guarantee	175
19.5.9 Gas flaring	175
19.5.10 Supervision of petroleum operations	175
19.5.11 Ownership of the oil and limits to its disposal	176
19.5.12 Disputes	176

19.5.13 Decommissioning	177
19.5.14 Marginal discoveries	177
19.6 Natural gas	178
19.6.1 The natural gas sector	178
19.6.2 Angola LNG	178
19.7 Biofuels	180
<hr/>	
20. COMPETITION	183
20.1 Prohibited practices	183
20.2 Merger control	184
20.3 Sanctions	185
<hr/>	
21. TELECOMMUNICATIONS AND MEDIA	186
<hr/>	
22. FACTS AND FIGURES REGARDING THE REPUBLIC OF ANGOLA	190

$$\frac{M}{L}$$

“Doing Business Angola” was jointly prepared by Morais Leitão, Galvão Teles, Soares da Silva & Associados, Sociedade de Advogados, R.L. (Morais Leitão) and by ALC Advogados (ALC) within the context of the Morais Leitão Legal Circle.

Morais Leitão Legal Circle is a network of law firms in various jurisdictions, based on shared values and common operating principles, created for the purpose of providing the highest quality legal services through its offices in Angola and Mozambique, as well as in Portugal. All offices are independent and leaders in their jurisdictions and provide, through the established partnerships, a legal practice geared to meeting the needs of their clients, ensuring quality and professionalism of the service in any of the jurisdictions.

Morais Leitão has dedicated internal teams of lawyers able to advise clients on international transactions, particularly in matters involving or relating to the jurisdictions of Portuguese-speaking African countries. They work closely with the firms that are part of the Morais Leitão Legal Circle.

ALC, a member of the Morais Leitão Legal Circle in Angola, was founded by a group of Angolan lawyers whose project and ambition was to become a centre of excellence and a leading law firm in Angola.

Doing Business Angola, intended for informational purposes only, seeks to provide a brief description of several aspects of Angolan legislation that may be relevant to clients of Morais Leitão and ALC and other parties potentially interested in some areas of the Angolan legal system. It does not therefore intend to be nor shall be construed as legal advice on any of the matters addressed.

The contents of this document may not be copied, disclosed or distributed in whole or in part without the prior consent of Morais Leitão and ALC.

$$\frac{M}{L}$$

1. INTRODUCTORY CHAPTER

The executive led by the new President João Lourenço (elected in 2017) has sought to promote political and legislative changes in order to make Angola an attractive country for foreign investment and to invert the current ranking in the World Bank's Doing Business rankings (currently, Angola is ranked 177th in 190 countries). In recent years, a number of legislative measures have been passed which have introduced important changes in the Oil&Gas sector and set new rules for foreign investment. It is also important to highlight the enactment of a value added tax code and the enactment of Angola's first competition law, which in our view marks a change in the economic paradigm, both in revenue collection via taxes and in the supervision of competition in Angola.

The oil sector – a strategic sector for the country and the creator of the main source of income – has been subject to a widely praised profound reform – in which we highlight the formal separation between Sonangol E.P., the former national concessionaire, and the recently created ANPG (National Petroleum Agency Gas and Biofuels), the new national concessionaire. This reform, which included, in addition to the above-mentioned reform in the regulatory system, a new legal and tax regime for natural gas and a regime for the exploitation of marginal fields, was intended to combat the decline in national production by eliminating “conflicts of interest” and increasing efficiency in the exploitation of the country's endogenous resources. ANPG has also announced the bidding for 55 new blocks offshore Namibe and Benguela by 2025 in an attempt to reverse the decline in production that has been seen in recent years. The facilitation of the foreign investment regime and the approval of a competition law have also been pointed out by the executive as fundamental measures to increase transparency and attract foreign investors to invest in Angola towards the desired “diversification of the economy” and consequent reduction of the weight of hydrocarbon production in the composition of the national GDP. In this respect, reference should also be made to the ambitious privatisation plan announced by the authorities that by 2021-2022 intend to sell to private entities, both domestic and foreign, a number of non-strategic assets.

It should also be noted that in the last months of 2019 the National Bank of Angola promoted a thorough reform in the rules for the execution of foreign exchange operations between Angola and abroad, facilitating the movement of capital for the payment of personal operations (transfers of personal income of individuals), capital (profits, interest, etc.) and services. Changes in the exchange rate regime are deemed to be crucial to increasing Angola's attractiveness to international markets.

It is still too early to see the impact of the COVID-19 pandemic on the Angolan economy. The price of a barrel of oil traded on international markets (for the first time in history the WTI index traded a barrel of oil at negative prices) will certainly influence the performance of the Angolan economy in the years to come. However, it is completely unknown what the real consequences of the pandemic (socially, economically and financially) will be on the Angolan economy. The high exposures of Angolan public debt associated with oil prices in international markets do not anticipate, in principle, a positive scenario. However, reforms in the oil sector – Angola remains a leading producer in the African context – have been widely praised and many experts have argued that the Angolan industry is prepared to face the crisis.

If before the COVID-19 pandemic there were already some uncertainties about the future of the Angolan economy, these doubts have not been dispelled after a global economic slowdown. However, the strength of the oil sector, the ambitious privatisation plan, the liberalisation of foreign exchange restrictions and the change in the international political chess may put Angola on the map of major international investments. Therefore, the years to come will be critical to the consolidation of policies that have been deemed fundamental for Angola to achieve the potential that the international community hoped would occur in the post-war period.

2. GENERAL FRAMEWORK FOR FOREIGN PRIVATE INVESTMENT

The general framework for private investment in Angola was recently amended with the entry into force on 26 June 2018 of the new Private Investment Law (PIL) (approved by Act no. 10/18, of June 26), which revoked Act no. 14/15, of August 11.

This framework does not apply to previously approved private investment projects, unless private investors have expressly require it.

The PIL sets out the principles and general basis for private investment in the Republic of Angola, establishes the benefits and incentives that the Angolan State grants to private investors and the criteria for access thereto. This statute further establishes the rights, duties and guarantees of private investors, providing for the existence of special investment regimes to be governed by specific legislation and which are therefore excluded from the scope of the PIL.

The Law under scrutiny applies to investments of any amount, whether made by internal investors or external investors, in contrast with the previous framework, in which set minimum thresholds in the case of internal investments and a threshold amount of investment to enable the granting of the benefits and incentives to be able to be granted.

While in the previous framework there were mandatory partnerships with Angolan citizens or companies, which should have an effective role in the management of investment projects, such partnerships are now optional. Nonetheless, there are sectors whose specific legislation establishes local content rules.

The PIL defines “private investment” as the “use of resources by private companies, whether national or foreign, through the allocation of capital, technology and know-how, equipment goods and others for the maintenance or increase of the capital stock”.

2.1 External Private Investment

2.1.1 External Private Investment

The PIL provides for three types of investment: internal investment, external investment and a combination of both, the mixed investment.

Private investment shall be deemed as external investment when the implementation of the respective project is carried out “by means of the use of capital held by non-exchange residents”, including “monetary assets”, as well as “technology and know-how of equipment goods and others”. Contrary to what happens in internal investment, the external investor has the right to transfer profits and dividends abroad.

Examples of external investment operations carried out with resources from abroad include, among others, the introduction into national territory of freely convertible currency, the acquisition of shares in commercial companies incorporated in Angola and the introduction of machinery, equipment and other tangible fixed assets.

This investment may be namely made through the transfer of own funds from abroad, the transfer of machinery, equipment, accessories and other tangible fixed assets.

The PIL provides for two limits that the external investor shall consider: *(i)* shareholders loans made for external investment purposes cannot exceed 30% of the value of the investment made by the incorporated company (such loans may only be reimbursed three years pursuant to the date of registration in the company’s accounts); and *(ii)* indirect investments should not exceed the value corresponding to 50% of the total value of the investment.

Indirect investment is defined broadly as investment which, not being direct investment, comprises, individually or cumulatively, capital flows and other financial instruments (acquisition of shares, public debt securities, loans, shareholder loans, franchises, etc.).

2.1.2 Repatriation of capitals

Pursuant to the complete execution of the the project, duly confirmed by the competent entities, and following the payment of due taxes and the holding of mandatory

reserves, the external investor has the right to transfer profits and dividends abroad, as well as other amounts related to the investment made by them (the result of the liquidation of its ventures, royalties, compensations owed to them, among others).

In this regard, BNA Notice no. 15/19, of December 30, establishes the procedures to be followed in transfers of profits or dividends abroad of which the external investor is entitled to. The procedures to be followed for this purpose are, essentially: (i) demonstrating the investment was made through the submission of a copy of the Private Investment Registry Certificate (*Certificado de Registo de Investimento Privado/CRIP*); (ii) submitting the duly audited financial statements of the previous year; and (iii) submitting a copy of the resolution of the shareholders on the distribution of profits or dividends or a copy of the shareholder loan agreement and the demonstration that the interest rates are the market rates (according to the case). In addition, the investor shall certify that it has complied with all the tax obligations related to the payment of profits or dividends and that the ordering entity does not have any debt registered in the Risk and Credit Information Central (*Central de Informação de Risco e Crédito*) of the National Bank of Angola (*Banco Nacional de Angola/BNA*).

Finally, it is important to note the occasional existence of practical constraints on the repatriation of capital (without prejudice to the right to this repatriation being maintained), namely due to the shortage of foreign exchange in Angola.

2.2 Tax and financial benefits for private investment

Benefits granted under the PIL may be of a fiscal or financial nature. The attribution of benefits and incentives relates to investments of any amount, provided that the investment meets the criteria outlined in the PIL.

Tax benefits may consist of deductions from taxable income, amortisations and accelerated depreciations, tax credit, tax exemption and reduction of taxes (industrial tax, property transfer tax, urban land tax and capital gains tax), contributions and import duties, deferment over time of tax payments and other exceptional tax measures to benefit the taxpayer investor.

Incentives are granted automatically, but they are exceptional in nature, meaning “they are not a rule, and they are limited in time”. Thus, they can only be granted upon request, considering two factors (at least in the case of the special regime, referred to which we will refer to below): the priority sectors of activity and the devel-

opment areas. Specifically, regarding the location of the investment, it is important to note that the new framework establishes four development areas, once again seeking to attract investment to areas usually less sought after by investors.

For projects approved under the special regime, for the four taxes referred above, the PIL specifies in which percentage can a certain rate be reduced and during which period (the zone where Luanda is included enjoys smaller benefits compared to the others). In the case of projects approved under the prior declaration regime, there is a specific benefit per type of tax, rather than by areas.

2.3 Process for approving private investment projects

The PIL includes two investment regimes: the prior declaration regime and the special regime.

The procedures associated to both regimes are characterized by the simple presentation of the investment proposal to the Agency for Private Investment and Promotion of Exportations (*Agência de Investimento Privado e Promoção das Exportações/AIPEX*), for the purpose of registering the project and granting the benefits pursuant to PIL.

In the case of the prior declaration regime, the investment promoter must incorporate a company pursuant to Angolan law prior to the submission of the project, and currently it is not necessary to present the CRIP at the time of its incorporation.

In turn, the special regime is reserved for private investment in priority activity sectors and in development areas. Priority activity sectors correspond to the market segments in which the Angolan lawmaker has identified potential for replacement of imports or for the boost and diversification of the economy, including exports. The list established in the PIL includes, among others, hospitality, tourism and leisure, construction, public works, telecommunications and information technology, production and distribution of power and basic sanitation, collection and treatment of solid waste.

The PIL further states that the interested party may opt for the private investment regime of his choice.

The Presidential Decree no. 250/18, of October 30, which approved the Regulation of the Private Investment Law (*Regulamento da Lei do Investimento Privado*), includes additional rules regarding the procedure for registering private investment.

It is also important to note that, as of this date, according to the publicly available information, the Council of Ministers has presented to the National Assembly a proposal for the amendment of the PIL which presupposes the introduction of a new investment framework: the contractual regime. In accordance with the information provided by the Council of Ministers, this framework, aimed at improving the competitiveness in the attraction of private investment, will enable the negotiation of incentives and benefits considering the specificities of the investment projects, the economic and social impacts of their implementation, the contribution for the boost of the national production and the diversification of exports. However, it will be necessary to wait for the approval of the National Assembly before an announcement of the return of the private investment contracts entered into with the Angolan State.

2.4 Rights and Duties of the Investor

2.4.1 Rights and Guarantees of the Investor

In what concerns the general principles, private investment policy and the provision of benefits and incentives must respect the principles and objectives of the national economic policy, private property and other rights *in rem*, market rules (based on sound competition, morality and ethics among economic agents), freedom of economic and business initiative, with the exception of those areas which constitute a reserve of the State (pursuant to the Constitution and law), security and investment protection, free movement of goods and capitals, as well as bilateral and multilateral agreements and treaties.

Investors are also guaranteed, among others:

- the rights derived from ownership of the resources they invest, “namely the right to freely dispose them, in accordance with the law, without disturbing third parties, including the State”;
- the access to Angolan courts, as well as to alternative methods of dispute resolution;
- the payment of a fair and prompt compensation, in case of expropriation or requisition of the assets object of the investment project, to be calculated in accordance with Angolan law;

- intellectual property rights;
- no public interference in the management of private companies except in the cases expressly provided for by law;
- non-cancellation licenses or authorisations without the competent judicial or administrative proceedings;
- the right to import goods from abroad for the execution of their projects and to export goods, whether produced by them or not, without prejudice to the rules for the protection of the internal market established by law;
- the already mentioned right to transfer profits and dividends abroad, after duly proven execution of the project.

2.4.2 Duties of the Investor

The PIL imposes general duties (such as observing the applicable laws and regulations in Angola) and specific duties to the private investor. Among the specific duties of the investor, we list the following examples to:

- observe the established deadlines for the import of capital and for the implementation of its project, in accordance with the commitments made;
- pay taxes, fees and all other legally due contributions;
- respect the rules on the protection of the environment;
- respect the rules on hygiene, safety and security at work and other issues provided for in labour law;
- contract and keep up-to-date insurance against work accidents and occupational diseases of employees;
- contract and keep up-to-date civil liability insurance policies for damages caused to third parties or the environment.

3. MAIN LEGAL TYPES OF COMMERCIAL ESTABLISHMENT

3.1 Limited liability Companies

3.1.1 Types, incorporation and registration processes

The legal regime applicable to conduct businesses in Angolan territory is defined by the Commercial Companies Act (*Lei das Sociedades Comerciais/LSC*), approved by Act no. 1/04, of February 13, as amended by Act no. 11/15, of June 17 (which approves the Law on simplification of incorporation processes of Commercial Companies or “Simplification Law”), and by Act no. 22/15, of August 31 (which approves the Securities Code).

The LSC enshrines three types of Unlimited Liability Companies (the partnerships, limited partnerships and limited partnership with a share capital) and two types of Limited Liability Companies (Limited Liability Companies and Stock Companies, having both the possibility of being of a Single-member Company type, *i.e.*, companies in which the sole shareholder, natural or legal person, is holder of the totality of the Share Capital).

The choice for the Company type depends on the weighting of factors as the higher or lower structural or functioning simplicity, the amount of capital to be invested and matters of confidentiality as per the propriety of the share capital.

Although, as a rule, there are no limitations as for the nationality of the participants in a commercial company structure, it should be noted that special legislation exists in some sectors of activity (as telecommunications, fishing or diamond extraction) which demands a majority participation of Angolan partners in the incorporation of such companies.

PRIVATE LIMITED COMPANIES

Traditionally used as small and medium investment vehicles, private limited companies (*sociedades por quotas/SQ*) often have a family structure.

Number of shareholders – private limited companies must have a minimum of two shareholders (except in the case of a single-shareholder company).

Corporate name – must consist of the name or the corporate name of one or more of its shareholders, or by a particular denomination, or even by the junction of two of those two elements, and be followed, in any of the cases, by the expression “*Limitada*” or “Lda.”. In the case of single-shareholder companies, the expression “*sociedade unipessoal, unipessoal*” or even the abbreviation “S.U.” must be added to the corporate name before the expression “*Limitada*” or “Lda.”.

Share capital – currently the share capital of a private limited company is freely fixed in the by-laws and corresponds to the value of the “quotas” subscribed by the shareholders (Article 221 of LSC as amended by Article 6 of the Simplification Act). Industry contributions are not allowed.

Quotas – the share capital is divided into participations called quotas. The par value of each quota can vary but may not be less than AOA 1. In the formation of the company, each shareholder holds one quota corresponding to the value of its capital contribution. Quotas are always nominative (that is, the identity of their holders must always be stated in specific corporate documents such as the articles of association, company registration, etc.).

Transfer of quotas – currently the transfer of quotas *inter vivos* shall be set out in a private document with on-site signature recognition and is subject to registration with the territorially competent Commercial Registry Office (Article 251 of LSC as amended by the Simplification Act). Unless otherwise provided in the company by-laws, the transfer of quotas between shareholders, as well as the transfer between them and their spouses, ascendants or descendants, is free. Apart from these cases, and unless otherwise provided in the company’s by-laws, the transfer of quotas shall not take effect against the company until such time as it gives its consent.

Asset liability – for the debts of the company only answers the assets and the patrimony of the company, save the cases of additional liability of the shareholders specifically established in the articles of association.

Governing bodies – general meeting (deliberative) and management (board of directors). The supervisory board, to which the legislation regulating public limited companies applies, is optional in this type of company.

All shareholders participate in the general meeting. Unless otherwise provided by law or the articles of association, resolutions are taken by simple majority of votes cast, not counting abstentions. To each portion of the quota equivalent to one cent of kwana corresponds one vote.

The management comprises one or more managers, who must be natural persons with full legal capacity, although they need not be shareholders of the company.

Managers remain in office until they finish by: *(i)* term of office (when the articles of association or the act of appointment fix the duration of the mandate); *(ii)* dismissal, in accordance with the law; or *(iii)* resignation.

Profits: unless otherwise provided by the articles of association or resolution passed by a majority of $\frac{3}{4}$ of the votes corresponding to the share capital, the company distributes annually at least half of the distributable profits to its shareholders.

Legal reserve: company law imposes the constitution of a legal reserve of no less than 30% of the share capital. Notwithstanding the above, articles of association may define higher minimums.

PUBLIC LIMITED COMPANIES

This type of company is generally chosen by larger companies. Despite involving a more complex structure than a private limited company, a public limited company (“*sociedade anónima*”/S.A.) allows greater flexibility to its shareholders, in particular in that the transfer of shares is not subject to any special form.

Number of shareholders – an S.A. shall have, as a general rule, a minimum of five shareholders, which may be natural or corporate persons (one shareholder is, however,

sufficient in single shareholder public limited companies). Where the share capital is mostly held by the State, State-owned companies or similar to the State, the minimum number of shareholders is two.

Corporate name – must consist of the name or corporate name of one or more of its shareholders, or by a particular denomination, or even by the junction of two of those two elements, and be concluded, in any of the cases, by the expression “*Sociedade Anónima*” or S.A.. In the case of single-shareholder companies, the expression “*sociedade unipessoal*”, “*unipessoal*” or even the abbreviation S.U. must be added to the corporate name before the expression “*Sociedade Anónima*” or S.A..

Share capital – to set up an S.A., the law requires a minimum share capital of an amount in kwanzas equivalent to USD 20,000. The share capital is represented by shares and industry contributions are not allowed.

Shares – the share capital is represented by shares, and all must have the same par value, which can be no less than the equivalent to USD 5 expressed in kwanzas. Although the law allows for the existence of both certificated and dematerialised shares, in practice only certificated shares are found, which may take the shape of nominative or bearer shares.

Transfer of shares – the transfer of shares is not subject to any special form and depends on the type of shares issued by the company. In the case of bearer shares, the transfer simply involves physical delivery of the shares certificates to the transferee. In the case of nominative shares, the transfer is undertaken by written statement of transfer signed by the transferor on the respective share certificate (the transferor’s signature must be notarised), inscription of ownership on the share certificate and subsequent registration of the transfer in the share register book of the company. The articles of association may provide for pre-emptive rights of shareholders, as well as limits to the transfer of shares.

Asset liability – the liability of each shareholder is limited to the value of the shares he/she subscribed. Furthermore, claims of creditors are limited to the assets of the company.

Governing bodies – general meeting (deliberative), the board of directors (the management body) and the supervisory board or single auditor (supervisory body).

The general meeting involves the participation of shareholders entitled to at least one vote. Unless otherwise provided by law or the articles of association, resolutions of the general meeting shall be taken by absolute majority of votes cast, regardless of the share capital present or represented, the abstentions not being counted.

The board of directors comprises an odd number of members fixed by the articles of association. The directors are appointed in the deed of incorporation or by resolution of the shareholders.

As a rule, the supervision of the company is conducted by a supervisory board comprising three or five members and two alternates, appointed in the deed of incorporation or by resolution of the shareholders.

The articles of association may determine that the management of the company is to be undertaken by a single director and that the supervision is to be conducted by a single auditor, provided certain requirements established by law are met.

Profits – unless otherwise provided by the articles of association or a resolution passed by a majority of $\frac{3}{4}$ of the votes corresponding to the share capital, the company distributes annually to its shareholders at least half of the distributable profits.

Legal reserve – company law provides that an amount equal to no less than one-twentieth of the company's net profits shall be allocated to the creation of a legal reserve, until such reserve represents one-fifth of the company's share capital. Notwithstanding the above, articles of association may define higher minimums.

3.1.2 Common Aspects

Irrespective of the type of company, the process of incorporation of a company in Angola is fairly simple and fast, consisting mainly of the following formalities:

- obtaining of the certificate of admissibility of the company name to be submitted at the Central Company Name Register (*Ficheiro Central de Denominações Sociais*), at the Ministry of Justice;
- drafting of the articles of association, which shall include, among others, the following elements: the full identification of the founding shareholders, the

type of company, the company name, the corporate object, the registered office and the share capital, relevant aspects concerning the governing bodies and other matters considered relevant by the shareholders;

- deposit of the share capital in a bank account opened in the name of the company to be incorporated at a banking institution in Angola. According to the amendments entered by the Simplification Act, the contributions to share capital may now be subscribed until the end of the first economic year counted from the date of final registry of the by-laws, under an agreement of the shareholders. The subscription of the capital contributions in cash may be verified through the coupon of deposit or by any other corroborative means, or, as an alternative, the shareholders may choose to state, under their own responsibility, that they “commit to subscribe the capital contributions until the end of the first economic year”. As a rule, the share capital deposited may only be used after registration of the company;
- approval of the company’s by-laws through the execution of a private document with on-site signature recognition, under the template approved by the Directorate-General of Registry and Notary Services (*Director Nacional dos Registos e do Notariado*), as established in the Simplification Act, which exempts the execution of a public deed for the incorporation of companies (as a rule, the members of the governing bodies are appointed at the time of incorporation of the company);
- registration of the company’s incorporation at the territorially-competent Commercial Registry Office;
- publication of the company’s incorporation in the Official Gazette (*Diário da República*);
- registration of the company at the tax authorities, by means of submission of the start of-business declaration;
- registration of the company and its employees at Social Security;
- licensing of the company’s business: all business enterprises are subject to administrative licensing of general trade and provision of commercial services

activity at the Ministry of Commerce; such licensing is confirmed through the issuance of a business permit. There may be other formalities depending on the specific business to be carried out by the company (industrial or other);

- registration of the company in the National Statistics Institute (*Instituto Nacional de Estatística*);
- licensing of the company's business – all business enterprises are subject to administrative licensing of general trade and provision of commercial services activity at the Ministry of Commerce; such licensing is confirmed through the issuance of a business permit. There may be other formalities depending on the specific business to be carried out by the company (industrial or other);
- obtaining of an import/export license – companies wishing to perform import or export operations must be properly licensed and authorised, the licensing process taking place at the Ministry of Commerce;
- companies aiming to be incorporated through a private investment project under the New Private Investment Act (independently of the choice for the prior declaration or special regimes or special must also be subject to the above-mentioned proceedings. After the incorporation the must: (i) the respective communication to the competent body for its approval for registration effects and issuance of Registration Certificate; (ii) the request of the importation of capital registration with the Central Bank (BNA) before the receiving commercial bank. We note that the regulation of the said Act, which shall define the applicable procedures and rectify the loopholes of the said Act, has not yet been published;
- the entire process of incorporation can be carried out at the One-Stop Shop for Business (*Guichê Único da Empresa*), an administrative structure that provides the various services at one single place (notary, company registration, tax authority, etc.). Nevertheless, the licensing of the company's business is the only incorporation act that cannot be accomplished at the One-Stop Shop for Business. It is also possible to deal with the process of incorporation of companies at the Integrated Citizen Attendance Service (*Serviço Integrado de Atendimento ao Cidadão/SIAC*);

- the Simplification Act foresees a special procedure for immediate incorporation of companies, which shall be densified by regulation, and also the possibility of promoting commercial registry acts and requesting the company's registration certificate online through a site on the Internet to be created. The features of the site and the proceedings for online incorporation of companies shall be further regulated. The Simplification Act also foresees the possibility to make all obligatory publications of corporate acts through a site on the Internet of public and free access, wherefore the mandatory publication in Official Gazette – 3rd Serie will be released.

3.2 Possibility of formation of joint venture and respective requirements

Angolan law enables the creation of joint ventures involving companies of any of the types referred to above.

Commercial law allows for shareholders' agreements to be entered into. In this way, the shareholders may agree amongst themselves on the rules of transferability of "quotas" or shares and their right to information, as well as rules regarding the exercise of voting rights. However, they are not allowed to agree on the exercise of management or supervision duties. Also, the law stipulates the cases in which agreements resulting in the obligation to vote in a certain way are deemed to be null and void.

Another form of joint venture, without having to resort to the creation of a new legal entity, involves the execution of a consortium agreement (Act no. 19/03, of August 12). It is a form of representation widely used in Angola, particularly in the construction and oil industries.

3.3 Forms of local representation

The New Private Investment Act includes in its list of external investment operations the "creation of subsidiaries, branches or other representation forms of foreign companies.", operation which had been excluded by Act no. 14/15, of August 11.

4. FOREIGN EXCHANGE LEGISLATION

throughout the investment process, as well as in the subsequent undertaking of the business, one must bear in mind the Angolan foreign-exchange policy, governed by a set of laws and regulations that define the procedures for the import and export of capital.

Act no. 5/97, of June 27 (Foreign Exchange Law/*Lei Cambial*) governs commercial and financial transactions with an actual or potential impact on the balance of payments of Angola and applies to capital transactions and foreign-exchange trading. The National Bank of Angola (*Banco Nacional de Angola/BNA*) is the foreign-exchange authority of Angola, and it may delegate its powers to other entities.

In applying the Exchange Law, it is essential to make a distinction between forex residents and forex non-residents, and what foreign-currency transactions are allowed within its scope. The Foreign Exchange Law determines who is considered a forex resident and non-resident, according to criteria based on habitual residence and location of the registered office. For these purposes and in accordance with legislation applicable to foreigners in the Republic of Angola (*Regime Jurídico dos Estrangeiros na República de Angola*, Act no. 13/19, of May 23), a work permit does not entitle its bearer to settle in national territory, so only foreign citizens who hold a residence permit may be considered forex residents in Angola.

4.1 Foreign-exchange transactions

The Foreign Exchange Law applies: (i) to the acquisition or disposal of gold as coin, bars or in any unworked form; (ii) to the acquisition or sale of foreign currency; (iii) to opening and using foreign-currency accounts in the country by residents or non-residents; (iv) to opening and using in the country accounts in domestic currency by residents or non-residents; and (v) to the settlement of any transactions involving goods, current invisibles or capital.

4.1.1 Current invisible operations

According to the law, current invisible items of trade operations are considered to be any current account transactions that are not of goods or capital made between Angola or outside Angola and between residents and non-residents.

In accordance with existing foreign-exchange legislation, the financial intermediation principle prevails and, therefore, the current invisible operations can only be executed through a financial institution duly authorized by BNA to carry out foreign-exchange trade.

Unlike previously, from December 2019 onwards, BNA distinguishes current invisible operations according to the legal nature of their respective transferors. Current invisible operations ordered by individuals are currently ruled by BNA Order no. 12/19, of December 2, whereas the same operations ordered by corporate entities follow the procedures provided under BNA Order no. 2/2020, of January 9.

The BNA Order no. 12/19, of December 2, operated a significant change in the legal framework applicable to the exchange operations ordered by individuals towards a greater flexibility.

In particular, the dismissal of the prior authorisation from BNA (with the exception of capital operations) and of the submission of any supporting documents for many of the operations ordered by individual foreign exchange residents must be highlighted. Notwithstanding, banking financial institutions remain bound to the duty to promote the (mandatory) registration of these operations with the Exchange Operations Integrated System (*Sistema Integrado de Operações Cambiais/SINOC*), while also ensuring that the foreign exchange operations comply with the legally provided requirements in matters of prevention and fight against money laundering and financing of terrorism.

Under the abovementioned Notice of BNA, individuals who are foreign exchange residents may order the following operations:

- Current invisible operations, which include expenditures with travels, health, private unilateral transfers, transfer of funds accumulated by a foreign citizen during its residency in the country, as long as under a residency authorisation;

- Private operations of import of goods; and
- Capital operations made by foreign exchange residents, namely aimed at the acquisition of real estate property or securities which are abroad or at facing obligations undertaken in the context of financing agreements with financial institutions outside of Angola.

Concerning foreign exchange non-residents holding work visas, BNA allows the transfer of wages arising from dependent employment, imported resources, accumulated capital earnings and resources at the end of their stay in national territory.

The cumulative annual limit for these private operations made in the same civil year by individuals 18 years old or older, be it through the acquisition of foreign currency or resorting to own funds, is of USD 120,000. However, the payment of health, education and accommodation expenses paid directly to the providers of the services referred to above are excluded from this limit. In addition, the transfer of accumulated resources under an employment contract by non-resident foreign citizens during their stay in the country, at the end of their stay in Angola, are also excluded from the above mentioned limit.

Regarding the current invisible operations ordered by corporate entities (which include any current transaction which are neither of goods nor capital the maturity of which is not over 360 days), it is important to note that these are also not subject to prior authorisation from BNA, even though require registration with SINOC.

Unlike transfers ordered by individuals, transfers ordered by corporate entities are not limited in what concerns annual amounts, but the banking financial institutions must request the documents deemed as necessary for an adequate evaluation and confirmation of such operations. For example, current invisible operations which include the provision of a service in an amount greater than USD 25,000 must be supported by a contract.

Contracts used as support for current invisible operations included in the scope of BNA Order no. 2/2020, of January 9, must, on the one hand, clearly identify their purpose, the deadline, the rights and obligations of the parties and the price and, on the other hand, said contracts cannot contain certain clauses, notably clauses that reflect a manifest imbalance between the liabilities of the parties or clauses that establish an

automatic renewal of the contract. The contract price cannot be calculated based on percentages of turnover, income, sales or purchases, except for the cases where the international commercial practice determines it. The contracts that, beside current invisible items of trade operations, include additional elements, such as goods and others relevant for calculating the global price of the contract must indicate separately the value of said additional elements. Finally, the use of the Portuguese language is recommended for contracts used in support of current invisible operations, which may also be admitted in English or French, insofar as the banking institutions has the internal capability to interpret such contracts.

4.1.2 Capital operations

According to the law and related regulations, capital operations are deemed to be “contracts and other legal acts whereby rights or obligations are constituted or conveyed between residents and non-residents, including loans maturing at more than one year, foreign investment operations and capital movements of a personal nature” and “transfers between Angola and abroad listed in the law as well as those directed at the purposes of or arising from the acts mentioned in the law”. In particular, capital operations are as follows:

- incorporation of new companies or branches of existing companies;
- participation in the share capital of companies or in civil or commercial companies;
- creation of joint-account investments or associations of third parties in shareholdings;
- total or partial acquisition of establishments;
- acquisition of real estate;
- transfer of amounts resulting from the sale or liquidation of positions acquired in accordance with the previous operations;
- issue of shares by any companies or corporations and issue and full or partial repayment of public debt securities, of bonds issued by private entities and other securities of a similar nature maturing at more than one year;

- subscription and purchase or sale of shares in any companies or corporations and public debt securities, bonds issued by private entities and other securities of a similar nature maturing at more than one year;
- the grant and full or partial repayment of loans and other credits (whatever the form, nature or title thereof), when for a term exceeding one year, with the exception of loans and other credits exclusively civil in nature.

The regulations in force are mainly directed at governing capital operations involving not only the import but also the export of capital. For that purpose, the related regulation stipulates that all capital operations are subject to authorisation by the BNA.

It should be said that the law limits to financial institutions domiciled in Angola the ability to import and export capital, after prior authorisation by the BNA. In certain cases, this authorisation may be delegated to credit institutions. Lastly, the foreign exchange attributed to the holder of a licence to import or export capital cannot be used for purposes other than those for which it was granted.

Also, the creation of new companies or any branches abroad (as well as the purchase or sale of shares of companies domiciled outside the country) using capital domiciled in Angola is considered a medium- or long-term capital operation, and as such subject to the requirements of prior authorisation by the BNA.

However, through BNA Order no. 15/19, of December 30, the BNA simplified the undertaking of foreign exchange operations related to direct foreign investment and portfolio investment, exempting from prior authorisation several foreign investment and divestment operations.

BNA Order no. 15/19, of December 30, establishes the rules and procedures applicable to foreign exchange residents which must be complied with in the undertaking of foreign exchange operations related to: *(i)* external direct investment; *(ii)* investment in securities (portfolio investment); *(iii)* divestment operations; and *(iv)* income earned by foreign exchange non-residents arising from direct or portfolio investment. This Order is also applicable to all foreign exchange operations concerning external investment projects which «have been registered with the National Bank of Angola prior to its publication». The investment made by foreign exchange non-residents in the oil sector are excluded from the scope of this Order.

In the context of this Order, BNA distinguishes foreign direct investment from portfolio investment. Direct investment is made in the «incorporation of new companies or other legal entities» or through the acquisition of shares in unlisted Angolan companies or, if listed, when the investment grants the external investor a voting rights equal to or higher than 10%. In its turn, portfolio investment represents the acquisition of securities. In the case of acquisition of securities representing the capital of a listed company, it shall be deemed as portfolio investment only when the voting rights associated with the investment are less than 10% of the capital of the listed company.

4.1.3 Merchandise operations

The rules on foreign-exchange transactions for the payment of import, export and re-export of goods are provided in BNA Order no. 5/18, of July 17, in force since 15 September 2018. This Order determines, as the revoked BNA Order no. 19/12, of April 25, that the settlement of a given transaction must be undertaken through just one banking institution.

Foreign exchange operations which fall within the scope of this Order are subject to prior authorisation by the Ministry of Industry and Commerce, except when dealing with the import of merchandise in an amount of less than USD 5000 and accompanied luggage which enters the territory through the border posts under the simplified regime for imports.

