

# ECONOMIC LEGISLATION

## The Mining Code

- VIII -

Maria Luísa Abrantes

## **Preface**

In order to meet a noticeable lack of publications, in English, highlighting Angola's most important economic legislative measures, Maria Luísa Abrantes has compiled works on recent Economic Legislation in that language, for the first time in the history of Angola, since 2005.

Maria Luísa Abrantes is the President of ANIP – Angola National Private Investment Agency, as well as having been its co-founder. She has held other key executive post in the Angolan Government and in private companies. In addition, from 1985 to 1994, she lectured on both Economic and Mining Law at Agostinho Neto University's Law and Economics Faculties, in Luanda.

She already has various published works, among which, comparative studies on Angolan economic and mining legislation, for the exclusive use of students at the above university. This eighth volume consists of a collection of the most important economic legislation, introduced to regulate activities in Angola's private sector. This has been put in place by its government, within the scope of an economic-reform program, and it's aimed at encouraging and attracting private investment.



# A Brief Presentation

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

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

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

Maria Luísa Abrantes

President of ANIP

**Law Nº 31/11**

**of September 23, 2011**

The subsoil of Angola possesses abundant and varied mineral resources. The mining and rational utilization of those resources constitute an important means toward achieving sustained economic growth and development, thereby contributing to the well-being and happiness of today's and future generations.

For reasons bound to both our economic and social history, and to the reality of our legal system, any geological and mining activity that does not involve oil and gas has been regulated by a series of separate pieces of legislation. Spread out over various laws, decrees and other legislative acts, they were mainly approved within an economic and social context differing from that of today.

The current economic and social reality is characterized by market dynamics and an economic growth that increasingly calls for private investment in mining to be made in the non-oil/gas sector.

In light of that, it has now become imperative to create a modern and wide-ranging regulatory system that embraces a series of legal rules and principles on mining within the same law, which will go a long way to making it easier to manage, understand and comply with the regulations enshrined therein.

On the other hand, the increase in competitiveness in the mining sector, not only in relation to the southern area of the continent but also internationally, calls for clarity in mechanisms that provide access to and exercise of mining rights, along with the establishment of adequate regimes for the protection of mineral mining rights and their regulation. At the same time, the public interest inherent in the proprietary nature of natural resources on the part of the State must be efficiently protected, together with the need to increase employment and collect tax revenues and, by so doing, contribute to the fight against poverty and to improving people's living standards.

The National Assembly hereby approves, by mandate of the people, in accordance with the combined provisions of paragraph I) of Nº 1 of article 165, and of paragraph c) of Nº 2 of article 166, as enshrined in the Constitution of the Republic of Angola, the following:

**Law Approving the Mining Code**

**ARTICLE 1**

**(Approval of Mining Code)**

The Mining Code, appended to this law is hereby approved of which it is an integral part.

## **ARTICLE 2**

### **(Application)**

In all that does not contradict the spirit and letter of the Mining Code, development regulations and other complementary laws shall continue to be applicable until the complementary laws substituting same are approved.

## **ARTICLE 3**

### **(Environmental Preservation)**

The provisions of the Mining Code as regards the environment shall apply to the protection and conservation of flora and fauna, without prejudice to regulations on the same issue that are more beneficial to the conservation of those assets, with the focus being placed on legislation for national parks and nature reserve areas.

## **ARTICLE 4**

### **(Regulation)**

The Titleholder of the Executive Power shall be responsible for regulating the legal rules and principles contained in the Mining Code, whenever such need be imposed.

## **ARTICLE 5**

### **(Repeal)**

All legislation contradicting that set down in the Mining Code is hereby repealed, namely:

- a) Law N° 1/92, of January 17, 1992 - Geological & Mining Activities;
- b) Law N° 16/94, of October 7, 1994 - Diamond Law;
- c) Law N° 17/94, of October 7, 1994 - Law on Special Regime for Zones Reserved for Diamond Mining;
- d) Decree N° 12-B/96, of May 24, 1996 - Customs Regime Applicable to Mining Sector;
- e) Decree N° 4-B/96, of May 31, 1996 - Tax Regulations for Mining Industry;
- f) Decree N° 7-A/00, of February 11, 2000 - Delimitation of Concession Areas with Mining Rights;
- g) Decree N° 7-B/00, of February 11, 2000 – On Diamond Trading;
- h) Decree N° 36/03, of June 27, 2003 - Policy for Concession of Mining Rights to Diamond Mining Sub-Sector;
- i) Executive Decree N° 156/06 of December 22, 2006 – On Trading of Diamonds;

- j) Decree Nº 33/08, of May 7, 2008 - Regulating the Concession of Mining Rights for Certain Strategic Minerals;
- k) Decree-Law Nº 2/08, August 4, 2008 - Regulating New Mining Activity Exemption Procedures.

## **ARTICLE 6**

### **(Processes Pending)**

The Mining Code rules shall be applied to processes pending at the time of their coming into force, provided that such application is more favorable to the protection of the private interests at stake.

## **ARTICLE 7**

### **(Doubts & Omissions)**

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

## **ARTICLE 8**

### **(Enactment)**

This law shall come into effect 90 days subsequent to the date of its publication.

Seen and approved by the National Assembly, in Luanda, June 19, 2011.

The Speaker of the National Assembly, António Paulo Kassoma.

Promulgated on September 9, 2011.

Let it be published.

The President of the Republic, José Eduardo dos Santos.

## **PART I**

### **General Legal Regime**

## **BOOK I**

### **Mining Rights in General**

## **CHAPTER I**

### **General Provisions**

## **SECTION I**

### **Object & Scope of Application**

## **ARTICLE 1**

### **(Object)**

This Code shall regulate all geological-mining activity, namely, geological investigation, discovery, characterization, assessment, mining, trading, utilization and efficient use of mineral resources existing on the surface, in the subsurface, inland waters, territorial waters, continental shelf, exclusive economic zone and in other areas of territorial and marine domain under the jurisdiction of the Republic of Angola, as well as access to and exercise of the rights and obligations related to them.

## **ARTICLE 2**

### **(Scope of Application)**

1. The activity described in the previous article shall cover, namely:

- a) geological studies and geological mapping;
- b) exploration of mineral resources;
- c) mining, cutting and beneficiation of mineral resources;
- d) trading of mineral resources or other forms of disposing of the mined product;
- e) restoration or reclamation of areas affected by mining activity;
- f) exploration, extraction, processing and marketing of mineral water;
- g) exploration, mining and trading of mineral resources existing in territorial waters, continental shelf and exclusive economic zone.



2. Any other geological-mining activities, classified as such by regulatory bodies, shall be subject to the regulations established in this Code and in that of special legislation that may eventually be approved in that respect.

3. Geological-mining activities related to resources existing in marine areas coming under the jurisdiction of the Republic of Angola shall be subject, with the necessary modifications, to the provisions established in this Code, as well as those that may eventually be approved by complementary legislation on the subject.

### **ARTICLE 3**

#### **(Exclusions)**

Activities related to the exploration and mining of liquid and gaseous hydrocarbons shall be excluded from this Code.

### **ARTICLE 4**

#### **(Definitions)**

The meaning of the terms and expressions utilized in this Code are set out in the glossary constituting Appendix I to same and of which it is an integral part.

### **ARTICLE 5**

#### **(Classification of Minerals)**

1. For the purposes of this Code, minerals shall be classified in accordance with the list constituting Appendix II to same and of which it is an integral part.

2. The Executive Power shall be responsible for updating the list referred to in the previous number, in line with scientific and technological advances recorded on the subject and of the need to harmonize with similar lists produced by international organizations of which Angola is a member.

## **SECTION II**

### **Principles & Goals of Mining Sector**

#### **SUBSECTION I**

##### **Minerals in General**

### **ARTICLE 6**

#### **(Mining Policy)**

1. It shall be incumbent on the Executive Power to approve mining policy and the strategy for its implementation, defining the resources, goals and timeframes for their application.
2. When drawing up mining policy, the Executive Power must respect the fundamental principles and rules of the Constitution, the economic regime in force, and the regulations of this Code, as well as the legal principles and strategic goals established for mining activity, in the following articles.

### **ARTICLE 7**

#### **(Planning for Mining)**

1. It shall be incumbent on the Executive Power to guide and plan the development of national mining, in line with the principles and regulations established in this Code and with the Executive policy and strategy for the mining sector.
2. When planning for mining, the Executive Power must provide for effective measures of sustainable economic development and for the protection of the rights and legitimate interests of local communities, as well as the development of national human resources.

### **ARTICLE 8**

#### **(Strategic Goals for Mining Sector)**

The strategic goals for the mining sector shall be as follows:

- a) ensure the country's sustained economic and social development;
- b) create jobs and promote the improvement of the living standards of people living in mining areas;
- c) guarantee tax revenues for the Central and Local Government of the State;

- d) support and protect the private business community, giving preference to Angolan entrepreneurs when granting mining rights;
- e) stimulate, within the scope of public-private partnerships, with the participation of public and private banks, the emergence of Angolan business groups that are both technically and financially capable of competing on the national and regional mining market, especially in the Southern African Development Community (SADC) region;
- f) harmonize national mining legislation, insofar as possible, with regional and international mining legislation, taking into account the best practices in place;
- g) guarantee integration of that kind and fight discriminatory practices in the mining industry;
- h) protect the environment by reducing the negative impact that geological-mining operations may cause to the environment, as well as make reparation for the disastrous effects that may be triggered;
- i) combat practices disregarding environmental regulations;
- j) combat unlicensed mining and other illegal mining practices;
- k) establish an effective, swift and transparent system for the granting of mining rights, based on the principle of free access, in strict compliance with the law and within the framework of the mining policy and strategy approved by the Executive;
- l) ensure the sustainable development of national executives and workers, particularly through training programs and the development of human resources;
- m) preferentially utilize mineral resources to be transformed and sold in the country, or as raw materials for the manufacturing industry, construction materials, agricultural additives and other national applications;
- n) avoid the export of mineral resources that compel the country to import the same type of minerals in the short or medium term;
- o) motivate reinvestment in the country of income obtained from the exploitation of mineral resources;
- p) implement, before the closure of mines, ventures that provide new jobs for workers and avoid the displacement of inhabitants and economic recession in abandoned mining areas.

## **ARTICLE 9**

### **(Sustainable Mining of Mineral Resources)**

The mining of mineral resources must be realized in a sustainable manner and for the benefit of the national economy, with strict observance of the regulations on security, the economic use of land, local community rights and environmental protection and conservation.

## **ARTICLE 10**

### **(State Intervention in Mining Sector)**

1. The State may intervene, economically, in the mining sector, be it by means of regulatory bodies and national concessionaires, or be it through operating companies, with all these entities being subject to the principles and regulations established in this Code, as well as legislation on investment and on public enterprises or companies with public capital.

2. The Executive may create public institutions to regulate mining activities whenever there is a need to specifically regulate the respective mining activity, or the market, prices, exports, public health, or other relevant specific factors.

## **ARTICLE 11**

### **(Participation of State in Mining Production)**

1. The State shall share in the appropriation of the mining product as a quid pro quo for granting mining and trading rights, with it being empowered to utilize one of the following methods or both combined:

- a) stakes, through a State enterprise, in the capital stock of the commercial companies to be incorporated, with it not being permissible for the State to hold a stake of less than 10%;
- b) shares in kind in the mineral product obtained in proportions to be defined throughout the production cycles, with the State's share rising as the Internal Rate of Return (IRR) increases.

2. It shall be incumbent on the Titleholder of the Executive Power to approve the criteria for stakes held by State enterprises in commercial companies and share in kind of the mineral production rated against the IRR, with the Titleholder being empowered to delegate that responsibility to the head of the regulatory body.

