

# **Foreign Investment Law**

*Law Number 15/94*

*Foreign Investment Law*

**National Assembly**

**23 September 1994**

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Foreign investment plays an extremely important role in the Country's economic development.

It is therefore important to establish a legal regime for it which, while not prejudicing the State's essential interests, will be sufficiently attractive to potential investors; providing them with both credible security guarantees and legal stability, and clear regulations and straightforward, rapid procedures.

This being so, an urgent reformulation of all current foreign investment legislation is required, starting with the content of its general legal regime.

Thus, under the terms of line b) of Article 88 of the Constitutional Law, the National Assembly passes the following:

## ***Chapter I - General Provisions***

### ***Article 1 (Scope)***

This Law sets out the foreign investment regime and procedures to be applied in the Republic of Angola.

### ***Article 2 (Promotion of Foreign Investment)***

The Government should promote and provide incentives for foreign investment that is consistent with the country's economic and social development and the general well-being of the population.

### ***Article 3 (Permissibility of Foreign Investment)***

1. Foreign investments are allowed to be made by suitably recognized entities with acknowledged technical and financial capacity, provided the investments are not contrary to:

- a) the economic and social developments strategies defined by the competent sovereign bodies
- b) the strategic guidelines and objectives set out in the economic policy programs;
- c) current law

2. Foreign investment is prohibited in the following areas:

- a) defense, internal public order and State security;
- b) banking activities involving central bank and issuing bank function;
- c) other areas which are considered by law to be absolutely reserved for the State.

#### ***Article 4 (Definitions)***

For the purposes of this Law the following definitions shall apply:

1) Foreign investment - the introduction into and utilization in national territory of capital, equipment and other assets or technology, or the use of funds with rights to transfer them abroad, or eligibility to do so, under existing foreign exchange

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legislation, by non residents individuals or entities, for the purposes of creating new companies, or groups of companies, branches or other forms of corporate representation of foreign companies, as well as for the total or partial acquiring of existing Angolan companies of companies.

- 2) Foreign investor - any non-resident individual or entity, regardless of their nationality,
- 3) National investor - any resident individual or entity, regardless of their nationality;
- 4) Competent body - The body referred to in Article 49 of the present Law. Investment by Angolan companies, or those established in Angola, shall also be considered foreign under the terms of part a) of the previous section if, as a result of majority ownership of their capital or any other form, they may be considered, as

directly linked to non-resident individuals or entities.

For the purposes of this Law the terms "resident" and "non-resident" shall be applied to individuals or entities who are considered as such under the foreign exchange legislation.

#### ***Article 5 (Foreign Investment Operations)***

Under the terms and for the purposes of the present Law, the following acts and contracts are considered as foreign investment activities, even if they are not directly linked with capital importing operations:

- a) setting up and expansion of branches or other forms of corporate representation of foreign companies, creation of new companies that belong exclusively to the investor, and acquiring of all or portion of already existing companies or groups of companies;
- b) the holding or acquisition of an interest in the equity of a new or already existing company or group of companies, regardless of the form this may take;
- c) entering into or alteration of consortium or association contracts with third parties by quotas or other capital shares;
- d) total or partial takeover of commercial or industrial establishments, by acquiring assets or through contracts involving the transfer of operations;
- e) total or partial takeover of agricultural companies, through leasing contracts or any other agreement that implies ownership or engaging in operations on the part of the investor;
- f) operation of property complexes, whether or not for purposes of tourism, and regardless of their legal status;
- g) realization of supplementary capital contributions, advances from partners and, in general, loans related to profit-sharing;
- h) acquiring property in national territory when such acquisition forms part of a foreign investment project.

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***Article 6 (Forms of Investment)***

1. Foreign investments may be made, singly or cumulatively, in the following ways:
  - a) transfer of funds from foreign countries;
  - b) investment of funds from foreign currency bank accounts set up in Angola by non-residents;
  - c) importing of equipment, accessories and materials;
  - d) incorporation of credits and other resources into Angola by foreign investors, which are eligible for transfer abroad under the terms of foreign exchange regulations;
  - e) incorporation of technology.
2. Foreign exchange transactions deriving from the acts enumerated above will be subject to the regulations set out in foreign exchange legislation.