On the other hand, operations of import of merchandise with a settlement term of more than 360 days from the date of the customs clearance of the unloading are subject to authorisation from BNA. Permit applications (which must include documentation regarding the import process and goods referred to in the BNA Notice) are submitted to a commercial bank.

This BNA Order also established the need for recourse to documentary credits in the following situations: *(i)* for any imports of goods whose value exceeds the value foreseen in the BNA Instructions no. 18/19, of October 25 (to be determined, from time to time, by the BNA and which currently does not provide a limit for that purpose); *(ii)* expiring within 360 days; and *(iii)* with the option of advance payment up to 10% of the total value of the operation. Documentary credits must be open according

to the Uniform Rules and Habits Related to Documentary Credits (*Regras e Usos Uniformes Relativos a Créditos Documentários*) (UCP 600) of the International Chamber of Commerce. As opposed to the documentary credits, advance payments may only occur, under the terms of the BNA Instructions no.18/19, of October 25, for: (i) the imports of merchandise up to USD 50,000, per operation, without any annual limits, not including the advance payments within the context of documentary credits; (ii) within which merchandise shall enter in Angola within 180 days from the date when the foreign exchange operation is considered as effective in the country.

Payments against delivery may be made by documentary collections and documentary remittances (the second kind being permitted only for the import of merchandise up to USD 200,000 per operation, without annual limits).

4.2 Special foreign exchange legislation applicable to the oil industry

The Act no. 2/2012, of January 13 (Foreign Exchange Act Applicable to Oil Industry/*Lei sobre o Regime Cambial Aplicável ao Sector Petrolífero*) establishes a special foreign-exchange regime for oil operations, pursuant to which the National Concessionaire and its associates (domestic or foreign corporate persons that are associated with the National Concessionaire through a commercial company, a consortium agreement or a production-sharing contract) are required to make all payments of expenses and tax obligations, as well as payments for goods and services provided by residents and non-residents, through accounts domiciled in Angola, in a phased manner, based on the calendar set by the BNA in Notice no. 20/2012, of April 12.

To this end, the National Concessionaire and its associates are required to open a foreign-currency account with banking institutions domiciled in Angola for payment of taxes and other fiscal obligations to the State, as well as for payment of goods and services provided by forex residents and non-residents, and an account in national currency for payment of goods and services provided by resident entities.

The implementation of the referred measures took place according to the following timetable:

- as of October 1, 2012, the National Concessionaire and its associates are obliged to make the payments for the supply of goods and services through accounts in

local and foreign currency opened with banking institutions domiciled in the country;

- as of May 13, 2013, they must also deposit in specific accounts domiciled in the country, the amounts resulting from the sale to BNA of the foreign currency required for payment of taxes and other fiscal obligations to the State;
- as of July 1, 2013, contracts for the supply of goods and services concluded by the National Concessionaire and its associates with forex resident entities must be paid only in national currency;
- payments for supplies of goods and services to forex non-resident entities must be effected through the operator's accounts held with financial banking institutions domiciled in the country since October 1, 2013.

After the sale to the BNA of the foreign currency required for payment of taxes and other fiscal obligations to the State, the balance of foreign-currency accounts will be primarily used for the payment of current expenses (cash call) and only then will the surplus balance be allowed to be placed by the foreign associates on the domestic or foreign market.

Regarding the disposal of amounts corresponding to profits, dividends, incentives and other capital remuneration and of the amount of depreciation of the investment, foreign associates are entitled to deposit them with foreign financial institutions, while the national associates can hold them in foreign (or national) currency at banks domiciled in Angola, and may transfer them periodically, in accordance with their articles of association, to their respective non-resident shareholders in the form of dividends or profits.

The National Concessionaire and its associates can carry out foreign-exchange transactions without prior permission of the BNA (excluding capital operations aimed at foreign investment), which must then be registered with the banking financial institutions via SINOC.

The Foreign Exchange Law Applicable to Oil Industry also stipulates that foreign associates must fully fund in foreign currency their share of the investment needed to implement oil operations, and Angolan banking financial institutions are not allowed to extend credit without the prior permission of the BNA (unless, in any of the cases,

the funds are secured by monetary instruments held by the said foreign associates in Angola).

The National Concessionaire and its national and foreign associates shall, individually and prior to November 30 each year, submit the annual forecast of foreign-exchange transactions, such information to be updated quarterly. The block operator shall likewise quarterly submit to the BNA a detailed list of all contracts concluded with non-resident suppliers.

BNA Order no. 13/19, of December 2, establishes the procedures to be adopted in the transactions for the sale of foreign currency by the National Concessionaire and its national and foreign investing companies, regardless of their status of operators, including entities dedicated to the production of liquefied natural gas, for the settlement of goods and services provided by foreign exchange residents to commercial banks with which they maintain a business relationship.

The exchange rate used in connection with the referred transactions of sale of foreign currency is freely negotiated between the parties.

5. REGULATION OF IMPORTS AND EXPORTS

Cross-border transactions of goods are subject to payment of customs fees, Stamp Duty, Value Added Tax, Special Consumption Taxes and general customs charges.

The entity responsible for the supervision of customs activities is the General Tax Administration, even if assisted by other entities involved in the supervision of foreign and domestic trade, such as the Ministry of Industry and Trade, the Ministry of the Interior (through the Fiscal Police and the Criminal Investigation Service), the Ministry of Health, the Ministry of Agriculture and Fisheries, the Ministry of Foreign Affairs, the Ministry of Mineral Resources, Petroleum and Gas and the Ministry of Transport, Telecommunications and Information Technology (through the National Council of Shippers and the Administration of Ports and Airports).

In what concerns the regulation of procedures related to the licensing of imports and exports, the applicable legislation is the recently published Presidential Decree no. 126/20 of May 5, which sought to respond to the need to define a simplified model of administrative procedures that would be applicable to import, export and re-export operations, with the ultimate aim of improving the Angolan foreign trade environment and certainty in the licensing of cross-border trade operations.

Pursuant to the terms of Presidential Decree no. 126/20, all economic agents with the intention of carrying out import or export operations must proceed with their registration with the Ministry of Industry and Trade, through the REI - Registration of Exporters and Importers. This act is mandatory and has a validity of five years. The REI allows economic agents to register on the Foreign Trade Computer Platform, through which agents can proceed with the licensing of the respective import and export operations.

The request for a license, along with the documentation that shall be attached to it, is submitted through the Platform by presentation of the Single Document corresponding to the operation, which must contain information such as the identification

of the importer/exporter, the Tax Identification Number of the exporter or the references of the importer that have been assigned by the General Tax Authority, the Importer Code, the point of entry or exit of the goods, the gross weight of the goods, the tariff code of the goods, the country of origin, among others.

If all procedures are properly followed, the requests for licenses must be approved within a maximum of two working days from the date of submission and registration on the Platform. From the moment of the presentation until the license is granted, the interested party may consult the licensing process directly on the Platform.

The customs regulation of Angola is established by the Customs Tariff of Import and Export Rights approved by the Presidential Legislative Decree no. 10/19, of November 28, which corresponds to the 2017 version of the Harmonised Commodity Description and Coding System (HS), including the Preliminary Tariff Instructions (IPP), the General Rules for the Interpretation of the Harmonised System (GRI), the tables annexed to the IPP, the General Outline of the Customs Tariff text and the Customs Tariff text. Said diploma introduces increases, reductions and limitations to import and export rates to promote national production in sectors where Angola has production capacity.

Although it establishes a principle of freedom regarding the import or export of goods, the Customs Tariff nevertheless provides for a certain range of products whose import and export, for various reasons – from the need to protect human life to national security – is prohibited. The Customs Tariff also provides for the application of a special customs procedure applicable to the Province of Cabinda.

In addition to being part of the World Trade Organization since 23 November 1996, Angola is party to a number of relevant trade agreements, including the Preferential Tariff Treatment Agreement For Exports to China and the Cotonou Agreement. The Angolan state also ratified Bamako Convention on the Ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa and participated in the 1992 Rio Declaration on Environment and Development.

Angola is also part of the Generalized System of Preferences (GSP), which offers developing countries a reduction in customs duties for some of their products entering the European market.

With regard to the petroleum sector, a specific customs regime was approved by Act no. 11/04, of November 12, which establishes that all entities associated with the National Concessionaire are exempt from customs charges on the import and export of goods (with the exception of stamp duty, the rate of one per thousand *ad valorem* and the other service charges, associated with the import and export of goods), provided that such goods are exclusively related to the execution of petroleum operations and are included on the list attached to the aforementioned law.

The import and export of products and goods to and from Angola is subject to control mechanisms that ensure compliance with legal obligations by economic agents.

The National Bank of Angola's (BNA) Notice no. 4/14, of August 12 (Simplified Procedure for the Payment of Goods Imports), establishes simplified rules and procedures to be followed when carrying out foreign exchange transactions for the payment of goods imports. Under the terms of said Notice, companies wishing to use the Simplified Process for the Payment of Goods Imports must, via banking institutions, submit a licensing application to the BNA. The requirements for applying for a license are extensive, and include, among others:

- a statement issued by the intermediary banking institution through which the company intends to carry out most operations;
- audited financial statements for the last three financial years, along with an independent auditor's opinion report thereon;
- certified copy of the company's articles of association published in the Official Gazette (III series);
- copy of proof of Registration as an Importer with the Ministry of Commerce.

Once the licensing application has been submitted, the BNA assesses the application, considering, among others: (i) the economic and financial soundness of the company; (ii) the market volume imported in the last 36 months; (iii) the degree of compliance with foreign exchange regulations; (iv) the degree of relevance of the goods to be imported for the national economy; and (v) the independent auditor's opinion on the company's financial statements.

The BNA shall communicate the decision relating to the licensing application within a maximum period of 60 days from the date of entry of the proceedings. Should the application is approved, the BNA shall issues a license valid for 12 months, renewable for the same period.

There were two main changes introduced by the Simplified Process for the Payment of Goods Imports:

- the exemption for importers from submitting documentation supporting the import of goods to banks when applying for payment from the exporter; and
- the permission to make advance payments of the value of the import of goods (before the entry of the goods in Angola) up to a maximum amount of AOA 100,000,000 per exporter (if the sum of advance payments to the same exporter exceeds the said value of AOA 100,000,000 and the goods have not yet entered the country, such payments are considered part of a single operation, deliberately fractioned).

Among the numerous obligations for the licensed companies, it is worth mentioning the obligation of sequential filing of the documents required for liquidation by date of liquidation, and that are exempted by the simplified procedure (namely *proforma* invoices, commercial invoices, transport documents, import licenses, single documents, supply contracts, bank guarantees).

The BNA may, at any time, provisionally or definitively suspend the license granted to an importer, should any violation of the rules established by BNA Notice no. 4/14, of August 12, be found.

6. FINANCIAL MARKET

6.1 Financial institutions

Financial institutions are governed by Act no. 12/15, of June 17 (Financial Institutions Framework Law/*Lei de Bases das Instituições Financeiras*), which governs the process of establishment and the business of financial institutions, as well as the supervision and reorganisation of financial institutions.

Financial institutions may be banking or non-banking institutions. The latter are subdivided into three categories: (i) those related to currency and credit subject to the jurisdiction of the National Bank of Angola (such as exchange bureaux, factoring companies, finance lease companies, payment service providers); (ii) those related to insurance business and social security subject to the jurisdiction of the Angolan Agency for Insurance Regulation and Supervision/*Agência Angolana de Regulação e de Supervisão de Seguros* (such as insurers and reinsurers, pension funds and their management companies); (iii) and those related to capital markets and investment within the jurisdiction of the Capital Market Commission/*Comissão do Mercado de Capitais* (such as securities brokerage and distributors, investment companies, or assets management companies).

To carry on any of the activities governed by the Financial Institutions Framework Law, the company will have to adopt one of the forms prescribed by law and obtain authorisation to carry on the business from the respective regulator.

The business of receiving from the public deposits or other repayable funds for their own use on and of acting as an intermediary in the settlement of payment transactions may be carried on only by banking institutions.

6.2 Type of financial system

With the approval of the new Organic Law of the National Bank of Angola (*Lei Orgânica do Banco Nacional de Angola*) and of the Foreign Exchange Law (*Lei Cambial*),

the BNA was endowed with greater responsibility and autonomy in monetary and foreign-exchange matters and delegated to commercial banks and exchange houses powers to licence and undertake a number of current invisibles transactions in foreign currencies.

The Angolan financial market has been subjected to several measures involving modernisation and adaptation to international financial standards. Of these, the following are noteworthy:

- creation of Treasury Bonds and Treasury Bills, which, together with Central Bank Securities, are instruments used to finance the State in a non-inflationary manner and, at the same time, regulate the liquidity of the financial system through open-market transactions by the Central Bank;
- creation of the Payment System and Interbank Services Company (*Sistema de Pagamentos e da Empresa Interbancária de Serviços*, the company responsible for the provision of electronic clearing services of transactions processed by the electronic payments network) and the entry into operation of the Real-Time Payment System (*Sistema de Pagamentos em Tempo Real*);
- legislative stimulation of the money and foreign exchange markets conducted from 2003, governing transactions with Treasury Bills and Bonds, providing the banking market and the economy more facilities in carrying out their operations;
- creation of a specific legal framework for non-banking financial institutions and creation of the Angola Stock Exchange (BODIVA), which started operating in December 2014.

As the central bank, the BNA continues its strategic mission to catalyse the development of the country, ensuring preservation of the value of the national currency and establishing the application of a legal framework, organisation, working and supervision of the financial system allowing harmonious, balanced development of the Angolan capital market.

The BNA is charged with the execution, monitoring and control of the monetary, foreign-exchange and credit policies, management of the payment system and ad-

ministration of the currency within the scope of the country's economic policy, and it is also charged with implementing measures aimed at stabilising the money and foreign-exchange markets and increasing inter-bank competitiveness.

6.3 Structure of the banking system

The Angolan banking system comprises several domestic capital banking institutions and foreign-capital banks that have been set up as banks under Angolan law.

Banking and non-banking financial institutions authorised to operate in Angola must be properly registered with the National Bank of Angola (a list of authorised banking financial institutions can be found on the BNA website on the Internet).

6.4 Possibility of obtaining bank loans by foreign investors

A foreign investor may obtain credit from the Angolan banking system upon the total implementation of its investment project. However, because the investor is a forex non-resident for the purposes of the Foreign Exchange Law, the investor is subject to the constraints and requirements of the Foreign Exchange Law and related regulations.

7. TAX LEGISLATION

Taxes are becoming more important in African economies, especially in Angola. Since 2011 several tax codes have been published revoking, in some cases, other regulations dating back several decades. Among these codes are the Business Income Tax Code (Act no. 19/14, of October 22), the Personal Income Tax Code (Act no. 18/14, of October 22), the Investment Income Tax Code (Presidential Legislative Decree no. 2/14, of October 20), the Stamp Duty Code (Presidential Legislative Decree no. 3/14, of October 21), the Customs Tariff (Presidential Legislative Decree no. 10/13, of November 22), relevant amendments to the Consumption Tax (Presidential Legislative Decree no. 3-A/14, of October 21), as well as a new General Tax Code (Act no. 21/14, of October 22), a Tax Execution Code (Act no. 20/14, of October 22) and a Code of Tax Proceedings (Act no. 22/14, of December 5). More recently, a new Value Added Tax Code was approved, which will reform the country's taxes on consumption, and new Double Taxation Conventions were signed with Portugal, the United Arab Emirates and China, which will bring a new paradigm to Angola's tax system regarding international taxation.

The Angolan tax system is comprised of several taxes, its framework being the General Tax Code, which defines a set of general rules for the relationship between taxpayers and the tax authorities.

The General Tax Code maintains (since 2014) the limitation period for the expiry of the right to assess taxes generally at five years (extending it to 10 years when the absence of assessment derives from an infraction by the taxpayer) and the general right to claim taxes to 10 years (previously the general statute of limitations was 20 years).

Taxpayer's guarantees were increased with the approval of the new Tax Proceedings Code namely with the right to be a part of the decision process (*direito de audição* – it must be exercised within 30 days) and the general guarantee that the proceedings should be terminated in a 90-day period.

The relationship between taxpayers and the Tax Administration now benefits from a greater number of technical procedures provided for in the law regarding the Tax Authorities's action (namely regarding the formalities required for the taxpayers' citation, special systems for asset seizure, special rules penalizing taxpayers without a clean tax situation, such as prohibiting the entering into and the renewal of certain contracts with public entities and prohibiting the distribution of profits) and, on the other hand, from more detailed and regulated means of reaction available against any illegal actions taken by the Tax Authorities.

It is worth mentioning that, in June 2015, the Special Contribution on Current Invisible Currency Transactions was introduced, establishing a 10% rate levied on certain types of transfers overseas. Transfers made overseas referring to the payment of service agreements on foreign technical assistance or management are subject to this Special Contribution.

A service agreement on foreign technical assistance or management is a contract whose object is the acquisition of specialized administrative, scientific and technical services to non-resident entities necessary to maintain, improve or increase the productive capacity of both goods and services, as well as to increase the level of professional training of employees, which demand from the non-resident entities knowledge (or know-how) which is not available in Angola.

The assessment of this Contribution must be made by the taxpayer (meaning the one who requires the transfer) before processing the transfer, and financial institutions must only conduct these transfers overseas with due certification of the Revenue Collection Document (*Documento de Arrecadação de Receita*).

Finally, it is important to mention that, in June 2018, a new Private Investment Law was published which, like the previous Private Investment Law and related regulation, envisages certain tax incentives.

7.1 Corporate taxes

7.1.1 Business Income Tax

Angola does not have a single tax on corporate income. Instead there is the Business Income Tax (*Imposto Industrial*) and the Investment Income Tax (*Imposto sobre a Apli-*

cação de Capitais), in addition to special sector taxation (mining, oil and construction agreements).

WHO IS TAXED

Resident companies and resident natural persons (who earn income from industrial or commercial activities) are taxed in Angola on their income earned in Angola and worldwide. A company is considered resident in Angola if it has domicile, registered office or effective management there.

Non-resident companies or non-resident natural persons are taxed only on income obtained in Angola. Thus, branches, permanent establishments or any form of representation of non-resident companies in Angola are subject to taxation in Angola on income obtained in Angola or attributed to Angola.

MAJOR TAX EXEMPTIONS AND EXCLUSIONS

The main exemptions and tax benefits foreseen regarding the Business Income Tax are those resulting from investment agreements or similar agreements entered into between the Angolan Government (or any other legally competent public entity for that purpose) and companies that operate or intend to operate in Angola. Outside the scope of those agreements, shipping and airline companies benefit from a general Business Income Tax exemption if, in their country of nationality, Angolan companies with the same object enjoy the same prerogative.

WHAT IS TAXED

The law establishes that all profits attributable to the exercise of a commercial or industrial activity, even if accidental, are expressly subject to Business Income Tax. Commercial or industrial activities include, among others: *(i)* farming, fish farming, poultry farming, livestock, fishing and forestry; *(ii)* mediation, agency or representation in the performance of contracts of any nature; *(iii)* the exercise of activities regulated by the gaming supervisory body by the National Bank of Angola and by the Capital Markets Commission; *(iv)* the activities of companies whose object is the mere management of a property portfolio, of shares or of other securities; and *(v)* the activity of foundations, autonomous funds, cooperatives and charity associations.

The concept of income or gain in Angolan tax law is a broad one, including extraordinary gains, income from core activities or ancillary activities, rents (excluding real estate rents which are taxed under Real Estate Income Tax), income from foreign sources, dividends, interest and royalties.

The income that is generated by financial operations (such as interest, dividends, participations in companies' profits, premiums on bonds, among others) is subject to Business Income Tax only if not liable for other tax or taxes.

The concept of income or gain also includes debt relief and positive equity variations (except for those deriving from the issuance of new shares or loss compensation made by the shareholders or of tax credits). In the formation of taxable income, expenses necessary to obtain these gains are deductible, within "reasonable" limits, including charges for ancillary activities, financial charges, administrative charges – such as salaries, allowances, retirement pensions, rents and costs with transport, communications, security, legal services costs and insurance –, depreciation of property, taxes and levies themselves (except, naturally, Business Income Tax), certain types of donations, certain types of provisions, and costs borne in health care, day care centers, canteens, libraries and schools, when made available to the majority of the company's employees. The interest of loans made by share capital holders are also deductible, but only in the part that does not exceed the average annual reference interest rate established by the Central Bank.

Some expenses are, however, expressly considered non-deductible, including compensation paid as a result of insurable risk, fines and all charges related with infractions of any nature, interest charged on loans (of any kind) of the share capital holders (in the part that exceeds the average annual reference interest rate established by the Central Bank) expenses with maintenance and repair of rented buildings (considered as costs in the calculation of Municipal Real Estate Tax), as well as other taxes due (the Business Income Tax itself and the Urban Real Estate Income Tax due on rented property only). Exchange differences, when not realized, are not considered as income nor as costs. Costs not properly documented or not documented (except the ones regarding self-billing, according to the applicable special legislation) and confidential expenses are non-deductible. Tax losses recorded in a given year can be deducted from taxable income up to the end of the fifth year following the occurrence of such losses. However, tax losses determined on tax-exempt or reduced-tax activities cannot be deducted.

Upon request of the taxpayer to the Tax Authorities (AGT), the profits taken to the investment reserve, which within the following three years have been reinvested in new facilities or equipment, related to the productive activity, may be deducted from the taxable income in the five years immediately following the conclusion of the investment.

As for the rules concerning the determination of the taxable income, two regimes are in force: the general regime and the simplified regime. Public companies and public entities, financial institutions, telecommunications operators, affiliates or branches of companies with headquarters abroad and other taxpayers with annual gross invoicing exceeding USD 250,000 are covered by the general regime, thus having to have an organized accounting system on the basis of which the respective taxable income is determined.

The other taxpayers belong to the simplified regime.

BUSINESS INCOME TAX RATES

The current Business Income Tax rate is 25%, but there is a reduced rate of 10% for income generated in the context of agricultural, fish farming, poultry farming, fishing, forestry, and livestock activities. The activities of the banking and insurance sector and telecommunications operators as well as oil companies are, however, subject to the 35% rate.

The provision of services of any kind carried out in Angola or in favour of entities which are domiciled or have their effective management or permanent establishment in Angola, by legal entities which do not have their head office, effective management or permanent establishment in Angola is taxed at a rate 15%, payable by withholding.

The tax rate of the Business Income Tax can be reduced in the context of private investment projects duly licensed by public authorities foreseen in general and in special legislation approved thereto, depending on the development area in which the investment project is located.

Donations which are not covered by the Patronage Act (*Lei do Mecenato*) are not considered as tax costs and are subject to autonomous taxation at the rate of 15%.

NON-RESIDENT TAXPAYERS WITH PERMANENT ESTABLISHMENT IN ANGOLA

A non-resident company in Angola that carries on its economic activity in Angola through a branch, agency or any other form of permanent establishment is subject to taxation in Angola under the general regime, in respect of profits attributable to the permanent establishment, but also in respect of: (i) profits made by the parent company (not resident in Angola) on the sale of goods similar to those sold by the permanent establishment; and (ii) profits on other activities carried out in Angola in economic activity similar to the one carried on by the permanent establishment in Angola.

In determining the profit attributable to a permanent establishment in Angola, only those costs incurred by the permanent establishment in Angola may be deducted.

As in the case of the tax treatment of residents, non-residents too, having a permanent establishment in Angola, can deduct from the tax assessment part of the Investment Income Tax previously borne in the determination of the Business Income Tax due.

PERMANENT ESTABLISHMENT

According to Angolan law, permanent establishment shall mean a fixed place through which the company carries on the whole or part of its business, comprising, *inter alia*, a place of management, a branch, an office, a factory, a workshop, a mine, an oil or gas well, a quarry or any other place of extraction of natural resources in Angola.

The term “permanent establishment” further comprises: (i) an establishment for construction or assembly or inspection activities carried on there, including supervision necessary for its functioning, but only when such a place or such activities last longer than 90 days in any 12-month period; (ii) provision of services, including consultancy services by a company acting through employees or other personnel engaged by it for the purpose, but only where such activities are undertaken in Angola during one or more periods totalling more than 90 days in any 12-month period.

It is also considered that a permanent establishment exists where a person (other than an independent agent) acts in Angola for a company and that person: (i) acts with powers usual to the conclusion of agreements on behalf of the company; and (ii) even if it does not have such powers, usually keeps in the country a stock of goods for delivery on behalf of the company.

A company is not deemed to have a permanent establishment in the country merely because it carries on business through a broker, general commission agent or any other agent of independent status, where such persons are acting in the ordinary course of their business. However, even independent agents can be considered permanent establishments in Angola if their activities are exercised exclusively or almost exclusively on behalf of a single company.

As for insurance companies (except in the matter of reinsurance), they are deemed to have a permanent establishment in Angola when they act through a person who receives premiums or insures risks in Angola (provided the person is not an independent agent).

NON-RESIDENT TAXPAYERS WITHOUT A PERMANENT ESTABLISHMENT IN ANGOLA

Non-resident taxpayers without a permanent establishment in Angola may be subject to different taxes on income they earn in Angola, depending on the type of income concerned (Investment Income Tax, employment income or income from Angola subject to Business Income Tax).

TRANSFER PRICING

Resident entities that are in a situation of “special relationship” with other entities, resident or non-resident, subject or not to Business Income Tax, shall implement conditions similar to those that would normally be agreed between independent persons. The tax authorities may carry out the necessary corrections for determining the taxable income whenever it finds that the conditions applied were different from what would normally be agreed between independent persons.

The law does not define extensively what is meant by special relationships, but considers there are special relations between two entities where an entity has control over the capital of the other or has, directly or indirectly, significant influence over the management of the other entity.

LARGE TAXPAYERS STATUTE

The Statute of Large Taxpayers (*Estatuto dos Grandes Contribuintes*, Presidential Decree no. 147/13, of October 1) establishes a special taxation scheme for entities that

qualify as large taxpayers. Large taxpayers are required to have audited and certified accounts as well as to give notice of any changes in shareholding structure, management, and headquarters or place of effective management and keeping a close relationship with the Tax Authorities.

This statute foresees two special taxation schemes for large taxpayers: *(i)* taxation of groups of companies; and *(ii)* a transfer pricing regime.

- Groups of companies – all entities that are considered to be large taxpayers and that are part of a group of companies may opt to be taxed according to this regime. Under this special scheme for the taxation of groups of companies all profits and losses of the companies of the group are pooled.

For the purposes of this regime a group of companies is considered to exist if the parent company holds, directly or indirectly a participation of at least 90% in another company (if this participation corresponds to at least half of the voting rights).

- Transfer pricing – the transfer pricing regime is more extensively regulated for those that qualify as large taxpayers. Thus, for the purposes of this legal regime the concept of associated enterprises is fulfilled when an entity has the power to exercise, directly or indirectly, a significant influence on the management decisions of the other, which it is deemed to occur namely when: *(i)* directors or managers of a company as well as their spouses, ascendants and descendants hold at least a 10% participation in the capital or voting rights in the other company; *(ii)* the majority of the members of the statutory boards, or their spouses, unmarried partners, ascendants or descendants are the same persons; *(iii)* entities that enter into a subordination agreement; *(iv)* entities that are in a group relationship as well as entities that are bound by a subordination agreement of a parity group, or other of equivalent effect, according to the Commercial Companies Act; *(v)* commercial relations two entities represent more than 80% of the total turnover of one of such entities; or *(vi)* an entity finances the other in more than 80% of its credit portfolio.

This regime only recognizes the traditional transactional transfer pricing methods (the comparable market price method, the resale price method and the cost-plus method).

The Business Income Tax Code also establishes a tax neutrality regime applicable to reorganisations (for which only the so-called Large Taxpayers are eligible) that, provided certain requirements and formalities are fulfilled, defers taxation on any transfers of assets which take place by virtue of those reorganisations. This scheme also allows the deduction of tax losses incurred by the merged or divided companies in the new company or the incorporating company, provided prior authorisation is given by the Minister of Finance.

ASSESSMENT AND PAYMENT ON ACCOUNT OF BUSINESS INCOME TAX

Without prejudice to the possibility of provisional payments being made in advance, the final settlement and respective tax payment are due by the end of April (for taxpayers subject to the simplified taxation regime) and May (for taxpayers under the general regime).

WITHHOLDING OF BUSINESS INCOME TAX ON SERVICES

The Business Income Tax due for the provision of services is withheld at the source, at the rate of 6.5%, regardless of the nature of the service. Specific rules are also established for taxpayers whose activity is subject to the supervision of the National Bank of Angola, the insurance supervisory authority, the supervisory body of games or the Capital Market Commission.

AUTONOMOUS TAXATION

The regime of autonomous taxation foresees three categories of expenses, that are no longer deductible and, in addition, are subject to taxation:

- improperly documented costs – 2%;
- non-documented costs – 4%;
- costs incurred with confidential expenditure – 30% (this rate is raised to 50% where such expenditure is incurred by a taxpayer which is exempt or not subject to Business Income Tax).

7.1.2 Investment Income Tax

RESIDENT AND NON-RESIDENT TAXPAYERS WITH PERMANENT ESTABLISHMENT IN ANGOLA

The Capital Investment Tax is levied on income derived from the “simple investment of capital”. The earnings thereof are divided into two categories:

- Section A
 - Objective basis of taxation – interest on capital lent, not taxed in Section B and interest resulting from the deferral over time of an instalment or from late payment.
 - Territorial basis of taxation – Capital Investment Income Tax (*Imposto sobre a Aplicação de Capitais*) is owed on interest “produced in the country” or interest assigned to a person (natural or corporate) having domicile, effective management or permanent establishment in Angola.
 - Exemptions – income of financial institutions and co-operatives; interest on credit sales by tradespeople; default interest on tradespeople payments; interest on loans embedded in life insurance policies (made by insurers).
- Section B
 - Objective basis of taxation – interest on bonds, supplies interest, profits attributable to shareholders of whatever nature, kind or description, royalties, including income derived from operational lease of goods, capital gains, compensation for the suspension of activities, and prizes from games of chance. The following gains are also subject to this tax: (i) the repatriation of profits attributable to permanent establishments of non-residents in Angola; (ii) the amortisation or reimbursement premiums and other forms of remuneration of bonds, equities or other similar securities issued by any society; (iii) the amortisation or reimbursement premiums and other forms of remuneration of Treasury Bills and of Treasury Bonds; (iv) the amortisation or reimbursement prizes and other forms of remuneration of Central Bank securities; and (v) the positive balance between capital gains and capital

- losses incurred with the disposal of shares or other instruments that generate any income which is subject to tax (taking into account that only 50% of this balance will be subject to tax (given that only 50% of this balance is subject to tax, if the sale is made on a regulated market).
- Territorial basis of taxation – the source of income must have a connection with Angolan territory, that is, the income shall be paid by a person with residence/effective management in Angola and shall be made available through a permanent establishment in Angola; also, shall be received by a person having residence/effective management in Angola or be attributed to a permanent establishment in Angola.
 - Exemptions – dividends distributed by an entity having its registered office/effective management in Angola, to a corporate or equivalent person having its registered office in Angola which has a holding not less than 25%, for a period exceeding one year prior to the distribution of profits (“participation exemption”); interest in financial instruments that encourage savings; interest on housing-savings accounts.

TAX RATE AND LIQUIDATION

The tax rate is 5% in cases of: (i) income earned from interest, amortisation or reimbursement prizes and other forms of remuneration of bonds, participation titles or other similar securities, treasury bills and bonds and central bank securities, with maturity equal to or greater than three years; (ii) the profits attributable to shareholders of companies and the repatriated profits attributable to permanent establishments of non-residents in Angola, when the shares of the concerned company are traded on a regulated market; as well as (iii) amounts awarded to companies or entrepreneurs as compensation for the suspension of its activity. The rate is 10% for the most cases of income included in Section B, and 15% in the case of interest and interest balances on current accounts, compensation for suspension of activity, game-of-chance prizes whatever their provenance, and any other income on investment of capital not included in Section A.

Regarding Section A, the tax is paid, as a rule, through withholding tax (at the source) by the person paying the income. This is not the case when these paying entities do not have a residence, head office, effective management or permanent establishment

in Angola to which they can attribute such payments, a situation in which the beneficiary of the income has the obligation to settle the tax. The income tax settling rules of Section B are identical, with the exception that, in the case of income from securities admitted to trading on a regulated market held by entities exempt from ACT, the financial institutions by which these securities are held are responsible for instructing the respective issuers in this respect.

TAXPAYERS NOT RESIDENT IN ANGOLA (WITH NO PERMANENT ESTABLISHMENT)

Every income within Section A or B is subject to Investment Income Tax (even if earned by non-resident taxpayers in Angola with no permanent establishment in that territory to which such income is attributable), provided they are produced in Angola, that is, if it is paid by entities having their residence, registered office, effective management or permanent establishment there, to which the payment must be attributed.

7.1.3 Employment Income Tax

Income earned by technical, scientific or artistic activities undertaken on a freelance basis, as well as the income earned by natural persons in the pursuit of an activity as an employed person is subject in Angola to Employment Income Tax (*Imposto sobre o Rendimento do Trabalho*).

Natural persons do not have to be resident in Angola for their income to be taxed there, since it is enough that the income is obtained for services rendered to the country, directly or indirectly, to natural persons or companies with domicile, head office, effective management, or stable establishment in Angola.

It is considered employment income any remuneration earned and received as payment of wages, maturities, salaries, fees, annuities, gratuities, subsidies, prizes, commissions, attendance fees, emoluments, participation in fines, costs, margins, commercial and industrial earnings, as well as other additional remunerations such as bonuses for failures, home-rent allowances, representation allowances and remuneration paid by political parties and other organisations of political and social nature.

MAIN EXEMPTIONS AND DEDUCTIONS

Excluded from taxable income are: (i) social benefits paid by the Social Security National Institute within the scope of compulsory social protection; (ii) holiday bonuses; (iii) Christmas bonuses; (iv) representation allowance; (v) travel costs up to the limit stipulated for civil servants.

The following items are, *inter alia*, exempt: (i) income of diplomatic missions' employees (under conditions of reciprocity) and of staff at service regarding international missions and non-governmental organisations; (ii) income earned by citizens over the age of 60 whenever derived from an employment contract.

TAXATION GROUPS

Incomes subject to Employment Income Tax are divided into three groups:

- Group A – includes the salaries received pursuant to an employment relationship, whether the latter results from a contract celebrated under the General Labour Law or under the regime of the public function service;
- Group B – includes all the remuneration awarded for self-employed workers who independently perform any of the activities listed in the professions attached to the Employment Income Tax Code, and the income earned by members of company corporate bodies (management or other);
- Group C – includes all incomes earned through the performance of industrial and commercial activities, which are presumed to be in accordance with the minimum profits table.