## **ARTICLE 12**

### **(Right to Requisition Mining Production)**

1. Whenever the commercial interests of the country so require, in regard to the processing, enrichment, or increase in the local market value of minerals produced, the State may requisition the purchase of production, or part of same, and acquire same at market prices, allocating them to local industry.

2. The requisition right of the State as defined in this article shall apply irrespective of the utilization, or otherwise, of production in the local mineral industry, whenever this is of strategic interest to national security.

## **ARTICLE 13**

### **(Areas Available for Mining)**

1. Those areas of territorial and marine domain under the jurisdiction of the Republic of Angola that have not been granted for the purposes of carrying out other activities, or are not connected to them, shall be deemed available for the purpose of granting mining rights.

2. The Executive may, in accordance with article 204, declare zones reserved for mining in parts of national territory that present considerable mining potential and that, as such, call for the observance of restrictions on the circulation of people and goods in those areas.

3. The declaration and creation of zones reserved for mining must take into account the need to guarantee or to disturb as little as possible the integrated economic and social development of regions, the social and cultural stability of local populations and the protection of rights and of public and private assets.

## **ARTICLE 14**

### **(Areas Excluded from Mining)**

1. In order to ensure the harmonious development of the national economy, protect interests related to national defense, fauna, flora and the environment, the Executive Power may, in accordance with law, establish areas excluded from or conditioned for geological-mining activities.

2. Without prejudice to other cases of unavailability that may eventually be defined in law, land that forms part of the public domain, for the common or private use of the State, while the latter has not disposed of same, and areas that, for the purposes of that stipulated in the previous number, are excluded from geological and mining activities shall be deemed unavailable for mining.

## **ARTICLE 15**

### **(Configuration of Areas)**

The configuration of geographical areas, which are the subject of mining concession titles, shall be of a polygonal form, as regular and simple as possible, and shall be identified by fixed points defined by geographical or geodesic coordinates or by natural contours, in accordance with that which may be eventually established by the regulatory body.

## **ARTICLE 16**

### **(Community Rights)**

1. Mining policy must always take into account the customs of communities in those areas where mining activities are developed and contribute to their sustainable economic and social development.

2. The regulatory body, in coordination with local State entities and the holder of the mining rights, must create consultation mechanisms that allow local communities affected by mining projects to actively participate in decisions relating to the protection of their rights, within constitutional limits.

3. The consultation mechanism referred to in the previous number must integrate persons of recognized integrity and reputation in the said communities, chosen in accordance with local methods and customs, provided they do not conflict with the Constitution.

4. Consultation shall be mandatory in all cases in which the implementation of mining projects may result in the destruction or damage of material, cultural or historical assets belonging to the local community as a whole.

## **ARTICLE 17**

### **(Relocation Rights)**

1. Local populations that suffer damage to their homes, which implicates their having to be displaced or causes disruption to their normal housing conditions due to mining activities, shall be entitled to be relocated by the titleholder of the respective concession.

2. The relocation process must respect the habits, customs, traditions and other cultural aspects inherent to the said communities, provided such do not conflict with the Constitution.

## **ARTICLE 18**

### **(Local Workforce)**

Holders of mining rights must ensure the employment and training of Angolan technicians and workers, preferentially of those who live in mining concession areas, in accordance with that which is legally established.

## **ARTICLE 19**

### **(Protection of National Market)**

1. In conditions where prices do not exceed 10% and where delivery deadlines do not surpass eight business days, holders of mining rights must give preference to the utilization of national materials, services and products, whose quality is compatible with the economy, safety and efficiency of mining operations.

2. Those entities that feel prejudiced in the legal protection right as defined in N° 1 of this article may apply to the respective administrative or judicial authorities, for the protection or reestablishment of same, in accordance with the general terms of law.

## **SUBSECTION II**

### **Strategic Minerals**

## **ARTICLE 20**

### **(Legal Classification)**

1. Whenever their economic importance or the technical specificities of their mining so justify, some minerals may be classified as strategic.
2. Those elements classifying a mineral as strategic shall be:
  - a) rarity;
  - b) scale of demand on international market;
  - c) relevant impact on growth of the economy;
  - d) creation of a major number of jobs;
  - e) relevant positive influence on the balance of payments;
  - f) importance for defense industry;
  - g) relevant importance for cutting-edge technologies.
3. The elements referred to in the previous number may be considered separately or cumulatively.

## **ARTICLE 21**

### **(Power to Classify)**

1. It shall be incumbent on the Titleholder of the Executive Power to grant due consent so that minerals may be classified as strategic.
2. As of now, among others, diamonds, gold and radioactive minerals shall be considered as strategic minerals.

## **ARTICLE 22**

### **(Applicable Regime)**

1. The exploration, mining, processing and trading of minerals legally considered as strategic shall be subject to the principles and regulations for the policy and strategy on minerals in general, with the modifications that arise out of the following articles, specific regulations established in this Code and complementary legislation.

2. Aside from those cases provided for in this Code and whenever it is justified, it shall be incumbent on the Executive Power to approve separate regulations earmarked to regulate specific aspects of the mining of certain strategic minerals.

3. The regulations referred to in the previous number must be created and interpreted in harmony with the regulations and principles enshrined in this Code.

## **ARTICLE 23**

### **(National Concessionaires)**

1. The rights granted for prospecting and mining, as well as the processing and trading of strategic minerals throughout the whole of national territory, including territorial waters, continental shelf and exclusive economic zone, may be attributed in exclusivity to a specific public entity, undertaking the role of the national concessionaire of those rights.

2. National concessionaires for mining rights on strategic minerals shall be created by the Executive Power, with it being incumbent on them to represent the State in the regulation and monitoring of the exercise of the mining rights of the respective strategic mineral by mining operators.

3. National concessionaires shall be of the same nature as a public enterprise, being governed by the respective legislation.

4. The specific responsibilities of national concessionaires shall not prejudice the general powers and responsibilities of the Executive Power, or that of the regulatory body and other institutions of the State holding authority, in accordance with this Code and law.

5. National concessionaires cannot directly exercise mining, processing and trading rights, with their being, however, able to exercise those rights through the incorporation of companies solely held by them.

## **SUBSECTION III**

### **Offshore Mining**

## **ARTICLE 24**

### **(Legal Regime)**

1. The legal regime for exploration, mining, processing and trading as established in this Code shall be applicable to mineral resources existing in territorial waters, continental shelf and exclusive economic zone. Likewise, those designated generically in this Code as "Sea", shall be governed by the provisions of this Code, with the necessary modifications.



2. The regulations applicable to the concession and exercise of the prospecting, research, investigation and mining rights of mineral resources in territorial waters, continental shelf and exclusive economic zone shall be interpreted in harmony with the United Nations Convention on the Law of the Sea, namely, Part XII, on the Protection and Preservation of the Marine Environment.

3. The realization of other mining activities in territorial waters, continental shelf and exclusive economic zone that cannot be regulated by the regulations of this Code with regard to the exploration and mining of surface and subsurface mineral resources shall be regulated by regulations approved by the Executive Power.

4. The creation of specific regulations for the concession and exercise of mining rights in territorial waters, continental shelf and exclusive economic zone must take into account the following factors:

- a) international offshore mining standards;
- b) technology utilized in countries with a greater tradition in the recovery of minerals from seabeds;
- c) effect of that activity on the environment and its effective prevention;
- d) effect on other forms of efficient use of the sea;
- e) specific form for the demarcation of areas and control of access to restricted zones and security of same.

## **ARTICLE 25**

### **(Investment & Concession of Rights)**

1. The investment regime and that of granting mining rights for the prospecting, research, investigation and mining of mineral resources in the Sea shall be that applicable to investment in the mining industry as defined in this Code, depending on whether minerals are regarded as common or strategic.

2. Contracts granting Sea mining rights must always contain specific clauses on this subject, in relation to the particularities of the mining of minerals in the sea, namely, regarding demarcation, environmental preservation, work-related safety standards and regime governing access to drilling platforms and the protection of workers in light of specific working conditions.

## **ARTICLE 26**

### **(Feasibility Study)**

Where mining in the Sea is concerned, the Technical, Economic and Financial Feasibility Study referred to in this Code as a condition for the approval of the respective mining investment contract and the granting of mining titles, shall always be subject to an independent audit by an auditor

selected by the national concessionaire, when the latter exists, or, failing that, by the regulatory ministry.

## **ARTICLE 27**

### **(Determination of Concession Areas)**

1. The determination of concession areas for Sea mining rights shall be made with recourse to existing geological and geographical studies, with the approval of all ministries that intervene in matters of the sea.
2. The exercise of prospecting, research, investigation and mining rights for mineral resources in the Sea must abide by the mining plans for the mineral resources existing there.
3. Until such time as geodesic and geophysical studies of marine resources are performed for mineral purposes, the determination of areas and the granting of rights shall be achieved by making individualized studies to be performed on each area, after their having been approved and demarcated by the regulatory authorities.

## **ARTICLE 28**

### **(Overlap of Areas & Activities)**

1. Should there be an overlap of areas when mining minerals of different types in the Sea, preference for one or the other shall be made by taking into account the relative public interest of the conflict in mining same and the antiquity of the concessions, according to the terms defined in article 41 (on overlap of registered areas).
2. When an application for a mining concession in the Sea coincides with an area that is to be utilized for tourism, oil/gas or fishing activities, the agents of those branches of activity may claim the special rights of protection provided for in this Code for communities (articles 16, 17 and 18).

## **CHAPTER II**

### **Geological-Mining Investigation, Register & Registration**

#### **SECTION I**

#### **Geological-Mining Investigation & Information**

## **ARTICLE 29**

### **(Public Geological-Mining Services)**

Geological-mining investigation and the preparation of geological information shall be incumbent on the Executive Power, through a specialized public service, designated as the Public Geological-Mining Services, with it being possible, in duly substantiated cases to be authorized by the regulatory body, for other entities, public or private, to undertake such activity in a public-private partnership under methodological dependence of the said service.

## **ARTICLE 30**

### **(Responsibilities of Public Geological-Mining Services)**

1. The responsibilities of the Public Geological-Mining Services in the domain of geological-mining investigation shall be as follows:

- a) performing geological mapping of the whole of national territory;
- b) processing, maintaining and controlling national geological and mining information;
- c) compiling, publishing and disseminating national geological-mining information;
- d) performing geological, stratigraphic, petrographic, crystallographic, paleontological, geochemical and geophysical studies necessary for the geological mapping of national territory and its metallogenic characterization.

2. The execution of the geological mapping and studies referred to in the previous paragraphs may be performed by reputable specialized companies or entities, national or foreign, by way of contracts or agreements.

3. Entities holding mining rights may perform geological studies, within the scope of their contractual programs or respective concession titles.

4. Teaching and scientific research institutions may perform geological studies, through cooperation protocols with the specialized public services referred to in the previous article.

## **ARTICLE 31**

### **(Ownership of Geological-Mining Information)**

1. The geological-mining information on mineral resources existing in national territory shall be the property of the State, with the third-party entity engaged to make the respective studies being prohibited from utilizing it for purposes other than those it was authorized to do contractually.

2. Entities authorized to perform geological studies shall be obligated to pass on regular information on the work carried out, and to hand over all geological information gathered to the specialized entity referred to in N° 1 of article 30 (on responsibilities of public geological-mining services).

3. Entities executing probing, excavating and drilling work, as well as geophysical and geochemistry work, outside the scope of a mining title, irrespective of its objective, shall be obligated to communicate the realization of same to the regulatory body, subsequently sending that body any information and data obtained.

## **ARTICLE 32**

### **(Access to Geological Information)**

1. Whenever duly requested, the specialized public body responsible for geological information and investigation must supply those parties interested in performing geological studies with the pertinent geological information available, as defined in article 100 of this Code.