## **Chapter II - Rights and Obligations**

### ***Article 7 (Foreign Investment Status)***

For all legal purposes, companies constituted under the protection of this Law have the rightful status of Angolan companies, and shall be subject to the application of common Angolan law, except as determined otherwise by this Law or by other specific legislation.

### ***Article 8 (Rights and Guarantees)***

- 1) Under the terms of the Constitutional Law and the principles that determine the country's legal, political and economic policies, the Angolan State shall ensure fair, non-discriminatory and equitable treatment to incorporated companies and assets imported under the protection of the Law, guaranteeing them protection and security and shall in no way hinder their management, existence and operations, without prejudice to the exercise of appropriate monitoring.
- 2) The foreign investor shall be guaranteed rights stemming from the ownership of the resources invested, and specifically the right to transfer abroad the following assets under the terms of the foreign exchange legislation:
  - 3) dividends or profits distributions, after the deduction of legally mandated withholdings and taxed due, taking into consideration the respective interests in the company's equity capital;
  - 4) proceeds of the sale of investments, including gains, after payment of taxes due;

5) any amounts which may be owing to them, after the deduction of respective taxes, as provided for in acts or contracts which constitute foreign investments in the terms of this Law.

6) In the exceptional event that the assets of the foreign investment be expropriated or nationalized, for reasons considered to be of great public interest, the State will ensure rapid, fair and effective indemnification, the amount of which will

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7) The State guarantees professional, banking and commercial secrecy for companies constituted under the protection of this Law, regarding activities carried out within the framework of approved projects.

8) Rights and guarantees provided for foreign investments under the terms of this Law are ensured without prejudice to any others that may result from agreements and conventions to which the Angolan State is party.

#### ***Article 9 (Obligations)***

Foreign investors shall have the following obligations:

- a) to respect current laws and regulations, as well as contractual commitments, and to submit to monitoring by competent authorities, providing them with any requested information;
- b) to create funds and reserves and make provisions under the terms of current legislation;
- c) to complete a statement of accounts according to the country's established accounting regulations;
- d) to comply with regulations relating to environmental protection, sanitation, and the protection and security of workers against occupational diseases and accidents at work, and other eventualities covered by social security legislation;
- e) obtain, and currently maintain, insurance cover against workers; professional accidents and occupational diseases, as well as insurance covering civil liability for damages to third parties.

#### ***Article 10 (Tax Regime)***

1. Companies covered by this Law shall be subject to compliance with current tax legislation, and have the same tax benefits as those set out for national companies.
2. Investments made under a contractual regime, in the terms of this Law, will also be able to take advantage of the special tax benefits set out in their respective contracts.

***Article 11 (Recourse to Credit)***

1. Companies covered under this Law will be able to apply for domestic and foreign loans, within the terms of current legislation.
2. Loans from foreign sources shall be subject to licensing and authorization from the Ministry of Finance and the Central Bank. However, the Central Bank will set the limit above which loans from foreign sources can only be made with its prior authorization.

**• *Article 12 (Bank Accounts)***

Companies covered by this Law may open bank accounts in local or foreign currency in banks domiciled in this country in accordance with current banking and foreign exchange legislation, unless they are covered by some special regime.

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***Article 13 (Labor Force)***

1. Companies covered by this Law shall promote the employment of Angolan workers and guarantee them the necessary professional training and social benefits identical with those of the foreign workers they employ.
2. Companies covered by this Law which employ a high proportion of Angolan workers, including in positions of management and responsibility, and which provide them with professional training and benefits equivalent to those of their foreign employees, shall benefit from special fiscal incentives and opportunities.
3. Companies covered by this Law shall be entitled to employ qualified foreign workers; however, they must comply with the respective plan for training national technicians and progressively fill these positions with Angolan workers.
4. Foreign workers contracted under the terms of the previous section will be subject to current law in the Republic of Angola.