DETERMINATION OF THE TAXABLE AMOUNT

The determination of the taxable amount operates under specific rules, depending on the tax group in question.

In Group A, the determination of the taxable amount is made by deducting the gross income of the taxpayer from the mandatory social security contributions and from the remuneration elements not subject to, or exempt from, Employment Income Tax;

this scheme also applies to the income of corporate bodies members, even when they are included in Group B. The transfer of an employee's tax burden to the employer is not accepted and the employee cannot earn a net disposable income higher than the amount established in the employment contract; the violation of this rule gives rise to the imposition of a fine and to an additional tax liquidation.

In Group B, the taxable amount corresponds to 70% of income received if paid by legal or natural persons with organized accounting. In other situations (where the payer does not have organized accounting), the taxable amount is calculated by taking into consideration the accounting records of the taxpayer, based on the available records of purchases and sales and services provided or on relevant data that the tax authorities may have. Expenses are presumed to correspond to a fixed percentage of 30% of the taxpayer gross income.

In Group C, the taxable amount is stipulated in a minimum earnings table, except for certain and legally typified cases, in which the taxable amount will correspond to the volume of sales of goods and services of the taxpayer.

EMPLOYMENT INCOME TAX RATES

Incomes included in Group A are taxed at progressive rates, as defined in the table annexed to the Employment Income Tax Code: a tranche of income (AOA 70,000) is exempt from tax and the remaining income is subject to rates varying between 10% and 25%.

Group B and C incomes are subject to withholding tax at the rate of 6.5% on the value of the service provided when paid by entities with organized accounting or simplified accounting model.

In turn, Group B and C taxable income that is not subject to withholding tax, is subject to a 25% rate. However, it should be noted that Group B and C taxpayers with organized accounting may be subject to the rules of the Industrial Tax Code for the calculation of taxable income. If, even so, they only have simplified accounting or record books, they may deduct 30% of the costs.

Services purchased from non-residents, as provided for in the Industrial Tax Code, are subject to EIT at the rate of 15%.

SOCIAL SECURITY CONTRIBUTIONS

Social security contribution rates are 8% (paid by the employer on monthly wages and any additional remuneration paid in cash) and 3% (paid by the employee). Foreign employees may be exempt from social security contributions if they provide proof that they are already registered with a foreign social security system.

7.2 Real estate taxes

7.2.1 Real Estate Income Tax

Real Estate Income Tax (*Imposto Predial*) is a hybrid of income tax and wealth tax.

This tax is due by both natural and corporate persons, resident or non-resident in Angola. The tax is levied on the value of property or income of urban and rural buildings, as well as on free or onerous transfers of real estate, whatever the title such transfers are operated.

In the case of non-rented buildings, the tax is levied on the patrimonial value/value in the real estate records. In the case of rented buildings, the tax is levied on the annual value of the respective income, expressed in local currency (less the percentage allowed for maintenance and conservation expenses incurred by the landlord). However, when the tax resulting from income tax is lower than the tax due based on the patrimonial value/constant value in the real estate records (as is the case of non-rented buildings), the latter is considered as tax.

Income from urban real estate property, taxed under Real Estate Income Tax, is not taxed under Industrial Tax.

MAIN EXEMPTIONS AND DEDUCTIONS

Exempt from Urban Real Estate Income Tax are: (i) the State, public institutions and associations that enjoy the status of public utility; (ii) foreign States regarding buildings assigned to their diplomatic or consular representations (where there is reciprocity); and (iii) legalised religious institutions in respect of properties intended exclusively for worship; (iv) political parties; (v) the first onerous transfer of real estate with a value equal to or less than AOA 3,000,000.00, that is affected to the purchaser's own

permanent residence; (vi) rustic buildings located in rural areas with a size equal to or greater than 7 hectares; (vii) rural community lands defined in specific legislation.

In the case of rented buildings, maintenance expenses, which include expenses related to employees, cleaning, central airconditioning, condominium management and insurance premiums, shall be deducted from the taxable income, assuming that these expenses make up a total of 40% of the annual value of the rent received.

REAL ESTATE INCOME TAX RATES

The tax rate is 25% for rented properties. For non-rented buildings, the tax rate is 0.1% when they have a tax asset value up to AOA 5,000,000; the tax has a fixed value of AOA 5,000,000 when the asset value is between AOA 5,000,000.01 to AOA 6,000,000; it will be 0.5% when the taxable asset value is higher than AOA 6,000,000, on the excess of AOA 5,000,000).

7.2.2 Real Estate Transfer Tax

The Real Estate Transfer Tax (*Sisa sobre as Transmissões de Imobiliários por Título Oneroso*) is a tax on transfers of real estate situated in Angola and must be paid by the purchaser. The tax is levied on the declared value or, if greater, 30 times the amount in the tax records; if the property has been valued, over the amount of the valuation.

Real Estate Transfer Tax is also levied in other cases, such as: leases for 20 or more years; mere promise of sale with delivery of the property; transfer of concessions made by the Government; or the acquisition of shares in companies that own real estate, where because of the acquisition one comes to hold 75% or more of the share capital of the company concerned and has the main purpose of acquiring the properties.

The Real Estate Transfer Tax rate is 2%.

7.2.3 Stamp Duty

All acts, agreements, documents, securities, books, papers, transactions and other facts set out in the table appended to the Stamp Duty Code are subject to Stamp Duty (*Imposto de Selo*), namely:

- share capital increases of existing entities or paying up the company's share capital (at the rate of 0.1%);
- guarantees of obligations (variable rate between 0.1% and 0.3%, depending on the life of the guarantee, over the value), which are considered accessories to the contract specially referred in the Table provided the guarantees are entered into until 90 days after the celebration of the contract;
- financing operations (variable rate between 0.1% and 0.5%, depending on their life, over the value);
- acquisition of ownership of real estate (at a rate of 0.3%);
- finance leases of moveable or immovable assets (at the rate variable between 0.3% and 0.4% of the countervailing payment);
- credit securities (at the rate of 0.1% of the value);
- sub-leases and sub-concessions (at the rate of 0.2% of the value);
- insurance (variable rate between 0.1% and 0.3%, depending on the type of insurance) and commissions charged for the activity of insurance mediation (at the rate of 0.4%);
- rentals (at the rate of 0.1% for housing purposes and 0.4% for other rentals); the responsibility to assess and pay the tax belongs to the lessor/landlord;
- customs operations (at the rate of 0.5% for some exports of goods and 1% for the import of goods, over the customs value);
- any agreement not specifically provided for in the table (AOA 1000);
- receipts for the actual receipt of credits (at the rate of 1%), excluding the receipts of rents received under a rental agreement for housing purposes if natural individuals enter into a rental agreement.

MAIN EXEMPTIONS AND DEDUCTIONS

The State or any of its services, establishments and organisations, welfare and social security institutions, public-utility associations (except those carrying on business activities), and religious institutions are exempt.

Also exempt are certain types of credit operations related with consumption and savings incentives and certain types of insurance-contract premiums. Other Stamp Duty exemptions may apply to cases such as: (i) transfer of immovable property in the processes of mergers, de-mergers or incorporation, provided the process is previously authorized by the tax authorities (*Administração Geral Tributária*); (ii) labour contracts; (iii) export operations, except for the operations expressly referred to in the Table; (iv) free transfer of assets occurring between child-parents; (v) interests incurred from Treasury Bonds; and (vi) intra-group financing operations, provided some conditions are met.

At last, entities resident in Angola are responsible for the liquidation, delivery and payment of Stamp Duty that, under the general rules, would be the responsibility of non-resident entities.

7.3 Excise duties

7.3.1 Value Added Tax

A new Value Added Tax (*Imposto sobre o Valor Acrescentado/VAT*) was recently approved; the previous Consumption and Stamp Taxes on imports and exports were abrogated. The new Value Added Tax was inspired in the European VAT, which means it is a consumption tax that taxes the value added by businesses at each point in the production chain, from the producer to the retailer, which can deduct VAT payed on its purchase of inputs to the VAP collected on its sales, and it is levied on the final consumer. It can apply to both manufactured goods and services.

The Law that approved the VAT Code predicted it would enter into force on the 1st of July 2019. However, that date was postponed to October 2019. Therefore, on that date, the new regime will be mandatorily applied to Large Taxpayers and to all imports of goods (regardless of the taxpayer's statute), and to other taxpayers that want to voluntarily benefit from the new VAT regime (provided some requirements are fulfilled).

During the years of 2019 and 2020, taxpayers that reach, in the previous year, an annual turnover or import value superior to USD 250,000 will be subject to a VAT transitory simplified regime.

The new VAT will be mandatory to all taxpayers from January 1, 2021.

WHO IS TAXED

VAT is payable by natural or corporate persons that: *(i)* engage in any independent economic activity, including production and trade of goods, services, liberal professions, and mining, agriculture, aquaculture, apiculture, poultry, livestock, fishing and forestry activities; *(ii)* import goods; *(iii)* enters the VAT on an invoice incorrectly; *(iv)* acquire services to non-resident entities; and *(v)* the State, government entities and other public organisms, as well as political parties, workers unions and religious institutions, provided some requirements are met.

WHAT IS TAXED

As a rule, the supply of goods and services in the Angolan territory, as well as the import of goods is subject to VAT.

For VAT purposes, the concept of “supply of goods” entails any costly transaction of tangible goods (including the transfer of electricity, gas, heat, cold and such). However, it’s not considered supply of goods the transmission of a business establishment, provided it is considered as an independent activity branch and the buyer is also entitled to fully deduct VAT, and samples and offers made to clients, according to commercial costumes (under some circumstances).

It is considered as ‘supply of services’ any costly transaction that is not considered a supply or importation of goods or money (except the costly transaction of money).

All entries of goods or any release of goods for consumption under a special customs procedure is considered an ‘import of goods’, from the moment it enters in the Angolan territory.

THE TAXABLE AMOUNT

In respect of the supply of goods or services the taxable amount shall include everything which constitutes consideration obtained or to be obtained by the supplier, in return for the supply, and is due when the goods are made available to the buyer or the services are provided. In respect of importation, the VAT is due in the moment the goods are customs cleared.

MAIN EXEMPTIONS

VAT exemptions can be considered as complete, when the supplier has the right to deduct the VAT payed on its purchase of inputs, or incomplete, when the supplier doesn't have that right.

Regarding complete exemptions, these transactions are taxed at a zero rate and include certain supplies of first necessity foods and goods (such as milk, beans, rice, wheat flour, corn flour, cooking oil, cane sugar and soap), export of goods, some transactions related to international commerce and international passenger's transportation.

As for incomplete exemptions, they can be sub-divided between the ones the taxpayer can renunciate to the exemption and the ones the taxpayer can't renunciate. In the first case are included the supply of medicines for therapeutic and prophylactic means and the supply of books (including e-books). In the second case are included the supply of oil products (which are subject to Special Consumption Tax), leasing of real estate intended for housing, transactions subject to Real Estate Transfer Tax, exploitation and engagement in games of chance and other diversions, public passengers' transportation, financial intermediation activities (including financial leasing except if the consideration is specific and predetermined and charged by the service) and the supply of life insurance and reinsurance.

VAT RATES

Instead of establishing different rates according to the goods and services supplied, the Angolan VAT has only one flat rate of 14%.

Act no. 31/20, of August 11, has introduced significant modifications with regard to VAT, such as the prevision of a 5% tax to be applied in the transmission and import of some goods (the ones included in the Attachment I of VAT Code).

Until the end of 2020, a transitory VAT tax of 7% is applied over the billing of each trimester.

PAYMENT AND CAPTIVATIONS

As a rule, the supplier of goods and services is the one obliged to deliver the output VAT, after the input VAT is deducted in non-exempt activities or exempt activities in which the supplier has the right to deduct (complete exemptions). The payment must be made until the end of the following month of which the goods or services were provided.

Nonetheless, the VAT Code has introduced an innovation regarding payment: the captivation's system. In those cases, it shall not be the supplier of goods or services to deliver the output VAT, but instead it will be the acquirer of the goods or services ('captivating agent') to do it. Thus, the captivating agent must 'capture' the output tax (his own input tax) of each supplier according to the invoice issued. Oil investment companies, the State (except public companies) and municipalities are captivating agents of 100% of their input VAT and the National Bank of Angola, insurance and reinsurance companies, communications companies and commercial banks are captivating agents of 50% of their input VAT.

7.3.2 Special Consumption Tax

Some goods produced in Angola or imported to its territory are subject to Special Consumption Tax (*Imposto Especial sobre o Consumo*). Natural persons and companies that acquire these goods (whether they were produced, imported or sold in public auctions) are subject to this tax.

The Special Consumption Tax is levied on: (i) the production cost of goods produced in Angola; (ii) the customs value of imported goods; (iii) the value of sale of goods by the Customs Office or any other public services; and (iv) the retail selling price (or, in case the previous can't be determined, its market value) in other cases.

The taxes applied vary according to the goods in question:

- alcoholic and sugar and other sweeteners added beverages: variable rate between 2% (water) and 16% (other drinks);
- tobacco and substitutes: variable rate between 2% (non-manufactured tobacco) and 16% (other products);
- fireworks: 2% rate;
- jewelry products: 2% rate;
- aircrafts and pleasure boats: 19% rate;
- firearms: 2% rate;
- art objects and antiques: variable rate between 2% and 6%;
- oil derived products: 2% rate.

7.3.3 Customs Duties

All goods definitely imported and exported from Angola are subject to Customs Duties (*Direitos Aduaneiros*), save rare sectoral exceptions, the tax varies depending on the origin and condition of import and export.

Following Angola's accession to the International Convention on the Harmonized Commodity Description and Coding System (ICHCDCS) in 2013, the Government committed to review its customs system every five years. Thereby, in 2018 the Customs Tariff of Import and Export Duties entered into force.

PRINCIPAL EXEMPTIONS AND DEDUCTIONS

Tax benefits granted to the import or export of goods may constitute a total or partial exemption from Customs Duties and other customs charges.

Temporary-import goods that are immediately exported (within the following 12 months) without suffering any alterations in Angolan territory are exempt from Customs Duties only being subject to Stamp Duty and general customs emoluments, over the custom value of the goods. Temporary-export goods (exiting of goods for a determined period in order to then be reimported) is only subject to general customs emoluments.

Reimports of goods that have not been subject to any actual benefit are exempt from Customs Duties (but are subject to Stamp Duty and general customs emoluments), as are certain construction materials and machinery used in the construction of social housing. There are also some sectoral exemptions, particularly in relation to the mining industry. Reexports of goods are also exempt from Customs Duties but are subject to general customs emoluments.

Besides the previously mentioned exemptions, the new Customs Tariff of Import and Export Duties extended the list of exempted import goods to certain first-need foods, all medicines for human and veterinary purposes, certain medical equipment and hospital supplies, small industrial machinery, and construction, mining and farming machinery.

CUSTOMS DUTIES RATES

Currently, the general rate is 10%. The maximum rate is 70%, though only applied to very few goods. Most goods are exempt from Customs Duties (2,475), although subject to general customs emoluments (rate of 2%) and Stamp Duty (rate of 1%).

On the import of alcoholic beverages and liquids and tobacco and manufactured tobacco substitutes there is a surcharge of 0.3% on the value of the goods.

With the aim of reducing the dumping margin, additional levies may apply to certain imported goods.

SPECIAL PROCEDURES

The new Customs Tariff of Import and Export Duties introduced important innovative procedures, especially a previous customs clearance procedure and an incomplete customs declaration procedure.

The previous customs clearance procedure allows that goods that have not yet arrived to the Angolan territory may be customs cleared before its arrival.

The incomplete customs declaration procedure allows the customs clearance of goods that although being already in Angolan territory one or more documents are missing or incomplete, which must be presented within the following 30 days.

7.4 Tax incentives for private investment in Angola

7.4.1 New Private Investment Act

In June 2018, a new regime for tax incentives to the private investment in Angola was approved. This new regime, like its predecessor, introduces a pack of tax incentives according to each development areas of the country:

- Zone A – Luanda Province, Benguela and Huíla Provinces’ capital-municipalities and Lobito Municipality;
- Zone B – Bié, Bengo, Huambo, Kwanza-Norte, Kwanza-Sul, Namibe Provinces and other Benguela and Huíla Provinces’ municipalities;
- Zone C – Cunene, Kuando Kubango, Lunda-Norte, Lunda-Sul, Malanje, Moxico, Uíge and Zaire Provinces;
- Zone D – Cabinda Province.

For attributions of the tax benefits purposes, are considered priority markets with potential to replace imports or to foster and diversify the economy the following activities sectors:

- education, technical training, superior education, scientific investigation and innovation;
- agriculture, food industry and agroindustry;
- health units and specialized services;
- reforestation, industrial transformation of forest resources and forestry industry;

- textile, clothing and footwear industries;
- hotels, tourism and leisure businesses;
- construction, public construction works, telecommunications and IT, and airports and railways infrastructures;
- electricity production and distribution;
- basic sanitation and solid waste collection and treatment.

Private investment projects are subject to one of two regimes: either: *(i)* the Previous Declaration Regime, in which the investor must simply present an investment proposal to the competent authority, for registration and granting the benefits' purposes; or *(ii)* the Special Regime, that is applied to the investment projects in the priority markets and the development zones previously mentioned, or the contractual regime, which allows the negotiation of incentives taking into consideration the specificities of investment project's, the economic and social impact of its implementation, the contribution for the promotion of national production and the export diversification.

The Previous Declaration Regime includes the following benefits:

- Real Estate Transfer Tax rate on the acquisition of real estate necessary to install offices or to establish the investment is reduced to a half;
- Business Income Tax provisory and final rate are reduced in 20%, for two years;
- Investment Income Tax rate over the distribution of profits and dividends is reduced in 25%, for two years;
- Stamp Duty rate is reduced to a half, for two years.

Regarding the Special Regime, the following benefits can be applied:

- Real Estate Transfer Tax rate on the acquisition of real estate necessary to install offices or to establish the investment can be reduced according to the development zone in which the investment is located: Zone A – tax rate reduced to a half; Zone B – tax rate reduced in 75%; Zone C – tax rate reduced in 85%;

Zone D – tax rate is half of the Zone C rate;

- Urban Real Estate Income Tax rate on real estate necessary to install offices or to establish the investment can be reduced according to the development zone in which the investment is located: Zone B – tax rate reduced in to a half, for four years; Zone C – tax rate reduced in 75%, for eight years; Zone D – tax rate is half of the Zone C rate, for eight years;
- Business Income Tax rate can be reduced according to the development zone in which the investment is located: Zone A – provisory and final rate are reduced in 20%, for two years; Zone B – provisory and final rate are reduced in 60% and amortisation and reintegration' taxes are increased in 50%, for four years; Zone C – provisory and final rate are reduced in 80% and amortisation and reintegration' taxes are increased in 50%, for eight years; Zone D – provisory and final rate is half of the Zone C rate and amortisation and reintegration' taxes are increased in 50%, for eight years;
- Investment Income Tax rate can be reduced according to the development zone in which the investment is located: Zone A – rate over the distribution of profits and dividends is reduced in 20%, for two years; Zone B – rate over the distribution of profits and dividends is reduced in 60% and depreciation and reinstatement rates are increased by 50%, for four years; Zone C – rate over the distribution of profits and dividends is reduced in 80% and depreciation and reinstatement rates are increased by 50%, for eight years; Zone D – rate over the distribution of profits and dividends is half of the Zone C rate, and depreciation and reinstatement rates are increased by 50%, for eight years;
- Capital Duty, also depending of the Zone in which the development is located: Zone A – reduction of the rate on profit and dividend distribution by 25%, for two years; Zone B – reduction of the rate on profit and dividend distribution by 60%, for four years; Zone C – reduction of the rate on profit and dividend distribution by 80%, for eight years; Zone D – rate on profit and dividend distribution corresponds half of the rate assigned to Zone C, for eight years;
- Exemption of payment of taxes and emoluments on the acquisition of any services by non-business public entity, including customs services, for a period not superior to five years.

7.4.2 Special Economic Zones

At this time the Luanda-Bengo Special Economic Zone (SEZ) is operational. It was created in 2009 to encourage Angolan entrepreneurship and competitiveness. The Luanda-Bengo SEZ is a physically demarcated economic space endowed with adequate physical, economic and administrative infrastructures, and it has a special tax status.

The SEZ comprises three development pillars (trade and services, manufacturing, and the agro-livestock industry) and in it there are several special economic areas, most of them created in 2011.

Public collective bodies, commercial companies and consortia may submit proposals for implementation of industrial units in the Luanda-Bengo SEZ, regardless of their domicile. If the promoter is foreign, the presentation of the investment project is referred to ANIP and the provisions of the Private Investment Act apply.

For the purposes of SEZ legislation, industrial units are physical structures set up in the Luanda-Bengo SEZ to pursue industrial and commercial activities involving trade and services, manufacturing and agro-livestock. Implementation of these industrial units is subject to the conclusion of an operating agreement between the investor and the SEZ management entity. In this agreement tax and customs incentives granted to the proposal in question are negotiated and fixed.

For approval of the business proposal and consequent acquisition of the right of access to the SEZ, fees are payable in the amount of 1% of the value of the proposal in question. If the proposal is approved, the promoter of the investment is also required to pay a monthly fee in return for the use of the infrastructure and services available in the SEZ.

The tax and customs incentives for the installation of industrial facilities in the SEZ are those provided for in the mechanism to encourage Angolan business and shall be set out in the investment agreement.

7.4.3 Fostering Angolan business

To promote national free enterprise and alleviate inequalities between the Angolan business fabric and foreign competition, there is a system of tax incentives for private

investment in Angola directed at encouraging the creation of companies resident in Angola, in which at least 51% of the share capital is held by entities resident in the country.

Under this scheme, the tax incentives provided for are exemption or reduction of: *(i)* Business Income Tax or other taxes levied on income from the activities or on concession rights; *(ii)* Customs Duties; and *(iii)* taxes or levies on the granting or enjoyment of general and special mining rights and land rights.

Also available are other tax benefits applicable to the mining, petroleum and industrial sectors, services and other economic activities, if applicable to the economic activity in question and if so negotiated in the investment agreement.

7.4.4 Micro, small and medium-sized Angolan enterprises

Enterprises are considered: *(i)* micro-enterprises when they employ up to 10 people and/or have an annual turnover not exceeding USD 250,000; *(ii)* small enterprises when they employ more than 10 and up to 100 employees and/or have a gross annual turnover exceeding USD 250,000 and equal to or less than USD 3 million; and *(iii)* medium-sized enterprises when employing more than 100 and up to 200 people and/or have a gross annual turnover equal to greater than USD 3 million and not exceeding USD 10 million.

Entities engaged in financial sector activity are excluded from this mechanism.

Apart from a mechanism of simplification of administrative procedures and formalities, these companies may benefit from tax incentives. Reductions of Business Income Tax rates are provided for and vary according to the location of the company. Thus, firms located in Zone A (provinces of Cabinda, Cunene, Bengo, Kuando Kubango, Kwanza-Norte, Malanje, Namibe, Uíge and Zaire) benefit from reductions during the first five years; companies located in Zone B (provinces Bié, Huambo and Kwanza-Sul) benefit from reductions during the first three years, and businesses located in Zone C (province of Benguela, except the cities of Benguela and Lobito, province of Huila, except the city of Lubango) and in Zone D (province of Luanda and the municipalities of Benguela, Lobito and Lubango) benefit from reductions in the first two years.

These reductions are granted as follows: micro-enterprises, regardless of their location, are subject to a special tax on account levied at the rate of 2% on gross sales; this tax is calculated monthly and delivered by the 10th day of the following month. Small and medium enterprises benefit from reductions depending on their location: (i) 50% reduction for those located in Zone A; (ii) 35% reduction for those located in Zone B; (iii) 20% reduction for those located in Zone C; and (iv) 10% reduction for those located in Zone D.

7.4.5 Patronage Act

There is a system in Angola conducive to investment in the promotion and development of social, cultural and economic life in Angola, which covers tax benefits granted to sponsors and the support granted or received by the State and its public associations, as well as the support received by public or private corporate persons considered eligible to receive sponsorship.

The results obtained by non-profit entities of recognised public utility derived from cultural, sporting, social solidarity, environmental, youth, health, scientific or technological activities are exempt from all taxes.

7.5 Special tax legislation

7.5.1 Collective investment schemes' taxation

The collective investment schemes/undertakings for collective investment (*organismos de investimento colectivo*/OICs) are entities gathering collective investment from the public in order to achieve and fulfil the main general principles of risk allocation and the exclusive pursuit of the individual interests of the participants.

The main underlying idea imbedded in this special taxation regime is the OICs taxation (that is, the entity performing the undertakings for collective investment) and the general absence of the participant's taxation.

OICs are subject to Business Income Tax and exempt from any other income tax, namely Investment Income Tax or Urban Real Estate Income Tax.

Hence, all OICs' profits obtained in Angola and sourced abroad are subject to Business Income Tax and the tax loss carrying forward period is three years.

OICs are subject to Business Income Tax at reduced tax rates: 7.5% applicable to undertakings for collective investment investing in securities and on the other hand 15% applicable to undertakings for collective investment investing in immovable properties.

Several tax exemptions are applicable to OICs such as: *(i)* Stamp Duty on capital increases; *(ii)* Stamp Duty on the management fees due to Management Entities and on the fees due to depository institutions holding securities; and *(iii)* Consumption Tax due on the management fees due to Management Entities.

Regarding undertakings for collective investment investing in immovable properties and with public subscription, some tax exemptions are also applicable, namely: *(i)* Real Estate Transfer Tax on the acquisition of immovable properties; *(ii)* Stamp Duty on the acquisition of immovable properties; and *(iii)* Urban Real Estate Income Tax on the holding of not rented immovable properties.

OIC participants are exempt from Investment Income Tax and Business Income Tax which includes income derived from OIC bailout and capital gains and losses due to the selling of the OICs' participation units.

7.5.2 Mining activities' taxation

WHO IS TAXED

The mining industry is subject to specific tax legislation. All natural or corporate persons, resident or non-resident, carrying on reconnaissance, research, prospecting and exploitation of mineral resources existing in territory under Angolan jurisdiction are subject to special taxation on the income generated by geological activity.

Investment in prospecting, studying, evaluating, and the mining industry involves an investment agreement approved by the Minister. If the value of this investment agreement is equal to or greater than USD 25 million, its approval lies with the President of the Republic.

Determination of the taxable income and liquidation of tax charges are undertaken independently for each mining concession.

WHAT IS TAXED

Entities residing in Angola and non-resident entities having permanent establishments that carry out mining activities are subject to: *(i)* Business Income Tax and Investment Income Tax, with some special rules; *(ii)* Mineral Resources Value Tax (royalty); *(iii)* Surface Charge; *(iv)* Artisanal Levy; and *(v)* Contribution to the Environmental Fund.

Subjection to these taxes does not preclude subjection to other levies and taxes that may be due, for example, social security contributions.

Private companies holding mining rights for prospecting or exploitation of mineral resources are also required to provide a performance bond of 2% or 4%, respectively, of the investment value, to guarantee fulfilment of their contractual obligations.

INCOME TAXES

The distribution of dividends resulting from income from mining operations is subject to Investment Income Tax under the general terms of the law.

The general rules of the Business Income Tax also apply, with some specifics of the tax system of this activity, such as: *(i)* admissibility of deduction of specific costs; *(ii)* constitution of a special provision for environmental restoration; *(iii)* tax rate of 25%; and *(iv)* tax incentives.

Entities subject to the payment of tax on the exercise of mining activities (also known as the Artisanal Levy) are exempt from this tax.

In determining taxable income, the following are deductible as a cost: *(i)* basic, ancillary or complementary activity expenses; *(ii)* distribution and selling expenses; *(iii)* certain types of expenses of a financial nature; *(iv)* certain types of administrative expenses; *(v)* customs charges; *(vi)* provisions (including provision for environmental restoration); *(vii)* Mineral Resources Value Tax (royalty); and *(viii)* Contribution to the Environmental Fund. Special rates of depreciation of assets are provided for.

Entities non-resident in Angola that carry out mining activities may deduct as costs income tax levied on this activity provided if they prove they have been paid in the country of their residence.

The tax incentives stipulated for entities that carry out mining activities are granted in the form of cost deductible from taxable income.

Where the mining activity in question is of relevant interest to the Angolan economy, these incentives may be investment premiums (“uplift”) or grace periods in the payment of taxes.

During negotiation of an investment agreement, the Government may also grant tax incentives in the form of tax and customs exemptions to companies incorporated under Angolan law engaged solely in processing, upgrading, cutting and the polishing of minerals quarried in Angola.

MINERAL RESOURCES VALUE TAX (ROYALTY)

This tax is levied on the value of the mineral resources extracted at the mine or on the value of the concentrates if these resources are processed. The value of the minerals produced for the purpose of calculating the royalty, is determined by the average price of previous sales or, where that is not possible, it is set at the average of international prices.

In the case of non-industrial or artisanal diamond mining, the royalty is levied on the value of lots acquired for sale; in the case of artisanal mining of other natural resources, the royalty is levied on the value of the minerals.

The rates of the royalty vary between 2% and 5%, depending on the type of mineral in question.

SURFACE CHARGE

Holders of mining prospecting rights are required to pay an annual Surface Charge (*Taxa de Superfície*) per square kilometre of surface area licensed.

This charge varies in the light of the life of the licence, the type of mineral licensed and the number of square kilometres (between USD 2/km² and USD 40/km²).

ARTISANAL OR NON-INDUSTRIAL LEVY

Entities engaged in artisanal mining of non-strategic minerals are subject to the payment of a levy on artisanal mining, also known as the Artisanal Levy (*Taxa Artesanal*). This levy varies depending on the type of mineral exploited.

SPECIAL CUSTOMS DUTIES UNDER MINING LEGISLATION

The import of equipment to be used exclusively and directly in carrying out prospecting, search reconnaissance, operating and processing operations of mineral resources is exempt from Customs Duties and Service Charges (with rare exceptions). The exemption on the import of such equipment is applied only if the imported goods cannot be produced in Angola, or if, even though they can be produced in Angola, their domestic price is at least 10% greater than that of the price of the imported product.

The export of mineral resources legally extracted and processed if exported by the holder of the mining rights, is not subject to Customs Duties. The export of unprocessed mineral resources is subject to the Customs Fee of 5%.

7.5.3 Taxation of petroleum activities

Taxation of petroleum activities is subject to a special mechanism affecting the oil industry, in the place of the general mechanisms replacing the Business Income Tax.

In Angola, there is an economic-fiscal system of the dual type, whose fundamental characteristics involve important regulatory aspects of the oil industry tax enacted by specific legislation (Act no. 13/04, of December 24, or Taxation of Petroleum Activities Act (*Lei sobre a Tributação das Actividades Petrolíferas*)) and certain economic factors of the concessions, closely related to the tax system adopted, which are set out in the agreements signed for the execution of petroleum operations.

The special taxation mechanism applies to all entities resident or non-resident, provided they are engaged in research, development, production, storage, sale, export, processing and transportation of crude oil and natural gas, as well as naphtha, ozokerite, sulphur, helium, carbon dioxide and saline substances, when derived from petroleum operations.

Mention is made, however, of the exemption from any taxation of shares representing the share capital of companies to which the taxation of petroleum activities applies or of the dividends they distribute.

The special taxation of petroleum activities mechanism involves five taxes:

- Petroleum Production Tax (which does not apply to production-sharing agreements);
- Petroleum Income Tax;
- Petroleum Transaction Tax (which does not apply to production-sharing agreements);
- Surface Charge;
- Contribution to the Training of Angolan Staff (Training Levy).

An environmental fee for petroleum industry projects is due and its value depends on three components: environmental impact coverage; environmental impact stringency; environmental impact duration.

As a general principle applicable to the first three taxes, calculation of the taxable income is undertaken independently and separately for each concession or development area, with the exception of research expenses within the scope of the taxation of production-sharing agreements, which are extensible to other development areas. That is, the tax unit is the concession or development area. Thus, all domestic or foreign entities engaged in petroleum operations in Angola, as well as other territorial or international areas under the jurisdiction of Angola, are subject to this special tax mechanism, and the determination of the taxable income is fully autonomous in relation to each oil concession.

At this time, there are two parallel systems of taxation of petroleum activities: the mechanism of the old law, which applies to concessions granted prior to January 1, 2005 (with some exceptions), and the mechanism of the law now in force, applicable to concessions granted after January 1, 2005 (as above described).

Crude oil is produced and valued at market prices based on actual FOB (Free On Board) prices obtained in arm's-length sales to third parties. Complementary substances are valued at the actual selling price (with rare exceptions).

The Angola LNG Project/“*Projecto Angola LNG*” has been regulated in more detail establishing a special taxation scheme.

MAIN EXEMPTIONS AND DEDUCTIONS

Transfers of interests held by entities covered by this special sectoral taxation mechanism are exempt from all taxes or charges of a fiscal nature that may be directly related to their transfer, except for the profit that may arise on the transfer of interests, which is subject to Petroleum Income Tax.

According to the law, the transfer of profits out of Angola and the payment of dividends are exempt from Petroleum Income Tax.

PETROLEUM INCOME TAX

Petroleum Income Tax is levied on net income obtained in the pursuit of exploration, development, production, storage, sale, export, processing and transportation of oil, in the pursuit of wholesale trade of products resulting from these activities and also in activities incidental or ancillary to those activities.

This tax is not levied on the receipts of the National Concessionaire, bonuses, or any excess earned over and above the limit-price.

Taxable income shall be applied to the profit at the end of each year, calculated independently for each of the oil concessions or development areas in the case of shared production contracts. The method of determination of taxable income varies by type of concession: (i) in the case of commercial companies, partnerships or any other form of association and service agreements involving risk, taxable income is the difference between all income or realized gains and the costs or losses attributable to a given year; (ii) in the case of production-sharing agreements, taxable income is the difference between the total amount of oil produced and the sum of oil for recovery of costs (“cost oil”) and the receipts of the National Concessionaire.

For tax purposes, the following in particular are considered costs: *(i)* expenses incurred with basic, ancillary or complementary activities; *(ii)* certain types of personnel expenses; *(iii)* certain types of costs of materials; *(iv)* costs of transporting the materials; *(v)* supplies needed to carry out petroleum operations; and *(vi)* interest and other borrowing costs actually paid, where contracted with Angolan financial institutions (although subject to previous approval of the Ministry of Finance and the Ministry of Mineral Resources, Petroleum and Gas).

For tax purposes, the following in particular are considered non-deductible costs: *(i)* commissions paid to intermediaries; *(ii)* indemnities, fines or penalties; *(iii)* expenses incurred in arbitration proceedings; *(iv)* interest and borrowing costs other than those expressly stated as being deductible; and *(v)* funds, provisions and reserves (unless authorised by the Government).