2. The information referred to in the previous number shall be supplied against payment of fees and taxes that cover the services provided and the cost of work done, under the general terms of the collection of public revenue.

## **ARTICLE 33**

### **(Confidentiality of Geological Information)**

Access to the geological information provided by the entities referred to in this Code shall be subject to being classified, in accordance with law, with it being mandatory to guarantee the level of confidentiality of same, under penalty of criminal and civil liability for those responsible for any breach thereby committed, in accordance with law.

## **SECTION II**

### **Geological-Mining Register & Registration**

## **ARTICLE 34**

### **(Mining Register)**

The mining register shall encompass a series of registration acts and the management of the licensing process of mining activity on a national level, based on electronic, digital, graphical or textual information, realized by the mining registration services, in accordance with the terms established in this Code.

## **ARTICLE 35**

### **(Organization & Subordination of Mining Register)**

1. The mining registration services shall be organized according to national, local, and national concessionaire levels.
2. On a national level, the mining registration services shall be subordinate to the ministry responsible for licensing mining activities.
3. The regulatory ministry may authorize registration structures to be set up in the provincial offices of the regulatory body, which shall function in subordination to and coordination with the national register.
4. National concessionaires shall possess registration structures geared to the type of mineral under their exclusive concession, operating as specialized extensions of the national mining register.

## **ARTICLE 36**

### **(Mining Register)**

1. Processes for the concession, modification, assignment and extinction of mining rights shall be registered with the Public Geological-Mining Service.
2. It shall be incumbent on the Executive Power to approve the regulations governing the functioning of the mining register and respective procedures.

## **ARTICLE 37**

### **(Exchange of Information between Institutions)**

1. The Public Geological-Mining Service shall regularly provide information to the Executive bodies responsible for the land, oil/gas, and agricultural registers, on mining areas granted, with those having to reciprocally supply relevant information on the utilization and efficient use of land for purposes related to land, oil/gas or agriculture to the Public Geological-Mining Service.
2. The manner in which the information is exchanged and its periodicity shall be subject to a protocol established between the institutions concerned.

## **ARTICLE 38**

### **(Storage & Filing of Information)**

The Public Geological-Mining Service must store and file, among others, the following mining information:

- a) areas banned to mining activity;

- b) areas requested for the exercise of mining rights and identification of their applicants;
- c) areas granted and data on title of respective concession;
- d) free areas;
- e) areas legally declared as public reserve;
- f) areas for small-scale mining;
- g) other areas that require special authorization.

## **ARTICLE 39**

### **(Access to Registered Information)**

Access shall be permissible to members of the public interested in information registered on the mining register, with it being incumbent on the entity responsible for licensing and registering to define the respective regulations applied to requests, authorization and access.

## **ARTICLE 40**

### **(Publication of Registrations)**

1. The outcome of the concession, modification, assignment, and extinction of mining rights processes and the decisions underpinning the respective acts must be published.
2. All decisions on acts that arise out of the intervention and approval of the Executive or the regulatory ministry must be published in the *Diário da República*.
3. Other decisions on acts that require the publication stipulated by this Code or related legislation, must be published in the *Diário da República*, or in any newspapers with large countrywide circulations, or by public notices posted in appropriate places, depending on that shown to be most appropriate for obtaining effective publicity.

## **ARTICLE 41**

### **(Overlap of Registered Areas)**

1. There shall be an overlap of registered mining areas when the same geographical area is granted, totally or partially, to different applicants.
2. An overlap shall be made in good faith when it occurs without intent to prejudice and it has occurred while observing legal presuppositions, and made in bad faith or fraudulently when it is done with intent to prejudice and obtained by illicit means.
3. With an overlap of registered mineral areas having occurred in good faith, the Executive Power shall be responsible for decisions, when such involves strategic minerals or valuable investments

coming under the authority of the Executive Power, and of the head of the regulatory body, in other cases.

4. A decision on disputes resulting from the overlap of registered mining areas shall be underpinned by the criterion of the antiquity of the concessions, with rights granted first prevailing.

5. When an overlap of registered mining areas is made in bad faith or fraudulently, the conflict may be settled by the court in the district where the areas are located, with the initiative to litigate falling to the party which feels prejudiced, subsequent to having obtained indications or proof of bad faith or fraud, without prejudice to the relevant disciplinary sanctions that may be incurred.

## **CHAPTER III**

### **Mining Rights**

#### **SECTION I**

##### **General Provisions**

### **ARTICLE 42**

#### **(Ownership of Mineral Resources)**

The mineral resources existing on the surface, in the subsurface, territorial waters, continental shelf, exclusive economic zone and in other areas of territorial or marine domain coming under the jurisdiction of the Republic of Angola are the property of the State and part of its private domain.

### **ARTICLE 43**

#### **(Ownership of Mining Products)**

The minerals and mining products mined and extracted in accordance with the regulations of this Code and complementary legislation shall be the property of the entities holding the respective prospecting and mining titles granted in accordance with the terms established in the respective concession contracts.

### **ARTICLE 44**

#### **(Other Competing Minerals)**

1. When, during the course of mining operations, the discovery of other minerals occurs which are not included in the respective concession title, its holder may request that the mining rights on those other

minerals be granted to it, in accordance with this Code, enjoying preemption rights over other candidates, under equal conditions.

2. The discovery of minerals competing with the titled minerals must be notified to the regulatory body or national concessionaire, within a period of less than 30 days subsequent to its occurrence.

3. In the case of strategic minerals or those subject to a special regime, the minerals discovered shall be subject to the legal regime applicable to those minerals.

## **ARTICLE 45**

### **(Legal Regime of Accessory Minerals)**

The rights on accessory minerals, such as those defined in this Code, shall be covered by the titles granted for the requested mineral, except when such concerns strategic minerals or those under a special regime, in which case, the terms defined in this Code and specific legislation shall apply.

## **ARTICLE 46**

### **(Casual Discovery of Minerals)**

Any citizen, national or foreign, who, through a simple inspection of the land, outside the areas already granted, discovers mineral resources which the relevant regulatory body proves to be of economic interest, must declare same and, within a period of 180 days, request individually or in partnership, the prospecting and mining rights for the respective area.

## **SECTION II**

### **Legal Nature of Mining Rights**

## **ARTICLE 47**

### **(Legal Autonomy of Mining Rights)**

Mining rights shall be autonomous, having to be treated legally as different from other rights; namely, the ownership rights of the land where same are mined and of the assets existing on them.

## **ARTICLE 48**

### **(Assignability of Mining Rights)**

1. Mining rights shall be assignable during lifetime or on decease of the holder, and may be given as collateral for credit and shall be liable to judicial execution, in accordance with law.



2. The assignment of mining rights for small-scale production shall be permissible provided same respects the requirements and restrictions set down in articles 177 and 178 of this Code.

## **ARTICLE 49**

### **(Bankruptcy & Dissolution of Holders of Mining Rights)**

1. The bankruptcy and dissolution of commercial companies or other business entities, which are holders of mining rights, shall be regulated by Law N° 1/07, of May 14, 2007 - Commercial Companies Law, currently in force.

2. The bankruptcy or dissolution of the entity holding the mining rights shall not implicate its loss to entitlement, with it being permissible for such rights to be awarded to competing creditors that, abiding by the legal requirements and regulations stipulated, present the best proposal price.

3. Under equal acquisition conditions regarding prices, the State shall have preemption over the rights of the titleholders or dissolved companies, when competing with the creditors of a bankrupt entity or dissolved company, with such preemption being absolute, when there are no creditors with which to compete.

## **ARTICLE 50**

### **(Pledge of Mining Rights)**

1. Mining rights may only be pledged as collateral for the purposes of guaranteeing credit contracted by the concessionaire to finance the geological-mining activities that are the subject of the concession title.

2. The documents referred to in article 682 of the Civil Code shall be substituted by the delivery of an authenticated copy of the title and of the concession contract of respective mining rights to the secured creditor

3. The concessionaire, by constituting the pledge, shall neither lose the possession nor exercise of the pledged mining rights, with it having, in the same manner, to still comply with all legal and contractual obligations.

4. Mining rights offered as collateral cannot be assigned by the respective holder, or pledged again by same, without prior and express authorization from the secured creditor.

5. When a debt is past due date and unpaid and with the guarantee being requested by the secured creditor, in accordance with this Code, that stipulated in articles 47 and 48 of this Code shall be applied to the sale of the pledge.

## **ARTICLE 51**

### **(Pledge Effects)**

1. In the case of a pledge, title to the mining rights ceases with the award or sale of those rights, in accordance with procedural law.
2. The mining rights and assets of the concessionaire, connected to the mining activity carried out under that concession whose rights have been executed, shall serve to guarantee payment of the debts related to same, in accordance with law.
3. Without prejudice to preferential creditor rights, the executed mining rights shall be awarded according to the best price, in a sale organized by the regulatory body, with consequent concession of the pledged rights, in accordance with this Code.

## **ARTICLE 52**

### **(Prohibition of Seizure)**

The seizure of mining rights shall not be permissible.

## **SECTION III**

### **Suspension & Extinction of Mining Rights**

## **ARTICLE 53**

### **(Suspension of Mining Activities)**

1. The regulatory body may order the suspension of mining operations in the event of serious risk to the life and health of the population, for the safety of mines, hygiene in workplaces, the environment, fauna, flora, or as a sanction, as provided for in this Code or complementary legislation.
2. Before ordering the suspension, in accordance with the previous number of this article, the regulatory body must notify the interested parties so that they may resolve the issues on which the suspension is based within a period of 30 days.
3. In the event of serious risk to the life and health of the population and workers, or the safety of a mine, the obligation to suspend shall be incumbent on the concessionaire, which must inform the regulatory body of the measures to be taken to overcome the situation, within a period of up to eight days.

4. The regulatory body may, at the request of the concessionaire and for reasons of a technical and economic nature duly justified by the applicant, authorize the suspension or reduction of geological-mining activities for a period that shall not compromise the renewal of operations.

5. The suspension or reduction of mining activities below the level established in work plans, which are not determined by justifiable reasons, in accordance with the concession decree, this Code or complementary legislation, shall be deemed as in noncompliance with the concession contract and liable to penalties, in accordance with law.

## **ARTICLE 54**

### **(Causes for Extinction of Mining Rights)**

Mining rights may cease to exist on any of the following grounds:

- a) expiry;
- b) rescission of contract or revocation of concession title;
- c) redemption;
- d) agreement between contractual parties;
- e) suspension of mining activities for a period of six months, without justification;
- f) abandonment of mining.

## **ARTICLE 55**

### **(Expiry)**

Mining rights shall expire in the following cases:

- a) validity period of concession title and respective extensions, made in accordance with articles 125 and 134 of this Code, have expired;
- b) mining operations have ended before the set period or mineral resources that are the subject of the concession have been depleted, as duly proven by the regulatory body;
- c) abandonment of concession area.

## **ARTICLE 56**

### **(Rescission & Revocation)**

1. Rescission of the contract or revocation of the concession title shall occur in the following cases:

- a) specific contractual clauses arise;
- b) supervenient technical and economic non-viability of project;
- c) noncompliance with legal obligations or those arising out of the contract or concession title;

- d) abandonment, suspension or reduction of mining activities, outside the conditions established in this Code, or in title or contracts;
- e) suspension of mining operations because of force majeure, as defined in the contract or concession title;
- f) holder of concession is convicted of the crime of qualified disobedience, according to facts resulting from acts of noncompliance provided for in this Code, ordered to be executed by the relevant authority, in accordance with article 213;
- g) exploration or mining of mineral resources not included in contract or concession title;
- h) absolute impossibility to comply with contractual obligations.