#### ***Article 14 (Project Implementation)***

1. Implementation of the foreign investment project shall begin within a period set in the respective authorization.
2. In duly justified cases, and by request of the foreign investor, the abovementioned period may be extended by the competent body.
3. Implementation and management of the foreign investment project shall be done in strict conformity with the conditions for its authorization and applicable legislation, and contributions from abroad shall not be used in any way or to any purpose other than that for which it was authorized, nor shall the company alter the objectives for which it had been authorized.
4. Any broadening of the company's objectives to fields of activity not included in its authorization, shall require prior authorization from the competent body.

#### ***Article 15 (Monitoring)***

In order to facilitate monitoring of the implementation of the authorized foreign investments, companies must provide information to the competent body, on an annual basis, showing the results and development of their activities, by completing the questionnaire which the competent body shall send them for this purpose.

#### ***Article 16 (Transfer of Contractual Status)***

Total or partial transfer of the contract or corporate status relating to the foreign investment may only occur through prior authorization of the Ministry of Finance, with any existing domestic investors retaining the right of preference in every case.

#### ***Article 17 (Dissolution and Liquidation)***

1. Companies constituted under the present Law shall be dissolved in cases provided for under legal and regulatory clauses of the respective contract or incorporation document, as well as those in the following circumstances:
  - a) the expiry of a pre-determined period of time;
  - b) the decision of the shareholders;

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- c) the full achievement of the corporate objective or the impossibility of achieving it;
  - d) failure to raise the capital necessary to operate the company;
  - e) subsequent declaration of its corporate objective as being illegal;
  - f) the bankruptcy of the company;
  - g) notable deviation from the company's corporate objective;
  - h) all other cases provided for under commercial legislation.
2. The dissolution and liquidation of a company constituted under the foreign investment regime shall be subject to current commercial legislation.

### ***Chapter III - Foreign Investment Procedures***

#### ***Article 18 (Listing of the Regimes)***

Foreign investments may be processed under the following regimes:

- a) prior declaration regime;
- b) prior approval regime;
- c) contractual regime.

#### ***Article 19 (Exclusion)***

Foreign investment transactions valued at less than the equivalent of two hundred and fifty thousand U.S. dollars shall be excluded from the specific procedures established by this Law, and shall be subject only to the general regime for foreign exchange transactions

#### ***Article 20 (Framework)***

Investments valued at the equivalent of between two hundred and fifty thousand and five million U.S. dollars shall be subject to the prior declaration regime.

#### ***• Article 21 (Submitting the Proposal)***

Foreign investment proposals shall be submitted to the competent body, accompanied by the documentation necessary for the (illegible) and legal characterization of the

investor and the planned investment.

***Article 22 (Evaluation of the Proposal)***

- 1) Upon receipt of the proposal the competent body shall have a period of forty-five days in which to evaluate it and render a decision.
- 2) During that period, the competent body shall solicit the opinion of the Ministry responsible for the area of the investment.

***Article 23 (Rejection of the Proposal)***

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Rejection of the proposal, which shall be formally communicated to the applicant by the competent body, may only be based on reasons of a strictly legal nature.

***Article 24 (Acceptance of the Proposal)***

- 1) In the absence of express rejection of the proposal, upon expiry of the period referred to in No. 1 of Article 22 the proposal shall be deemed to be accepted, which grants the applicant the right to carry out the investment under the precise terms of the proposal that was submitted.
- 2) To this effect, the competent body shall issue, within a period of fifteen days, a statement certifying its acceptance of the proposal, a copy of which, certified by the body shall be returned to the applicant.

***Article 25 (Framework)***

Investments valued at the equivalent of between five million and fifty million U.S. dollars shall be subject to the prior approval regime.