Determination of tax costs is subject to specific rules depending on the type of activity and the type of costs involved (development costs, production costs, administration costs and services).

The earnings made regarding the assignment of interests in contracts entered into with the National Concessionaire are included for purposes of taxation with the remaining income for the determination of the total income subject to Income Petroleum Tax. The law does not specify whether only direct assignment of interests is subject to taxation or if the indirect assignment should also be taxed.

Taxable income is determined by a taxable-income Fixing Commission on the basis of the tax return filed by the taxpayer, the Commission being entitled to make corrections to the gross annual income and to the income deductions presented.

The applicable tax rate may vary between 50% and 65,75%, depending on whether the income is obtained through a production-sharing agreement or not.

The following are considered charges deductible from the assessment, provided they have not been included under tax-deductible costs and have actually been incurred in the fiscal year: *(i)* costs incurred for board and lodging, transportation and others of the Customs and the Ministry of Mineral Resources, Petroleum and Gas officials engaged in inspection activities; *(ii)* costs of setting up and maintenance of tax offices; *(iii)* costs of hiring inspection, auditing and tax consultancy services undertaken

by the Ministry of Finance; *(iv)* any costs and expenses incurred with the activity of a technical, social or welfare nature or incurred by the taxpayer, where so requested by the proper authority.

If these charges, deductible from the assessment, cannot be deducted in the year they are actually incurred for lack of taxable income, they shall be deducted in subsequent years.

PETROLEUM PRODUCTION TAX

Petroleum Production Tax is levied on the amount of crude oil and natural gas measured at the well-head, less quantities consumed in the petroleum operations. This deduction shall be accepted only with the assent of the National Concessionaire.

The tax rate is 20%, and may be reduced to 10% in very specific situations, namely:

- oil operations in marginal fields;
- oil operations in maritime areas with water depths greater than 750 meters;
- oil exploration in hard-to-access onshore areas previously defined by the Government (this rate reduction is in the hands of the Government based on a reasoned request by the National Concessionaire).

This tax does not apply to entities associated by means of production-sharing agreements.

PETROLEUM TRANSACTION TAX

Petroleum Transaction Tax is levied on taxable income determined in the same way as the Petroleum Income Tax. However, this tax does not apply to entities associated by means of production-sharing agreements.

Under this tax, the following are considered deductible expenses: *(i)* premiums on production volumes of oil and liquid gas, involving the possibility of deduct-

ing a percentage of the raw material in determining taxable income (agreed in the concession/operating agreement); and (ii) the investment premium, allowing deduction of a percentage of the investment (depending on the concession/operation).

Additionally, in relation to non-deductible costs, there are also the five major tax charges under the special sectoral taxation of petroleum activities, as well as interest and other borrowing costs. The tax rate is 70%.

SURFACE CHARGE

The Surface Charge is levied on the area of the concession or on the development areas (if any). This charge is charged at a fixed rate of USD 300 per square kilometre licensed for oil activity and is due by the associate entities of the National Concessionaire.

CONTRIBUTION TO ANGOLAN STAFF TRAINING (TRAINING LEVY)

The associate entities of the National Concessionaire are required to pay an Angolan Staff Training Angolans Contribution.

The contribution varies according to the activity developed by the company in each year:

- companies holding a prospection license: USD 100,000 per year;
- companies are search reconnaissance phase: USD 300,000 per year;
- companies in the phase of production and processing and refining petroleum: USD 0.15 by barrel of crude oil per year;
- entities that engage in storage, transportation, distribution and commercialisation of petroleum products' activities and entities that provide services to petroleum entities for more than one year: 0.5% rate over its annual gross income or annual turnover respectively.

8. REAL ESTATE INVESTMENT

8.1 Restrictions on private ownership

The Angolan Constitution recognises private ownership alongside public and community ownership. However, it determines that ownership of land originally belongs to the State and that it may, if it so considers appropriate to the public interest, transfer it to private individuals. Excluded from transfer is land belonging to the public domain of the State that is not capable of individual appropriation. Consequently, only the land rights provided by law over land forming part of the private domain of the State may be transferred.

The legislation governing right of access to land is set out acts: Act no. 9/04, of November 9 (Land Act/*Lei de Terras*), and Decree no. 58/07, of July 13 (General Concession of Land Regulations/*Regulamento Geral de Concessão de Terrenos*).

According to the Land Act, the State may transfer or constitute, for the benefit of natural or corporate persons, a multiplicity of land rights on land forming part of its private domain that can be assigned.

Although the Constitution allows ownership with some latitude, the Land Act is much more restrictive. Although it is possible to transfer ownership of some categories of land, the transfer of State land almost never implies the transfer of its ownership, but only the formation of minor land rights (leasehold being the most common in Angola). It should be noted that right of ownership can only be transferred by the State to natural persons of Angolan nationality in respect of urban land that can be assigned. It is therefore impossible to transfer the right of ownership of rural land, forming part of the State's public or private domain, to private-law natural or corporate persons.

8.2 Land rights

Land rights are rights that relate to assignable land forming part of the private domain of the State, ownership of which may belong to natural persons or public-law or private-law corporate persons. These rights are transferred or assigned by the State and are provided for in the Land Act.

The land rights provided for by law are: (i) right of ownership; (ii) right of customary *dominium utile*; (iii) right of civil dominium utile; (iv) leasehold right; and (v) right to temporary occupation.

Holders of land rights must have due regard for the economic and social purpose that led to the grant of the said right, and shall also ensure effective, worthwhile use of the land under the said land right. The worthwhile and effective use of the land is determined in accordance with indices set by territorial management instruments that take into account the purpose for which the land is intended, the type of crops grown or the construction index.

The land rights may be transferred, for a consideration or gratuitously by the holder.

As a rule, land rights are transferred or constituted for a consideration by means of the following legal transactions: (i) purchase and sale contract; (ii) forced acquisition of *dominium directum* by the tenant; (iii) tenure contract for constitution of civil *dominium utile*; (iv) special concession contract for the constitution of leasehold rights; and (v) special rental contract for the grant of the right to temporary occupation.

These legal transactions are regulated by the Land Act, the Angolan Civil Code (Decree no. 47 344, of November, 18, 1967), the Land Registry Code (Decree no. 47 611, of December, 30, 1967, amended by Act no. 3/16, of April 15, and complementary legislation.

8.2.1 Purchase and sale contract

The land right of ownership is transferred by purchase and sale contract or by public auction, and in principle is perpetual.

Regarding subsequent transfers, the State has right of first refusal in the case of sale, payment in kind or lease of the land granted.

However, despite the legal provision, the Angolan State has not concluded any contracts for the purchase and sale of land with private individuals. At present, only urban properties for residential purposes have been sold to individuals based on the law applicable to the sale of State bound real estate (Act no. 12/01, of September 14).

8.2.2 Forced acquisition of direct ownership by the leaseholder

The transfer of a land right may also be made by the forced acquisition of direct ownership (*dominium directum*) by the leaseholder. Such co-active transfer involves agreement of the parties or judicial sale through exercise of the leaseholder's potestative right, by decision of the court.

8.2.3 Tenure agreement for the establishment of civil dominium utile

Civil *dominium utile* of land may be granted by tenure agreement. Its legislation is set out in the Land Act and related regulations, and the precepts of the Angolan Civil Code concerning tenure apply to it. This land right may be constituted on rural or urban land, and, whenever possible, is granted by means of public auction.

Through the tenure agreement, the concessionaire is allowed to use and enjoy the land as if it were the owner thereof, upon payment of the price of the civil *dominium utile*, which is paid in cash as a lump sum prior to the signature of the concession document, in addition to any annual rent.

8.2.4 Special concession contract for the formation of leasehold rights

Leasehold right is the right to construct or maintain buildings on land belonging to others or to plant things or grow crops thereon.

The leasehold right may be constituted in favour of domestic or foreign natural persons or of corporate persons headquartered in Angola or abroad on urban and rural land forming part of the private domain of the State or local authorities.

The leasehold right is constituted, in most cases, by contract between the individual and the State, and can also result from the sale of existing works or of trees separately from ownership of the land.

This right is initially and provisionally constituted for a period determined in accordance with the specifics of the grant in question (as a rule, up to a maximum of five years), becoming permanent if, during the period fixed, the indices of worthwhile and effective use previously established are met and the land is definitely demarcated. The land right cannot be constituted for a period exceeding 60 years, but is renewable for successive periods if neither party objects to such renewal.

By way of consideration, the leaseholder is required to pay an annual instalment for the concession, which is contractually established. It may alternatively choose to pay the consideration in a single instalment, resulting from multiplying the amount of the annual instalment by the number of years for which the contract is concluded.

8.2.5 Tenancy agreement for the granting of the right of temporary occupancy

The right of temporary occupation may be granted, under a tenancy agreement, for rural and urban land forming part of the private domain of the State or local authorities, and for land forming part of the public domain the nature of which so allows, whenever possible by public auction.

The life of the tenancy agreement is fixed in the agreement, but never for a period exceeding one year, and it may be renewed successively for the same term. This agreement may be terminated by either party upon notice made under the law.

Sublease is permitted only in exceptional situations, namely in cases of recognised interest in expediting the exploitation of the land granted and in favour of credit institutions that, to promote and accelerate the use of the land granted, shall have made medium-term or long-term loans to the concessionaires if the latter fail to fulfil obligations towards the lender.

The rent is annual and may be paid in a lump sum or in twelve monthly instalments.

Substitution of the applicant in the process of constitution of the right of temporary occupancy by tenancy agreement is prohibited. Nor is the transfer of this right permitted, although the occupant may waive the right to temporary occupancy in favour of third parties (such acceptance is appraised on a discretionary basis and the situation of the new holder considered to be that of the original owner for all intents and purposes).

Lastly, it should be noted that this type of grant can be terminated by the granting authority in any of the following cases: *(i)* failure to pay the rent by the contractual or legal deadlines; *(ii)* unauthorised alteration of the purpose of the grant or use of the land; or *(iii)* breach of other obligations for which such sanction has been established in the agreement.

8.3 Concession contracts

The common concession process comprises several phases:

- submission of an application by the party concerned;
- information and opinions of the services and other entities that must be consulted regarding the application;
- provisional demarcation of land, followed or not by public auction;
- assessment of the application and approval or rejection;
- final demarcation;
- conclusion of the concession contract;
- signature of the concession document; and
- inscription of the right in the name of the concessionaire in the Land Registry.

Specific rules apply to the special processes, which include the right to temporary occupancy.

As a rule, the applicant or the holder of a concession right may be substituted in the concession or transfer the right granted by prior authorisation of the authority responsible for the approval of the concession. As for the transfer, once the authorisation has been granted, it must be made within 90 days of notification of the order.

Regarding the forms of termination of the concession of land, the law provides that they expire:

- at the end of the term;
- when the land is used for purposes other than that authorised;
- when the land right granted is not exercised or the land granted is not made use of under the contractual terms and conditions or, if the contract is silent, during three consecutive or six interpolated years;
- where the land rights granted are exercised in violation of the economic and social purpose that justified the grant;
- in the event of expropriation for public utility; and
- in case of disappearance or destruction of the land granted.

Regarding rural land, there are also the following causes of expiry:

- the use of the land shall not have started within six months after the grant or by the established deadline;
- its use has been discontinued during three consecutive or six interpolated years;
- the purpose of the concession has been altered or the contractual clauses relating to the use of the land have not been complied with;
- the land has been sublet without prior authorisation of the grantor or, in those cases, where it is prohibited.

In the case of declaration of expiry of the land right, the following revert to the ownership of the granting authority: *(i)* the land granted; *(ii)* the improvements incorporated into the land granted; *(iii)* as many twentieths of the price or instalments thereof as there are years in which the land was in the possession of the concessionaire without using it, any excess of the price being refunded to the concessionaire.

8.4 Rental

The urban rental agreement is a contract whereby one party undertakes to provide to the other temporary enjoyment of an urban plot, for a consideration (the rent). This agreement is governed by Act no. 26/15, of October 23 (Urban Rental Act/*Lei do Arrendamento Urbano*), which repealed Decree no. 43 525, of March 7, 1961 (Tenancy Act/*Lei do Inquilinato*) and the provisions of the Angolan Civil Code.

Urban rental may be used for purposes of residential, commerce, industry, liberal professions or any other lawful purposes. This agreement must be made in writing, except where its conclusion by public deed is imposed by law, that is: (i) rentals subject to registration (leases signed for more than six years as well as any transmissions or sublets); and (ii) leases for commerce, industry or the exercise of a liberal profession. The new Urban Rental Act has imposed the obligation to obtain a certificate of habitability to attaining the suitability of the leased building, under penalty of subjection to a fine applicable to the landlord, of value not less than three months of the rent.

With regard to payment of the rent, the new regime establishes a free, conditioned and supported rental scheme. Further, the amount of the income must be fixed in national currency, and the clause providing for the payment in foreign currency is void. Additionally, the payment of rents for more than three months in advance is forbidden.

The new regime also sets forth the possibility of updating rents by applying statutory coefficients annually approved or by convention of the Parties in residential lease contracts executed under the free rental scheme, as well as in the leases intended for trade, industry or liberal profession in which the term of the relevant contract is exceeding five years or when no term has been agreed between the parties.

It is also introduced the possibility of concluding lease contracts for residential purposes with a minimum duration of five years, which may be reported by the landlord in its term without payment of compensation to the tenant.

The rental agreement cannot be concluded for more than 30 years. Should the parties not have agreed on the duration of the agreement or the contract has not been determined by law or by practice, it shall be considered as having been concluded for two years, except in relation to residential rentals for short periods at beaches, spas or other holiday locations and to houses inhabited by the landlord and rented during his

absence, to the leases of non-habitable spaces for the posting of advertising, storage, parking of vehicles or other limited purposes specified in the contract, except when carried out in conjunction with leases of places suitable for housing or for the Trade, industry or exercise of a liberal profession, and to leases subject to special legislation.

On its termination, the rental agreement is successively extended until the tenant opposes its extension, giving notice (ahead of the termination of the agreement or any renovation thereof) and meeting the formalities set out in the agreement or in law, but never less than provided for in the Civil Code, namely: *(i)* six months, if the term is equal to or greater than six years; *(ii)* 60 days, if the term is one to six years; *(iii)* 30 days, if the term is three months to one year; and *(iv)* one third of the term if less than three months. The extension of the agreement shall be for the term agreed on or for a period identical to the initial term, provided it is not more than one year.

The landlord may terminate the rental at the end of the term or extension thereof if he needs the property for: *(i)* his own personal use, either for residential purposes, either to himself or to any direct relatives; *(ii)* if the landlord need the building to build his own residence or the house for his descendants in 1st degree or ascendant; *(iii)* when the landlord wishes to enlarge the building or build new buildings in order to increase the number of leased sites and have the respective mass plan approved by the competent administrative authority; and finally *(iv)* when the building is degraded and does not appear advisable, under the aspect Technical or economic benefit, its processing or repair and is approved by the competent administrative authority of its mass plan.

Termination of the rental agreement may also occur by revocation, rescission or expiry.

Revocation is the termination of the contract by agreement of the parties, which must be concluded in writing (where it is not immediately executed or whenever it contains compensatory or ancillary clauses), except in cases where the revocation is affected with the materialisation of the delivery of the respective building leased to the landlord.

Termination due to breach of contract is granted either to the landlord and to the tenant. As for the tenant, the new regime refers to the general terms of the contract termination law based on the landlord's contractual breach. Regarding the termination by the landlord, this can only solve the contract verified several hypotheses, of which we can highlight the following: *(i)* in case of non-payment of the rent in time

and place; *(ii)* use or consent for others to use from the leased building to the end or business branch other than that or those to which it is intended; *(iii)* use of the leased building, reiterated or customarily, for illicit, immoral or dishonour practices; *(iv)* carrying out works in the leased building, which substantially alter its external structure or the internal disposition of its divisions, without the consent of the landlord, as well as the practice of acts that may cause considerable deterioration, equally Not consented and cannot be justified by the duty of maintenance and restitution of the thing (Article 1043 of the Civil Code) or under the legal changes provided for in this scheme; *(v)* to sublet or lend, in whole or in part, the leased building, or assign its contractual position, in cases where this is unlawful, invalid for lack of form or ineffective in relation to the landlord, except in cases where the transfer of the use of the lease building has been recognized by the landlord.

Rescission by the tenant may take place, regardless of the responsibility of the landlord, when for some reason unknown to his own person or to his relatives, the tenant is deprived of enjoyment of the property, even if temporarily, or if the property has a defect that puts in serious danger his health or that of his relatives or subordinates.

Lastly, expiry is a form of termination which occurs automatically where certain legal requirements are met. Thus, the rental agreement shall lapse:

- upon the term agreed by the parties or established by law;
- the occurrence of the condition which the parties have agreed to be bound, or if it is certain that such condition cannot be verified, as such condition is precedent or if means the termination of the contract;
- when the right or legal powers of administration under which it was concluded ceases;
- by the dissolution of the lessor's marriage if the leased building is of a marital nature, even if the wife has granted authorisation or consented;
- on the decease of the tenant (other than in connection with rentals for trade or industry) or by its extinction, if a corporate person;
- in the event of loss of the property or expropriation for public utility (unless, in the latter case, the purpose of the expropriation allows the rental to subsist).

In the event of transfer of ownership by negotiation or judicial decision, the rights and obligations resulting from the rental agreement are transferred to the acquirer. With regard to rental for trade or industry, its transfer under a transfer of business as an ongoing concern (*traspasse*), which must be done by public deed, does not imply authorisation by the landlord to the effect. However, the landlord has the right of option or preference over the transfer of business by sale or in lieu.

Subletting is allowed when authorised by law, or where there is subsequent consent of the landlord, provided it is given in writing or by public deed.

8.5 Land registry

Land registry is intended to give publicity to the ownership of rights over immovable property. The main effects of registration are the presumption that the registered right exists and belongs to the person in whose name it is registered (and thus enforceable against third parties), as well as the principle of priority (that is, the record entered in the first place takes precedence over those that follow in respect of the same good, even if the record is initially a provisional one, insofar as it has since been converted into a definitive one).

Thus, subject to registration are, among others, legal facts that imply recognition, acquisition, division, establishment, modification and encumbrance of rights regarding immovable property.

The constitution, recognition, acquisition, modification, renovation, transfer and extinction of land rights are also subject to registration at the Land Registry. Also subject to registration is the revision of concessions, determined by authorisation of alteration of their object or purpose or modification of their use.

Registration has to be applied for at the Land Registry of the area where the property is located within 90 days of the date on which the fact to be registered took place.

The registration may be applied for by: (i) any party to the legal relationship in question; (ii) any person having an interest therein or is bound to undertake the registration; (iii) an attorney with sufficient powers for the act; or (iv) a lawyer or solicitor, in respect of whom their powers of representation are presumed.

Lastly, the Joint Executive Decree no. 249/20, of October 12, was also published, which approves the gratuity of the first land registration act, which has as its object the rural land recognized and granted under the *Minha Terra Program* (which seeks the promotion of the registration and securitisation of rural land in favor of local communities and agricultural cooperatives), as well as the issuance of the first Land Certificate, in view of exonerating and facilitating the process of formalisation and granting of rural land in favor of Local Communities and regulates the period of exemption.

8.6 Tourism

Angolan law considers hotel establishments to be establishments that provide lodging for a consideration, with or without provision of meals and other ancillary or support services, classifying them as follows: (i) hotels; (ii) boarding houses (*pensões*); (iii) lodges (*pousadas*); (iv) inns (*estalagens*); (v) motels; (vi) aparthotels; (vii) tourist villages; and (viii) hostels or guest houses. The following are also classified as complementary means of tourist accommodation: (i) tourist apartments; (ii) bed & breakfast houses; (iii) rural or agro tourism lodging; and (iv) campsites. There are also resorts that are the nuclei of contiguous and functionally independent facilities, intended, for consideration, for sports or other forms of entertainment and provide tourists with any form of lodging, even though not a hotel, and provided with adequate complementary sports or leisure facilities and restaurant services.

Pursuant to Act no. 6/97, of August 15, the construction and setting-up processes are organised by the Ministry of Hotels and Tourism (if the hotel establishment is of interest for tourism), or by the respective Provincial Governments. After submission of the application for the construction of the enterprise to one of these entities, the latter informs the interested party of the decision regarding the location, preliminary design and working plans in keeping with the terms and conditions by the deadlines determined by law. However, approval of these processes always requires an opinion issued by the agency responsible for spatial planning, for areas not urbanised and not classified as of interest to tourism. This opinion is issued within 60 days of the date of reception of the process. It should be noted that the Ministry of Hotels and Tourism always proposes that a special commission be set up to try to overcome any negative opinions regarding the entities that have to be consulted. If this special commission is set up, its decisions are binding and may provide constraints regarding the enterprise. If the Ministry of Hotels and Tourism approves the plans, a deadline is set for the commencement of construction, whose approval shall lapse if the deadline is not respected.

After completion of the construction of the tourist enterprise, it must be classified and its operation has to be established. The establishments listed above cannot come into operation without prior authorisation, which depends on an inspection by the following entities:

- Ministry of Hotels and Tourism, in the case of enterprises of interest to tourism;
- Provincial Governments, in the case of enterprises of no interest to tourism;
- Ministry of Culture, regarding establishments subject to its licensing;
- local health and fire-fighting bodies, with regard to health and fire-safety licensing.

The inspection carried out by the Ministry of Hotels and Tourism and Provincial Governments aims to verify that the tourist enterprise complies with the approved plans and to assign it a provisional classification for a period of one year (after this period, it becomes final). Once the fees due to the proper entities have been paid, a permit is issued authorising the tourist enterprise to open. With regard to the management of each tourist enterprise, it must be performed by a single entity, responsible in the first place for its management. It should be noted, however, that the fact that the hotel establishment is under the management of a single entity, it may be owned by a number of persons. The owner of the tourist enterprise also has the following obligations:

- not to alter substantially its external structure or its aesthetic aspect, so as not to affect the unity of the enterprise;
- not to use the enterprise for a purpose other than its intended purpose;
- not to use the enterprise for illicit, immoral or dishonest practices;
- not to exceed the planned capacity of the enterprise;
- to ensure its maintenance;
- not to perform any acts or carry out works likely to affect the continuity and urban unity of the enterprise or hinder the respective accesses.

In this context, the Presidential Order no. 128/20, of September 14, was published, which authorizes the expenditure and launching of the Public Tender for privatisation, in the form of granting of the right of exploitation and management, of the Hotels Infotur Namibe, Infotur Lubango, Infotur Benguela and Infotur Cabinda, located in the Provinces of Namibe, Huila, Benguela and Cabinda, and that delegated the competence for the approval of the tender documents, for the nomination of the Evaluation Committees, verification of the validity and legality of all acts performed within the scope of the said procedure, for the adjudication of the proposals and for the celebration of the Contracts to the Minister of Finance.

9. CAPITAL MARKETS

9.1 Introduction

The rules applicable to the capital markets are provided in the Securities Code (SC) approved by Act no. 22/15, of August 31 (recently amended by Act no. 9/20, of April 16), which establishes the Legal Framework applicable to Securities and Derivatives.

In particular, the SC governs the supervision and regulation of securities, their issuers, public offerings, the regulated markets and their respective infra-structures, prospectuses, investment services and investments in securities and derivatives, as well as the penalties applicable thereto.

These regulations naturally apply to situations, activities and actions with a relevant connection to the Angolan jurisdiction, particularly companies or collective investment undertakings with securities that are traded in regulated markets.

9.2 Markets

The agents which coexist in the regulated Angolan securities market are: the stock market (the Securities and Derivatives Exchange of Luanda, *Bolsa de Valores e de Derivados de Luanda*) and the over-the-counter market. The management of regulated markets is undertaken by the Debt, Securities and Derivates Exchange Management Entity (*Bolsa de Dívida e Valores de Angola – Sociedade Gestora de Mercados Regulamentados, S.A.*, BODIVA, SGMR, S.A.), which is also charged with the admission thereto of potential members and financial instruments. BODIVA, SGMR, S.A. is also responsible for ensuring the integration of issued securities in a centralized market system, the Angolan Securities Market System (*Central de Valores Mobiliários de Angola/CEVAMA*).

More recently, CMC Regulation no. 1/19, of February 5, expanded on the regime applicable to management entities of regulated markets and through the Legislative

Presidential Decree no. 5/19, of May 2, the statute which established the legal regime applicable to guarantee funds of management entities of regulated markets, clearing houses, central counterparty clearing and centralized market systems.

9.3 Capital Markets Commission

The Capital Markets Commission (*Comissão do Mercado de Capitais/CMC*) is the public entity responsible for regulating, supervising, overseeing and promoting the capital markets and the activities undertaken by the agents which, directly or indirectly, intervene in such markets.

Among the main statutory powers of the CMC are: (i) the supervision of regulated markets, public offerings, payment and settlement and of the centralized market systems; and (ii) regulation of the securities and derivatives market, public offerings and of the activities carried out by entities under its remit of supervision.

These entities are:

- a) Management entities of the regulated markets, payment systems, clearing houses, or central counterparties and securities market systems;
- b) Intermediaries, investment consultants and independent financial analysts;
- c) Issuers of securities;
- d) Institutional investors and holders of qualified shareholding interests;
- e) Auditors and credit rating agencies registered with the CMC;
- f) Other entities whose principal or secondary activities pertain to the issuance, distribution, negotiation, registration or deposit of securities and derivatives or, in general, to the organisation and operation of securities and derivatives markets;
- g) Entities which are subcontracted by the aforementioned entities;
- h) Entities which carry out these activities across borders, provided such activities have a relevant connection with regulated markets, operations, securities or derivatives which are subject to Angolan law.

9.4 Occasional and regular disclosure of information

Publicly traded companies are subject to the disclosure obligations established in the SC, which impose on these companies a duty to regularly disclose information to the CMC, the market and to the public at large.

The CMC operates an IT system designed for the disclosure of such information, making it accessible to the public and which includes, *inter alia*, information related to registrations, decisions of public interest and other information which is either communicated to the CMC or approved by it, such as privileged information, information on qualified shareholding interests, accounting documents and prospectuses. It is therefore through such system that information is to be disclosed.

QUALIFIED SHAREHOLDINGS

Whoever obtains or exceeds 5%, 10%, 15%, 20%, 25%, one-third, one-half, two-thirds and 90% of the voting rights corresponding to the share capital of a publicly traded company and whoever ceases to hold the voting rights corresponding to the share capital in any of those thresholds must notify the CMC and the publicly traded company itself, within three business days.

ANNUAL AND BIENNIAL FINANCIAL INFORMATION

Publicly traded companies are bound to annually disclose a set of financial information, which includes, most importantly, the following:

- a) The management report and annual accounts;
- b) The report prepared by the external auditor, which includes an estimate on the progress of the business and the economic and financial status referred to in the management report.

In addition, the issuers of debt securities that are admitted to trade on a regulated market shall disclose financial information relating to the first six months of each year, as follows:

- a) Consolidated financial statements;

- b) An interim management report which shall encompass, at least, an indication of the notable events which occurred throughout the period reported upon and of the impact of such relevant events on the respective financial statements, as well as a description of the main risks and uncertainties for the subsequent six months.

In special circumstances, the CMC may establish mandatory disclosure of information to occur on a quarterly basis.

DISCLOSURE OF PRIVILEGED INFORMATION

The issuers that hold securities that are admitted to trade on a regulated market in Angola must immediately disclose privileged information of which they become aware, *i.e.* information which: *(i)* directly concerns them or the securities issued by them; *(ii)* is deemed to be of a precise nature; *(iii)* has not been made public; and *(iv)* which, if it were made public, would be likely to materially impact the price of the securities or of related underlying or derivative instruments.

Nevertheless, a statutory exception to the aforementioned disclosure is permitted, under which issuers may defer public disclosure of privileged information, provided:

- a) The immediate disclosure is likely to compromise the legitimate interests of the issuer;
- b) The deferral is not likely to mislead the public; and
- c) The issuer demonstrates that it will be able to keep such information confidential.

COMMUNICATION OF TRANSACTIONS BY CORPORATE OFFICERS

Corporate officers – members of the management and supervisory bodies and those who, despite not being a part of those bodies, have regular access to privileged information and participate in management and business strategy decision making procedures – of an issuer of securities admitted to trading on a regulated market or of a company that controls such issuer (as well as persons closely related thereto) are bound to inform the CMC of all transactions carried out by themselves, by third par-

ties, or by the latter on behalf of the former, concerning the shares of such issuer or the securities and derivatives related to such shares.

9.5 Take-over Bids

GENERAL RULES

Take-over Bids:

- a) Are subject to registration before the CMC;
- b) Imply the preparation, approval by the CMC and consequent disclosure of a prospectus;
- c) Require the intervention of an intermediary which will be engaged from the preliminary announcement onwards.

MANDATORY TAKE-OVER BID

The launch of a take-over bid (over all the shares and other securities issued by a company which grant subscription or purchasing rights) is mandatory whenever a participant, either directly, or due to the application of the rules on attribution of voting rights, exceeds one-third or half of the voting rights corresponding to the share capital.

There is, however, an exception: a public offer will not be mandatory when, even if the one-third threshold is exceeded, such entity demonstrates, to the CMC, that it does not control nor is part of the same corporate group of the relevant company.

The price of the mandatory public offer shall be equal to or greater than the highest of the following amounts:

- a) The highest price agreed by the offeror or any person whose voting rights are attributable to the offeror, for the acquisition of securities of the same category, in the six months immediately preceding the date of the preliminary announcement of the offer;

- b) The weighted average price of such securities as calculated in the regulated market during the same period.

OTHER RULES

The offeror, the target company, its shareholders and its corporate officers, as well as whoever provides services to the target company on a permanent or regular basis, are bound to keep the public offer confidential up to the disclosure of the preliminary announcement.

From the disclosure of the preliminary announcement and up to the assessment of the outcome of the public offer, the offeror and the entities whose voting rights are attributable to the offeror: *(i)* may not trade securities of the same category of those which are targeted by the offer outwith the regulated market, unless the CMC so approves, with a previous statement issued, for such purposes, by the target company; *(ii)* shall disclose to the CMC, on a daily basis, the transactions carried out by each of them over securities issued by the target company or of the same category of those which make up the price.

The management body of the target company is, as soon as it becomes aware of an intention to launch a take-over bid over more than one third of the securities of a given category and up to the final assessment of the outcome of the offer or its termination, barred from carrying out any acts which may significantly impact the financial standing of the target company, which surpass the day-to-day management of the company, and which could significantly impact the objectives pursued by the offeror (passivity rule).

The management body of the target company shall, within eight days after having received the draft prospectus and the launch announcement, and within five days after their amendment or the disclosure of an addendum to the offer documents, is to submit, to the target company and to the CMC, as well as to disclose to the public, a management report on the opportunity and the conditions of the offer.

9.6 Public offerings of subscription and distribution

GENERAL RULES

The public offerings of subscription (in the form of incorporation or increase of share capital) or of distribution (in the form of a share sale):

- a) Are subject to registration before the CMC;
- b) Imply the preparation, approval by the CMC and consequent disclosure of a prospectus;
- c) Require the intervention of an intermediary which will be engaged from the preliminary announcement onwards.

DEFINITION OF PUBLIC OFFER

Offers are deemed to be public when:

- a) The offer relates to securities and is addressed, in whole or in part, to undetermined addressees, the qualification of undetermined addresses is not excluded if the offer is formalized through various standardized communications or even if the addressees are individually identified;
- b) It is generally directed at the holders of shares of a publicly traded company, even if its share capital is represented by nominative shares;
- c) It is, in whole or in part, preceded or accompanied by the assessment of investment intentions before undetermined addresses or by an advertisement;
- d) Directed at a minimum of 150 people who are non-institutional investors domiciled or established in Angola.

PRIVATE OFFERINGS

Private offers are those which are not deemed to be public. Although an offer will always be construed as private:

- a) When the offer relates to securities and is solely addressed to institutional investors;
- b) Subscription offers addressed by private equity companies to their own shareholders (excluding the type of offer referred at point b) of the preceding section *Definition of public offer*).

The following entities are considered institutional investors:

- a) Financial banking institutions;
- b) Non-banking financial institutions operating in capital markets and investment;
- c) Non-banking financial institutions operating in currency and credit markets;
- d) Non-banking financial institutions operating in insurance and social security markets;
- e) Financial institutions authorized or regulated in a foreign jurisdiction which are subject to an analogous framework to the one established for the institutions referred to above;
- f) Nation-states, the central bank and the public bodies that manage public debt, supranational or international institutions.

For other purposes, except within the context of public offers, entities which have requested to be treated as institutional investors may be deemed as such.

9.7 Prospectus

The preparation and approval or registration of a prospectus with the CMC is mandatory in take-over bids, in public offers for subscription or distribution when the securities arising therefrom are intended to be admitted to trading in a regulated market, and upon the incorporation of the majority of collective investment undertakings.

INFORMATION

The prospectus shall contain complete, truthful, up to date, clear, objective and lawful information enabling the addressees to form a solid judgment on the securities and the rights inherent thereto, on the specific features, the assets, economic and financial standing and the forecasts relating to the development of the activity and the results of the issuer and the eventual guarantor, as well as on the public offer itself.

LIABILITY FOR THE PROSPECTUS REGARDING A PUBLIC OFFERING

The following entities will be liable for damages caused by the non-compliance of the prospectus with the rules described in the previous section (*Information*), unless such entity is able to demonstrate it acted without fault:

- a) The issuer;
- b) The members of the issuer's management body;
- c) The potential guarantor;
- d) The members of the management body of the potential guarantor;
- e) The members of the supervisory body of the issuer, accounting firms, accounting experts and auditors of the issuer or that otherwise assessed the financial statements on which the prospectus is based upon;
- f) Any other entities which consent to their indication, in the prospectus, as responsible for any of the information, forecast or study supplied therein;
- g) The offeror;
- h) The members of the offeror's management body;
- i) The promoters, in the case of an offer for subscription of shares in the incorporation of a company;
- j) The intermediaries assisting in the offer;
- k) In the case of admission to trading, the applicant of such admission;
- l) In the case of admission to trading, the members of the management body of the applicant of such admission.

Fault, under the SC, is assessed in accordance with a high threshold of professional due care.

The statutory provisions on liability for the prospectus are not waivable or open to alteration by contractual agreement.

EXCLUSION OF LIABILITY

Liability is excluded if:

- a) Any of the persons referred to above as potentially liable for the content of the prospectus, demonstrate the addressee was aware or should have been aware of the inaccuracy in the content of the prospectus, at the time it made an offer or at the time the withdrawal of such offer was still possible; or
- b) The damages arise exclusively out of the summary of the prospectus, unless such summary contains any misleading, imprecise or incoherent information when read in combination with the remaining documents which make up the prospectus.