2. Noncompliance by concessionaires with legal obligations or those arising out of the contract or concession title, punishable by any of the administrative sanctions provided for in this Code and complementary legislation, may only be invoked as grounds for rescission in cases of repeated noncompliance.

3. Rescission initiated by the State shall be preceded by a notification to the concessionaire indicating the legal reasons for the said rescission, as well as duly substantiated facts and proof of the existence of same, with a period of 60 days being established that shall start from the date of the notification to respond and to exercise right to defend.

4. The regulatory body shall appraise the arguments in defense and decide within a period of 60 days, with recourse to appeal of this decision being permissible, under the general terms of administrative law. Failing a decision or response being provided within this period shall imply rejection effects.

5. Rescission on the part of the concessionaire of the mining rights shall be made by abiding by the procedures provided for in N° 3 of this article, with the necessary modifications, and with the judicial courts of the province where the regulatory body is located being competent to settle eventual conflicts.

## **ARTICLE 57**

### **(Redemption)**

1. The concession area may be redeemed for various reasons of public interest, by fair compensation to the concessionaire when strategic mineral resources or those subject to a special regime have been discovered, whose mining entails a major interest for the national economy.

2. Redemption may be total or partial, and shall implicate the substitution of the concessionaire by the State, with assignment to the latter of the possession and ownership of part of the redeemed assets, including immovable assets acquired for the exercise of mining rights, assumption by the State of concessionaire debts resulting from geological and mining activities and subrogation in respective credits.

3. Whenever possible, at its request and in negotiated and agreed commercial conditions, the concessionaire whose right has been redeemed, in accordance with N° 1 of this article, shall be entitled to participate in the new concession.

4. When calculating the compensation payable in the case of a concession being redeemed, the following factors must be noted:

- a) value of investments made in exploration phase;
- b) during mining phase, the value of investment made in exploration phase, not recovered;
- c) value of assets referred to in N° 2 of this article, average profit forecast for subsequent 10 years of mining and outstanding debts to be paid.

5. Redemption of a concession shall be exclusively authorized by the Titleholder of the Executive Power, as proposed by the head of the regulatory body.

## **ARTICLE 58**

### **(Extinction by Agreement between Parties)**

1. When the extinction of mining rights arises out of an agreement made by the parties concerned, the terms of the respective agreement must be written and signed by the entities in the capacity of those who intervened in the signing of the concession contract defining the extinction conditions.

2. Excepting that the parties agree on a different course of action, and with the concession being extinct, all constructions erected and other improvements made by the concessionaires, on the land covered by the concession or belonging to it, shall revert to the State.

## **CHAPTER IV**

### **Responsibilities of Holders of Mining Rights**

#### **SECTION I**

#### **Hygiene, Health, Safety & Training**

## **ARTICLE 59**

### **(Hygiene, Health & Safety)**

Holders of mining rights must adopt measures to ensure hygiene, health and safety in the workplace, as well as the prevention of professional risks and accidents in workplaces, in accordance with the terms regulated by the relevant bodies to be approved by the Ministries responsible for Geology and

Mines, Public Administration, Employment and Social Security, and Health, without prejudice to the stipulations in this Code and in other applicable legislation.

## **ARTICLE 60**

### **(Training)**

1. Holders of mining rights must promote the training initiatives required for hygiene, health and safety in the workplace, as well as observing the correct utilization of machines, materials and work tools.
2. When cases of work-related accidents and professional diseases occur while carrying out geological and mining activities, the relevant authorities must be informed, in accordance with legally-established terms.

## **SECTION II**

### **Financial Liabilities**

## **ARTICLE 61**

### **(Taxes & Fees)**

1. Services provided to third-party entities by public institutions in the realization of the formal acts and procedures provided for in this Code and complementary legislation shall be subject to fees and taxes.
2. It shall be incumbent on the Minister of Finance and the head of the regulatory body for Geology and Mines to approve the value of the fees and taxes referred to in the previous number, as well as their destination.
3. Expenses arising out of the publication of acts shall be borne by the interested parties.
4. To guarantee the payment of fees, taxes and other expenses, in accordance with terms to be determined by the regulatory body, applicants shall be called upon to pay for the preparation of documents in advance.

## **ARTICLE 62**

### **(Performance Bond)**

1. Private companies holding or co-holding rights for prospecting or mining mineral resources on an industrial scale must provide a performance bond to guarantee compliance with contractual obligations.

2. The bank guarantee shall be made in favor of the State through the Treasury Single Account and it shall be managed in accordance with terms to be defined by the Ministry of Finance.
3. The performance bond shall be provided by a bank guarantee, or by any other form of guarantee permissible by law.
4. The performance bond must be replenished by the concessionaire, back to its original value and within a period of 30 days, whenever, on account of same, it is utilized for some payment due for a contractual or legal obligation.
5. The amount of a performance bond in the exploration phase shall be of up to 2% of the investment value and during the mining phase this value shall be 4%.
6. The performance bond must be in place before signature of the contract, with the documental proof of its realization constituting a legal condition for the signing of the contract by the relevant body, without which any eventual signing shall be deemed nonexistent.
7. The amount of the performance bond shall be restituted as soon as the exploration phase is completed, or when at least 35% of the investment has been executed during the mining phase.

### **SECTION III**

#### **Environmental Preservation**

### **ARTICLE 63**

#### **(Applicable Legislation)**

1. Without prejudice to that stipulated in this Code, the holder of the mining rights must observe the standards on environmental conservation vis-à-vis mining activity, to be approved jointly by the bodies that regulate the environment and geology and mines.
2. When approving complementary rules on the regulation of environmental protection vis-à-vis mining activity, the relation between risks to the environment and the advantages that mining may bring to communities must always be taken into consideration, in an effort to balance both interests.
3. National and regional sectorial strategy and programs shall be applicable to mining activity as regards the environment and sustainable development, as well as international instruments that Angola has signed, namely, the Convention on Biodiversity, the Cartagena Protocol, Agenda 21, and the International Convention on Waste.

## **ARTICLE 64**

### **(Other Regulations on Environmental Protection)**

1. Holders of mining rights must promote the conservation and protection of nature and the environment, complying with the respective legal regulations.
2. Without prejudice to the establishment of specific environmental standards for mining activities, the exploitation of minerals must be made while observing basic laws on the environment, biological and aquatic resources, water and standards for assessing environmental impact.
3. Holders of mining rights shall be especially obligated to observe the following rules to:
  - a) comply with obligations resulting from the environmental impact assessment and environmental management plan, in accordance with the terms established therein;
  - b) take measures needed to reduce the formation and propagation of dust, waste and radiation in mining areas and in surrounding zones;
  - c) prevent or eliminate water and soil contamination, utilizing adequate means to that end;
  - d) not reduce or, in any other way, harm the normal supply of water to the population;
  - e) execute mining operations to minimize soil damage;
  - f) reduce the impact of noise and vibrations to acceptable levels, determined by the relevant authorities, when utilizing explosives in the proximity of populated areas;
  - g) not discharge contaminated waste that is harmful to human health, fauna and flora into the sea, water courses and lakes;
  - h) inform the authorities of any occurrence that has caused or is liable to cause environmental damage.

## **ARTICLE 65**

### **(Environmental Impact Assessment)**

1. Approval, by the relevant body of the Executive Power, of the Environmental Impact Assessment (EIA) drawn up by the mining operator shall be a precondition for obtaining mining rights during the mining phase.
2. The principle of tacit approval of the Environmental Impact Assessment shall not apply to the mining industry.

## **ARTICLE 66**

### **(Mandatory Clauses)**



For the purpose of the development of mining projects, the Environmental Impact Assessment must consider the following aspects:

- a) assessment of effects of project on the environment;
- b) social impact of projects;
- c) environmental management plan;
- d) environmental monitoring program;
- e) environmental audits, as well as respective environmental reports;
- f) environmental rehabilitation programs;
- g) site abandonment plan;
- h) environmental financial costs;
- i) financial guarantee for environmental costs;
- j) plans for utilization of water;
- k) waste management plans;
- l) control of dangerous substances.

## **ARTICLE 67**

### **(Self-Regulation & Responsibility of Operators)**

1. Mining operators must adopt internal rules of conduct in environmental matters, which are in accordance with current legislation.
2. Mining operators must lay the groundwork so that workers, on all levels, may recognize their responsibility in environmental management, as well as ensuring that adequate resources, personnel and training shall be made available to implement environmental plans.
3. Mining operators, in cooperation with the relevant State bodies, shall be responsible for bolstering infrastructure, services and information systems, as well as the training and qualification of workers as regards environmental management in relation to mining operations.
4. With regard to audit results, the regulatory body may decide that the environmental management system set up in a company needs to be revised, with a view to correcting measures incapable of ensuring the efficient implementation of the environmental regulations and legal principles established in this Code, specific legislation, and those applicable according to international legislation and the Executive's environmental policy.

## **ARTICLE 68**

### **(Participation of Communities in Environmental Preservation)**

1. Local communities in areas where mining projects are located shall be entitled to be informed about the Environmental Impact Assessment, whenever this demonstrates that it may affect the environment of the area in which they live, and they must be informed of the measures that the holder of the mining rights will put in place to avoid or mitigate eventual damage arising out of the exploitation of minerals.

2. The information for local communities referred to in the previous number of this article must be given to the inhabitants of the concession area through the local traditional authorities and other representative entities and, preferentially, should take place before execution of the project.

## **ARTICLE 69**

### **(Protection of Flora & Fauna)**

Whenever mining is developed in an area of proven vegetable or animal potential, mining operators must perform studies that contemplate the preservation of such potential, and develop a database with organized and easily consultable information about local biodiversity, with their being able to obtain the tender and partnership of specialized public or private institutions.

## **ARTICLE 70**

### **(Protection of Water Resources)**

During the mining process, mining operators must take the following protective measures with water resources:

- a) create decantation basins for sediment extracted during the ore processing phase, avoiding, in this way, the pollution and/or dredging of rivers and lakes;
- b) create water recycling circuits, to allow for the reutilization of same during the various mining production phases;
- c) analyze water regularly at various points of rivers inside the concession, to enable quality control of same;
- d) maintain updated records with information relating to paragraphs a), b) and c) of this article.

## **ARTICLE 71**

### **(Urban & Territorial Planning Regulations)**

1. The freeing up of areas where geological-mining activities have not produced positive results must be made by reclaiming or restoring their vegetation, and by utilizing infrastructure, roads and land for cultivation for the benefit of communities, with it being mandatory to inform the relevant regulatory body of that fact.

2. Holders of mining rights must protect access roads, bridges and other means of road communication that they have constructed which have ceased to be necessary to the project, so that they may be utilized by the permanent population or for other public purposes, and must inform the State body responsible for public works and the regulatory body for geology and mines of their existence by means of cartographic identification.

3. When constructing site yards and other mining facilities, holders of mining rights must bear in mind the dimensions and planning of same, so as to avoid or reduce any negative physical or aesthetic impact on the landscape.

## **SECTION IV**

### **Responsibilities vis-à-vis Efficient Use of Land**

## **ARTICLE 72**

### **(Utilization of Land)**

1. The concession of mining rights shall not entail the assignment of the ownership of areas granted for geological-mining investigation or that of land where mineral beds are located. However, whenever such land belongs to the public domain of the State and is not utilized for specific purposes, the holders of the respective mining rights, shall be entitled to utilize and benefit from same, in accordance with the terms, and for the purposes, contained in paragraphs c), e) and f) of article 92, against payment of the surface taxes established.

2. Should the land belong to private individuals, the private domain of the State or public legal persons, the holder of the mining rights may only utilize or benefit from same with the consent of the respective owners or holders and under the terms authorized or agreed between them.