***Article 26 (Submitting the Proposal)***

Foreign investment proposals shall be submitted to the competent body, accompanied by the documentation required for the legal, economic, financial and technical identification and characterization of the investor and the planned investment.

***Article 27 (Evaluation of the Proposal)***

- 1) Upon receipt of the proposal, the competent body shall have a period of ninety days

in which to evaluate it and give its opinion.

2) During that period, the competent body shall analyze and evaluate the proposal, being counseled by the opinion of the evaluation committee to which the Council of Ministers Resolution N' 2/90 of January 6th refers.

***Article 28 (Rejection of the proposal)***

1) The rejection of a proposal is within the competence of:

- a) the Minister of Planning and Economic Coordination for investments valued at the equivalent of between five and fifteen million U.S. dollars;
- b) the Prime Minister for investments valued at between fifteen and fifty million U.S. dollars.

2) The rejection of the proposal, which shall be formally communicated to the applicant by the competent agency, may only be based on:

- a) reasons of a legal nature;
- b) undesirability of the planned investment in the light of the investment strategy defined by the competent sovereign bodies of the objectives established in the economic and social plans.

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***Article 29 (Approval of the proposal)***

1. In the absence of express rejection of the proposal upon expiry of the period referred to in N1 of Article 27, it shall be remitted for decision:

- a) to the Prime Minister in the case of investments valued at the equivalent of up to fifteen million U.S. dollars;
- b) to the Council of Ministers in the case of investments valued at more than the equivalent of fifteen million U.S. dollars.

2. Approval shall take the form of an executive decree in the case of part a) above and a decree in the case of part b) above, to be published in the *Diario da Republica*.

***Article 30 (Framework)***

The following categories of investment shall be subject to the contractual regime:

- a. investments valued at greater than the equivalent of fifty million U.S. dollars;
- b. regardless of the value, investments involving areas of economic activity in which operations and management may only legally be carried out through a concession;
- c. regardless of the value, investments considered to be of special significance to the national economy, whether for structural purposes or by reason of their contribution to the development and internationalization of the national economy.

***Article 31 (Characterization of the Contractual Regime)***

1. The contractual regime of foreign investment is essentially characterized by:
  - a) definition and quantification of the objectives to be undertaken by the foreign investor during the contract period;
  - b) definition and quantification of the tax benefits and other incentives to be granted and ensured by the Government to the foreign investor, in compensation for accurate and timely compliance with the predetermined objectives.
  - c) effective and systematic monitoring by the State of the activities involved in carrying out the investment during the contractual period.
2. Investment contracts are administrative in nature, with the parties being the State, represented by the Minister of Planning and Economic Coordination, and the foreign investor.
3. It is permitted to agree in investment contracts that any litigation arising from the interpretation and execution of said contracts be resolved through arbitration.
4. In the cases referred to in section 3 above, arbitration must take place in Angola, and Angolan law will apply to the contract.

***Article 32 (Submitting the Proposal)***

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Foreign investment proposals shall be submitted to the competent body, accompanied by the documents required for the legal, economic, financial and technical description and characterization of the investor and the planned investments.

### ***Article 33 (Access to the Regime)***

Upon receipt of the proposal, the competent body must decide, within a period of ten days, the appropriateness of the contractual regime, and this decision will be formally communicated to the applicant.

### ***Article 34 (Evaluation of the Proposal)***

1) After determining the appropriateness of the regime as described in the previous article, the competent body shall have a period of thirty days in which to evaluate and give its opinion on the proposal.

2) During that period, the competent body shall analyze and evaluate the proposal, seeking the assistance of the evaluation committee to which the Council of Ministers Resolution N 2/90 of January 6th refers.

### ***Article 35 (Rejection of the Proposal)***

1) Rejection of the proposal is within the competence of:

a) the Minister of Planning and Economic Coordination, for investments which are valued at less than the equivalent of fifteen million U.S. dollars, in the cases mentioned in sections b) and c) of Article :30 of this Law;

b) the Prime Minister, for all the other cases mentioned in Article 30 of this Law.