LIABILITY REGARDLESS OF FAULT

In certain circumstances, the issuer, the guarantor, the offeror, the applicant for admission to trading and the entity in charge of the market placement consortium are deemed to be liable regardless of fault.

JOINT LIABILITY

If there is more than one person liable for the damages caused, their liability is joint and several.

COMPENSATION

The compensation due for damages caused or arising out of the prospectus is intended to cure the losses caused and to return the compensated party to the same situation where it would be if, at the moment of the acquisition or sale of the relevant securities, the content of the prospectus had been compliant with the rules described in the preceding section (*Information*).

The claim for damages must be grounded on such rules and must be filed within a six-month period after the claimant becomes aware of the inaccuracy in the prospectus. In turn, the compensation right terminates two years counted from:

- a) When the results of the offer are disclosed – in a public offer prospectus;
- b) The date the prospectus is disclosed – in a prospectus for the admission to a regulated market.

9.8 Intermediary activities

The Legal Framework for Security Brokers and Dealers (approved by the Legislative Presidential Decree no. 5/13, of October 9) regulates an essential form of intermediation of securities in capital markets: the activity undertaken by security brokers (*sociedades corretoras/SCVM*) and security dealers (*sociedades distribuidoras/SDVM*).

These non-banking financial institutions have, as a general duty, the intermediation of securities in capital markets. The law confers the following competences to SCVMs:

- a) Receiving transfer orders on behalf of third parties;
- b) Executing orders on behalf of third parties within or outwith the regulated markets;
- c) Managing discretionary portfolios and collective investment undertakings;
- d) Investment consultancy, including the preparation of assessments, financial analyses and other general recommendations;
- e) Registration and deposit, as well as custody services;
- f) Unsecured placement in public offerings; and
- g) The provision of foreign exchange services necessary to the performance of the services listed above.

These activities may also be carried out by SDVMs, excluding the management of discretionary portfolios, the management of collective investment undertakings and investment consultancy (including preparation of assessments, financial analyses and other general recommendations). Furthermore, SDVMs are, additionally, allowed to:

- a) Trade and manage their own portfolio;
- b) Assist in public offers and act as consultants on capital structure and industrial strategy, as well as on mergers and acquisitions of companies;
- c) Underwrite securities and carry out the secured placement in public offers; and
- d) Grant loans, including the loan of securities, to carry out operations where the company granting credit intervenes.

The beginning of operation of SCVMs and SDVMs is subject to prior registration with the CMC, the procedure of which is detailed in the CMC Regulation no. 1/15, of May 15, which also regulates the legal duties applicable to the activity, organisation and supervision as well as the exercise of the activity by correspondence.

9.9 Collective investment undertakings

Collective investment undertakings (CIU) have a specific legal framework provided for in Presidential Legislative Decree no. 7/13, of October 11, which approved the Legal Framework for Collective Investment Undertakings (*Regime Jurídico dos Organismos de Investimento Colectivo/RJOIC*), which was, in turn, further regulated by CMC regulations, in its capacity as regulator and supervisor of these entities (particularly, CMC Regulation no. 4/14, of October 30, which governs the technical rules applicable to CIUs).

The CIUs are collective investment undertakings composed of contributions collected from the public, which aim to invest the capital collected, in accordance with the principles of splitting the risk and in the interest of the participants. The CIUs may be contractual in nature - investment funds - or follow the corporate model - investment companies - and differ in accordance with the fixed (closed-end funds or fixed capital companies, respectively) or variable (open-end funds or companies of variable capital, respectively) nature of their share capital. Open-end funds (or variable capital companies) are subject to share capital redemptions and subscription during their

entire lifetime, at the investors' discretion. Closed-end funds (or companies with fixed capital) are merely subject to subscription at their incorporation or in the event of a share capital increase and may not be subject to redemption; investment and divestment are made through the sale of the shareholding interest or, in the specific case of divestment, in the winding up phase upon termination of the CIU.

Gathering of investors for closed-end funds (or companies with fixed capital) can be done through public offers (with the application of the rules set out in the SC for public offers whenever such provisions are not incompatible with the RJOIC) or private subscription.

Open-end funds (or variable capital companies) and closed-end funds (or fixed capital companies) incorporated by public subscription of share capital are evidently subject to stricter regulation and impose greater restrictions on investment than closed-end funds (or fixed capital companies) incorporated by private subscriptions of share capital.

The CIUs in contractual form, due to their lack of legal personality, are mandatorily managed and represented by a third party (managing entity), while CIUs under the corporate form may also delegate their management to third parties or, by complying with additional regulatory requirements, carry out their own management.

A CIU may invest in movable or immovable assets, depending on whether its principal object is the investment in movable assets (which are generally admitted to trading on a regulated market) or, alternatively, in real estate assets.

The supervision and regulation of CIUs and entities related thereto (managing entities, marketing or placement entities, depositaries, auditors and real estate appraisers) falls under the remit of the CMC, the incorporation of CIUs is, in fact, conditional to the previous approval of the CMC.

9.10 Securitisation investment undertakings

A securitisation operation is the assignment of credit rights capable of generating cash flow, whereby such instruments will serve as security of those legal rights and will be represented by tradeable securities.

Securitisation investment undertakings, despite being legally equivalent to CIUs which invest in movable assets, are also subject to specific regulation provided by the Presidential Legislative Decree no. 6-A/15, of November 16, which was subsequently regulated by CMC Regulation no. 3/19, of February 5, which establishes the procedures for authorizing the incorporation of securitisation investment undertakings as well as the beginning of their activity.

Similarly to the CIUs described in the previous chapter, securitisation investment undertakings may be incorporated under a contractual – securitisation investment funds (*fundos de investimento de titularização/FIT*) or a corporate structure – securitisation investment companies (*sociedades de investimento de titularização/SIT*). The minimum share capital of both FITs and SITs is of AOA 40 million, and the share capital of the SITs must be represented by nominative shares.

The participation units and the securitized bonds issued by securitisation investment undertakings may be traded exclusively to institutional investors or, alternatively, to any other class of investor, including the general public. These securities may also be admitted to trading in regulated markets.

The following entities may have their credit rights subject to securitisation:

- a) The State and other public entities;
- b) Banking and non-banking financial institutions;
- c) Insurance companies;
- d) Pension funds;
- e) Pension fund managing entities; and
- f) Other legal persons whose accounts have been audited by a CMC certified auditor for the preceding three years.

On the other hand, the credit rights which may be made subject to securitisation have to satisfy the following requirements:

- a) Be executable, if only executable in the future, the underlying obligation thereto must be executable and the executable amount known, determinable or appraisable;
- b) Be of a pecuniary nature;
- c) Be exempt from any transfer limitations, of a legal or contractual nature;
- d) Their existence cannot subject to any condition or time limit;
- e) Their existence cannot be subject to a judicial decision, nor granted as security, seized by court order, or subject to any charge or encumbrance.

The supervision of securitisation investment undertakings is carried out by the CMC, and their incorporation is only possible upon the approval of the CMC.

9.11 Private equity

The Legal Framework for Collective Investment Undertakings in Private Equity (*Regime Jurídico dos Organismos de Investimento Colectivo de Capital de Risco/RJOICR*) was approved by Presidential Legislative Decree no. 4/15, of September 16, which, in turn, was further regulated by CMC Regulation no. 2/19, of February 5. Private equity investment is made through specific collective investment undertakings which may either be: (i) private equity funds; (ii) private equity investment companies; or (iii) private equity investors.

Private equity investment is defined as the acquisition, for a limited period of time, of equity instruments (typically shares or quotas and some shareholder' loans) and debt capital instruments (usually shareholder loans or bonds) in developing companies (which may include start-up businesses, expanding businesses or companies in financial difficulties) contributing such business's development and expecting to profit from its respective valuation.

The minimum share capital of private equity investment companies, private equity investors and private equity funds is of AOA 40 million. Nevertheless, in the case of private equity funds, the minimum share capital must be entirely paid up when the application for registration is submitted to the CMC by its respective management entity. Therefore, the paying-up of share capital beyond the minimum limit may be deferred to a later stage.

Private equity investment vehicles may be solely addressed at institutional investors or, alternatively, addressed at the public at large, and the securities which represent their share capital may be admitted to trading on a regulated market. Nevertheless, the incorporation of open-ended private equity investment vehicles is prohibited.

As in the case of the CIUs described in chapter 9.9 above, private equity investment vehicles of a contractual nature are managed by a third party that must be qualified as such. Private equity investment companies may also, similarly to CIUs, be self-managed or have a mixed management.

The management entities of private equity funds as well as private equity investment companies and private equity investors are also subject to biannual reporting duties (in addition to the usual annual disclosure obligations). Accordingly, the aforementioned entities are bound to, by the end of the second month after the end of each semester, to submit the following information to the CMC:

- a) The composition of their investment portfolio;
- b) Their capital, performance and commissions paid;
- c) Their participants and the participation units;
- d) Assets purchased and sold; and
- e) Their accounts.

Competence for the supervision and regulation of private equity investment vehicles and entities related to CIUs (managing entities, trading or placing entities, depositaries and auditors) lies with the CMC, and their incorporation is also subject to the approval of the CMC.

9.12 Sanctioning regime

The SC establishes a sanctioning regime, which provides for both crimes and infractions.

CRIMES

The following acts are qualified as crimes against the market:

- a) Abuse of inside information, defined as “one who has inside information by virtue of its capacity of member of a managing or supervisory body of an issuer or of a shareholder, of his employment or through the provision of services, on a permanent or regular basis, to an issuer or other entity, of a profession or public office that one exercises, or having by any means obtained inside information through an unlawful act or through an act which entails an unlawful act, and discloses it to someone else outside the normal course of one’s activity, or, due to having such information in its possession, trades or advises someone to trade in securities or derivatives, or orders their subscription, purchase, sale or exchange, directly or indirectly, for oneself or for others”. The crime is punishable by imprisonment of up to five years or a fine of up to 300 days.
- b) Market manipulation, which is defined as “one who discloses false, incomplete, exaggerated or biased information, engages in fictitious operations or otherwise carries out other fraudulent activities that are capable of artificially altering the normal functioning of the securities and derivatives market, even if negligently”.

The crime is punishable by imprisonment of up to five years or a fine of up to 300 days.

INFRACTIONS

The SC also defines several types of infractions (the provision was recently amended by Act no. 9/20, of April 16), which are classified either as “*very serious*”, to which applicable fines are between AOA 10,560,001 and AOA 392,480,000, “*serious*”, which are subject to fines between AOA 3,520,001 and AOA 10,560,000 or “*less serious*”, which are subject to fines between AOA 352,000 and AOA 3,520,000 (for example, the omission to mention the status of public company in external acts).

Several ancillary sanctions may also apply, such as:

- a) Seizure and loss of the gains obtained with the infringement, including the proceeds gained by the offender through the infraction;

- b) Suspension from exercising the profession or activity through which the infraction was carried out;
- c) Ban from exercising management, administration, leadership or supervisory roles and, generally, from representing any intermediary in the context of some or all of the intermediation activities in securities and derivatives.

Competence for the processing of infractions, application of fines and ancillary penalties is attributed to the board of directors of the CMC, although its decisions are open to challenge.

9.13 Debt securities

A recent concern has emerged, in 2020, of regulating the framework to be given to certain debt securities, in line with the legislative trend of other jurisdictions, in particular the Legislative Presidential Decree no. 1/20, of January 6, regulates the legal regime of equity securities (*títulos de participação*) which are essentially debt securities issued by public companies and Legislative Presidential Decree no. 6/19, of May 2, which was passed to regulate the legal regime applicable to securities of a monetary nature, usually referred to as “commercial paper”.

9.14 Prevention and combat of money laundering, financing of terrorism and proliferation of weapons of mass destruction

Further to the ratification by the Republic of Angola of the United Nations Conventions against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, against Transnational Organized Crime and for the Suppression of the Financing of Terrorism, Act no. 5/20, of January 27, was approved, on the prevention and combat of money laundering, financing of terrorism and proliferation of weapons of mass destruction (BCFT Regime).

In accordance with international practice in this matter, the entities subject to the BCFT Regime include financial institutions and a vast array of non-financial institutions, such as (i) accountants and lawyers, (ii) entities which manage investment funds, securities or other assets of a different nature and carry out activities in creation, operation or management of legal persons or collective interest centers with no

legal capacity, *(iii)* management entities of regulated markets, and *(iv)* whoever carries out the activity of real estate intermediation.

The entities which are subject to the BCFT regime are bound, whilst exercising their respective activity, to comply with the following general obligations: *(i)* risk assessment, *(ii)* due diligence identification, *(iii)* refusal, *(iv)* conservation, *(v)* communication, *(vi)* abstention, *(vii)* cooperation and supply of information, *(viii)* confidentiality, *(ix)* control, and *(x)* training.

Beyond these general obligations which apply to all entities subject to the BCFT Regime, the latter also provides for obligations which are specific to non-financial entities and which are set out for each relevant type of activity.

10. PUBLIC PROCUREMENT

10.1 Public Contracts Law

Public procurement and the performance of public contracts is governed by Act no. 9/16, of June 16 – Public Contracts Law (*Lei dos Contratos Públicos/PCL*) –, and applies to the following entities (“contracting public entities”):

- President of the Republic;
- State central and local government authorities;
- National Assembly;
- The courts;
- Attorney General of the Republic;
- Independent Institutions and Administrative Bodies;
- Angola representations abroad;
- Local authorities;
- Public institutes;
- Public funds;
- Public associations;
- Public companies;
- Public Domain Companies, as defined by the PCL.

The following types of contracts are covered by the public procurement and performance of public contracts framework: (i) public works contracts; (ii) leasing and acquisition of movable property; (iii) acquisition of services; (iv) procurement of contracts which are not subject to specific legislation; (v) procurement of contracts who are materialised through a Public-Private Partnership; (vi) generally, contracts entered into by defence, security and internal order bodies as well as, *mutatis mutandis*; (vii) concession of public works; and (viii) concession of public services.

The PCL covers four types of procedure for the formation of the foregoing contracts, as follows:

- public tender – a procedure that begins with the publication of a notice in the Official Gazette (*Diário da República*) and the Public Procurement Portal, as well as in a widely read national newspaper (it can also be made public through notices). In case it is open to foreign entities, adequate advertising of the tender shall be guaranteed. All entities that meet the requirements of the notice or tender programme may bid (except the entities prevented to do so under the Law). The qualification phase was suppressed from this tender procedure in the PCL;
- limited call for tenders by prior qualification – a procedure where the contracting public entity allows for any interested party to be able to bid, the selected bidders being invited to present their bids pursuant to the assessment of the technical and financial capacity. The procedure includes the following phases: (i) submission of application and qualification of the bidders; and (ii) submission, analysis and assessment of the bids; and (iii) award;
- limited call for tenders by invitation – a procedure in which the public contracting authority invites several natural persons and corporate entities to submit a bid, based on the record of suppliers or on the knowledge of their ability and credibility for the performance of the contract at issue, though no less than three entities may be invited;
- simplified tender procedure – procedure whereby the contracting public authority invites one natural person or corporate entity to submit a bid, choosing freely who that entity is (based on the knowledge it has of potential bidders). The communication of the invite is made in writing and shall be published in the Public Procurement Portal.

The choice of one of these procedures may be determined by the estimated value of the contract, or by material criteria which dictate the choice of the simplified tender procedure, regardless of the value and object of the contract.

In all the tender procedures indicated above, there may be a phase for negotiation of bids.

The PCL contains several measures for the “promotion of Angolan business”, introducing differentiated treatment for domestic and foreign entities, of which we highlight:

- if the criterion used for the award is the lowest price, the tender program or the call for proposals may set a preference margin for the prices proposed by national bidders, up to 10% of the price proposed by them;
- if the criterion used for the award is that of the economically most advantageous bid, the tender documents may establish an increase in the overall score awarded to the bids of national bidders, if it does not exceed 10% of that score;
- the inclusion of rules pertaining to the granting of a higher score to goods produced, extracted or cultivated in Angola in the tender documents is allowed;
- in tender procedures where the bidder intends to use subcontractors, it is possible to impose a minimum percentage of the value of the subcontracted services to be reserved for national natural persons or corporate entities;
- participation of foreign entities in contract-formation is limited as follows:
 - procedures where the estimated value of the contract to be awarded is equal to or greater than AOA 500 million in the case of construction works, or AOA 182 million in the case of acquisition of movable goods and services;
 - in procedures whose estimated value is less than the indicated in the previous paragraph: (i) where, by virtue of the technical specificity of the services covered by the contract, it can reasonably be expected that no national natural persons or corporate entities can properly perform the contract; or

(ii) in design tenders (except those cases in which the public contracting authority expressly restricts their participation).

The entity responsible for regulating and overseeing public procurement shall maintain up-to-date a list of the non-compliant natural persons or corporate entities, which shall be published in the Public Procurement Portal. To this end, the contracting public entities shall, on a quarterly basis, provide a detailed report of the non-complying companies to that entity.

Along with the presentation of their bids, bidders may be required by the contracting public entities to post a provisional bond of a maximum of 5% of the estimated value of the contract to guarantee that the bids presented are maintained. On the other hand, to ensure proper execution of the contract, the awarded bidder must provide a performance bond that may be as much as 20% of the global value of the awarded bid (as established in the tender procedure).

The PCL also contains rules on the materiality of public works contracts, leasing and acquisition of movable property and acquisition of services.

10.2 Court of Auditors

Also relevant is the Court of Auditors Organic and Procedure Act (*Lei Orgânica e do Processo do Tribunal de Contas*, Act no. 13/10, of July 9, amended by Act no. 19/19, of August 14), which is closely linked to the business of public procurement.

According to this legislation, contracts of value not less than that prescribed in the General State Budget Act or in equivalent provision from the local administration are subject to preventive supervision of the Court of Auditors, which grants or refuses prior approval. The General Budget Act establishes annually, in the light of the contracting public entity, the values of contracts subject to preventive supervision by the Court of Auditors.

Contracts must be submitted to the Court 30 days after their signature and, in the absence of a decision, 30 days after their reception by the Court they are considered approved; should the Court request additional or missing elements, the term is suspended until such time as they are delivered. Contracts subject to prior approval by the Court of Auditors may only begin to be executed after the approval is issued and are legally ineffective up to that moment.

11. LAND USE AND URBAN PLANNING

Apart from compliance to Land Act (*Lei de Terras*, Act no. 9/04, of November 9), the occupation and use of the territory in Angola are subject to the guidelines and rules set out in the spatial plans. The fundamental legislation in this area, which establishes the system of land use and urbanism, is Act no. 3/04, of June 25. This Act is regulated by the General Regulations on Urban and Rural Land Use (*Regulamento Geral dos Planos Territoriais, Urbanísticos e Rurais*), enacted by Decree no. 2/06, of January 23.

In turn, Decree no. 80/06, of October 30, enacted the Regulation on Licensing Allotment, Urbanisation Works and Construction Works (*Regulamento de Licenciamento das Operações de Loteamento, Obras de Urbanização e Obras de Construção*), establishing the legal regime regarding the licensing of urbanisation operations on land located within urban perimeters at the initiative of and undertaken by private parties.

It should be noted that the urbanisation of land is regarded as a spatial planning operation and, as such, constitutes a public function of the State, which bears the respective expenses. Nevertheless, the law admits that urbanisation works can be performed by private entities where so stipulated in the applicable spatial planning, in keeping with the respective systems of execution, as in the case of the urbanisation-concession and urbanisation-arrangement system. In these cases, the urbanisation of land is subject to licensing, and a separate licence may be issued or it may be contained implicitly or explicitly in the concession contract or urbanisation arrangement.

With regard to private-initiative allotment and construction operations, the regulation in question establishes the principle of licensing, which means that such operations are subject to a licence. Equally important is the principle of successive treatment, which means that to license a given urbanisation operation the operations that have to precede it must also be licensed (previously or simultaneously). The law stipulates that the allotment operations must precede the urbanisation operations and these must precede the construction of buildings.

With regard to the procedure, the licensing of urban operations is applied for from the Governor of the Province in whose territory the land or property in question is located. The application must contain the elements defined by the regulations of the Provincial Governments in the light of the type of urbanisation operation and may be accompanied by such other elements as the applicant may deem appropriate. The licensing application is also accompanied by the declarations of responsibility issued by the authors of the plans and their technical managers.

If the licensing application is not rejected out of hand, the procedure develops to a phase of consultation of the various entities involved in the spatial planning and environmental protection processes for them to comment on the application. After the consultation phase, the application is decided.

Use of buildings resulting from construction works is subject to a special procedure to verify, among other aspects, compliance with the approved plans, for the purpose of issuing the respective use permit.

Licensing of urbanisation operations takes the form of a permit which is required for it to be effective. For the permit to be issued, the licence applicant is required to pay the respective fees. Responsibility for issuing the permit lies with the urban authority that decided the permit application.

Execution of the urbanisation operations under regulation is subject to oversight by the urban authority. Whenever a breach of legal, regulatory or technical standards is detected, the urban authority may order one of the following measures:

- administrative embargo of the works;
- demolition of the work or putting the land back in its original condition and possible decree of administrative possession for enforcement, if the demolition order is not complied with voluntarily; or
- termination of the unauthorised use of the building or condominium units.

12. ENVIRONMENTAL LICENSING

Act no. 5/98, of June 19, enacted the Environment Framework Law (*Lei de Bases do Ambiente*), which summarises the basic principles for the protection, preservation, and conservation of the environment in Angola. Here, the focus is on environmental protection measures, including the process of environmental impact assessment and environmental licensing.

The process of environmental impact assessment is regulated by Presidential Decree no. 117/20, of April 22, which determines that the licensing of public and private projects and activities which, due to its nature, location or dimension, may cause significant environmental and social impact is subject to a prior process of environmental impact assessment.

These procedures are processed in the Environment Integrated System (SIA), an online platform where the submission of licensing requests and upload of relevant documents is carried out.

The process of environmental impact assessment implies: (i) performance of an environmental impact study, which can only be done by technicians that are bound to companies registered as Environmental Consulting Companies; (ii) obtaining the favourable opinions of the Ministry responsible for the Environment Sector and (iii) a public hearing. In some cases, applicants may seek the preparation of a Simplified Environmental Impact Study.

The issue of the environmental permit is based on the environmental impact assessment of the activity and precedes the issue of any other permits legally required for each case. The permit application is submitted by the applicant by means of registry of the activity in the SIA; once all the formalities relating to the process of environmental impact assessment have been complied with.

Environmental licensing involves the issue of the environmental installation permit and the environmental operating permit (the environmental installation permit precedes the operating permit).

The environmental installation permit is intended to authorise the setting out of the work or undertaking and the environmental operating permit is issued upon compliance with all requirements of environmental impact assessment study. Among other things, the environmental operating permit sets out the emission limit values for pollutants, as well as details of measures to ensure adequate protection of soil and groundwater, noise control and measures on the management of waste produced on site.

The environmental operating permit is issued for a period of five years, which can be renewed. Renewal of the environmental permit is preceded by an environmental audit. The environmental operating permit can only be transferred when the facility to which it refers is transferred (the entity responsible for environmental policy to be notified in advance).

Beginning setting-out and/or starting activities and altering facilities before the environmental permit is issued constitutes an environmental infringement, as does alteration of the operating system without a proper environmental permit.

13. PUBLIC-PRIVATE PARTNERSHIPS

The various types of involvement by private entities in projects of public interest designed to ensure the development of an activity to satisfy a collective need through a contract or set of contracts or the incorporation of a specific purpose vehicle held by the private and public partners for the implementation of a common project or for the provision of a public service intended to satisfy a collective need are known as public-private partnerships (PPP). This definition stems from Article 3 of Act no. 11/19, of May 14 (the Public-Private Partnerships Act/*Lei sobre as Parcerias Público-Privadas*), which also establishes the general rules applicable to State government intervention in the PPPs.

The legal framework of the PPPs does not apply namely to all contracts compatible with this Law with a term not exceeding three years and the concessions granted by the State to public entities or entities wholly owned by public capitals, pursuant to a specific legal framework.

Public partners are the State and local governments, public institutes, public funds, public companies and companies with public domain (as defined by law) and other entities incorporated by them envisaging to pursue public interest needs.

Among others, the following are instruments of legal regulation of relations of co-operation between public entities and private entities: (i) public works concession contracts; (ii) public service concession contracts; (iii) acquisition of services contracts; (iv) management contracts; and (v) other contracts compatible with this framework.

Within the scope of a PPP, the public partner is charged with monitoring, assessing and controlling the implementation of the object of the partnership to ensure that the objectives of public interest are achieved, while the private partner is primarily charged with the funding as well as the management activity contracted. The selection of the procurement procedure of the PPP contract is governed by the Public Contracts Law. It is possible to treat autonomously the “financing” component of

the PPP pursuant to the terms foreseen therein. The procurement procedure is led by a Jury.

The body competent for the decision to enter into the contract is responsible for launching the PPP. To do so, it shall approve the grounded report submitted by the entity that has prepared the PPP process.

The environmental permit, where required, must be obtained before the launch of the partnership.

Establishing a partnership assumes a clearly identified sharing of risks, which must be shared between the parties in keeping with their ability to manage these risks at the lowest cost to the project.

In some cases a Special Purpose Vehicle company, or SPV, shall be set up, entrusted with the project, which must take one of the corporate forms prescribed by law. Notwithstanding the incorporation of the SPV, partners may regulate their legal relation through other contracts/agreements that refer to the allocation of liabilities and risks.

The shareholding of the State results from the negotiation with the private partner.

After selection of the successful bidder and approval of the process by the Court of Auditors, the draft contract is subject to the approval of the holder of the executive power.

The monitoring and accompanying of PPPs shall be carried out by entities/services that are indicated by the Holder of the Executive Power. Among others, PPPs that may contribute to a worsening of the financial burden of the public sector, gather and process information relating to PPPs executed or to be executed and proceed with reporting the economic and financial situation of PPPs to the Holder of the Executive Power.

The PPP Law establishes that in case the public partner adopts a unilateral position that may generate a request for the repositioning of the financial equilibrium, it shall first estimate its financial effects/confirm budgetary allocation.

Some decisions from the public partners are subject to scrutiny from the Ministry of Finance.

If during the execution of the PPP facts are invoked that may lead to an alteration of the contract (e.g. share of benefits, repositioning of the financial equilibrium, re-negotiation) a negotiation commission shall be created. It will assess the proposal prepared by the public partner containing the grounds for the commencement of the negotiation, as well as the goals that are intended to be reached.

The PPP Act applies to all PPP processes, even those where the respective agreements have already been entered into.

14. LABOUR RELATIONS

The new General Labour Act (*Lei Geral do Trabalho/LGT*) was enacted by Act no. 7/15, of June 15, repealing in its entirety its predecessor, Act no. 2/00, of February 11. Although labour legislation is scattered among several items of legislation, the main legislative instrument at this time is LGT, which sets out the principles and rules governing the employment relationship in Angola.

In general terms, the LGT applies to all employees who, in Angola, provide gainful activity to an employer within the scope of its authority and management, such as public, mixed and private enterprises, co-operatives, social organisations, international organisations and diplomatic and consular representations. The LGT likewise applies to apprentices and trainees under the authority of an employer, to work performed abroad by nationals or resident foreigners hired in Angola in the service of domestic employers (without prejudice to provisions more favourable to the worker and provisions of public policy applicable at the workplace), and, suppletively, to non-resident foreign employees.

The LGT defines the employment contract in broad terms, considering it as the one whereby the employee undertakes to provide professional activity to an employer within the scope of the organisation and under its management and authority, receiving remuneration in consideration thereof.

14.1 Types of employment contracts

The LGT provides that, by free agreement of the parties, depending on the nature of the activity, the size and economic strength of the company and the tasks for which the worker is hired, the employment contract may be concluded for an indefinite period or for a fixed or unfixed duration.

An employment contract concluded for a fixed term may be renewed successively for like or different terms up to a maximum of five or 10 years, depending on whether the

company is a: (i) large; or (ii) a medium, small or micro enterprise, and is transformed into an undetermined duration contract when the maximum duration in question shall have expired.

If one of the parties do not wish to renew a term contract of a duration that is equal to or greater than three months, it shall give 15 working days' notice.

The LGT also stipulates the existence of special forms of employment contracts: (i) the group contract; (ii) the construction-work or task contract; (iii) the apprenticeship and traineeship contract; (iv) the aboard merchant ship and fishing boat contract; (v) the aboard aircraft contract; (vi) the home-work contract; (vii) the civilian workers in military manufacturing establishments contract; (viii) the rural contract; (ix) the non-residents contract; and (x) the temporary employment contract, among others provided for by law.

In relation to the temporary employment contract, this regime suffered some changes due to the fact that the Presidential Decree no. 272/11, of October 16, was revoked by the Presidential Decree no. 31/17, of February 22. The new regime foresees some matters such as but not limited to the reduction of the maximum duration of the provision of temporary employees, the possibility of the temporary employees being automatically integrated on the company that recurs to temporary workers based on a contract for indefinite period once those maximum limits are exceeded.

Despite the general principle of freedom of form in the conclusion of employment contracts, there are types of contracts for which the law requires them to be in writing, for example, contracts concluded with foreign workers, home-work contracts, apprenticeship and traineeship contracts, aboard-vessels contracts. When drafting the employment contracts, the parties should take into consideration the “Paradigms” of the contracts that were approved by the Presidential Decree no. 40/17, of March 6, that revoked the Executive Decree no. 80/01, of December 28.

14.2 Hiring non-resident foreign citizens

The LGT defines a “non-resident foreign employee” as a foreign citizen having professional, technical or scientific qualifications in which Angola is not self-sufficient, contracted in a foreign country to carry out his professional activity within Angolan territory during a determined period of time.

The exercise of gainful employment in Angola by a foreign non-resident worker is subject to the grant of a work permit.

The Decree no. 5/95, of April 7, and Decree no. 6/01, of January 19, were revoked by Presidential Decree no. 43/17, of March 6, that was altered by Presidential Decree no. 79/17, of April 24. The new regime foresees that employers that are subjected to LGT and the action from General Labour Inspectorate shall only resort to the employment of non-resident foreign labour, in about 30% and the remain 70% be fulfilled with Angolan personnel (*i.e.* Angolan employees and resident foreigners).

Since those changes, the activity of foreign non-resident workers, imposes the following hiring requirements: *(i)* have reached the age of majority in the light of Angolan and foreign laws; *(ii)* have the technical or scientific professional qualifications proven by the employer; *(iii)* have the physical and mental aptitude medically certified in the country in which they are hired; *(iv)* do not have a criminal record, to be proven by a document issued by the country of origin; *(v)* have not had Angolan nationality.

It is also stipulated that the employment contract entered into with non-resident foreigners' employees do not have a minimum or maximum duration, referring only that the duration is established freely by the parties and it could be renewed two times, according to the applicable legislation. Also the Presidential Decree no. 108/11, of May 25, that regulates the legal regime of foreigners, has been changed due to the approval of the Presidential Decree no. 151/17, of July 4, by predicting that the work visas will be granted for the duration of the contract and its renewals, however this new regime has to be applied very carefully because the practice could be different from the legislation. The employer must assure the equality of the treaty between non-resident foreigners and the nationals, including the application of the same occupational qualificator. Lastly, the remuneration (value and currency) could be freely agreed by the parties and it can be paid on foreigner currency, subjected to the taxes that are eventually due.

14.3 Remuneration

Remuneration comprises base salary and all other benefits and complements paid, directly or indirectly, in cash or in kind, no matter what its denomination and form of calculation. Unless proven otherwise, it is assumed that the remuneration comprises all economic benefits that the employee receives from the employer on a periodic and regular basis.

The wage may be fixed (when it remunerates work performed during a certain period of time irrespective of the result), variable (when it remunerates work performed in the light of the results obtained during the period of time to which it relates) or mixed (when it consists of a fixed and a variable part). Noted that the remuneration shall be paid (except non-residents foreigners) in Angolan currency.

For each year of actual service, all workers are entitled to a vacation bonus (minimum of 50% of the base wage for the month the vacation is taken, paid prior to its enjoyment) and the Christmas bonus (minimum of 50% of the base wage, paid together with the wage for the month of December).

Currently, the national minimum wage, set by major economic groupings, is as follows (Presidential Decree no. 91/17, of June 7, that revoked the Presidential Decree no. 144/14, of June 9):

- for commerce and mining, AOA 24,754.95;
- for transport, services and manufacturing, AOA 20,629.13; and
- for agriculture, AOA 16,503.30.

14.4 Working hours

As a rule, normal working hours shall not exceed eight hours daily and 44 hours weekly.

The employer is charged with the determination of working hours and changes thereto, after consulting the employee's representative body.

Workers who perform management and foreman duties or oversight duties or who are part of the employer's direct support bodies are exempt from fixed working hours. By written agreement, workers who regularly perform duties outside the workplace at various places may be exempt from fixed working hours.

As a rule, normal daily working hours shall be interrupted for a rest and meal break of a duration no less than 45 minutes and not more than one and a half hours, so that workers provide no more than five consecutive hours of normal work.

Between the end of a working period and the start of the next there shall be a rest interval of a duration no less than 10 hours.

The employee is entitled to a full day of rest per week, generally on Sunday.

14.5 Vacations, holidays and absences

The vacation period has a duration of 22 working days each year, weekly rest days, complementary rest days and holidays not counting towards that period.

The worker's remuneration during the vacation period corresponds to the base wage, to which is added the vacation bonus, both to be paid before the beginning of the enjoyment of the vacation.

The employer shall, as a rule, suspend work on days that the law establishes as national holidays. Currently, the following 11 days are considered national holidays: January 1 (New Year's Day); February 4 (First Day of the Armed Struggle for National Liberation); March 8 (International Women's Day); March 23 (day of the liberation of Southern Africa); Carnival Tuesday; April 4 (Day of Peace and National Reconciliation); Holy Friday; May 1 (International Workers' Day); September 17 (Day of the Founder of the Nation and National Hero); November 2 (All Souls' Day); November 11 (National Independence Day); and December 25 (Christmas and Family Day).

When one of the national public holidays coincide with a Tuesday or Thursday, the work is suspended on the previous working day or later (Monday or Friday respectively), these days being designated by bridge holiday (see Article 6 (2) of that diploma). In addition, for compensation purposes, employees will have to spend an additional hour and a half of daily work in the week prior to the bridge holiday rather than one hour of daily work as was previously the case.

Absence from work may be justified or unjustified, depending on whether or not: (i) it is due to one of the legally established reasons; (ii) is authorised by the employer; or (iii) is requested and/or justified under the law. Unjustified absences entail loss of pay and are discounted from the worker's vacation, and also constitute a disciplinary infringement if they exceed three days in a month or 12 in a year or in the event that, whatever their number, they cause serious losses or risks known to the worker.