3. Only after having been given the consent referred to in the previous number may the holder of the mining rights at stake carry out geological-mining investigation work involving the utilization of land.

4. Aside from the express agreement, referred to in N° 2 of this article, consent shall be deemed as given with the deposit of an annual rent and provisional bond, as established in accordance with N° 1 of article 77.

5. During the mining phase, should the concessionaire not arrive at an agreement with the owners or holders of land located within the demarcated area, operations may not begin without the concessionaire acquiring same or the State obtaining their expropriation for public interest, in accordance with law.

## **ARTICLE 73**

### **(Easements)**

1. Holders of mining rights shall be entitled to demand the easements required for the full exercise of their rights, not only covering rights of way, but also others provided for in law considered necessary to carrying out the respective mining activity.
2. Easements shall be constituted, in accordance with general law, without prejudice to the possibility of the regulatory ministry ordering their provisional constitution.
3. Easements, constituted in accordance with this Code, shall cease with the extinction of the exercise of the mining rights for which they were constituted.

## **ARTICLE 74**

### **(Protection of Land & Landscape)**

1. Prospecting and research work must be executed so as to cause the least possible disturbance to the regular utilization of land by its owners or holders and, when work is completed, the holder of the prospecting rights must process or remove rubble, and cover over channels and trenches, striving to restore the land to its previous configuration.
2. Operations involving the extraction of mineral resources and the processing of the extracted minerals must be done in such a way as to not compromise reintegration of the landscape, reclamation of the land and its future utilization.

## **ARTICLE 75**

### **(Land Restoration & Reclamation)**

1. Geological and mining activities must be done in accordance with the technical standards and regulations of mining rationality, so as to enable, insofar as is possible, the restoration of land to its original purpose before mining activities began, or its reclamation for alternative uses, without damaging the environment.
2. Holders of mining rights, after having finished works, must proceed with land restoration and reclamation of the landscape, as provided for in the Environmental Impact Assessment Study.
3. Before definitively abandoning a concession area, the holder of the mining rights must request the regulatory ministry to inspect the respective mining operations area, which shall be made in accordance with the plan for the closure and abandonment of mining operations as approved by the regulatory body in accordance with this Code.

## **ARTICLE 76**

### **(Obligations & Rights of Leaseholders & Landowners)**

Holders or owners of land shall be entitled to a rent for the time during which activities corresponding to prospecting and research last, with their being compensated for any damage caused. However, such must take into due consideration the relative interest of mining production for the national economy, with their abstaining from creating unjustified impediments to geological-mining investigation work.

## **ARTICLE 77**

### **(Setting of Annual Rent & Bond for Occupancy of Land)**

1. Failing an agreement with the owners or holders of land as referred to in the previous article, the holder of the prospecting and/or mining rights may request authorization from those ministers regulating mining and the activities carried out by the owner or holder of the land, in accordance with prudent arbitration, to proceed, by way of a joint order, with the setting of an annual rent, corresponding to the respective utilization during prospecting and/or mining operations and of a bond guaranteeing payment of any damage eventually caused.
2. In setting the rent referred to in the previous number, consideration must be given to net income from the land whose utilization may be eventually disturbed, or cease to be utilized, or be prejudiced vis-à-vis the activity to which it is connected.
3. The amount of the bond to be set must take into account the rent established in accordance with the previous number, as well as any infrastructure that may be predictably damaged or destroyed.
4. Should the holder of the land rights not agree with the values established, same may, within a period of 15 days counting from the date of notification of the joint order issued by the ministers referred to in N° 1 of this article, appeal to the territorially competent court, which shall decide in harmony with the principles of article 1425 of the Civil Procedure Code, with the modifications required in line with the nature of the request.
5. An appeal on the decision declared by the territorially competent court may be filed, but such shall not act as a stay of execution.

## **SECTION V**

### **Responsibilities in Utilization of Explosives**

## **ARTICLE 78**

### **(Applicable Regime)**

1. The acquisition, transportation, storage and utilization of explosive substances to be utilized in mining activities shall be regulated by the laws and regulations currently in force and applied by the National Police, or by a specific decree substituting them, which must be approved by the Titleholder of the Executive Power in light of a recommendation from the Ministry of the Interior and the regulatory body for geology and mines.

2. Each mine must adopt technical and safety measures on the planning, execution and monitoring of the utilization of explosives, which must be contained in the respective Mining Plan.

## **ARTICLE 79**

### **(Explosives Permissible in Mining Activities)**

The explosive substances permitted in mining activities shall be gunpowder and explosives, which may be in bulk or in cartridges.

## **ARTICLE 80**

### **(Acquisition, Transportation & Utilization of Explosives)**

The acquisition, transportation and utilization of explosive products, gunpowder and initiating devices must be carried out by properly qualified personnel, who must be authorized by the National Police.

## **ARTICLE 81**

### **(Explosives Operators)**

1. Operations involving the handling of explosive substances and blasting accessories in the mining industry may only be executed by an explosives operator who meets with the requirements established in this chapter.

2. The deployment of explosive products in mining activities may only be carried out by a qualified explosives operator with an Explosives Operator's License, issued by the National Police.

3. Without prejudice to criminal or civil proceedings that may take place, the Explosives Operator's License may be withdrawn by the issuing entity when the operator reveals carelessness, evident incompetence or disrespect for rules established on the utilization of explosives in mining activities.

## **ARTICLE 82**

### **(Requirements for Blasters)**

1. Blasters must satisfy the following conditions:

- a) be Angolan and over 25 years of age;
- b) possess specific training in explosives;
- c) offer guarantees of good public order and morality;
- d) possess a minimum of third-level qualification;
- e) be designated by the mine's technical manager for that purpose.

2. Exceptionally, when no national qualified technicians exist, the blasting personnel may be of foreign nationality, on prior authorization from the National Police, in accordance with an opinion from the regulatory ministry. In this case, it shall be mandatory for the respective concessionary company to set up a training program for Angolan blasters to substitute the foreign blaster, within a period not exceeding five years.

## **ARTICLE 83**

### **(Blasters)**

1. For the purpose of this Code, integrating the category of blaster shall be:

- a) explosives storage personnel;
- b) excavations supervisor and assistant-supervisor;
- c) foremen;
- d) drillers and shotfirers and their assistants;
- e) shot line electricians and their assistants.

2. Each driller or shotfirer cannot be assisted by more than one assistant.

3. Inspection officials appointed by the National Police must be supplied with a list of names of the personnel referred to in N° 1 of this article, which must always be kept up-to-date, with up to four drillers and four assistants on each front and in each shift. In the case of large working fronts, the National Police may authorize a greater number of drillers and assistants.

## **ARTICLE 84**

### **(Safety of Blastors)**

1. During the handling of explosive substances and blasting accessories, blasters must take the following minimum safety measures:

- a) must utilize individual and standardized protective equipment, appropriate hardhat and clothing, that do not hinder movements when lighting fuses and retreating to shelters;
- b) must not utilize footwear with metallic laces or tips;
- c) must have leather or canvas bag to transport explosives;

d) other legally-required resources.

2. The blasting personnel's hardhats, as well as boxes or bags for transporting explosives or blasting accessories must have red fluorescent stripes painted on them, capable of being clearly visible during the day and at night.

## **ARTICLE 85**

### **(Blasting Requirements)**

1. In every mine where the utilization of explosives is necessary, the respective blasting plan must be prepared in advance, in accordance with the specific regulations and principles on the subject.

2. The blasting plan referred to in the previous number of this article must be submitted in advance for approval by the National Police.

3. No explosion may be set off without the blasting operator responsible verifying that all workers are conveniently protected, that accesses are properly surveilled and that there is no risk of persons or assets being hit.

## **ARTICLE 86**

### **(Storage)**

Mandatorily, explosives and detonators must be stored separately in explosives magazines and storerooms, respectively, priorily licensed and inspected by the National Police.

## **ARTICLE 87**

### **(Classification & Licensing of Explosives Magazines & Storerooms)**

1. The construction of explosives magazines and storerooms must abide by the construction, duration, installation and capacity criteria defined by the National Police, in accordance with current legislation.

2. Licensing for the construction of explosives magazines and storerooms shall be issued by the National Police, upon application from the respective concessionaire holding the mining rights, with the rules for their construction having been observed, as referred to in the previous number.

## **ARTICLE 88**

### **(Storage Conditions)**



All structures utilized for the storage of explosive substances must abide by the following minimum mandatory requirements:

- a) be constructed in concrete and/or masonry, with adequate conditions of safety and resistance for the type of explosives to be stored;
- b) doors must possess locking systems with technical conditions guaranteeing the safety of facilities and preventing access to explosive substances by non-authorized personnel;
- c) possess an effective system of protection against atmospheric discharges through a lightning rod;
- d) be protected with banks of solid earth or beams of the same height as the burlap roofing of magazine;
- e) not have any illumination network in the interior.

## **BOOK II**

### **Exercise of Mining Rights**

#### **CHAPTER V**

### **Holding Mining Rights**

#### **ARTICLE 89**

##### **(Mining Rights Titles)**

1. Mining rights shall be conferred by the issue of one of the following titles:

- a) prospecting title, for the exploration of mineral resources;
- b) mining title, for the exploitation of mineral resources;
- c) mining permit, for the prospecting or exploitation of mineral resources for civil construction applications;
- d) mining pass, for small-scale mining.

2. Mining titles shall be issued by the head of the regulatory body, subsequent to the respective processes for obtaining mining concession rights having been completed and approved, in the form provided for in this Code, and subsequent to payment of any taxes and fees that may be due.

3. The mining titles, duly numbered, dated and referenced with a codified indication of the respective registration process, must contain the following data, among others:

- a) identification of titleholder;
- b) authority which authorized concession right;

- c) number of the *Diário da República* or of any other mode of publication that published the decision approving the concession right granted;
- d) identification of mineral to which title obtained refers;
- e) area of mineral operations and its geographical location;
- f) duration of concession right and date of expiry;
- g) conditions of extension to validity period of title;
- h) spaces for inserting entries arising out of any eventual addenda regarding assignment of rights or other legal eventualities;
- i) signature of authority issuing title, date of signature and authentication of signature.

## **ARTICLE 90**

### **(Capacity to Exercise Mining Rights)**

Only natural or legal persons, national or foreign, possessing adequate technical and financial capability to undertake the mining activity proposed, may carry out that activity.

## **ARTICLE 91**

### **(Legal Guarantees)**

Holders of mining rights shall be deemed to have the following legal guarantees:

- a) applications for access to mining rights shall be registered and addressed in accordance with their order of reception, within legally-established deadlines;
- b) applications for the concession of mining rights shall receive due publicity;
- c) the exploitation of mineral resources revealed during prospecting, without any restrictions, except those that expressly arise out of the regulations in this Code or complementary legislation;
- d) mining titles for the exploitation of mineral resources shall be granted on an exclusivity basis, and may be assigned in accordance with the terms of this Code;
- e) support needed from State to undertake mining activities and respect for the rights inherent therein;
- f) the right to freely dispose of and sell the mining product, having observed the regulations and procedures established in this Code and complementary legislation on the subject.

## **ARTICLE 92**

### **(Titleholder Rights)**

Holders of mining rights granted for the exploration or exploitation of mineral resources shall be entitled to, among others, the following rights:

- a) obtain or consult geological-mining information available on the area covered by the concession from the relevant regulatory structures;
- b) obtain cooperation from administrative authorities to carry out fieldwork and establish rights of way, in accordance with law;
- c) utilize superficial and subterranean water existing close to concession area not being utilized or not covered by another specific mining title, without prejudice to third-party rights and with mining legislation always being observed;
- d) construct and put in place infrastructure and facilities needed for the execution of geological-mining activities;
- e) utilize, under pertinent legal conditions and regulations, land demarcated for setting up mining facilities, buildings and equipment;
- f) modify, in accordance with approved work plans and programs, and as essentially required to execute mining operations, the natural configuration of areas defined in the concession;
- g) carry out geological-mining activities necessary to the execution of approved work plans, without other limitations that do not arise out of legal regulations, the concession contract or by order of the regulatory body;
- h) extract, haul and beneficiate the mineral resources defined in the contract, in accordance with law;
- i) dispose of mineral resources extracted and trade same, in accordance with law;
- j) recuperate investment expenses incurred during the exploration phase, through mining results;
- k) be compensated for damage that may arise out of any restrictive actions in the exercise of mining rights, in accordance with law or concession contract.