2) Rejection of the proposal, which shall be formally communicated to the applicant by the competent agency, may only be based on:

a) reasons of a legal nature;

b) undesirability of the planned investment in the light of the development strategy established by the competent sovereign bodies or the objectives set out in the economic and social development plans.

### ***Article 36 (Negotiations)***

In the absence of express rejection of the proposal, it shall be submitted to the evaluation and decision of the Ministry of Planning and Economic Coordination, for the purpose of:

1. appointing a negotiation committee;
2. defining negotiating guidelines and instructions. including estimating its duration.

a) The decision referred to in the previous section must be rendered within a period of fifteen days.

b) Without prejudice to the specific circumstances of each particular case, the committee to which part a) of this Article refers shall be coordinated by

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***Article 37 (Approval of the Contract)***

Upon conclusion of the negotiations, the draft contract shall be remitted by the competent body to the Ministry of Planning and Economic Coordination which, in turn, shall forward it to the Council of Ministers for approval.

Approval by the Council of Ministers shall take the form of a resolution to be published in the *Diario da Republica*.

The contract shall be granted in a private document, the original of which is to remain in the archives of the competent body.

***Article 38 (Correction of the Proposals)***

In the event that the submitted proposals are either deficient or insufficient in form, the competent body shall notify the applicant, fixing a time limit for the proposal to be corrected or revised.

***Article 39 (Complaint against the Rejection Decisions)***

Complaints against rejection decisions that have been made under the terms of Articles 23, 28, 33 and 35, shall be made to the hierarchically higher authority concerned, and shall be filed within a period of 30 days.

***Article 40 (Remittance to the Central Bank)***

1. After approval of the foreign investment project under the terms set forth in the previous sections, the competent agency shall remit the documents comprising the plan to the National Bank of Angola, within a period of eight days, for purposes of licensing the capital transactions.
2. In the event that the prior declaration regime is used, the applicant shall be required to solicit a permit directly from the National Bank of Angola by submitting the

statement referred to in N<sup>o</sup> 2 of Article 24 of this Law.

***Article 41 (Constitution and Modification of Companies)***

1. In the event that the planned investment implies creating or modifying the status of companies, such acts must be granted by public deed.
2. No deeds relating to activities involving foreign investment operations covered by this Law, or outside its term of effectiveness, may be registered, under penalty of cancellation of the activities in question, without the granting of a license issued by the National Bank of Angola and without the express written approval of the competent body of the Instrument to be granted.

***Article 42 (Commercial Registration)***

1. The constitution of companies, and the modification of the Status of existing companies, under the protection of this Law, shall be subject to commercial registration, according to the terms of current legislation.

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2. Branches and other forms of representation of foreign companies shall also be subject to commercial registration, which, however, shall be conditional upon the receipt of a license issued by the National Bank of Angola and upon the express written approval by the competent body of the instruments to be registered.

***• Article 43 (Other Registration)***

Upon settlement of capital transactions, and if applicable, upon award of deeds and corresponding commercial registrations, the investment must be registered with the competent body and the National Institute of Statistics, within a period of one hundred and twenty days.

***• Article 44 (Central Bank Information)***

On a quarterly basis, the National Bank of Angola shall remit information to the competent body on foreign exchange transactions carried out within the framework of the foreign investment.

***Article 45 (Competitive Bids and Direct Agreements)***

In cases in which the foreign investment projects are preceded by a competitive bid,

public or restricted, or by direct agreement, the procedures established under this Law shall be applied with adaptations as necessary or appropriate.

#### ***Chapter IV - Violations & Sanctions***

##### ***Article 46 (Violations)***

1. Without prejudice to the provisions of other legal documents, acts of non compliance, malicious or negligent, with the legal obligations to which the foreign investor is liable, constitute violations.