14.6 Termination of the employment contract by the employer

Angolan labour legislation enshrines the right of employees to employment stability, prohibiting and severely sanctioning termination of employment contracts based on grounds other than those referred to in law or in breach of its provisions.

The most common forms of termination of employment contracts at the initiative of the employer are as follows: *(i)* termination during the trial period; *(ii)* dismissal for disciplinary reasons; *(iii)* individual dismissal on objective grounds; and *(iv)* collective redundancy.

During the trial period, either party may terminate the employment contract without requirement of notice, compensation or presentation of justification.

In employment contracts of indefinite duration, the trial period lasts, as a rule, for the first 60 days of the provision of work and the parties may, by written agreement, reduce it or suppress it. The parties may also increase, in writing, the duration of the trial period up to four months (in the case of workers who carry out work of high technical complexity and difficult evaluation) or six months (in the case of workers who perform management duties).

In the case of fixed-term employment contracts, the existence of a trial period must be expressly agreed in writing, and may not exceed 15 or 30 days, depending on whether unskilled or skilled workers are involved.

Dismissal for disciplinary reasons has to be based on the committal of a serious disciplinary offence by the worker or the occurrence of objectively attributable and verifiable reasons, becoming impossible to maintain the legal-employment relationship. The law lists several examples of situations constituting cause for disciplinary dismissal, such as: *(i)* unjustified absences exceeding three days a month or 12 a year or, regardless of their number, which cause serious losses or risks to the company, these being known to the worker; *(ii)* failure to comply with working hours more than five times per month; *(iii)* bribery or corruption related with the work or the assets and interests of the company; *(iv)* drunkenness or drug-addiction with negative repercussions on the work; *(v)* failure to comply with safety at work rules and instructions and lack of personal or work-related hygiene, if repeated or, in the latter case, give rise to justified complaints by co-workers.

Individual dismissal on objective grounds is based on the need to extinguish or substantially transform jobs due to duly-demonstrated economic, technological or structural reasons, involving reorganisation or internal conversion, reduction or termination of activities.

Collective redundancy occurs whenever the extinction or transformation of the jobs, determined by duly-demonstrated economic, technological or structural reasons involving reorganisation or internal conversion, reduction or termination of activities, simultaneously affects the employment of 20 or more workers (if the number is smaller, the individual-dismissal on objective grounds mechanism should be used).

The compensation due to workers in the event of individual dismissal on objective grounds and collective redundancy is calculated depending on the size of the company, under the following terms:

- large enterprises – one base wage for each year of work up to a maximum of five, plus 50% of the base wage multiplied by the number of years of work in excess of that limit;
- medium enterprises – one base wage for each year of work up to a maximum of three, plus 40% of the base wage multiplied by the number of years of work in excess of that limit;
- small enterprises – two base wages plus 30% of the base wage multiplied by the number of years of work in excess of the limit of two years;
- micro enterprises – two base wages plus 20% of the base wage multiplied by the number of years of work in excess of the limit of two years.

All these types of dismissal (dismissal for disciplinary reasons, individual dismissal on objective grounds and collective redundancies) must be preceded by the procedure laid down for each of them.

14.7 Authorisations and communications required for employers

Employers whose work centres are located in newly-constructed premises or premises that have been subject to modification or in which new equipment has been

installed cannot use them before the General Labour Inspectorate (*Inspecção Geral de Trabalho*) performs an inspection, at the request of the interested party and subject to presentation of the documentation required by law.

14.8 Collective bargaining

The Right to Collective Bargaining Act (Company Level), enacted by Act no. 20-A/92, of August 14 [*Lei sobre o Direito de Negociação Colectiva (Nível de Empresa)*]/LDNC], applies generally to private, mixed, joint and State companies and co-operatives of every branch of activity having more than twenty employees, to domestic employees and to resident foreigners, as well as their business associations.

Specifically, this act governs the exercise of the right to collective bargaining, the method of resolving conflicts derived from the conclusion or revision of collective bargaining agreements, their effects and respective extension process.

In accordance with the LDNC, only the corporate governing bodies of the companies (as well as, where appropriate, employers' associations) and trade unions representing their workers may conclude collective bargaining agreements.

At companies where there are no trade union organisations, collective bargaining agreements can be negotiated and concluded by an *ad hoc* committee elected for the purpose.

Attention is drawn to the new out-of-court mechanisms laid down for the settlement of individual and collective labour disputes, such as mediation and arbitration, to which must be added conciliation, which must precede resolution of labour disputes through the courts.

The Trade Union Act (*Lei Sindical*/LS), enacted by Act no. 21-D/92, of August 28, grants workers, without any discrimination, the right to form trade unions and to free exercise of union activity.

In the exercise of union rights, workers are entitled to freely form trade union associations, to enrol in them or not, to withdraw from the trade unions and to pay dues just to the trade union in which they are affiliated, to participate in those trade unions in which they are affiliated and, in particular, to be elected to their governing bodies, and to carry out trade union activities at the workplace.

In accordance with the LS, trade unions are charged with: *(i)* entering into collective bargaining agreements; *(ii)* exercising the right of collective bargaining; *(iii)* conducting within the framework of current legislation all forms of action for the benefit of the interests of workers; *(iv)* issuing a prior opinion on legislative measures relating to the interests of workers; *(v)* ensuring compliance with the labour legislation in force and collective bargaining agreements, reporting violations of workers' rights; *(vi)* promoting the defence of individual or collective rights of workers in light of facts prejudicial to them; and *(vii)* providing services of a social, cultural, economic and professional nature to their members or creating institutions for the purpose.

14.9 Social Security and employees' protection

National and resident foreign employees, family members who are dependent on them, including those carrying on temporary or intermittent activities, such as occasional or seasonal, are obligatorily covered by the social security scheme, as other employees groups (Act no. 7/04, of October 15, and Presidential Decree no. 227/18, of September 27, that revoked the Decree no. 38/08, of June 19).

However, employees temporarily carrying out activities in Angola, for a period to be defined, and demonstrate that they are covered by social security schemes of another country may not be covered, without prejudice to what is established in applicable international instruments.

In fact, this regime was substantially altered, including in the matter of contraventions. Therefore, the material scope of application of the social security scheme of employees currently comprises: *(i)* maternity care; *(ii)* old age benefits; *(iii)* death benefits; and *(iv)* family expenditure compensation.

Registration of the company with the Social Security management entity must be carried out within 30 days of the start of the company's business. The employer must register employees with the social security management entity within 30 days of the start of employment and declare the existence of employees under its responsibility. These deadlines may be extended to 60 days if the circumstances existing in the locality so warrant.

It is incumbent upon the employer to pay the contributions due to the social security management entity, including the portion borne by the employee.

The gross remuneration due to employees, that is, including all the cash allowances due by the employer to its employees, constitutes the basis of calculation of the mandatory social security contributions.

Without prejudice to the point made in the previous paragraph, if the employees receive a part of the remuneration in kind, this remuneration shall be converted to cash to be included on the basis of calculation referred above. In practical terms, all the gross remuneration (cash or kind), could be considered as basis of calculation of the mandatory social security contributions for the purposes of the application of the social security contributions and its amount. However, this Decree presents some exceptions to that principle, meaning that some of the cash allowances cannot be included on the basis of calculations of the mandatory social security contributions, such as: *(i)* social allowances paid by the employer due to the mandatory social protection; *(ii)* the vacations allowances; and *(iii)* the amounts related to the subscription or participation made by the employees and employers regarding some categories for complementary social protection predicted on specific legislation.

Contribution rates for compulsory social security are currently set at 3% for the employee and 8% for the employer.

After their employment contracts take effect, all employees, apprentices and trainees are mandatorily insured against works' accidents and occupational disease risks under an insurance contract to be concluded between the employer and an Angolan insurance company.

15. IMMIGRATION AND THE MECHANISM FOR OBTAINING VISAS AND RESIDENCE PERMITS FOR FOREIGN CITIZENS

The Act no. 13/19, of May 23 establishes the legal regime of entry, exit, residence and permanence of foreigners in Angola. This law is regulated by the Presidential Decree no. 163/20, of June 8, which regulates the rules for crossing borders and conditions of entry and exit from national territory, the prohibition of entry and exit, entry visas, visas granted in national territory, the transformation of visas, residence permits, registration of guests and information and offences.

Also added is the Presidential Decree no. 318/18, of December 31, which approves the Migratory Policy of Angola, which aims to review the conditions for issuing visas to foreign investors.

15.1 Types of visas

Under the law, every non-resident foreigner needs a visa to enter Angola. There are five types of visas: *(i)* diplomatic visa; *(ii)* official visa; *(iii)* courtesy visa; *(iv)* consular visa; and *(v)* territorial visa.

Diplomatic, official and courtesy visas are granted by the Ministry of Foreign Affairs, through the diplomatic or consular missions authorised for the purpose, to the holder of diplomatic, service, special or ordinary passport travelling to Angola on a visit of a diplomatic, service or official nature. These visas must be used within 60 days of the date of issue, allow a stay in the country of up to 30 days and are valid for one or two entries. Exceptionally, they may be granted for multiple entries for a total stay of up to 90 days.

The consular visa is granted by the diplomatic and consular missions in the country of origin of a foreign national. There are 10 types of consular visas:

- the transit visa – granted to foreign citizens who, to reach the destination country, have to stop over in Angola (allows stays in the country of up to five days);

- the tourist visa – granted to foreign citizens wishing to enter Angola, for family reasons, business development, scientific and technological activities attendance, or for a visit of a recreational, sports or cultural nature (valid for one or multiple entries and allows a stay in the country for a period of 30 days, renewable just once for an equal period);
- the short-term visa – granted to a foreign citizen who needs to enter the country for reasons of urgency (must be used within 72 hours, allows a stay in the country of up to ten days, renewable for an equal period);
- the study visa – which allows foreign citizens to enter the country to attend a study programme at public or private schools, as well as vocational-training centres, to obtain an academic or professional degree or take training courses at companies and public or private services (allows the holder to stay for one year, renewable for an equal period, up to completion of studies, and can be used for multiple entries);
- the visa for medical treatment – allowing the entry of foreign citizens in the country to undergo treatment in public or private hospitals [allows multiple entries and a stay of 180 days, and may be extended by the Immigration and Foreigners Service (*Serviço de Migração e Estrangeiros*) until the end of treatment];
- the investor visa – granted by Angolan diplomatic and consular missions to foreign citizens who are investors or agents or attorneys of the investor, allowing entry into the country for purposes of implementation and execution of the proposed investment approved under the Private Investment Act (*Lei do Investimento Privado*) (allows the holder multiple entries into the country and a stay of up to two years, renewable for like period, and its beneficiary may apply for a residence permit);
- the work visa – for non-resident foreign citizens wishing to perform gainful employment in the interests of the State or as an employee (this visa allows the holder to exercise only the occupation for which it was granted and solely for the employer who applied for it);
- the temporary-stay visa – granted for humanitarian reasons, to fulfil a mission for a religious institution, for conducting scientific research work, for accom-

panying a relative holding a study, privileged or work visa, for being a relative of a holder of a valid residence permit or a spouse of an Angolan citizen (entitling its holder to multiple entries and a stay up to 365 days, which may be extended until the reason for its grant comes to an end);

- the visa for establishing residence – granted to citizens wishing to settle in Angola (allows a stay in the country for a period of 90 days, renewable for like periods up to the decision on the application for a residence permit, and the pursuit of gainful employment).
- the investor visa – granted by Angolan diplomatic and consular missions to foreign citizens who are investors or agents or attorneys of the investor, allowing entry into the country for purposes of implementation and execution of the proposed investment approved under the Private Investment Act (*Lei do Investimento Privado*) (allows the holder multiple entries into the country and a stay of up to two years, renewable for like period, and its beneficiary (*in casu*, the foreign investor) may apply for a residence permit).

Lastly, the territorial visa is granted in very exceptional situations by the Migration and Foreigners Service at border crossings when the foreigner cannot obtain the consular visa for justified reasons. The territorial visa may be: (i) a border visa (issued at border checkpoints and allowing entry into the country by foreign citizens who for unforeseen, justified reasons did not apply for a visa at the consular and diplomatic entities in their country of origin, as well as those who come to the provide services of equipment assembly, technical assistance after sale, or to develop other similar activity); or (ii) a investor visa.

15.2 Power to authorize the grant and extension of visas

Apart from the grant of the diplomatic, official, courtesy, transit and short-stay visas, which are subject only to timely communication to the Migration and Foreigners Service, the granting of entry visas into the country by the diplomatic and consular missions requires the prior authorisation of the Migration and Foreigners Service.

The Director of the Migration and Foreigners Service is charged with extending the period of stay of the visa.

15.3 Visa Cancellling

Visas may be cancelled:

- where they have been granted on the basis of false statements, use of fraudulent means or by invoking reasons other than those that were the reason for the entry of their holder into the country;
- where the holder has been subject to an expulsion order from the country.

Work visas may be cancelled where:

- the employment contract that gave rise to the grant of the visa is terminated;
- the holder carries on an occupation other than that which gave rise to the grant of the work permit;
- the holder provides services to an employer other than the one that applied for the visa.

The cancellation of visas in national territory is the responsibility of the Director of the Migration and Foreigners Services and may also be implemented during the course of an authorised extension of the stay.

15.4 Agreements with other countries

Several agreements have been concluded between Angola and other States for the suppression or facilitation of visas. Recently, the Presidential Decree no. 56/18, of February 20 (amended by the Presidential Decree no. 150/18, of June 19) was approved, which establishes the exemption of tourism visas for stays up to 30 days per entry and 90 days a year, to nationals of Botswana, Mauritius, Seychelles, Zimbabwe, Cape Verde, Rwanda and Singapore. Similarly, Angola has signed visa waiver agreements with Mozambique, South Africa and Zambia.

Under the aforementioned presidential decree, Angola has also signed facilitation agreements with 35 countries, including countries in Europe (all countries of the European Union, Norway, the United Kingdom, Iceland, Monaco, Russia, Switzerland

and the Vatican), Countries of America (Argentina, Uruguay, Brazil, Canada, Chile, Cuba, United States and Venezuela), Asian countries (South Korea, United Arab Emirates, China, India, Indonesia, Israel and Japan), Oceania countries (Australia, New Zealand and East Timor) and African countries (Lesotho, Madagascar, Malawi, São Tome and Principe, Morocco, Swaziland, Algeria).

16. INTELLECTUAL PROPERTY

Legal protection of intellectual property in Angola stems from the Copyright Act (*Lei dos Direitos de Autor*, Act no. 15/14, of July 31) and the Industrial Property Act (*Lei da Propriedade Industrial*, Act no. 3/92, of February 28). Angola is party to several international conventions and treaties on industrial property, among which stand out the World Intellectual Property Organisation, the World Trade Organisation, the Paris Convention for the Protection of Industrial Property and the Patent Cooperation Treaty.

16.1 Copyright

Copyright is the right that authors of literary, artistic and scientific works have to enjoy and use these works or to authorise their use and enjoyment. Copyright covers rights of both economic and moral nature.

Economic rights consist essentially of the exclusive right to perform (or authorise others to perform) acts of publication, reproduction and communication to the public by any means, as well as the translation, adaptation, arrangement or other transformation of the work. The author may authorise the use of and/or convey economic rights through a written document in which the conditions and manner of use and/or limits of the transfer are fixed. Transfer in full of the economic content of copyright requires authorisation by the Ministry of Culture.

Moral rights consist of the right to demand recognition of the authorship of the work and mention of the author's name whenever it is communicated to the public, as well as the right to defend its integrity and to object to any distortion, mutilation or modification of the work and additionally entitlement to keep the work unpublished, to alter it before or after it is communicated to the public, to remove it from circulation or suspend any form of use already authorised. These rights cannot be transferred.

Economic rights are maintained throughout the life of the author and 70 years after his death; moral rights are protected indefinitely.

As a general rule, the copyright belongs to the creator of a literary, artistic or scientific work. However, there are special rules for determining ownership, as in the case of a work created under an employment or service contract or in the performance of functional duties, in which the copyright belongs to the person who ordered its production, in addition to specific rules for works created by more than one author (work done in collaboration or collective work).

The protection of copyright ownership occurs under the terms of law and does not require registration. However, Act no. 15/14, establishes the need for registration of certain acts for constitutive, declarative or publicity purposes of such rights and with the publication of Presidential Decree no. 125/17, the Regulation for the Registration of Copyrights and connected rights was approved.

Infringement of copyright is subject to civil and criminal liability.

16.2 Industrial property

The Industrial Property Act is intended to protect industrial property, which has as its object invention patents, utility models, industrial designs and models, trademarks, reward, establishment names and insignia and indications of provenance, as well as to repress unfair competition.

Applications for registration must be filed with the Angolan Industrial Property Institute and the registration has constitutive effect.

The duration of protection varies depending on the right granted: 15 years for the patent and five years, with the possibility of renewal for two further periods, for the utility model and industrial designs and models. The trademark registration lasts 10 years and can be renewed indefinitely for like periods; registration of establishment names and insignia lasts for 20 years, with successive extensions. The reward and indications of provenance have unlimited duration.

As a rule, the patent belongs to the inventor. In the case of inventions during the term of an employment contract in which the inventive activity is planned or results from the very nature of the work performed, the patent belongs exclusively to the employer.

Ownership of the invention patent can be transferred *inter vivos* (by deed) or on death (testamentary or legitimate inheritance). Patent-exploitation licences may be granted by contract.

Transfer of trademarks must comply with the legal formalities required for the transfer of the goods to which they relate and, unless otherwise agreed, transfer of the establishment presupposes the transfer of ownership of the trademark. The holder of a trademark registration may grant exploitation licenses for the brand by written contract.

All acts involving the transfer of ownership or termination or exploitation of patents, designs or models, trademarks, reward or name or insignia are subject to registration and only then are they enforceable against third parties.

Violation of rights conferred by the patent is punishable with imprisonment for up to six months and a fine. Illegal use of trademarks is also punishable with a fine, which may be compounded with imprisonment up to three months. Violation of designs or models, reward, establishment names and insignia is punishable by fine.

17. MEANS OF DISPUTE RESOLUTION

17.1 Judicial system

The Law on the Organisation and Operation of the State Courts (*Lei Orgânica sobre a Organização e Funcionamento dos Tribunais da Jurisdição Comum*, Act no. 2/15, of February 2) establishes the principles and general rules on the organisation and operation of the state courts, aiming to adapt the operation of the judicial system to the Constitution of the Republic of Angola and the fundamental judicial principles which were enshrined in the Constitution. Such as the right to a trial, access to the law and the courts, and the principles of: (i) administrative and financial autonomy of the courts; (ii) independence of the judges; (iii) publicity in public hearings; and (iv) the enforceability of court decisions.

Further to what is established by law, customs are important sources of law in Angola and may be considered in judicial decisions.

17.1.1 Organisation and general rules of jurisdiction

The organisation and operation of the Angolan judicial system are governed by the Constitution and by various other laws such as the abovementioned Law on the Organisation and Operation of the Judicial Courts (Act no. 2/15, of February 2), the Organic Law on the Office of the Attorney General (*Lei Orgânica da Procuradoria Geral da República*, Act no. 22/12, of August 14), the Statute of Judicial and Public Prosecutors (*Estatuto dos Magistrados Judiciais e do Ministério Público*, Act no. 7/94, of April 29), the Legal Practice Act (*Lei da Advocacia*, Act no. 8/17, of March 17), the Legal Aid Act (*Lei da Assistência Judiciária*, Decree-Law no. 15/95, of November 10) and the laws on the various jurisdictions (labour, administrative, juvenile, and maritime).

The Law on the Organisation and Operation of the Judicial Courts divides the national territory in five Judicial Districts (*Regiões Judiciais*), which are composed of Judicial Provinces (*Províncias Judiciais*), that correspond to the political-administrative division of the country, and which, in turn, unfold in Districts (*Comarcas*).

The hierarchy of the organisation of the courts is as follows:

- Supreme Court – the highest court of the common jurisdiction, which exercises jurisdiction over the entire national territory (its bodies are the President, the Plenary and the Chambers) according to Resolution no. 1/14, of August 29, that defines the organisation of the services of the Supreme Court;
- Courts of Appeal – which, as a general rule, work as an appeal court and which have jurisdiction in the territory of their respective judicial region. The Law on the Courts of Appeal was approved by Act no. 1/16, of February 10. The statute provides for the creation of a Court of Appeal in each Judicial District, namely: Benguela, Luanda, Lubango, Saurimo and Uíge. Nevertheless, until all the remaining Courts of Appeal are duly installed, the Luanda Court of Appeal will have jurisdiction over the Judicial Districts of Luanda, Saurimo and Uíge, whilst the Benguela Court of Appeal will have jurisdiction over the Judicial Districts of Benguela and Lubango. The competence of the Courts of Appeal is divided in four chambers: criminal; civil, administrative, tax and customs; labour law; and family and succession law. Albeit the latter will only be created if the nature and volume of the legal proceedings lodged in the relevant court so require;
- District Courts – which, as a general rule, work as first instance courts, have jurisdiction over the territory of their respective district and may unfold in Rooms of Specialized Competence or of Minor Criminal Causes, whenever the volume, nature and complexity of the proceedings so require.

Before the 2008 legislative elections, it was created the Constitutional Court was created, having the procedures of a constitutional nature (dealt, until then, by the Supreme Court) been transferred to the new Court. The Constitutional Court has now exclusive competence of administering constitutional justice (see Act no. 2/08, of June 17, which approved the Organic Law of the Constitutional Court – *Lei Orgânica do Tribunal Constitucional* – as amended by Act no. 24/10, of December 3.

Lastly, the facilities where the Commercial, Intellectual and Industrial Property Chambers of the Provincial Court of Luanda were also handed over to the Superior Council of the Judiciary, where they will finally become functional, having been created by Act no. 2/15, February 2, but whose operation, until the said handing over, was not possible.

17.1.2 Recognition of foreign judgements and enforceability of national judgements through foreign courts

Without prejudice to the provisions of any treaties or statutes, the recognition of foreign court judgements on private rights in Angola is done after being confirmed and reviewed by the Court of Appeal. Further to the Law on the Courts of Appeal, in foreign judgements on civil law matters, the competent chamber is the civil, administrative, tax and customs chamber; in labour matters, the competent chamber is the labour law chamber; and the family law chamber will be competent in family law matters. The competent Court of Appeal will depend on the domicile against whom the court decision is to be enforced. There are also special laws and treaties on this matter.

This recognition depends on a number of formal and substantive requirements, and a foreign judgement may be enforced in Angola. The possibility of enforcing national judgements through foreign courts depends on the existence of international treaties or agreements and on the system of review of foreign judgements in the country where they are to be enforced.

Despite of the above, note that the Courts of Appeal were only formally created and are not yet fully functional. These Courts were initially scheduled to become functional during 2020. However, due to the global pandemic context, the operability of these Courts of Appeal was delayed.

17.1.3 International competence of Angolan courts

The Angolan courts are internationally competent (*i.e.* Angolan courts have competence to hear legal matters which, despite their connection with other jurisdictions, also have a connection with the Angolan jurisdiction) in the following circumstances: *(i)* the action has mandatorily to be brought in Angola, under the competence rules of Angolan law; *(ii)* the fact that grounds the cause of action was performed in Angola; *(iii)* the defendant is a foreigner and the claimant is Angolan, provided that in the opposite situation the Angolan national could be sued in the courts of the State of the defendant; *(iv)* the right granted by such decision will not be effective unless it is recognised by an Angolan court, provided that there is a material element of personal or real interest between the action that is brought and Angola.

Where the court of the defendant's domicile is, according to Angolan law, competent, the Angolan courts may exercise jurisdiction provided that the defendant has been domiciled in Angola for more than six months or is accidentally in Angola at the time (if the latter, it is also necessary that the obligation was contracted with an Angolan national).

Lastly, it should be noted that foreign corporate persons are deemed to be domiciled in Angola if they have an agency, branch, affiliate or delegation in Angola.

17.2 Non-judicial means of resolving disputes

In accordance with the Constitution of the Republic of Angola, the law establishes and regulates non-judicial means of dispute resolution and the establishment, organisation, competence and operation of institutions dedicated to conduct alternative means of dispute resolution.

Further to the constitutional provision of non-judicial means of resolving disputes, Act no. 16/03, of July 25, approved the Voluntary Arbitration Act (*Lei de Arbitragem Voluntária/LAV*), and Act no. 12/16, of August 12, approved the Law of Mediation of Conflicts and Conciliation, in response to the need ensuring a more efficient, secure, certain and predictable dispute resolution mechanisms for disputes of the most diverse nature, particularly for arbitration those arising out of economic, commercial, and industrial relations, and for mediation, disputes of labour and family law.

In addition to the diplomas abovementioned, the resource to mediation and arbitration is provided for in several statutes, such as: (i) the Private Investment Act (*Lei do Investimento Privado*, Act no. 10/18, of June 26); (ii) the Securities Code (*Código de Valores Mobiliários*, Act no. 22/15, of August 31); (iii) General Labour Law (Act no. 7/15, of June 15); and (iv) Resolution no. 34/06, of May 15, which reaffirms the State's intention to promote and encourage the resolution of disputes by arbitration and requires the Angolan State and other public entities to propose and accept, in their contracts, the use of this alternative dispute resolution mechanism.

17.2.1 Arbitration

Arbitration may be agreed upon to the resolution of disputes in all disputes concerning disposable rights provided that, by law, are not exclusively submitted to the judicial courts or to mandatory arbitration.

In an arbitration agreement or subsequent arbitral commitment, the parties may agree on the procedural rules to apply, the seat of arbitration, appointment of arbitrators, amongst other matters related with the arbitral process. As alternative, the definition of the rules shall compete to the appointed arbitrator or arbitrators.

The parties may also agree in an arbitration agreement or in a subsequent document that the ruling on a case be made according to equity or to usage and custom, both national and international. If nothing is agreed, the arbitral tribunal shall decide in accordance with the law. In decisions taken on the basis of customs, the arbitral tribunal is obliged to respect the principles of Angolan public order at all times.

Arbitration proceedings are subject to the fundamental principles of equality and of adversary proceedings, and the law provides for a period of six months counted from the acceptance of the last arbitrator for the issuance of the award, though a different deadline may be agreed.

Arbitration awards produce the same legal effects of court decisions and are enforceable in the same measure.

The LAV distinguishes between domestic arbitration and international arbitration, being the latter applicable when interests of international trade are at stake. The statute specifically provides for the possibility of the parties expressly agreeing that the scope of an arbitration agreement is connected with more than one State. The applicable law in these cases is chosen by the parties and the decision rendered cannot, generally, be appealed, unless the parties have expressly agreed otherwise.

In what concerns the execution of arbitral awards, in the case of internal arbitration, the relevant party may initiate the enforcement proceedings with the Angolan judicial courts. On the other hand, in the case of international arbitration with seat outside of Angola, the arbitral award shall be previously recognised in Angola before being enforced, notwithstanding the fact that Angola adhered to the New York Convention of 1958 regarding the recognition and enforcement of foreign arbitral awards, in 2017, further to Resolution no. 38/16, of August 12. Angola's accession was made subject to reciprocity, as provided in the Convention, therefore, the Convention will only be applicable in Angola if the relevant arbitral award was made in another State which is a party to the Convention and is also recognised by the Angolan government. This Convention became enforceable in Angola on 4 June 2017.

Lastly, the adherence of the Republic of Angola to the 1965 Washington Convention, or ICSID Convention, was also approved. Nevertheless, this adherence still needs to be formalized. This convention concerns the resolution of investment disputes between states and nationals of other states, creating an arbitration center – ICSID, the International Center for Settlement of Investment Disputes – specifically for the resolution of disputes between international investors with the purpose of ensuring investors legal certainty, legal protection, and a fair and equitable treatment that reconciles the interests of the parties involved.

Finally, Angola is not a party to the Washington Convention of 1965 on the Settlement of Investment Disputes between States and Nationals of Others States, however, it entered into bilateral investment treaties with few countries, which allows maximizing the protection of investment coming from these countries.

17.2.2 Mediation

It entered into force in September 2016 Act no. 12/16, of August 12, which regulates the constitution and organisation of mediation and conciliation proceedings, highlighting that may be subject to mediation disputes related with civil, commercial, labour, family and criminal matters, as far as they concern disposable rights.

The beginning of a mediation process may result from the initiative of one of the parties or, depending on the circumstances, of the General Labour Inspectorate, the Court, the Public Prosecutor's Office, the Civil Registry Offices or other institutions which identify the dispute and refer its solution to mediation.

Under the applicable law, the condition of mediator or conciliator may be assumed by individuals that fulfil the legal conditions, as well as public or private mediation centres created by the Public Administration Body responsible for Non-Judicial Dispute Resolution. The public centre par excellence is, at present, the Center for Extrajudicial Dispute Resolution (CREL), created by the Ministry of Justice.

18. COMBATING MONEY LAUNDERING

Having ratified the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Cross-Border Crime and Terrorist Financing, Angola enacted, through Act no. 12/10, of July 9, a system of prevention and repression of money laundering and terrorist financing in order to comply with these conventions and guarantee the territorial security of its financial system.

This system has since been revised and brought into line with international standards through the enactment of Act no. 34/11, of December 12, and, more recently, Act no. 5/20, of January 27, and Regulation no. 4/16, of June 2, approved by the Capital Markets Commission, which strengthened the duties performed by the Angolan authorities in this field, namely those assigned to the mentioned Capital Markets Commission as the competent public supervision authority, through the establishment of the Financial Information Unit (*Unidade de Informação Financeira/UIF*), a central autonomous, independent unit having public nature, responsible for receiving, analysing and disseminating information on suspected money laundering or terrorist financing. The UIF performs its duties at the National Bank of Angola, but with technical and functional independence and autonomy.

The following, among others, are subject to duties of prevention and detection of transactions concerning possible money laundering schemes through the financial system:

- banking financial institutions carrying out the operations provided for in Article 4.1 of the Financial Institutions Act (*Lei das Instituições Financeiras*, Act no. 13/05, of September 30), such as taking deposits or other repayable funds, marketing insurance contracts, finance lease and factoring contracts, and credit and capital markets transactions;
- non-financial entities operating in Angola, including accountants, accountants' experts, auditors, lawyers and other legal practitioners, the partners of law firms and professionals hired by law firms (when providing legal services in real estate, commercial, corporate, banking and similar fields);

- companies managing in regulated markets, settlement businesses, clearing houses or central counterparties and centralised securities systems;
- companies providing services to trusts and companies involved in the establishment, administration and management of legal persons or assessing third party to act on behalf of a shareholder;
- companies associated with casinos, games of chance, social games, online remote games or similar;
- real estate brokerage firms and real estate purchase and resale companies, real estate developers as well as construction companies also involved in direct sales;

All these entities are bound to fulfil certain obligations, including identification of clients, due diligence, refusal, communication, co-operation, confidentiality, control, risk assessment and training, always under the point of view of the prevention and detection of abusive uses of the financial system. In certain circumstances, taking into account the value of the transactions or if there is suspicion that the transactions regardless of their value are related to the practice of crimes, such entities must verify the identity of the customer and the beneficial owner, obtain information on the purpose and intended nature of the business relationship, applying special measures in cases of particular complexity or volume, unusual nature, lack of economic justification, involvement of Politically Exposed Persons (persons that hold, or have held, high level public offices), or in cases of operations concerning non-profit organisations or in transactions with high-level risks

The Ministry of Housing and Urban Planning has regulated the fulfilment of these obligations by the entities specifically exercising real estate mediation, construction and transaction, through Order no. 713/14, of March 27, which now are required to communicate every six months to the National Housing Institute (*Instituto Nacional de Habitação*), exclusively by electronic data transmission, the date of start of activity and the complete identification of their natural or legal customers involved in transactions of a value equal or greater than the equivalent of USD 15,000, as well as the details of those transactions, and shall keep copies of the documents collected, the notifications issued and their proofs for a period of 10 years.

All the entities above mentioned shall also inform the UIF whenever they know or have reason to suspect that an operation that might be associated with the carrying out of crimes are in progress or were attempted. Fulfilment of this duty of disclosure is not considered a violation of the obligation of secrecy to the entities/persons that are involved in the operation at hand and the entities may not disclose to the client or third parties that they have provided such information or that a criminal investigation is ongoing.

Failure to comply with these duties constitutes transgression punishable by fine and accessory penalties (for example, temporary or permanent disqualification from the exercise of the profession or activity).

Concerning the criminal prosecution, it is important to highlight that operation of conversion or transfer of benefits derived from the commission of offences related to the crime of money laundering (or aiding or facilitating them) are punishable as a crime by imprisonment of two to eight years.

On 10 February, 2014, Act no. 3/14 (Criminalisation of Underlying Offences to Money Laundering Act/*Lei sobre a Criminalização das Infrações Subjacentes ao Branqueamento de Capitais*), was published because it had become apparent that not all the infringements listed by the Financial Action Task Force were defined as crimes in the Angolan legal system. This act provides for several crimes, such as criminal association, different types of fraud (like tax fraud), illegal restraint, kidnapping and trafficking in persons, pimping, arms trafficking, counterfeiting crimes and environmental crimes. All the provisions that should be incorporated in the new Criminal Code shall be withdrawn from this Act, when it enters in force.

Also, the new Act no. 19/17, of August 25, dealing with the fight against terrorism as a phenomenon usually associated of the practice of money laundering, has introduced new crimes connected with terrorism and the financing of terrorism, as well as special and exceptional measures of criminal investigation, such as the control of banking accounts and bill payments and also the enforcement of financial sanctions.

19. MAJOR SECTORS OF ACTIVITY

19.1 Mining

Geological and non-oil mining activity is currently governed by the Mining Code (*Código Mineiro*), enacted by Act no. 31/11, of September 23, which includes the set of legal rules and principles relating to geological research, discovery, characterisation, evaluation, exploration, sale, use and exploitation of mineral resources on land, underground, in territorial waters, the territorial sea, on the continental shelf, in the exclusive economic zone and other areas of territorial and maritime domain under the jurisdiction of Angola, as well as access to and exercise of the rights and duties pertaining thereto. Activities related to the reconnaissance, prospecting, exploration, evaluation and exploitation of hydrocarbons, both liquid and gaseous, are excluded from the Mining Code.

Mineral deposits belong to the public domain, the State being charged with ensuring the sustainable exploitation of mineral resources for the benefit of the national economy and with intervening economically in the mining industry, either through regulatory entities and national concessionaires, or through operating companies.

The State also takes part in the appropriation of the products of mining, as consideration for the concession of the mining exploitation and marketing rights, in one of the following forms or a combination of both: (i) participation, through a State company, in the share capital of the commercial companies to be set up, the share to be no less than 10%; (ii) participation in kind in the mineral product produced, in a proportion to be defined, throughout the production cycles, the State's share to rise as the internal rate of return (IRR) increases.