## **ARTICLE 93**

### **(Titleholder Obligations)**

The holders of mining rights shall have, among others, the following obligations to:

- a) not start geological-mining activities, without being in possession of the relevant title;
- b) begin exploration work within a period of 180 days counting from the date of approval of the contract by relevant entity, except when that is not possible due to force majeure, confirmed and communicated to the regulatory body of the national concessionaire;

- c) ensure employment of Angolan technicians and workers, as well as providing technical-professional training and qualification schemes for same, in accordance with law;
- d) apply the most proficient methods to achieve best return, compatible with the market's economic conditions, while protecting the environment, and with rational utilization of mineral resources, not engaging in the ambitious mining of same;
- e) register all geological-mining investigation activities carried out;
- f) periodically communicate to the regulatory body and national concessionaire, in line with the terms established by the regulatory body, the recording of technical data resulting from geological-mining activities carried out;
- g) record and enter into accounts all expenses incurred, arising out of the execution of the exploration plan and investment plan;
- h) permit control and inspection of their activity by the relevant regulatory authorities or national concessionaire, including access to data records of a technical, economic and financial nature relating to mining operations, as well as allowing their officials to visit concession area;
- i) progressively free up the initial area covered by the granting of the prospecting rights, in accordance with the terms and conditions of this Code and respective concession contract;
- j) comply with the approved mining plan, abiding by legal provisions and regulations and best methodology for mining operations;
- k) comply with deadlines set for the execution of mining operations and production program, maintaining mining active, except in cases of authorized or officially imposed suspension, or when determined by reasons of force majeure;
- l) ensure and promote compliance with hygiene and safety standards in the workplace;
- m) comply with Environmental Impact Assessment Study obligations;
- n) develop actions for the protection of nature and the environment, in accordance with the Environmental Impact Assessment Study approved by the relevant authorities;
- o) promote public health, safety, hygiene and cleanliness, in accordance with national and international regulations applicable in the Republic of Angola;
- p) immediately inform the regulatory entities of all occurrences of work-related accidents and professional diseases;
- q) provide the regulatory body with statistics on their personnel, events of a social nature and, during the mining phase, data relating to the annual accounts, containing technical, social and sales elements;
- r) report incidences of mining activity on the occupancy of land and environmental characteristics;
- s) make reparation in accordance with the provisions on liability in the Civil Code for damages caused to third parties by the carrying out of geological-mining activities.

## **ARTICLE 94**

### **(Assignment of Mining Titles)**

1. Without prejudice to that referred to in article 48 and subsequent ones in this Code, the assignment of mining titles to third parties shall be permissible, provided that same is authorized by the regulatory body.
2. In cases in which the concession of mining rights is the prerogative of the Titleholder of the Executive Power, authorization for the assignment of the respective mining title shall depend on the prior approval of that entity.
3. The assignment of mining titles may only be authorized if the entity intended as the beneficiary fulfills the requisites required of the original concessionaires of the rights as established by this Code and other applicable legislation.
4. The assignment of mining titles shall be recorded in the assigned title and in respective register with details of the new holder and respective assignment authorization, with the change in titleholders having to be published under the same terms of publication as were applied to the original title when it was granted.
5. Authorization to assign the mining rights referred to in this article shall be subject to the payment of taxes and fees and the respective request shall be deemed invalidated if, within 30 calendar days subsequent to the interested party being notified, it does not make payment.

## **CHAPTER VI**

### **Access to Mining Rights**

#### **SECTION I**

#### **Applications for Concession of Mining Rights**

### **ARTICLE 95**

#### **(Mining Production Categories)**

1. The production of minerals shall be carried out as industrial production, semi-industrial production and small-scale production.
2. The small-scale production regime is established in Chapter XI of this Code.
3. The industrial and semi-industrial production regime shall constitute the governing regime, which applies to the generality of mining production.
4. It shall be incumbent on the Titleholder of the Executive Power to approve special rules applying specifically to semi-industrial production

## **ARTICLE 96**

### **(Conditions for Access to Mining Rights)**

1. Access to the mining rights established in this Code and complementary legislation shall be extended to natural or legal persons, national or foreign, which, intending to engage in mining activities in national territory or in any areas under the jurisdiction of the Republic of Angola, apply for the respective concession of rights in accordance with the terms and conditions provided for in this Code and complementary legislation.

2. Access to mining rights shall not be permissible in cases where one of the following conditions or circumstances is verified:

- a) persons under 18 years of age;
- b) persons convicted for the perpetration of crimes against property and against the economy, typified as such in law, punishable by long-term imprisonment;
- c) persons, with a confirmed conviction, deemed by relevant entity as being responsible for serious environmental damage defined as such in accordance with law;
- d) debtors in arrears with tax obligations or social security contributions;
- e) legal persons in the process of liquidation, merger or spin off;
- f) persons in the process of declaring bankruptcy or insolvency;
- g) legal persons whose representatives or agents are covered by the impediments established in paragraphs b), and c) of this number.

## **ARTICLE 97**

### **(Rules Governing Concession of Mining Rights)**

1. Mining rights shall be granted by one of the following means:

- a) public tender held on initiative of the regulatory body;
- b) application by the interested party addressed to the regulatory body, in accordance with this Code.

2. The granting of mining rights for industrial or semi-industrial scale operations shall always be preceded by favorable geological information from the relevant entity and by negotiation within the scope of the process vis-à-vis the investment and concession of mining titles, under the terms established in this Code.

3. The granting of mining rights for small-scale operations shall be preceded by favorable geological information from the relevant entity, on the basis of which the official approval of the concession of

rights shall be drawn up, along with the respective title or credential, by the regulatory minister, under the terms established in this Code.

4. Whenever a public tender is not held, the exploration and mining rights shall be granted to the first applicant, provided that same possesses the technical and financial capabilities required to develop the mining activity requested, complies with the formal requirements and procedures provided for in this section and undertakes to observe the requisites required with regard to environmental matters as established in prevailing legislation.

5. The granting of mining rights for the same concession area to different entities shall not be permissible.

## **ARTICLE 98**

### **(Public Tender)**

1. The regulatory body must mandatorily hold a public tender for the concession of mining rights in the following cases, when:

- a) in light of studies realized or approved by the entity responsible for geology, the area is considered to be of enhanced geological potential;
- b) it involves a mineral considered strategic in accordance with this Code.

2. The regulatory body must publish, at least once a year, during the course of the first three months of every year, the list of areas and mineral resources whose concession may be awarded by public tender.

## **ARTICLE 99**

### **(Public Tender Regulations)**

1. Public tender rules and procedures shall, with due modifications, be those applicable to tenders for public works contracts, with specific regulations for public tenders awarding mining rights having to be drawn up by the regulatory body and approved by the Titleholder of the Executive Power.

2. The terms of reference of the public tender must always be published in an announcement placed by the regulatory body in the *Diário da República* or in one of the daily newspapers with a large national circulation.

## **ARTICLE 100**

### **(Applications for Information on Concession Areas)**

1. Applications for information on areas for the concession of mining rights shall be made to the geological information services, which have to be formulated in an application addressed to the regulatory minister, containing the following data:

- a) identification of applicant and indication of legal representative, in the case of a legal person;
- b) indication of mineral for which prospecting and/or mining rights information is requested;
- c) indication, under oath, that applicant is not covered by any of the impediments referred to in article 96 to being a holder of the mining rights for which information is requested;
- d) geodesic map with exact indication of area requested.

2. After being received by the geological information services, the application referred to in the previous number shall be assigned a reception number.

3. Information must be provided within 30 days subsequent to the reception of the application and shall be subject to the payment of taxes and fees.

4. Information provided in response to the information request shall not confer on the applicant any mining right to the area in question, with it however potentially serving as a basis for an application for the concession of mining rights.

## **ARTICLE 101**

### **(Application for Concession of Mining Rights)**

1. The application for the concession of mining rights gives access to the office of the minister regulating geology and mines and must be formulated by way of an application addressed to the minister, containing the data referred to in N° 1 of article 100.

2. The application referred to in N° 1 of this article must be accompanied by documental proof as to the integrity and technical and financial capabilities of the applicant, as well as of its capability to satisfy requirements in environmental matters as provided for in laws and regulations, and in international treaties and conventions to which the Republic of Angola is a signatory.

3. The application for the concession of mining rights for small-scale operations, minerals earmarked for civil construction and the extraction of mineral water shall provide entry into the relevant mining registration services, but the access conditions and process for granting rights shall be subject to the special regime established in this Code and complementary legislation for each of those minerals.

4. For the purposes of foreign investment, proof of technical and financial capabilities shall be constituted by the applicant providing a dossier containing the following information:

- a) experience of legal entity in mining operations;



- b) description of technical resources and work program;
- c) description of minimum expenditure;
- d) copy of balance sheet and accounts for last three years.

5. The application for the concession of mining rights must also contain credible information on the economic goals to be achieved, the area sought, a commitment to respect requirements in environmental matters, technical and financial resources and provisional budget.

6. Applications not satisfying the requirements referred to in N<sup>os</sup> 1 and 2 of this article shall not be processed, with the applicant being notified of that fact, with an exact indication as to why the application will not be processed.

7. The decision not to process the application may constitute grounds for a complaint and appeal, in accordance with administrative procedure and litigation.

## **ARTICLE 102**

### **(Registration of Application)**

1. Upon reception of the application delivered in accordance with the previous article, a receipt shall be issued on a form containing data on the applicant and the area requested, as well as the application number, time and date of reception, which must be signed by the relevant employee and stamped.

2. The original of that form shall be given to the applicant and a copy filed with the respective process.

## **ARTICLE 103**

### **(Response to Applications)**

1. Applications shall be appraised by order of arrival, on a “first-come, first-served” basis. Any eventual mistakes in format as regards requirements and formalities for the concession application, in accordance with the regulations established in this Code, shall not counteract the primacy of reception, with a period of eight days being permitted for their correction.

2. Applicants must be informed, within a maximum period of 30 business days, as to the availability or otherwise of the area requested, with an indication of the taxes and fees to be paid, or the reasons for its unavailability, in cases where that is the information to be provided.

3. A decision not to process the application may constitute grounds for a complaint and appeal, in accordance with administrative procedure and litigation.

4. In cases where the area requested is available, the applicant shall have a period of 15 calendar days, counting from the date of the notification, to proceed with payment of the required taxes and fees, at the end of which time, failing payment having been made, the application shall be deemed abandoned and invalidated.

## **ARTICLE 104**

### **(Public Notices vis-à-vis Applications)**

1. After payment of the required taxes and fees, the Registration Office must order the publication of public notices, in two separate publications with intervals of two days between each publication, in at least two of the newspapers with large circulations, and on the Web page of the regulatory body or Registration Office, containing information on the concession application with the summarized data referred to in article 101, with the copies of the respective publications having to be filed in the process dossier with the date of publication visible.

2. With 15 days having elapsed subsequent to the 2nd and last written publication of the public notices, without any complaint or challenge of the application being filed, the concession process for the respective mining title shall continue, in accordance with that stipulated in this Code.