2. Specifically, the following acts shall constitute violations:

- a. use of funds originating from foreign sources for purposes other than those which have been authorized;
- b. practice of commercial activities outside the scope of the authorized objective;
- c. invoicing practices that permit the outflow of capital or which evade the obligations to which the company or association is liable, specifically those of a tax nature;
- d. failure to carry out training activities or failure to replace foreign workers with domestic workers, under the conditions and within the time limits provided for in the investment proposal.

##### ***Article 47 (Sanctions)***

1. Without prejudice to other sanctions specifically provided for by law the violations referred to in the previous Article shall be subject to the following sanctions:

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- a. fines ranging from the equivalent of one thousand to one hundred thousand U.S. dollars, with the minimum and maximum to be increased by a factor of three in the event of a repeat violation;
- b. loss of tax incentives;
- c. revocation of authorization for the investment.

2. Failure to implement the project within the time limits set for it in the authorization or extension is liable to the sanction provided for in line c) of the previous section.

### ***Article 48 (Decisions and Appeals Regarding Sanctions)***

1. The sanctions provided for in lines a) and b) of the previous Article shall be applied by the Ministry of Planning and Economic Coordination when the investment had been approved by the Minister of Planning and Economic Coordination; in cases provided for by line c) and in all cases in which approval as granted by the Council of Ministers, this will decide on the sanctions to be applied.
2. Foreign investors must obligatorily be heard prior to the application of any sanctions.
3. In determining the sanction to be applied, all circumstances surrounding the violation or degree of culpability, the intended benefits and the benefits obtained by committing the violation/ and the damage resulting there from, must be taken into consideration.
4. Foreign investors may file claims against, or appeal, against the sanctions under the terms of current legislation.

### ***Chapter V - Final & Transitory Provisions***

#### ***Article 49 (Competent Body)***

The body responsible for ensuring the implementation of national policy In the area of foreign investment, as well as for promoting, coordinating, guiding and monitoring foreign investment, is the Foreign investment Bureau, Instituted by decree NC 6/89 of 1st April, under the guidance of the Minister of planning end Economic Coordination, which is responsible for nominating the Bureau's directors.

#### ***Article 50 (Special Legislation)***

1. Foreign investments in the areas of oil production and diamond mining and in the area of financial institutions shall be governed by special legislation.
2. Investments referred to in the section above shall benefit from the protection and have the general obligations Covered in this Law.

#### ***Article 51 (Previous Investment Projects)***

1. This Law and its regulations do not apply to Investments authorized prior to its coming into effect, which investments shall remain unchanged until their

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respective termination, to be governed by the provisions of the legislation and the specific terms or contracts by which their authorization had been granted

2. However, foreign investors may make a request to the competent body to have their already approved projects reviewed and re-approved within the regime of this Law with the decision on this requests falling to the Minister of Planning and Economic Coordination.

3. Investment plans submitted for analysis and approval up to the time that this Law comes into effect shall be analyzed and decided upon under the terms of this Law, making use of the procedures that have already been applied, with the necessary adaptations.

***Article 52 (Revoking Procedure)***

1. Law No. 13/88, of 16th June shall be revoked, as shall other legislation contrary to the provisions of this Law.
2. Current regulatory legislation relating to foreign investment insofar as it is not contrary to the provisions of this Law and is not revised, shall continue to be applicable.

***Article 53 (Rules and Statutes)***

Rules and statutes repudiating this Law shall be passed by the Council of Ministers, which within a period of ninety days, shall review and bring up to date the current legislation, specifically Decree No. 6189 Of 1st April.

***Article 54 (Disputes and Omissions)***

Disputes and omissions resulting from the interpretation and application of this Law shall be resolved by the National Assembly.

***Article 55 (Term of Effectiveness)***

This Law shall come into effect fifteen days after its publication in the *Diario da República*.

**Reviewed and approved by the National Assembly.**

**PRESIDENT OF THE NATIONAL ASSEMBLY FERNANDO JOSE FRANCA  
VAN-DUNEM**

**PRESIDENT OF THE REPUBLIC JOSE EDUARDO DOS SANTOS**