Whenever national interests so require, the State may also requisition the purchase of the production, or part thereof, and acquire it at market price, for local industry.

It is intended that the exploitation of mineral resources be carried out with strict regard for the rules concerning safety, economic use of the land, the rights of local communities, and protection and defence of the environment. For such purpose, there are legal provisions for the consultation of local communities affected by mining projects, obligations to ensure employment and training of Angolan technicians and workers, as well as the duty to give preference to the use of national materials, services and products of a compatible quality, provided that their price is no more than 10% higher and delivery times do not exceed eight working days.

When the economic importance or the technical specificities of their exploitation so warrant, some minerals may be classified as “strategic”, as in the case of diamonds, gold and radioactive minerals. The mining rights of strategic minerals may be exclusively allocated to a specific public entity, which assumes the role of national concessionaire, charged with representing the State in the regulation and supervision of the exercise of mineral rights.

The allocation of mineral rights is made through a public call for tenders held at the initiative of the supervisory body or at the request of the person concerned addressed to the authority involved, the rights being conferred through the issue of one of the following:

- a prospecting permit, for reconnaissance, prospecting, research and evaluation of mineral resources;
- an exploitation permit, for the exploitation of mineral resources;
- a quarrying permit, for prospecting or exploitation of mineral resources applicable in civil construction; and
- a mining permit for non-industrial exploitation.

Mining and quarrying permits may be transferred to third parties if authorized by the supervisory body, the transfer to be recorded on the permit in question and is subject to the payment of charges and emoluments.

Investment in mining activities by private entities, whether domestic or foreign, is subject to specific authorisation and is subdivided into the following categories, depending

on the mining activity or the category of minerals in question: *(i)* general mining-investment; *(ii)* investment in industrial mining of strategic minerals; and *(iii)* non-industrial mining investment.

In accordance with the general legislation on mining investment, investment in prospecting, studying, evaluating and industrial mining operations is undertaken by means of an investment contract approved by the Minister. Where the investment amounts to more than USD 25 million, the Executive Branch is competent to approve the mining investment contract, while the Minister is the State interlocutor in all matters relating to the negotiation and provisions of the contract.

Mineral prospecting rights are assigned for an initial period of up to five years, which may be extended for successive periods of one year up to a maximum of seven years, without prejudice to the possibility to apply for a special extension for a maximum period of one year, if the total period of seven years is insufficient.

Exploitation rights are assigned for a period up to 35 years, including the prospecting and evaluation period, after which they expire and the mine reverts to the State. However, the law provides for the possibility that the Minister, following a reasoned request of the holder of mineral exploration rights, grant an extension of the rights for one or more periods of 10 years each.

Mining companies are required to set up a legal reserve of 5% of the capital invested (in addition to the reserves established by company law), for the closure of the mine and environmental restoration.

Investment in a strategic mineral's mechanism contains several specifics beyond those set out in the general rules, among which stand out the approval of the contract by the Executive Branch and its negotiation by the body set up by the Executive Branch to regulate the exercise of rights of certain strategic minerals and by the national concessionaire.

A non-industrial mining investment mechanism applies to activity in which no paid labour is employed and only artisanal methods and means are used, with no involvement of self-propelled mechanical means or industrial mining technology.

Holders of mineral rights are entitled to market the product of mining operations; its export, however, requires licensing by the competent body of the Ministry of Trade and customs clearance by the National Customs Service (*Serviço Nacional das Alfândegas*).

The marketing of strategic minerals may be subject to specific legislation for each strategic mineral, and the President of the Republic is charged with approving the rules on the marketing system, including the share of production. The export of strategic minerals is also subject to licensing by the competent body of the Ministry of Trade and customs clearance by the National Customs Service, and institutionalisation of a system of certification of origin is also mandatory.

The Mining Code also establishes special legislation for the non-industrial production of diamonds, diamond cutting and polishing, marketing of cut and polished diamonds and minerals for civil construction.

A tax and customs scheme is also established applicable to all entities, national or foreign, engaged in the activities of reconnaissance, research, prospecting and exploration of minerals in Angolan territory, as well as other territorial or international areas over which international law or treaties recognise as tax jurisdiction of Angola.

Criminal acts involving common minerals are subject to common criminal legislation; for acts involving strategic minerals, the Mining Code establishes special criminal legislation.

19.2 Fisheries

Angola is a country with an extensive coastline with direct access to fish stocks in the Atlantic Ocean. Fish is a very important food in the diet of Angolans, especially eaten dried or salted given the difficulties of preserving it fresh.

The fisheries law or Aquatic Biological Resources Act (*Lei dos Recursos Biológicos Aquáticos*, Act no. 6-A/04, of October 8, amended by Act no. 16/05, of December 27) establishes the bases of policies for the conservation and sustainable renovation of aquatic biological resources and the principles governing their exploitation and use, enshrining principles of sustainability and environmental responsibility imported from the Environmental Framework Act (*Lei de Bases do Ambiente*, Act no. 5/98, of June 19). The law also governs the licensing of fish and fishery-products processing and sale establish-

ments, as well as the constitution (under a concession by the Minister of Fisheries) and extinction of fishing rights. Concession, licensing and registry of fishing rights and approvals for fishing and ancillary activities are prescribed by the Regulation on the Concession and Licensing of Fishing Rights (*Regulamento de Concessão de Direitos de Pesca e Licenciamento*, Decree no. 14/05, of May 3), which is applicable to artisanal fisheries, semi-industrial and industrial fishing, deep-sea fishing, fishing for scientific research, prospecting fishing and to sports and recreational fishing.

Under the Biological Aquatic Resources Act, fishing in Angola can be maritime or continental and commercial or non-commercial. Commercial fishing is industrial, semi-industrial or artisanal, depending on the equipment used, the volume of the catch and the end-use of the fish. Artisanal fishing accounts for a considerable portion of the total volume and value of Angolan fishing.

The General Fisheries Regulations (*Regulamento Geral de Pesca*, Decree no. 41/05, of June 13) lays down general rules and principles for the implementation of the Aquatic Biological Resources Act, which addresses in particular the organisation of fishing, measures for the conservation and preservation of marine resources and the registration, safety and insurance of fishing vessels. Alongside the General Fisheries Regulations, the Regulation on Fishing Supervision (*Regulamento de Fiscalização das Pescas*, Decree no. 43/05, of July 20) establishes the rules applicable to the supervision of fishing, aiming to the convenient management of aquatic biological resources. The Fishing and Aquaculture Inspection Service (*Serviço Nacional de Fiscalização Pesqueira e da Aquicultura*), an administrative body of the Ministry of Agriculture and Fisheries, is responsible for the supervision of fishing activities and operations and ancillary activities.

Following a series of political and economic reforms, the Angolan State has sought to modify its role in this sector, and, in recent years, there has been a liberalisation of prices and privatisation of several companies and preparation is under way of conditions for the privatisation of other larger companies. The State has thus come to limit its action in this sector to resource management, supervision, support for development and creation of port infrastructure.

Presidential Decree no. 139/13, of September 24 (Regulation on Continental Fishing, *Regulamento da Pesca Continental*), establishes fisherman's rights and duties, their cooperatives and associations, natural resources preservation measures, species that may be captured, the arts and mills of artisanal fishing and the registry of continental fish-

ing vessels. Additionally, mention shall be made to the Regulation on Sports and Recreational Fishing (*Regulamento da Pesca Recreativa e Desportiva*, Presidential Decree no. 146/13, of September 30), which includes surface fishing, dive fishing and shore fishing, both under the recreational and competitive systems.

The Regulation on the Measures for Preventing, Opposing and Abolishing Illegal, Unreported and Unregulated Fishing (*Regulamento sobre as Medidas de Prevenção, Combate e Eliminação da Pesca Ilegal, Não Declarada e Não Regulamentada*, Presidential Decree no. 284/14, of October 13) was approved in order to protect the biological resources of the aquatic ecosystems, and considering that unreported and unregulated illegal fishing is one of the main threats to sustainable exploitation of biological and aquatic resources, compromising the good management of commercial trading, transshipment, export and import of fishing products. Among other protection measures and corresponding penalties, the regulation establishes the requirements of port access, the authorisations for port access by foreign fishing vessels, the registry of discharge and transshipment operations, the dockland inspection, the certification scheme for the import of fishing products, as well as other preventing and control measures.

In order to reinforce fishery and aquaculture management measures and to ensure the protection and conservation of certain endangered species and their respective habitats, measures applicable to the Marine Fisheries Management, Continental Fishing and Aquaculture for the year 2015 (*Medidas de Gestão das Pescarias Marinhas, da Pesca Continental e da Aquicultura para o ano de 2015*) were approved by Presidential Decree no. 28/15, of January 13.

To achieve such objectives the Presidential Decree no. 189/18, of August 7, was enacted which established the rules applicable to the Census of Agriculture and Fisheries, during the years 2018-2019, throughout the national territory (RAPP 2018-2019). The RAPP 2018/2019 is an exhaustive statistical work in respect to information on the agro-livestock and fishery sector.

19.3 Maritime transportation

The transportation sector is a vital aspect for fostering social and economic development, both considering the infrastructures and the means and services, since it creates conditions for accessibility and mobility of persons and goods throughout the Angolan territory, also contributing to combat the isolation of some areas and the asymmetries of economic growth in the country.

Given its extensive Atlantic coast line, Angola has ports of great importance and size, and shipping is the primary means of foreign trade.

There are three major commercial ports and several hundred small ports geared primarily for fishing and oil. The major commercial ports are Luanda (the oldest), Lobito and Namibe. Nowadays, the Angolan State has been implementing recovery and promotion measures in other ports of the territory, through the construction and distribution of new fishing vessels, namely, in the port of Porto Amboim and the port of Soyo.

Act no. 9/98, of September 18, enacted the Port Domain Act (*Lei do Domínio Portuário*), which enshrines a Port Spatial Plan (*Plano de Ordenamento Portuário*), the legal framework of private sector works and activities in the area of port jurisdiction, the definition of the Port Authority and its respective powers, and the definition of the duties of the users of port-domain land.

The General Port Concessions Bases (*Bases Gerais das Concessões Portuárias*) are set out in Decree no. 52/97, of July 18, in which port concession is defined as the administrative contract whereby the port grants to a corporate person the management of activities and services associated with cargo handling, using and developing for the purpose certain areas, infrastructures and equipment in the area under the jurisdiction of the port. Port concessions are governed by the administrative contract legislation. In this connection, Decree no. 66/09, of December 3, is also relevant (Licensing the Use of Port Domain Property Regulation/*Regulamento de Licenciamento do Uso de Bens do Domínio Portuário*), laying down rules on use permits, their duration and charges.

Decree no. 53/03, of July 11 (Port Operation Regulation/*Regulamento de Exploração dos Portos*), contains the fundamental provisions to be observed in the use of Angolan ports.

The Maritime Spaces Act (*Lei dos Espaços Marítimos*, Act no. 14/10, of July 14) was approved in order to regulate the maritime spaces under Angolan sovereignty and a jurisdiction, as well as to combat the smuggling, the uncontrolled operational unloads, and the increasing number of transgressions of the fiscal, customs, health and migration laws. According to this act, the inland waters, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf are maritime spaces under the sovereignty and jurisdiction of Angola.

Additionally, the Merchant Marine, Ports and Ancillary Activities Act (*Lei da Marinha Mercante, Portos e Actividades Conexas*, Act no. 27/12, of August 28) provides the legal framework applicable to merchant marine sectors, maritime activities, nautical leisure and nautical sport and to ports, in cooperation with the activity of transport and maritime logistics. The referred act aims to systematize the foundations of maritime law, with regard to the technical and safety rules of vessels, ships and mills, rules applicable to the crew, pilot, pilotage activity; the rules are applicable to occurrences at sea, as well as to the management of ports and port activity.

Several diplomas were approved with mention to legal entities of maritime navigation activity, namely:

- the Statutes of the Sailing Agent (*Estatuto do Agente de Navegação*, Presidential Decree no. 50/14, of February 27, amended by Presidential Decree no. 44/16, of February 25) which provides that access to sailing activity depends on registry with the Angolan Maritime and Port Institute (*Instituto Marítimo e Portuário de Angola/IMPA*) at the request of the company concerned; the company concerned is subject to obtaining a license granted by IMPA, the competent entity to monitor and supervise the activities of shipping agents, without prejudice to the competence of port authorities. The above referred statute, sets out the possibility of registering companies incorporated under the Angolan laws whose the majority of share capital is hold by Angolan citizens;
- the Regulation on the Activity of Ship Managers (*Regulamento sobre a Actividade do Gestor de Navios*, Presidential Decree no. 51/14, of February 27) establishes that the activity of the manager of ships also entails previous registry with IMPA;
- the Regulation on the Maritime Transport Activity (*Regulamento sobre a Actividade de Transporte Marítimo*, Presidential Decree no. 54/14, of February 28), which regulates the registry of an owner of a ship as a commercial ship-owner by making a request to IMPA, as well as previous authorisation for acquisition or chartering of vessels);
- the Regulation of Nautical Sporting and Recreation, Amateur Diving and Ancillary Activities (*Regulamento da Náutica de Recreio e Desportiva, Mergulho Amador e das Actividades Correlacionadas*, Presidential Decree no. 69/14, of

March 21) aims to increase the security of nautical recreational and leisure activities, establishing the requirements and applicable rules for the registration, empowerment, training and certification of amateur recreational sailors, registry, classification, types of sailing and inspection of vessels and other objects used in nautical sports and recreation, registry of marinas and other support infrastructures for nautical recreation, nautical clubs and sports entities, as well as those relating to amateur diving;

- the Regulation of the Maritime-Tourist Activity (Presidential Decree no. 28/16, of January 27), which defines the legal regime applicable to maritime-tourist activity by operators, shipping agents and travel agencies involved, as well as the vessels they use in connection with this activity.

The Republic of Angola ratified on December 5, 1990, the United Nations Convention on the Law of the Sea, done at Montego Bay, which regulates the duty of the member States to fix the breadth of its territorial sea through the Base lines of the Coastal State. Also, the Act on the Base Lines to Delimitate and Demarcate Angolan Maritime Spaces (*Lei sobre as Linhas de Base para a Delimitação e Demarcação dos Espaços Marítimos de Angola*, Act no. 17/14, of September 29) was approved.

In the oil industry, the provisions of Order-in-Council no. 10 756, of May 27, 1959 (Handling of Petroleum Products in Ports of Angola Regulation/*Regulamento para Movimentação de Produtos Petrolíferos nos Portos de Angola*), which governs the handling of products of this kind and the Regulation of Environmental Protection in the course of Petroleum Operations (*Regulamento da Proteção do Ambiente no Decurso das Actividades Petrolíferas*, Decree no. 39/00, of October 10) must also be observed.

19.4 Electric sector

The electricity sector has its main source of legislation and regulation in Act no. 14-A/96, of May 31 (Electricity Act/*Lei da Electricidade*) amended and republished by Act no. 27/15, of December 12, which establishes the general framework of the legal regime concerning the undertaking of generation, transmission, distribution, trading, and use of electrical energy as well as the principles in respect to: (i) the rural electrification; (ii) the safety of the premises; (iii) the public electrical system, including establishing the competences of the respective regulatory body; (iv) the concessions, the licences, the tariffs and general conditions of sale; (v) the invoicing

of generation consumed and its relevant regulations. These activities are governed, in accordance with the provisions of the aforementioned statute, by the following principles:

- permanent supply of energy in adequate terms relative to consumers' needs and national development;
- progressive reduction of costs through rationalisation and efficiency in the resources used down the value chain, from generation to consumption;
- environmental protection in the conception and management of projects and in the undertaking of activities which make up the electricity sector's value chain;
- safety of persons and assets and respect for property rights in the engineering and implementation of projects in the electricity sector;
- compliance with safety rules regarding persons and assets and the respect for property rights in the engineering and implementation of projects as well as in the use of equipment; and
- permanent search for better output levels with the aim of reducing the waste of natural resources and the production and accumulation of waste products.

This statute also enshrines the principles of: (i) equal treatment and opportunity in the exercise of the activities of generation, transmission and distribution of electricity; as well as (ii) the qualification of the transmission and distribution of electricity as a public service.

By virtue of the provisions of the Electricity Act, the Public Electricity System (*Sistema Eléctrico Público/SEP*) was created, the latter which encompasses the National Electricity Transmission Network (*Rede Nacional de Transporte de Energia Eléctrica/RNT*) and the facilities of generation, transmission and distribution connected to it. Besides SEP, the activities which make up the value chain of the electricity sector may also be undertaken in a non-tied system.

The following diplomas are equally relevant for the electricity sector:

- the Electricity Supply Regulation (*Regulamento do Fornecimento de Energia Eléctrica*), approved by Decree no. 27/01, of May 18;
- the Electricity Distribution Regulation (*Regulamento de Distribuição de Energia Eléctrica*), approved by Decree no. 45/01, of July 13;
- the Electricity Generation Regulation (*Regulamento da Produção de Energia Eléctrica*), approved by Decree no. 47/01, of July 20;
- the Electricity Generation, Transmission and Distribution Facilities Licensing Regulation (*Regulamento de Licenciamento de Instalações de Produção, Transporte e Distribuição de Energia Eléctrica*), approved by Decree no. 41/04, of July 2;
- the Quality of Service Regulation (*Regulamento da Qualidade de Serviço*), approved by Presidential Decree no. 310/10, of December 31;
- the Commercial Relations Regulation (*Regulamento das Relações Comerciais*), approved by Presidential Decree no. 2/11, of January 5;
- the Tariff Regulation (*Regulamento do Tarifário*), approved by Presidential Decree no. 4/11, of January 6; and
- the Network and Interconnection Access Regulation (*Regulamento do Acesso às Redes e às Interligações*), approved by Presidential Decree no. 19/11, of January 17.

19.4.1 Authorisation for the undertaking of activities

In accordance with the combined provisions of the Electricity Act, the Electricity Distribution Regulation, and the Electricity Generation Regulation, as well as Act no. 5/02, of April 16 (which defines the sectors of economic activity in Angola), the undertaking of the activities of generation, distribution and transmission of electricity is subject to authorisation from the State or from a public body, through the granting of a concession or a license.

Regarding the generation of electricity, the Generation Regulation states that it is granted through a concession, except in cases of supply to isolated settlements whose power needs do not exceed 1 MW, auto and private supply.

Pursuant to the terms of the Distribution Regulation, the undertaking of the activity of distribution of electricity in high voltage and medium voltage, as well as in low voltage (when the settlement which is supplied has 50,000 or more inhabitants and/or the maximum capacity requested by the system is equal or higher than 4 MW), is granted via a concession.

The authorisation for the undertaking of distribution of electricity may be obtained through a license granted by the competent local public body in the following situations: *(i)* distribution of electricity in low voltage when the above mentioned limits are not reached and of; *(ii)* distribution in medium voltage in isolated networks or when; *(iii)* for technical or other reasons, the supervising authority decides that the granting of a concession is not justified, in the latter case subject to a prior opinion of Institute for Electricity and Water Services (IRSEA), created in accordance with Presidential Decree no. 59/16, of March 16.

The undertaking of the activity of electricity transmission is authorized via a concession.

Lastly, the transfer of rights and obligations in concession agreements or the transfer of licenses for the undertaking of the aforementioned activities of the electricity sector, are subject to the approval of the granting or licensing authority.

19.4.2 Licensing of electrical facilities

The construction and operation of electrical facilities associated with the activities of generation, distribution and transmission of electricity are also subject to licensing, pursuant to the provisions of the Electrical Facilities Regulation. The competent authority to license the abovementioned facilities belongs, in principle, to the Ministry responsible for the energy sector (Ministry of Energy and Waters).

The licensing process commences with a request for an establishment license, the latter which must be presented with the respective project for the facility. Once the

request is approved and the license is issued, the electrical facilities must be finished within a two year period counting from the date of issuance of the establishment license.

After the completion of an installation, a request for inspection is made to the licensing entity. If the installation complies with regulatory standards and is in accordance with the project as approved, the technician may authorize the provisional operation of the facility. The corresponding operation license is then issued within a fifteen day period.

A change in the entity which operates electricity facilities subject to licensing on the grounds of transfer, lease or disposal triggers the obligation for the transferee, lessee or acquirer to request within 30 days the endorsement of said operation licenses.

19.4.3 Commercial relations and access to networks

TIED AND NON-TIED SUPPLY

The regulation of the Angolan electricity system determines that the supply of electrical energy may be made within the scope of the SEP (that is, in a tied system) or outside SEP (that is, in a non-tied system).

SEP encompasses the generation, transmission, distribution and supply of electricity in a public services regime and the commercial relations between the entities which operate in SEP shall be guided by the following general principles:

- guarantee of supply of electricity in adequate terms to the necessities of its clients;
- guarantee of the necessary conditions for the economic and financial equilibria of the entities which integrate the SEP;
- equal treatment and opportunities;
- competition, without prejudice of complying with public service obligations;
- impartial decision-making;

- freedom of choice of generator or supplier;
- transparency in applicable rules to commercial relations;
- right to information and the safe keeping of confidentiality in commercial information deemed sensitive; and
- rationality and efficiency of means to be used.

The intervening agents in SEP are: *(i)* tied generators; *(ii)* the concessionaire of the National Transmission Network or RNT (currently, Rede Nacional de Transporte, E.P.); *(iii)* the distributors of electricity in high voltage, medium voltage and low voltage; and *(iv)* tied clients.

The concessionaire of the RNT also exercises important functions within the scope of SEP, including:

- global management of SEP;
- acting as single buyer of electricity to generators;
- ensuring the satisfaction of the demand for electricity in SEP;
- allowing free access from third parties to RNT;
- requesting agents which partake in the supply of electricity, inside and outside of SEP, to provide all necessary information for the commercial management of the system; and
- acting as a supplier of electricity.

Pursuant to the provisions of the Commercial Relations Regulation, the supply of electricity in SEP encompasses the following stages:

- tied generators sell electricity generated to the concessionaire of the RNT through power purchase agreements;

- the electricity acquired by the RNT concessionaire is then sold, in bulk and for a single price, to distributors;
- distributors sell the electricity, in a non-discriminatory fashion (that is, to every person which requests it), to final customers or to the concessionaires of distribution networks of a voltage which is lower than theirs.

The supply of electricity outside of SEP is made through bilateral agreements between generators and non-tied clients, without prejudice to the compliance of the applicable provisions of the Electrical Facilities' Licensing Regulation and of the Network Access Regulation.

Despite not being a part of SEP, non-tied generators and auto suppliers may sell energy to SEP, subject to the prior attainment of a concession or license for such purpose.

Lastly, it is worth mentioning that the electricity supply agreements outside of SEP must be submitted to the IRSEA for approval, homologation and registration. This regulatory authority may also define situations whereby bilateral agreements entered into within the scope of SEP may be submitted for approval, homologation and registration.

ACCESS TO NETWORKS

The Network Access Regulation grants the right of access to the networks of SEP (RNT and tied distribution networks) to the following entities:

- holders of a tied concession or license for the generation of electricity;
- holders of a non-tied concession or license for the generation of electricity;
- tied clients;
- non-tied clients; and
- auto suppliers or private suppliers.

Access to networks must be done in a non-discriminatory fashion by the RNT concessionaire and tied distributors in high voltage and low voltage, as long as they have, as applicable, transmission or distribution capacity in the respective network and such access does not affect the standards of quality of service and security of supply.

Technical and commercial terms and conditions to use SEP networks and interconnections vary in accordance with the type of user and network and must be agreed upon by the relevant agents.

Use of networks grants the RNT concessionaire and tied distributors the right to be remunerated by the use of their facilities and services, through the attribution to clients, as applicable: (i) the tariff for the use of the very high voltage and high voltage transmission network; (ii) the tariff for the use of the high voltage distribution network; (iii) the tariff for the use of the medium voltage distribution network; (iv) global use of system tariff; and (v) network supply tariff.

SUPPLY OF ELECTRICITY

The main provisions regarding the supply of electricity to the final consumer (in very high, high, medium or low voltage) may be found in the Supply Regulation, according to which the suppliers (the RNT concessionaire or the distributors) are obliged to supply electrical energy to persons who request it and in equal terms, notably in what regards conditions for connection and applicable tariffs.

Supply of electricity must be permanent and continuous and may only be interrupted for reasons attributable to a client or by agreement with said client, save for cases of fortuitous events or *force majeure*.

Agreements for the supply of electricity entered into between suppliers and final customers must be done in writing and obey the template agreement approved by the supervising body and the provisions of the Supply Regulation. Among the provisions which must be included in said agreements, the following are highlighted:

- agreements are entered into for one-month periods, and may be renewed successively for equal periods (notwithstanding the possibility of termination);

- termination of the agreement may be made via an agreement between the supplier and the customer or by the interruption of the supply of electricity (for reasons attributable to the client) which extends for a period of over 90 days; and
- the person requesting the supply of electricity must guarantee, before or concurrently with the entering of the agreement, the compliance with its obligations through a deposit bond.

DISPUTE RESOLUTION

Disputes and litigation emerging from commercial relations between participants in the Angolan electricity system may be resolved through administrative, pre-judicial and jurisdictional mechanisms, pursuant to the terms of, among others, the Commercial Relations Regulation and the Network Access Regulation.

Interested parties may present to IRSEA petitions, complaints or claims against actions or omissions of regulated entities which are not of a contractual nature (meaning that they derive from applying said regulations). IRSEA's decisions are binding for the SEP entities which are targeted by such decisions.

In a pre-judicial stage, it is possible to file claims before the relevant SEP entity regarding which there is a contractual or commercial relationship; the SEP entity must in turn respond to the claims directed to them within 30 days. There is also the possibility to resort to mediation and conciliation procedures through which IRSEA may, respectively, take a position on the resolution of the conflict or suggest that the parties agree on the resolution of the dispute.

In what regards jurisdictional conflict resolution, the above-mentioned regulations privilege the recourse to voluntary arbitration mechanisms. To this end, SEP entities may propose to their clients the inclusion of an arbitration clause in the respective agreement. Submitting disputes to courts is not, however, excluded, pursuant to the terms of the Electricity Act.

19.4.4 Tariffs

The tariff system for the electricity sector in Angola is governed by the Tariff Regulation and Executive Decree no. 122/19, of May 24, which establishes electricity sales tariffs, based on formulas, their variables, power factors and multipliers, and applies to the different types of consumers in Angola.

Setting of tariffs in the electricity sector is oriented by principles of:

- sustainability of the sector;
- general electrification of the country;
- support for economic efficiency;
- existence of a maximum tariff;
- existence of minimum cost tariffs which are compatible with the quality of service;
- economic and financial equilibria of companies which operate efficiently;
- transparency in the attribution of subsidies to consumers;
- support for energy efficiency;
- existence of a single tariff for the entire country;
- transparency in the setting of tariffs.

The tariff structure is established by the competent body of the Executive, upon proposal of the IRSEA, and is applied by the RNT concessionaire and the distribution companies to users connected to their networks. The value of the tariffs is calculated based on the formulas provided for in the Tariff Regulations in conjunction with Executive Decree no. 122/19, of May 24.

Pursuant to the provisions of this regulation, the costs which may be transferred to the tariffs are based on the costs of the entities which explore the transmission and distribution networks, accrued of a reasonable rate of return, calculated in accordance with widely accepted valuation methodologies.

In relation to the calculation of the revenues of the transmission network concessionaire, these include: (i) efficient investment costs; (ii) efficient operation and maintenance costs; (iii) other costs necessary to develop the activity in an efficient fashion; and (iv) a fair profitability over their efficient investments.

In what regards the allowed revenues on distribution costs, the calculation of said costs is made considering two components: (i) the remuneration of the activity of distribution through high, medium and low voltage (named distribution standard aggregated value or VADP); and (ii) the remuneration of operation and investment costs of the connections to consumers' facilities (also known as the connection fee).

19.5 Petroleum

The Constitution of Angola stipulates that oil fields in the on-shore and off-shore areas of Angolan territory, in internal waters, in territorial sea, in the exclusive economic zone and on continental shelf are part of the public domain of the State.

The mining rights for oil fields are assigned to the national concessionaire, National Agency for Petroleum, Natural Gas and Biofuel (*Agência Nacional de Petróleo, Gás e Bio-combustível*) (National Concessionaire), which cannot assign these mining rights.

The rules of access to and pursuit of petroleum operations, that is, prospecting, exploration, appraisal, development and production of crude oil and natural gas activities are regulated by Act no. 10/04, of November 12 (Petroleum Act/*Lei das Atividades Petrolíferas*), and Decree no. 1/09, of January 27 (Petroleum Operations Regulation/*Regulamento das Operações Petrolíferas*). According to these laws, oil operations can only be exercised under a prospecting licence issued by the Ministry of Mineral Resources, Petroleum and Gas, or an oil concession, awarded by the Government.

19.5.1 The petroleum sector

The petroleum sector in Angola has been gradually reformed and reorganised, aiming to adapt the sector to the new legal, contractual and regulatory practices of the

petroleum industry. Such reform encompassed the amendment of the legal status of Sonangol – E.P. which was, in the past, charged with the competences of the National Concessionaire along with other general competences providing for its intervention in all stages of the value chain (from upstream to downstream). Accordingly, Sonangol – E.P. is now carrying out as its main purposes the activities of prospection, research, production, transportation, trading, refinery and transformation of hydrocarbons, including activities of petrochemistry, with its main competences having been allocated to a national petroleum agency. This authority, named National Agency for Petroleum, Natural Gas and Biofuel (*Agência Nacional de Petróleo Gás e Biocombustível*) is responsible for supervising and regulating the sector, as well as for the preparation and allocation of petroleum blocks and the resolution of disputes between the government and the different stakeholders.

Currently, the competent ministry over the petroleum sector is the Ministry of Mineral Resources, Petroleum and Gas, which had its statute approved by Presidential Decree no. 159/20, of June 4. Accordingly, Ministry of Mineral Resources, Petroleum and Gas is responsible for coordinating, supervising, monitoring and controlling petroleum and mining activities.

The Ministry of Mineral Resources, Petroleum and Gas oversees, besides the National Agency for Petroleum, Natural Gas and Biofuel, the National Petroleum Office (*Direcção Nacional de Petróleos*), which has competence to promote the execution of the national policies on oil and gas, issuing reports and opinions, monitoring the execution of the production development plans and the oil prices. This authority is also charged with defining the development and production strategy of existing deposits.

19.5.2 Prospecting licence

Any upstanding domestic or foreign company having the necessary technical and financial capacity may apply to the Ministry of Mineral Resources, Petroleum and Gas for the issue of a prospecting licence to determine the petroleum potential of a given area.

The maximum term of the prospecting licence is three years and it may exceptionally be extended at the request of the licensee.

The prospecting licence entitles the applicant to conduct geological, geochemical and geophysical research, and the processing, analysis and interpretation of the ac-

quired data, as well as regional studies and mapping, for the purpose of locating oil and natural gas fields. This right is not exclusive to the applicant to whom the licence is granted, nor is the licensee granted any right of first refusal with respect to oil production in the area to which the license relates.

The data derived from petroleum prospecting operations carried out under a prospecting licence are State property and may be used by the licensee and the National Concessionaire. The Ministry of Mineral Resources, Petroleum and Gas may authorise the sale of the data by the licensee, after a hearing of the National Concessionaire, the net proceeds of such sales being shared by the licensee and the National Concessionaire.

A prospecting licence is extinguished by rescission, termination or expiry. There may be rescission if the licensee fails to fulfil its obligations or if *force majeure* prevents it. The licensee may terminate it if it shall have fulfilled all its obligations under the licence. Lastly, the licence lapses on expiry of its validity period, on the extinction of its holder or as a result of fulfilment of a resolutive condition provided for therein.

19.5.3 Petroleum concession

For petroleum operations outside the scope of a prospecting licence, the interested companies must join up with the National Concessionaire for the joint exercise of activities.

This association between national or foreign companies of proven competence and technical and financial capacity and the National Concessionaire is subject to prior approval of the Government and may lead to: (i) the incorporation of a company; (ii) the entering into of a consortium agreement; or (iii) the entering into of a production-sharing agreement.

The National Concessionaire may also carry out petroleum operations through risk service contracts.

The concession covers:

- the exploration period – which includes the search phase (prospecting, drilling and well-test activities leading to the discovery of reservoirs) and the evalua-

tion phase (activity after the discovery of a deposit in order to define the parameters of the field to determine its marketability, including drilling appraisal wells and performing depth tests, collection of special geological samples and the fluids of the reservoirs, and performing studies, gathering additional geophysical data and their processing, among others); and

- the production period – which includes the development phase (activities after determining that a discovery is commercial, including geological studies, drilling of production and injection wells, design, construction and installation, the connection and initial verification of the equipment required to extract oil) and the production phase (activities relating to the extraction of oil, including the operation of completed wells and of the equipment concluded during the development phase, the sale, collection, processing, storage and shipment of the oil and also the operations involved in shutting down the reservoirs).

The concession may cover just the production period. The terms of the concessions and their different periods and phases are laid down in the concession decree, as well as the area covered by the concession. In this case, the Presidential Legislative Decree no. 5/18, of May 18, establishes a legal regime applicable to additional exploration activities in blocks which are already under development. Accordingly, if one or more deposits are found beyond the limits of the area covered by the concession, the area may be redefined in order to encompass the resources found beyond the area as long as such resources are not encompassed by another agreement.

The Government may assign a concession directly to the National Concessionaire, should it wish to carry out petroleum operations in a particular area without having to associate with other entities.

Should the National Concessionaire wish to associate with other companies to jointly carry out petroleum operations, the National Concessionaire requests the Ministry of Mineral Resources, Petroleum and Gas to issue a public call for tenders for the selection of the companies that will become associates for oil exploration and production in a given area. The assignment of the standing as associate of the National Concessionaire by direct negotiation may only occur when, after a public call for tenders, such standing shall not have been assigned for lack of tenders or because the Ministry of Mineral Resources, Petroleum and Gas considered the tenders unsatisfactory.

The concession is extinguished by agreement between the State and the National Concessionaire, rescission or termination by the National Concessionaire, redemption or expiry under the following terms:

- the National Concessionaire may apply to the State for, by agreement, the extinction of the concession because of technical or economic infeasibility of oil production in the concession area (if the National Concessionaire is associated with third parties, the said application must also be signed by the associates);
- rescission of the concession may occur if the oil operations are not undertaken, if any reservoir is abandoned without the authorisation of the Minister of Mineral Resources, Petroleum and Gas, if there are serious, reiterated violations of the law or concession decree, or any mineral not covered by the object of the concession is intentionally extracted;
- the National Concessionaire may waive all or part of the concession area at any time during the production period, provided it shall have fulfilled all its legal and contractual obligations (the waiver must also be signed by the associates of the National Concessionaire, if any);
- the concession may be totally or partially redeemed by the State, for reasons of public interest, upon payment of fair compensation; and
- expiry of the period of exploration or its extensions (except for areas where there are on-going petroleum operations or in respect of which a commercial discovery has been declared), the end of the production period or its extensions, the extinction of the National Concessionaire or fulfilment of a resolute condition provided for in the concession decree.