## **ARTICLE 105**

### **(Complaints & Challenges vis-à-vis Applications)**

1. Complaints and challenges contesting applications must be addressed to the regulatory minister and sent to the relevant mining registration entity.

2. Only those persons with the legitimacy and legal capacity to file complaints or challenges and with a direct interest in the case may file a complaint or contest applications for mining rights.

3. In the case of complaints or challenges, all those who possess ownership rights, or secured rights, or rights of a similar nature to the applications, or surface rights, or any real rights, over the areas in question, shall be deemed as having a direct interest.

4. Persons filing a complaint or challenging applications for the concession of mining rights must attach copies of the documents proving their rights and any other relevant information pertinent to a proper and effective appreciation of the case and that of the rights claimed or challenged.

5. A lack of documental proof shall invalidate complaints about or challenges of applications, thereby laying the groundwork for their preliminary rejection and that of the continuation of the process underway for the concession of mining rights.

6. When a properly formulated complaint about or challenge to the application has been made, the head of geological resources shall order the opening of an inquiry to verify the veracity of the complaint or challenge, with it being empowered to call upon other State institutions to proceed with its verification and authenticity.

7. Those parties interested in the complaint or challenge must be notified of the final outcome of the inquiry and of the decision, within a period of 15 days.

8. The decision on the inquiry may constitute grounds for a complaint and appeal, in accordance with administrative procedure and litigation.

## **ARTICLE 106**

### **(Application for Mining Concession Certificate)**

1. After having appraised and confirmed the procedural feasibility of the applications, in accordance with previous articles in this section, the geological-mining services shall issue the Application for Mining Concession Registration Certificate (RPCM).

2. The original of the RPCM shall be delivered to the applicant, with a copy of same being sent to the entity tasked with negotiating the contracts, or authorizing the concession of the respective titles, depending on the case concerned.

## **CHAPTER VII**

### **Investment in Mining Sector**

## **ARTICLE 107**

### **(Public Investment)**

Public investment in mining activities shall be conditioned to the objective need of the State to intervene entrepreneurially in the mining sector, demonstrated by means of reliable studies, approved by the Titleholder of the Executive Power.

## **ARTICLE 108**

### **(Private Investment)**

1. Investment in mining activities realized by private entities, national or foreign, defined as such in law, shall be subject to specific authorization, in accordance with the terms defined in this Code.

2. The regulations governing private investment in mining activities shall be those established in this chapter.

3. Subsidiarily, the provisions in Law N° 20/11, of May 20, 2011, Private Investment Law and in foreign exchange legislation shall be applied to private investment in mining.

## **ARTICLE 109**

### **(Commercial Partnerships)**

1. Prospecting and mining rights may be granted to entities joined commercially or entrepreneurially by partnership instruments permissible by law, provided that they satisfy the following requirements:

- a) partners satisfy the conditions established in this Code to gain access to mining rights;
- b) that the joint liability of partners to the State and third parties for the execution of contractual obligations by any of them, arising out of the exercise of the respective mining rights, shall be duly enshrined in the partnership instrument.

2. When establishing commercial partnerships preference must be given to national partners or companies, in accordance with prevailing legislation.

## **ARTICLE 110**

### **(Private Investment Regimes)**

1. Private investment shall be subdivided, according to the type of mining activity or category of minerals in question, in the following procedural regimes:

- a) general mining investment regime;
- b) investment in strategic minerals regime, defined as such in law, mined industrially;
- c) small-scale investment regime, for minerals whose mining is executed non-industrially, under the terms defined in this Code and complementary regulation.

## **CHAPTER VIII**

### **General Mining Investment Regime**

#### **SECTION I**

#### **General Provisions**

## **ARTICLE 111**

### **(Mining Investment Contract)**

1. Investment for industrial prospecting, study, assessment and mining shall be made by way of an investment contract, of an administrative nature, approved by the regulatory minister.
2. When an investment value is higher than or equivalent to USD 25,000,000 (twenty-five million US dollars), in Kwanzas, the approval of the mining investment contract shall be incumbent on the Titleholder of the Executive Power.
3. Independent of the value of the contract, the head of the regulatory body shall act on behalf of the State in all that which concerns the negotiation and provisions of the contract.
4. When the mining rights are to be exercised exclusively by a company held solely by the National Concessionaire, it shall be incumbent on the Titleholder of the Executive Power to approve the respective project for the execution of mining operations for each phase of the mining process, with a contract not necessarily being signed.

## **ARTICLE 112**

### **(Contract Negotiations Committee)**

1. Contracts for the concession of mining rights for the industrial mining of minerals shall be negotiated by a Negotiations Committee created by order of the regulatory minister.
2. When negotiations for tax and customs facilities or exemptions are involved, a member of the Ministry of Finance must sit on the Negotiations Committee.
3. When the minerals to be mined involve a national concessionaire, the latter shall participate in the negotiations leading up to the mining investment contract.
4. The Negotiations Committee shall, on behalf of the head of the regulatory body, conduct the negotiations with the investor and write up the minutes on each session of negotiations.
5. At the close of negotiations, the Committee shall produce a statement, listing the names of participants in the negotiations, showing to what extent they intervened, together with relevant negotiation elements, its opinion and recommendations on applications for tax and/or customs exemptions, and information on the date of the close of the negotiations and the outcome, with its members having to initial the pages of the contract negotiated.
6. When negotiations come to a close, the coordinator of the Negotiations Committee shall send the information and initialed contract to the regulatory minister for respective purposes.

## **ARTICLE 113**

### **(Contract Phases)**

1. When preliminary prospecting is to be carried out, the mining investment contract shall contain rules distributed between the following three phases of the mining process:

- a) reconnaissance and prospecting - in brief, Prospecting Phase - to be carried out within the period provided for in articles 125 and 261 and subsequent ones;
- b) study and assessment - in brief, Detailed Exploration Phase - to be carried out within a maximum period of 12 months subsequent to prospecting phase;
- c) exploitation - in brief, Mining Phase - to be carried out within the period provided for in article 133.

2. The rules, rights and obligations governing the three phases of the mining process shall be provided for in a single investment contract.

3. A mining title shall correspond to each prospecting and mining phase of the mining process, the authorization for which shall depend on compliance with the obligations referred to in this Code for each phase.

## **ARTICLE 114**

### **(Guarantee of Access to Trading Rights)**

The investor entity with which a mining investment contract has been signed shall be guaranteed the respective trading rights, with the trading conditions having to be contained in the respective mining investment contract.

## **ARTICLE 115**

### **(Investment Letter of Intent)**

For the prospecting phase, the investor shall provide the relevant entity with a copy of the Application for Mining Concession Registration Certificate (CPCM) issued in accordance with article 106, accompanying an investment letter of intent, filled out on the respective form, containing the following information:

- a) area and work program, with its successive stages;
- b) preliminary costs and respective financing sources;
- c) details of identification of investor and its representatives.

## **ARTICLE 116**

### **(Feasibility & Environmental Impact Assessment Studies)**

1. Before beginning the mining phase, the investor must submit a Technical, Economic and Financial Feasibility Study (EVTEF) and a study on the environmental impact and restoration of the environment after the mining activities, which, once the mining investment contract is negotiated and approved, shall become an integral part of same.

2. The mining investment contract must include clauses on the need to later combine the studies referred to in the previous number of this article, with its contractual validity counting from the date of its approval by the relevant entity.

3. The authority responsible for approving the mining investment contract may submit the EVTEF and Environmental Impact Assessment Study to an independent audit, with the costs of that audit having to be borne by the investor as negotiation costs, to be recuperated with the mining product, should the negotiation be successful.

## **ARTICLE 117**

### **(Subcontracting of Mining Operation Services)**

1. It shall be permissible for the holders of mining rights to subcontract the services of third parties for the execution of restricted or specialized mining activities, provided that this does not involve the assignment of their rights to the subcontracted companies and provided that same is authorized by the regulatory body or national concessionaire, depending on the case concerned.

2. Companies holding mining rights cannot realize their rights through an operator that substitutes them in the management and operation of deposits.

3. The subcontracting of the mining right by the holder to affiliated companies shall be unrestricted, but the holder of the right shall be obligated to provide prior information on the subcontracting to the regulatory body and national concessionary, should the latter be involved.

## **SECTION II**

### **Prospecting Rights**

#### **SUBSECTION I**

#### **Access to Prospecting Rights**

## **ARTICLE 118**

### **(Contractual Regime)**

1. Access to exploration rights shall abide by the regulations of this Code and shall be attained by way of the mining investment contract defined in the previous section of this chapter.

2. The rules, rights and obligations on the exercise of mining rights for prospecting, research and assessment shall stem from the terms and conditions that have been agreed upon during the investment contract negotiations approved by the relevant entity.

## **ARTICLE 119**

### **(Contents of Prospecting Contract)**

The mining investment contract must contain, without prejudice to others that may eventually arise out of applicable legislation and the respective negotiations, the following elements, relating to the prospecting phase:

- a) corporate and taxpayer identification and domicile of titleholder and of its legal representative;
- b) indication and delimitation of area;
- c) type of mineral resource included in concession requested;
- d) initial prospecting period and conditions for extension;
- e) conditions for progressive abandonment of area;
- f) prospecting plan;
- g) investment plan;
- h) periodicity of presentation of reports;
- i) value and types of bonds to be provided;
- j) contribution to Mining Development Fund or other fund, when such exist legally;
- k) grounds for rescinding contract during prospecting phase;
- l) form of resolving litigation.

## **ARTICLE 120**

### **(Dimension & Demarcation of Prospecting Area)**

1. The mining investment contract must define the dimension of concession areas for prospecting rights, stated in square kilometers or hectares.

2. The dimensions of the area of each prospecting and research concession may extend to a maximum of 10,000 km<sup>2</sup>, depending on the type of mineral.

3. When negotiating areas for each concession, the existence or otherwise of geological studies on same, investments to be made and the public interests to be safeguarded, shall all be taken into account.



4. Each investor may only obtain prospecting rights for the same mineral for a maximum of up to three concession areas at the same time.

5. The marking and demarcation of areas granted for prospecting, as well as their timeframes and framework, shall be established by the regulatory body.

## **ARTICLE 121**

### **(Execution of Prospecting Plan)**

Holders of prospecting rights for mineral resources must execute the prospecting plan appended to the mining investment contract, under penalty of contractual noncompliance.

## **ARTICLE 122**

### **(Adjustments to Prospecting Plan)**

1. The regulatory minister, based on an opinion from the entity or concessionaire overseeing the execution of mining works, may exceptionally authorize adjustments to be made to the prospecting plan initially approved, provided they are requested and duly substantiated by the interested party.

2. Adjustments to the prospecting plan implicating the expansion of the initial area shall not be authorized, except when, while not contradicting the principles and regulations of this Code, that expansion is requested and authorized by the relevant entity.

3. The regulatory body must pronounce on the application to adjust the prospecting plan within 45 days counted from the date of its reception.

4. For the purposes of litigious and administrative procedures, the requested adjustments shall be deemed as rejected should the regulatory body not pronounce on same within the deadline set in the previous number of this article.

## **ARTICLE 123**

### **(Expansion of Prospecting Area)**

1. The holder of the prospecting rights may request expansion of the area from the regulatory minister, indicating the reasons.

2. The regulatory minister may authorize the expansion, setting the terms and conditions shown to be appropriate for each case.

3. The application to expand the area may be denied in the following cases:

- a) expansion of area does not ensure efficient utilization of mineral resources and benefits for the national economy;
- b) area requested is unavailable;
- c) applicant is in default with tax and social security obligations;
- d) applicant has been punished or is under investigation for infringements of the regulations and principles established in this Code.

4. The decision on the expansion application shall be sent to the interested party within a maximum period of 15 days subsequent to the said decision, with the reasons and grounds for denial, when such is the case, being specified.