Once the concession is extinguished, all property acquired for the performance of petroleum operations and all the technical and economic data obtained during their execution shall revert to the National Concessionaire.

19.5.4 Public tender

The principle of public tender applies not only to the selection of the associates of the National Concessionaire but also to contracting the services and procurement of goods needed to carry out petroleum operations.

The rules and procedures of public tenders within the scope of petroleum operations are established by Presidential Decree no. 86/18, of April 2.

The recognition of any oil company as an «associate» of the National Concessionaire is made subject to a public tender. Such tender may be limited to: (i) small and medium oil companies; or (ii) Angolan companies, *i.e.* companies with their registered office in Angola and with at least 51% of their share capital held by Angolan nationals.

In turn, the public tender for the acquisition of goods and services is also made subject to a specific tender procedure in accordance with the price of the goods or services being acquired:

- up to USD 1 million (or equivalent amount in national currency): contracts may be awarded freely, without a tender. However, the operator is bound to send a quarterly report to the National Concessionaire on the contracts which were entered into under this procedure and the relevant counterparties;
- between USD 1 million and USD 5 million (or equivalent amount in national currency in a period of time of five years): the award should be followed by a public tender, without the need for approval of the National Concessionaire, although these contracts are also subject to the same quarterly reports to be submitted to the National Concessionaire (including the relevant counterparties);
- greater than USD 5 million (or equivalent amount in national currency): the operator is to carry out a public tender observing the express procedure laid out in the statute. After the tender, the operator submits its assessment of the tenders and its recommendation to the National Concessionaire. In turn, the National Concessionaire may accept or refuse the operator's recommendation, if the latter, the operator will have to cure the breaches of the rejected proposal.

A public tender is not mandatory for goods and services of any value in the following circumstances: (i) emergencies; or (ii) in situations in which the goods or services are only available from one supplier.

19.5.5 Investment risk during the exploration period

Risk of investment during the exploration period is borne by the associates of the National Concessionaire, which are not entitled to recoup the capital invested if there is no commercial discovery.

19.5.6 Local content

Companies that are granted prospecting licences, companies that are granted oil concessions in association with the National Concessionaire and the National Concessionaire, as well as the companies that co-operate with them in petroleum operations, shall acquire Angolan materials and equipment and hire Angolan service providers, insofar as they are identical to those available in the international market for delivery in good time and to the extent that their prices are no more than 10% higher than the cost of imported items or services, including customs, tax and shipping and insurance costs. The Ministry of Mineral Resources, Petroleum and Gas is responsible for preparing a list of Angolan entities which provide goods and services to petroleum operations. Companies in such list have mandatorily to be consulted in advance of any tender related to their commercial activity.

Additionally, the associates of the National Concessionaire shall participate in the efforts of integration, training and professional promotion of Angolan citizens. Companies that perform oil operations in Angola are required to employ Angolan citizens in every category and function, unless in the domestic market there are no Angolan citizens having the required skills and experience.

19.5.7 The downstream and midstream sectors

The operations of crude oil refining and the storage, transportation, distribution and commercialisation of petroleum products undertaken by refinery operators, storage operators, transportation operators, distribution operators, wholesalers and retailers are governed by Act no. 28/11, of September 1 (Oil and Gas Distribution and Commercialization Act/*Lei sobre a Refinação de Petróleo Bruto, Armazenamento, Transporte, Distribuição e Comercialização de Produtos Petrolíferos*).

The oil and gas downstream sector was further regulated with the enactment of Presidential Decree no. 208/19, of July 1, which approved, *inter alia*, the rules applicable to

the refining of crude oil, the storage of petroleum products and their transportation by pipeline or the operation of wholesale and retail markets.

Moreover, Act no. 26/12, of August 22 (Oil and Gas Storage and Transportation Act/*Lei do Transporte e Armazenamento de Petróleo Bruto e Gás Natural*) came into force setting forth the rules applicable to the transport and storage of crude oil and natural gas connected with petroleum operations carried out under the Petroleum Act.

19.5.8 Performance guarantee

Upon the issue of a prospecting licence or the entering into of a contract with the National Concessionaire, the licensees and associates of the National Concessionaire must provide a bank guarantee to ensure fulfilment of the work obligations assumed. In the case of a prospecting licence, the amount of the guarantee shall be 50% of the value of the estimated work. As for the associates of the National Concessionaire, the amount of the guarantee shall be of the value that comes to be agreed for the mandatory work schedule of the oil concession. The aforementioned guarantees are provided via a cash deposit or bank guarantee.

The National Concessionaire may also require its associates to present a parent company guarantee.

19.5.9 Gas flaring

The use of natural gas produced at any reservoir is mandatory, and its flaring is prohibited, except for a short period of time and only when required for operational reasons. The Ministry of Mineral Resources, Petroleum and Gas may allow associated gas flaring to render possible the exploitation of small reservoirs.

19.5.10 Supervision of petroleum operations

The activity of the licensees, the associates of the National Concessionaire and the National Concessionaire related with petroleum operations is overseen by the Ministry of Mineral Resources, Petroleum and Gas.

The Ministry of Mineral Resources, Petroleum and Gas may be assisted by qualified entities appointed by it in its duties of inspection, supervision, verification, and techni-

cal, economic and administrative control of the licensees, the associates of the National Concessionaire and the National Concessionaire, and shall have free access to all sites and facilities where these activities are carried on.

The initiative for the initiation and preparation of infringement procedures and the application of the respective fines is the responsibility of the Ministry of Mineral Resources, Petroleum and Gas. Fines for breaches of the Petroleum Operations Regulation may vary from AOA 3,7 million to AOA 111 million.

19.5.11 Ownership of the oil and limits to its disposal

The point of transfer of ownership of the oil produced lies beyond the mouth of the well, and the associates of the National Concessionaire may freely dispose of their share of the oil produced, except in cases of need for domestic consumption and of requisition as described hereunder.

The Government may require the National Concessionaire and its associates to provide to an entity designated by it, from the respective share of the production, an amount of oil to meet Angolan domestic consumption needs. The participation of the Concessionaire and its associates in meeting the country's domestic consumption needs cannot exceed the proportion between the annual production of the concession area and Angola's total annual production of oil and may not exceed 40% of the total production of the area of the concession in question.

In the event of a national emergency, the Government may also order the requisition of all or part of the production of any concession and demand that production be increased to the maximum extent technically feasible. The Government may likewise order the requisition of the oil facilities of any concession. These requisitions are subject to compensation by the Government.

19.5.12 Disputes

Disputes between the Ministry of Mineral Resources, Petroleum and Gas and the licensees or between the National Concessionaire and its associates about contractual matters that are not resolved by agreement shall be resolved by arbitration. The arbitral tribunal shall sit in Angola under Angolan law and the arbitration shall be conducted in Portuguese.

19.5.13 Decommissioning

The procedures for the decommissioning of petroleum operations were provided, rather briefly, in the Petroleum Activities Law and in the Petroleum Operations Regulation, however, this regime was significantly complemented by the entry into force of Presidential Decree no. 91/18, of April 10.

The statute provides for the development and submission to the National Concessionaire of an environmental impact study as well as a provisional and final decommissioning programme. The provisional programme is to be updated every three years. In turn, the final programme will arise out of the successive updates and alterations of the provisional programme. The final programme is to be submitted to the National Concessionaire 24 months before the end of production. After submission, the National Concessionaire and its associates jointly prepare the decommissioning programme which will be submitted to Ministry of Mineral Resources, Petroleum and Gas.

After the activities provided in the programme are concluded, the wells and the related infrastructure are delivered to the National Concessionaire. After the delivery, the National Concessionaire will issue the certificate of release from liability whilst Ministry of Mineral Resources, Petroleum and Gas will issue the certificate of termination of the decommissioning works after a final inspection carried out by the Ministry of Mineral Resources, Petroleum and Gas and other competent public authorities.

19.5.14 Marginal discoveries

Aimed at collecting additional revenue from taxes, the Presidential Decree no. 6/18, of May 18, entered into force on 18 May 2018, providing for a flexible contractual and tax regime for the development of marginal discoveries. A marginal discovery is described in the statute as one or more deposits, which, at a given moment, only allow for limited income and profitability, thereby not qualifying for a declaration of commercial discovery.

The statute provides for an adjustment of the contract entered into with the National Concessionaire (*i.e.* production sharing agreement, etc.) and the applicable taxes, for the purposes of promoting the development of such marginal discoveries – albeit, these adjusted terms will only apply to the marginal reserve. The revised contractual and fiscal terms are to be published in the Official Gazette, as an Executive Decree, along with the relevant declaration of marginal reserve.

19.6 Natural gas

19.6.1 The natural gas sector

In the terms initially provided under the Petroleum Activities Law (Act no.10/04, of November 12), the appraisal, exploration, assessment, development and production of natural gas were encompassed by the definition of petroleum operations.

However, as a result of Act no. 8/18, of May 10, which authorized the enactment of an autonomous regime applicable to natural gas, and the consequent Presidential Legislative Decree no. 7/18, of May 18 (which approved the Legal and Tax Regime applicable to the Appraisal, Exploration, Assessment, Development, Production and Sale of Natural Gas in Angola), these activities now benefit from an autonomous framework. Nevertheless, the Petroleum Activities Law continues to apply to natural gas in matters which are not regulated by the Presidential Legislative Decree no. 7/18.

Following the recognition that natural gas required a different legal and fiscal framework, in comparison with the regime applicable to oil, the aforementioned Legal Regime represents a significant deviation from the provisions of the Petroleum Activities Law, namely:

- the concession decrees and the respective contracts may establish for longer periods of exploration;
- the remaining conditions of the contract to be entered into with the National Concessionaire are to be determined on a case-by-case basis; and
- other tax benefits may also be granted when the undergrounding economic conditions so require.

19.6.2 Angola LNG

Resolution no. 17/01, of October 12, declared the public interest of activities involving reception and processing of gas, of production of liquefied natural gas (LNG) and their marketing (Angola LNG Project, *Projecto Angola LNG*).

This project for the use of natural gas by conversion into LNG was initially developed by the National Concessionaire and a number of affiliates of other companies. Feasibility studies suggested the need for the creation of tax, foreign-exchange and customs incentives capable of generating balance between the interests of the Angolan State and a fair return and compensation for the promoters' investment risk.

In this connection, Decree-Law no. 10/07, of October 3, enacted the Angola LNG Project legislation (Project Legislation/*Regime Jurídico do Projecto*), stipulating that the Angola LNG Project is subject, with some adjustments, to the rules applicable to oil activities, namely the Petroleum Activities Act/*Lei das Actividades Petrolíferas*, the Taxation of Petroleum Activities Act (*Lei sobre a Tributação das Actividades Petrolíferas*) and Act no. 11/04, of November 12, on the Customs procedure applicable to the oil industry. Thus, for example, the Project Legislation introduces alterations to the levy, taxpayers and tax rate on oil income, increases the list of goods exempt from Customs Duties and creates a special exchange-rate mechanism where those activities are performed under the Angola LNG Project.

Furthermore, activities related with the storage, transportation, distribution and sale of gas products are mainly governed by Oil and Gas Distribution and Commercialization Act (*Lei sobre a Refinação de Petróleo Bruto, Armazenamento, Transporte, Distribuição e Comercialização de Produtos Petrolíferos*, Act no. 28/11, of September 1) while the transport and storage of natural gas arising from the operations carried out under the Petroleum Act is governed by Oil and Gas Storage and Transport Act (*Lei do Transporte e Armazenamento de Petróleo Bruto e Gás Natural*, Act no. 26/12, of August 22).

Although the procurement of goods and services from Angolan and foreign suppliers by Angola LNG Limited (the prime entity responsible for implementing the project) must follow the principles of transparency and economic efficiency, the Project Legislation (except for goods and services related to non-associated gas operations) precludes the application of Decree no. 48/06, of September 1, which establishes the rules of public tenders for the procurement of goods and services required for petroleum operations – which was revoked by Presidential Decree no. 86/18, of April 2.

The activities related to the storage, transportation, distribution and sale of oil derivatives are regulated by the Law on Refinement, Storage, Transport, Distribution and Sale of Petroleum Products (Act no. 28/11, of September 1), whilst the activities of transportation and storage of petroleum obtained from petroleum operations are

regulated by the Law on the Transportation and Storage of Oil and Natural Gas (Act no. 26/12, of August 22).

19.7 Biofuels

The general bases for the encouragement of cultivation of sugar cane and other plants for biofuel production are set out in Act no. 6/10, of April 23 (Biofuels Act/*Lei sobre os Biocombustíveis*). One of the principles established by this act is to promote and foster electricity production using biomass (plant or animal materials and their biodegradable waste), diversifying the energy matrix of Angola.

The Biofuels Act also stipulates that the incentives to be granted to the pursuit of activities related to the production of biofuels are those provided for in Act no. 10/18, of June 26 (Private Investment Act/*Lei do Investimento Privado*), and Act no. 17/03, of July 25 (Tax and Customs Incentives for Private Investment Act/*Lei sobre os Incentivos Fiscais e Aduaneiros ao Investimento Privado*, as amended by a previous version of the Private Investment Act), alongside others that come to be defined.

The Biofuels Commission was created by the Biofuels Act and is chaired by the Ministry of Mineral Resources, Petroleum and Gas who assumes, among others, the responsibilities of: promoting the agro-industrial activities; supporting the process of granting land rights over lands of poor soils with potential for cultivation of plants for the production of biofuels; inspecting and supervising the agro-industrial activities and storage, transportation, distribution and marketing of products and by-products of sugar cane and other plants intended only for biofuel production; analysing and issuing opinions on investment projects of agro-industrial activities linked with biofuels before the Agency for Private Investment and the Promotion of Exports (formerly Agency for the Promotion of Investment and Exports of Angola and, before that, the National Private Investment Agency, extinguished by the Presidential Decree no. 81/18, of March 19, as amended by Presidential Decree no. 8/20, of January 24, which created the Agency for Private Investment and the Promotion of Exports) carries out the respective approval process; and undertaking, in collaboration with the Ministry of Finance, the process of fixing prices and respective corrections, changes and updates.

The land right to be allocated to farmers and industrial entities to carry on economic activities related to the cultivation of sugar cane and other plants for biofuel produc-

tion is, in principle, a surface right, awarded for a period of 30, renewable up to 60, years. When such leasehold rights are terminated, the land and respective undertakings revert to the State, without any obligation to compensate investors. The full and complete use of the land subject to the land right, the setting up of factories and the commencement of production shall take place within a maximum of six years.

The agro-industrial facilities shall be constructed on the land on which land rights were granted for the cultivation of sugar cane and other plants intended solely for the production of biofuels.

Provided the following entities have proven technical, economic and financial capability, mainly concerning the compliance with demands related to the product quality, sustainable production and environmental licensing, such entities may be holders of industrial projects related to biofuels: *(i)* State-owned companies and/or associated with Angolan individuals and legal entities; *(ii)* individuals and legal entities of Angolan nationality; *(iii)* commercial companies and cooperatives established in Angola; and *(iv)* individuals of foreign nationality and commercial companies having their registered office abroad, always in association with natural or corporate persons of Angolan nationality.

Such holders of projects related to biofuels must preferably employ mostly Angolan workers and use domestic goods and services.

Additionally, agro-industrial projects for the production of biofuels shall include infrastructure of a social nature, such as housing, childcare, schools, hospitals and health centres, and recreational and sports facilities, with basic sanitation, lighting, fresh water supply and proper housing for low-income workers, and areas on which to grow vegetables and rear livestock for their own consumption. The costs of construction, operation and maintenance of this infrastructure shall be for the account of the investors, who also participate in the efforts of the Government and local authorities in respect of costs related with access roads and social health and transport structures.

Agro-industrial investors related to biofuel production are also bound, in particular: *(i)* to supply the National Concessionaire, under a contract of sale, part of the production required to meet domestic-consumption needs; *(ii)* not to use the land on which land rights have been granted for purposes other than those for which they are

intended; *(iii)* to provide free medical care to low-income workers and their spouses, minor children and parents without proven resources; *(iv)* to respect the pathways that rural inhabitants use to gather water, firewood, charcoal and game and to visit nearby villages; and *(v)* to restore the land as naturally as possible on the term of the project.

In keeping with the polluter-payer principle, 1% of the profits of the biofuel operation shall be invested in the development of environmental projects, in scientific and technological research, and in innovation.

Breach of legal obligations by agro-industrial biofuel-production entities is subject to fines, loss of exemptions, incentives and other facilities and to the termination of the authorisation to pursue the business (penalties that are applied by the Agency for the Private Investment and the Promotion of Exports, formerly Agency for the Promotion of Investment and Exports of Angola and, before that, the National Private Investment Agency) and, in certain cases, may involve criminal liability.

Lastly, reference is made to the establishment of the Ministry of Mineral Resources, Petroleum and Gas by the Presidential Legislative Decree no. 3/17, of October 14, which statutes were recently approved in the annex to the Presidential Decree no. 12/18, of January 15, and which assignments include: *(i)* drafting and proposing the general bases of the national policy over mineral, oil, gas and also biofuels resources; *(ii)* elaborating and proposing the development program of mineral, oil, gas and biofuels resources; and *(iii)* studying and proposing the regulatory legislation for the activities of the sector.

20. COMPETITION

The competition rules in Angola are contained in the Competition Act (*Lei da Concorrência*, enacted by Act no. 5/18, of May 10), in the Competition Regulation (*Regulamento da Lei da Concorrência*, enacted by Presidential Decree no. 240/18, of October 12), and in the Statute of the Competition Regulatory Authority (*Estatuto Orgânico da Autoridade Reguladora da Concorrência*, enacted by Presidential Decree no. 313/18, of December 21).

The Competition Regulatory Authority (*Autoridade Reguladora da Concorrência*|ARC) is endowed with administrative, patrimonial and financial autonomy, and wide regulatory, supervisory and sanctioning powers. The ARC has exclusive competence for investigating and deciding on sanctioning procedures with regard to restrictive competition practices, as well as clearing or prohibiting concentrations between undertakings that are subject to mandatory notification in Angola.

20.1 Prohibited practices

The Competition Act prohibits agreements, decisions of associations and concerted practices between competing undertakings (horizontal practices), as well as agreements and practices between undertakings and their suppliers and customers (vertical practices), which have the object or effect of appreciably impeding, distorting or restricting competition in the market.

The abuse of a dominant position by one or more undertakings is also prohibited. It is presumed that dominance exists when companies have (individually or jointly) a share above 50% of the relevant market. The abuse of economic dependence is prohibited in cases where a company is economically dependent on a supplier or client for not having an equivalent alternative.

The Competition Act contains an extensive non-exhaustive list of prohibited practices.

Prohibited agreements and abuses of dominant position may nevertheless be exempted if they lead to economic efficiencies, insofar as they allow consumers a fair share of the resulting benefit, do not impose restrictions that are not indispensable to attain those objectives and do not afford the possibility of eliminating competition in respect of a substantial part of the markets concerned. The exemption is assessed and issued further to previous notification by the interested parties, pursuant to a procedure to be approved by the ARC.

20.2 Merger control

Concentrations between undertakings meeting the jurisdictional thresholds of the Competition Act are subject to prior mandatory notification to the ARC and cannot be implemented before an express or tacit clearance decision is adopted, under the threat of invalidity of all legal acts and of heavy fines to the infringing companies.

The concept of concentration includes mergers between two or more undertakings and acquisitions of control over one undertaking or parts of an undertaking (as a result of the acquisition of a majority of the share capital or of veto rights conferring a decisive influence over the commercial strategy of the target company).

Concentrations are subject to mandatory filing to the ARC when meeting at least one of the following thresholds:

- the acquisition, creation or reinforcement of a share equal to or higher than 50% in the Angolan market or in a substantial part of it;
- the acquisition, creation or reinforcement of a share between 30% and 50% in the Angolan market or a substantial part of it, as long as at least two of the undertakings concerned achieved individually in Angola a turnover above AOA 450 million in the last financial year;
- the combined turnover of all undertakings participating in the concentration in Angola and in the last financial year exceeds AOA 3,5 billion.

Transactions subject to mandatory filing are subject to a stand-still duty and cannot be implemented before a clearance decision is adopted by the ARC.

Notified concentrations are assessed according to their prospective effects over competition in the relevant markets. Concentrations that create or reinforce a dominant position which may significantly impede competition in the relevant markets are in principle prohibited, although such transactions may be justified under certain public interest reasons set forth in the Competition Act.

20.3 Sanctions

The violation of the provisions regarding prohibited practices, as well as the early implementation of a concentration subject to mandatory filing before (express or tacit) clearance, subjects the infringing undertakings to fines between 1% and 10% of the annual turnover of the economic group of each undertaking concerned in the previous year. Not notifying a concentration subject to mandatory filing the provision of false, incorrect or incomplete information and the refusal to cooperate with the ARC in the context of its investigative powers are punishable with fines between 1% and 5% of annual turnover.

The Competition Act also provides for periodic penalty payments as well as ancillary sanctions with potentially serious consequences, such as exclusion from participating in public tenders for three years and even the possible break-up of the offending undertaking.

21. TELECOMMUNICATIONS AND MEDIA

Telecommunications is a dynamic sector of the Angolan economy which, currently, is attracting renewed attention and creating potential business opportunities as further liberalisation and privatization are expected.

Mobile communications are the predominant service in the case of individual consumers being more affordable than fixed services and enabling broadband access. Angola's mobile market has, until recently, had three licensed players – Angola Telecom (whose license remains dormant), Movitel and Unitel, the latter two with market shares of approximately 20% and 80% respectively, according to the most recent statistics provided by the Angolan Communications Institute (INACOM). A 4th license has been recently issued to Africell, which plans to start operations in 2021, following a tender procedure initiated in the 4th quarter of 2019 in which it was the sole candidate. In practice, mobile in Angola has effectively been a two-operator market.

Currently, there are at least nine separately licensed fixed communications suppliers – which include ACS, Angola Telecom, ITA, MS Telecom, Multitel, net|one, SNET, TV Cabo and Unitel – and the Government has an ownership interest in five of these. In addition, numerous unlicensed international service providers offer fixed services to the enterprise segment. The customer base predominantly comprises commercial, government or other enterprise users, but the consumer segment for fixed services is growing. The market also includes numerous infrastructure suppliers such as Angola Cables, Angola Telecom, Infrasat, Intelsat, Eutelsat, Rascom, SES Astra and Telesat.

As for the legal rules governing the telecommunications sector, the Electronic Communications and Information Society Services Law, approved by Act no. 23/11, of June 20, contains the general framework for the telecommunications sector in Angola and sets out several guiding principles and goals for the sector, as well as a framework for telecommunications regulation and for the scope of Government intervention in this context. This Law covers electronic communications and privacy and data protection issues and sets out the main scope for the activities of INACOM, the electronic telecommunications regulator.

The General Regulation on Electronic Communications (the Regulation), approved by Presidential Decree no. 108/16, of May 25, sets out the legal regime applicable to electronic communications networks and services, radio spectrum frequencies and numbering resources and telecommunications universal service. This legislative act governs the offering of electronic communications networks and resources as well as the award, management and use of frequencies and numbering resources.

In accordance with the Regulation, access to the activity of an electronic communications network operator or service provider requires the prior award of an enabling title concerning the offer of publicly accessible electronic communications networks or services. This enabling title can take the form of a concession contract or a license. Regardless of the form, the award of individual rights to the use of radio spectrum frequencies and numbering resources is subject to the Regulation.

The Regulation states that entities entitled to offer electronic communications networks and services in Angola must: *(i)* in the case of legal persons, be legally incorporated in Angola and have the exercise of electronic communications activities as their corporate object; *(ii)* have the proper technical, financial and human resource abilities to fulfil the requirements set out in the Regulation and other applicable legislation; *(iii)* not have any amounts outstanding to the Angolan State.

Other limitations are provided, such as the participation by foreign entities in the share capital of operators offering electronic communications which are accessible to the public being subject to the provisions on private investment contained in Act no. 10/18, of June 26, and national operators of public electronic communications networks being able to hold, directly or indirectly, up to 25% of the share capital in another national operator of a public electronic communications network, unless the Information Technologies and Telecommunications Ministry (MTTI) – authorizes otherwise.

Concessions may be awarded by public tender or, in duly justified cases, directly to a specific entity. A concession may also be awarded through a unified global title, which enables its holder to provide: *(i)* any type of electronic communications service, regardless of the technology used; or *(ii)* only a given service or the management of a specific electronic communications network.

The duration of concessions may not exceed 15 years and is set on a case by case basis. Concessions may be successively renewed by agreement of the parties for additional periods of 15 years.

A sub-concession, in whole or in part, for the exploration of the services and infrastructures covered by the concession contract is permitted, provided 3 years have elapsed from the date on which the contract was entered into and subject to authorisation by MTTI. Any sub-concession involving the use of radio spectrum frequencies or numbering resources awarded to the concessionaire requires prior consent from INACOM. If a sub-concession is authorized, the original concessionaire retains its rights but also remains directly and personally liable for the obligations stipulated in the concession contract.

The Regulation provides that a concessionaire may not, without the express authorisation of the Angolan State (the grantor of the concession), adopt any resolution which, directly or indirectly, results in: *(i)* changes to its corporate scope; *(ii)* transformation, merger or winding-up of the company; *(iii)* changes to the shareholding structure or value of the company's share capital; *(iv)* suspension or discontinuation (temporary or definitive; in whole or in part) of the services covered by the concession.

In some cases, the Angolan State may terminate the concession. These include, among others, the following: *(i)* a delay of more than 6 months in the settlement of amounts due under the concession; *(ii)* bankruptcy of the concessionaire; *(iii)* total or partial transfer of the concession without the prior consent of the concession grantor; *(iv)* reiterated and unjustified breach of any obligations under the concession.

The award of licenses does not imply a tender procedure and licenses are awarded as multi-service licenses for an initial term of 10 years. Licenses may be transferred with prior approval from INACOM.

Interconnection between public electronic communications networks is mandatory and the General Interconnection Regulation, approved by Decree no. 13/04, of March 12 (the Interconnection Regulation), applies (and remains in force to the extent it is compatible with the Regulation until the complementary regulations mentioned therein are approved), as well as the Pricing Regulation for Public Telecommunications Services. The Interconnection Regulation governs interconnection between

public telecommunications networks in respect of switched telephony, internet, value-added and resale services.

The use of public domain radio spectrum depends on the award of individual rights of use in accordance with the National Frequencies Plan, as well as for numbering resources. These may be awarded: *(i)* by means of a public tender or auction procedure; *(ii)* in duly justified cases, by an individual award decision; *(iii)* by request addressed to INACOM. Individual rights of use to radio spectrum frequencies are usually awarded for a period of 10 years (unless they are included in a procedure also involving the award of a concession, in which case they are awarded for 15 years). Individual rights of use to numbering resources are awarded for an indeterminate period. The installation and management of radio-communications networks or stations requires an authorisation from INACOM.

Finally, the offering of electronic communications networks and services is subject to the payment of regulatory fees to INACOM. These are due for the following acts or situations: *(i)* issuance of the enabling title for the exercise of activities as electronic communications operator; *(ii)* exercise of activities as electronic communications operator; *(iii)* award of individual rights of use to radio spectrum frequencies and numbering resources; *(iv)* issuance of the award titles pertaining to individual rights of use to radio spectrum frequencies and numbering resources; *(v)* use of such rights. The respective amounts are set and periodically updated by joint executive decree of the ministerial departments that oversee electronic communications and finance.

22. FACTS AND FIGURES REGARDING THE REPUBLIC OF ANGOLA

Capital: Luanda.

Population: approximately 28 million.

Area and location: 1,246,700 km², west coast of Africa, bordering on the Congo Republic to the north, Zambia to the east and Namibia to the south.

Provinces: Bengo, Benguela, Bié, Cabinda, Cunene, Huambo, Huíla, Kuando Kubango, Kwanza-Norte, Kwanza-Sul, Luanda, Lunda-Norte, Lunda-Sul, Malange, Moxico, Namibe, Uíge and Zaire.

Major cities: Benguela, Lobito, Luanda, Lubango (Huíla), Huambo (Huambo).

Major ports: Lobito, Luanda and Namibe.

Major airports: 4 de Fevereiro International Airport (Luanda), Catumbela International Airport (Benguela), Mukanka International Airport (Lubango).

Languages: portuguese (official language), fiote, kikongo, kimbundo, ngangela, tchokwe, umbundo, among others.

Form and system of government: presidential republic.

Legal system: roman-germanic matrix.

International organisations: United Nations (UN), the Community of Portuguese Speaking Countries (CPLP), the African Union, Southern Africa Development Community (SADC), International Monetary Fund (IMF), among others.

Currency: Kwanza (AOA), in October 2020, the reference exchange rate of the Kwanza against the United States Dollar was 619,375.

Time zone: WAT (UTC+1).

Public bodies and other entities having an Internet website

Angolan Sovereign Fund (*Fundo Soberano de Angola*)

<https://fundosoberano.ao/en/>

Angolan Stock Exchange (*Bolsa de Dívida e Valores*)

<http://www.bodiva.ao/>

Capital Market Commission (*Comissão do Mercado de Capitais*)

<http://www.cmc.gv.ao/>

Court of Auditors (*Tribunal de Contas*)

<https://www.tcontas.ao/>

General Tax Administration (*Administração Geral Tributária*)

<http://www.agt.minfin.gov.ao/>

Government of Angola (*Governo da República de Angola*)

<http://www.governo.gov.ao/>

Integrated Citizen Attendance Service

(*Serviço Integrado de Atendimento ao Cidadão*)

<http://www.siac.gv.ao/>

Migration and Foreigners Service (*Serviço de Migração e Estrangeiros*)

<http://www.sme-angola.com/>

Ministry of Agriculture and Fisheries (*Ministério da Agricultura e Pescas*)

<https://www.sepe.gov.ao/ao/gov/sepe/ministerios/detalhe/4/>

Ministry of Economy and Planning (*Ministério da Economia e Planeamento*)

<http://www.mep.gov.ao/>

Ministry of Energy and Waters (*Ministério da Energia e Águas*)

[http://www.minerg.gov.ao /](http://www.minerg.gov.ao/)

Ministry of Finance (*Ministério das Finanças*)

[http://www.minfin.gov.ao /](http://www.minfin.gov.ao/)

Ministry of Geology and Mining (*Ministério da Geologia e Minas*)

[http://quadros.mgm.gov.ao /](http://quadros.mgm.gov.ao/)

Ministry of Industry (*Ministério da Indústria*)

<http://www.mind.gov.ao/>

Ministry of Justice and Human Rights

(*Ministério da Justiça e Direitos Humanos*)

[http://www.minjusdh.gov.ao /](http://www.minjusdh.gov.ao/)

Ministry of Mineral Resources, Petroleum and Gas

(*Ministério dos Recursos Minerais, Petróleo e Gás*)

<http://www.mirempet.gov.ao/>

Ministry of Public Administration, Labour and Social Security

(*Ministério da Administração Pública, Trabalho e Segurança Social*)

<http://www.maptss.gov.ao/>

Ministry of Trade (*Ministério do Comércio*)

<http://www.minco.gov.ao/>

Ministry of Tourism (*Ministério do Turismo*)

<http://www.mintur.gov.ao/>

Agency of Private Investment and Promotion of Exportations

(*Agência de Investimento Privado e Promoção das Exportações*)

<http://www.aipex.gov.ao/PortalAIPEX/#!/>

National Assembly of Angola (*Assembleia Nacional de Angola*)

<http://www.parlamento.ao/>

National Bank of Angola (*Banco Nacional de Angola*)

<https://www.bna.ao/default.aspx?idl=2>

National Social Security Institute (*Instituto Nacional de Segurança Social*)

<http://www.inss.gv.ao/>

One-Stop Shop for Business (*Guichê Único da Empresa*)

<http://gue.minjus-ao.com/>

Supreme Court (*Tribunal Supremo*)

<http://www.tribunalsupremo.ao/>

Morais Leitão Legal Circle

[Morais Leitão Legal Circle](#) was created by Morais Leitão, Galvão Teles, Soares da Silva & Associados, a leading Portuguese law firm, to address the needs of its clients throughout the world, particularly in Portuguese-speaking countries. It is an international network based upon shared values and common principles of action with the purpose of establishing a platform that delivers high quality legal services to clients around the world. It encompasses a select set of jurisdictions including Portugal, Angola and Mozambique.

Working in close cooperation, the member firms of the [Morais Leitão Legal Circle](#) combine their local knowledge with the international experience and support of the whole network, which enables each firm to maximise the resources available to its clients.

The purpose of the network is to facilitate the access of investors to these markets by helping them understand these diverse business and legal environments with specific practices and standards.

The experience of the members of the [Morais Leitão Legal Circle](#) provides a unique and integrated insight into these jurisdictions and guarantees investors timely and adequate strategic planning and support in structuring investments.

$$\frac{M}{L}$$

Member

LexMundi
World Ready

MORAIS LEITÃO

LEGAL CIRCLE

Supporting clients, anywhere, anytime.



MORAIS LEITÃO, GALVÃO TELES, SOARES DA SILVA & ASSOCIADOS

LISBOA

Rua Castilho, 165
1070-050 Lisboa
T +351 213 817 400
F +351 213 817 499
mlgtslisboa@mlgts.pt

PORTO

Avenida da Boavista, 3265 – 4.2
Edifício Oceanvs
4100-137 Porto
T +351 226 166 950 - 226 052 380
F +351 226 163 810 - 226 052 399
mlgtsporto@mlgts.pt

FUNCHAL

Av. Arriaga, n.º 73, 1.º, Sala 113
Edifício Marina Club
9000-060 Funchal
T +351 291 200 040
F +351 291 200 049
mlgtsmadeira@mlgts.pt

mlgts.pt

ALC AVOGADOS

LUANDA

Masuika Office Plaza
Edifício MKO A, Piso 5, Escritório A/B
Talatona, Município de Belas
Luanda – Angola
T +244 926 877 476/8/9
T +244 926 877 481
geral@alcadvogados.com

alcadvogados.com

HRA AVOGADOS

MAPUTO

Avenida Marginal, 141, Torres Rani
Torre de Escritórios, 8.º piso
Maputo – Moçambique
T +258 21 344000
F +258 21 344099
geral@hrlegalcircle.com

hrlegalcircle.com