5. In the event of the request being granted, a record of the expansion shall be made in the relevant mining title, with payment of the respective taxes having to be made after proof of payment of the publication of the official order authorizing expansion of the area has been presented, should such payment be required.

6. Should the interested party, after communication of the decision on the expansion of the area, not comply with that established in the previous number, within a period of 30 days, the said decision shall be deemed canceled.

7. A titleholder whose expansion has been authorized in accordance with this article may not begin any development work or mining operations in the area for which the expansion is authorized, until notification of authorization is received from the regulatory body.

## **ARTICLE 124**

### **(Assessment of Mineral Reserves)**

1. The assessment and classification of mineral reserves identified in the prospecting phase, as well as adjustments that may be made to same, shall be the responsibility of the holders of the respective mining rights and must be made in accordance with internationally accepted methods, with their being subject to approval by the regulatory body.

2. The rule contained in the previous number shall apply to samples extracted during geological-mining operations that have to be analyzed outside the country, provided that comparable analysis conditions do not exist in Angola.

3. The temporary export of samples extracted during prospecting operations, which have to be analyzed outside the country shall be permissible, provided that comparable analysis conditions do not exist in Angola.

## **ARTICLE 125**

### **(Duration & Extension of Prospecting Rights)**

1. Prospecting rights shall be granted for an initial period of up to five years, which may be extended by successive periods of one year, to a seven-year maximum, without prejudice to that stipulated in N<sup>o</sup>s 5 and 6 of this article.
2. The extensions referred to in the previous number shall be requested by the holder of the prospecting rights up to 90 days before the end of the period to which they refer, and shall be granted to applicants that have complied with the execution of their legal and contractual obligations.
3. At the end of the initial period of five years, the holder of the prospecting rights must free up 50% of the concession area and, at the end of each extension, it must free up the area that, after appraisal of the results obtained during that period, shall be decided by the regulatory body.
4. The holder of the prospecting rights may reduce the concession area before the end of the initial contractual period.
5. At the end of that same initial period of five years, should the holder of the mining rights wish to retain the entirety of the concession area, it shall be subject to a supplemental surface tax, in accordance with the tax regime for the mining sector provided for in this Code and complementary legislation, in accordance with article 261 and subsequent ones.
6. Should the entire period of seven years prove to be insufficient for the preparation or completion of the Technical and Economic Feasibility Study, the concessionaire may request an exceptional extension of the mining rights, for a maximum period of one year, in accordance with the conditions defined in the previous number of this article.
7. At the end of the periods defined in accordance with this article and of the extensions granted, the respective rights shall expire, in accordance with paragraph a) of article 55.

## **SUBSECTION II**

### **Prospecting Title**

## **ARTICLE 126**

### **(Issue of Prospecting Title)**

1. When the mining investment contract has been approved by the relevant entity, the head of the regulatory body shall issue the prospecting title, in accordance with article 89 of this Code and proceed with its delivery to the titleholder after the latter has paid the taxes and fees incurred.

2. With the mining title issued, the head of the regulatory body shall send a copy of same to the executive of the province where the investment is made, for information, with a copy to the investor.

3. When the investment involves the importation of foreign capital and/or the concession of partial facilities and exemptions, the head of the regulatory body shall send a copy of both the title and the approved contract to the Ministry of Finance and the National Agency for Private Investment, with the latter having to issue the respective Private Investment Registration Certificate to certify the foreign investment and to obtain a Capital Importation License from the National Bank of Angola.

4. Having obtained the mining title, the respective holder shall be qualified to undertake the mining operations to be performed under the terms established in this Code and complementary legislation.

## **ARTICLE 127**

### **(Contents of Prospecting Title)**

The prospecting title, approved in accordance with the previous article, must contain the following data:

- a) date of issue and number of title;
- b) identification of titleholder;
- c) minerals covered;
- d) validity period;
- e) identification of area corresponding to concession title, from a description of respective geographical coordinates;
- f) topographical map of area covered by concession title, with identification of geographical coordinates;
- g) terms and conditions to which the titleholder shall be subject, i.e., relating to prospecting and research period, the freeing up of area, taxes and fines, environmental precautions and other relevant information, depending on the mineral concerned.

## **SECTION III**

### **Mining Rights**

#### **SUBSECTION I**

#### **Access to Mining Rights**

## **ARTICLE 128**

### **(Access to Mining Rights)**

1. The mining rights on mineral resources discovered and assessed as a result of the prospecting and assessment phases of a mining investment contract shall be granted, with the requirements established in the previous section having been fulfilled, to entities that have exercised the mining rights during those phases within the scope of the contract.

2. The mining rights on mineral resources already known and assessed, but not discovered as the consequence of a mining investment contract, shall be granted to whoever, fulfilling the legal requirements, presents the best mining proposal, through a public tender launched by the regulatory body for that purpose.

## **ARTICLE 129**

### **(Basis for Assessing Mining Feasibility)**

1. The assessment and decision linked to the granting of mining rights shall be fundamentally based on the Technical, Economic and Financial Feasibility Study (EVTEF), the Environmental Impact Assessment (EIA), in accordance with article 116, and the Mining Plan, among other elements required by this Code and complementary legislation.

2. Whenever the scale of the investment and technical complexity of same so recommend, the relevant authority negotiating the contract may call upon the investor to present an independent audit of the EVTEF and EIA submitted, with it being enabled to indicate or agree with the investor on the auditor to be consulted.

3. The EVTEF must mandatorily forecast that mining costs, including operating costs, investment costs and costs incurred with prospecting, research and assessment, cannot, in each annual accounting and fiscal year, be established up to the limit of 50% of the mining income.

4. The EVTEF must forecast a maximum period for reimbursement of the capital invested in five-year mining projects, which may be expanded up to seven years. It shall be incumbent on the head of the regulatory body to authorize, at the duly substantiated request of the investor, the expansion of that period up to seven years, in which case such authorization shall figure as an appendix to the EVTEF.

5. Capital investment made during the mining phase may benefit from a capital investment allowance of up to 50% of the capital invested, to be approved by the head of the regulatory body, in line with a recommendation from the Negotiations Committee as referred to in article 112 of this Code. In those cases, the said approval must be appended to the EVTEF.

## **ARTICLE 130**

### **(Concession of Mining Rights)**

1. The concession of mining rights for the mining phase shall be made by way of the mining investment contract defined in Section I of this chapter.
2. The exercise of mining rights must abide by the terms and conditions that have arisen out of the negotiations as referred to in the respective private investment regime, established in this Code, without prejudice to that established in N° 3 of this article.
3. The concession of mining rights for small-scale operations shall be conducted in a simplified way, by means of a simple order or mining credential issued by the regulatory body.

## **ARTICLE 131**

### **(Contents of Mining Contracts)**

The mining investment contract must contain, besides the reciprocal rights and obligations of the concessionaire and of the State, the following elements, related to the mining phase:

- a) corporate tax identification and domicile of titleholder and its legal representative;
- b) area needed so that approved mining plan may be executed and that needed for the processing, industrial and ancillary mining facilities;
- c) type of mineral resources to be mined;
- d) technical and economic feasibility study;
- e) value and type of bonds provided;
- f) reimbursement conditions for investments executed during exploration phase;
- g) period of validity of contract and respective extensions, established in accordance with article 133;
- h) forms of trading of minerals extracted;
- i) other conditions agreed by the parties or required by this Code.

## **ARTICLE 132**

### **(Refusal of Concession)**

1. A refusal to grant mining rights may only be made when the prospecting phase has not yet begun and for supervenient and relevant reasons of public interest that objectively conflict and are incompatible with the private interest of the mining activity requested.
2. Reasons of public interest invoked to refuse the concession must be duly substantiated, even when they are related to the security or defense of the State.
3. A refusal to grant mining rights for the reasons indicated in N° 1 of this article shall obligate the State to compensate the respective titleholder of an investment that has in the meantime been

executed, plus interest at the prevailing commercial rate in Angola, when the request is based on a prospecting contract.

4. In the case of public tenders, compensation shall be limited to the expenses outlaid by the candidate which has presented the best bid and been awarded the tender.

## **ARTICLE 133**

### **(Duration of Mining Rights)**

1. Mining rights shall be granted for a period of up to 35 years, including the prospecting and assessment period, at the end of which time they shall expire and the mine shall revert to the State.

2. In accordance with a decision made by the head of the regulatory body, mining rights may be extended by one or more periods of 10 years each, by means of a duly substantiated request, addressed to that entity, from the holder of the expired mining rights.

3. Mining companies shall be obligated to constitute a statutory reserve of 5% of invested capital, besides those established in commercial legislation, earmarked for the closure of the mine and environmental restoration.

4. With the mining rights expired, the mine-related rights and obligations shall be undertaken by the State, to which 50% of the statutory reserve, referred to in the previous number, shall be assigned.

5. The environmental restoration shall not be included in the State's obligations, which must be undertaken by the holder of the expired right, utilizing the statutory reserve referred to in Nº 3 of this article.

## **SUBSECTION II**

### **Mining Title**

## **ARTICLE 134**

### **(Issue of Mining Title)**

1. When the mining contract is approved by the relevant entity, the regulatory body shall issue the mining title, in accordance with the regulations established in this Code.

2. The mining title issued shall be delivered to the interested party after the payment of taxes and fees due.

3. Should the interested party, subsequent to communication of the decision on the concession of a mining title, not proceed with the payment of taxes and fees due, within a period of 30 days, same shall be deemed canceled.

## **ARTICLE 135**

### **(Contents of Mining Title)**

The mining title shall contain the following data:

- a) date of issue and number of mining title;
- b) identification of titleholder;
- c) minerals covered;
- d) validity period established in accordance with article 133;
- e) identification of mining title area by geographical coordinates;
- f) topographical map of area covered by mining title, with indication of geographical coordinates;
- g) terms and conditions to which the titleholder shall be subject, relating to the mining, processing and/or trading of mineral products.

## **ARTICLE 136**

### **(Processing of Mining Title)**

1. When the mining title has been issued and the original has been delivered to the respective holder or its legal representative, the regulatory body shall send copies of same to the government of the province where the investment has been made, for its information.

2. When the investment involves the importation of foreign capital and/or the concession of partial facilities and exemptions, the head of the regulatory body shall send a copy of both the title and the approved contract to the Ministry of Finance and the National Agency for Private Investment, with the latter having to issue the respective Private Investment Registration Certificate to certify the foreign investment and obtain a Capital Importation License from the National Bank of Angola.

## **ARTICLE 137**

### **(Autonomy & Assignability of Mining Title)**

The mining right contained in the mining title is distinct from the land or urban property ownership rights existing therein and may be assigned in accordance with the terms defined in article 94.

## **ARTICLE 138**

### **(Obligations of Mining Title Holder)**



Besides the obligations established in this Code, and the terms and conditions established in the mining contract, the holders of mining rights shall have the following specific obligations to:

- a) demarcate the area with clearly identifiable concrete markers, within a maximum period of 90 days starting from the date of issue of the mining title or of alteration to the area;
- b) in the case of mining in the Sea, the demarcation must be made in line with marine demarcation rules, in accordance with pertinent legislation;
- c) carry out mining activities in conformity with mining plan submitted and approved;
- d) provide the relevant authorities with progress reports and other information required in accordance with this Code;
- e) effect payment of taxes due.

## **ARTICLE 139**

### **(Validity of Mining Title)**

1. The mining title shall be valid during the period stated in same, counted as starting from the date of its issue, and during the extension periods granted, in accordance with the rules established in article 89.

2. In the case of a mining title period expiring while an extension application is pending, same continues valid until such time as a decision is made on the said application.

## **ARTICLE 140**

### **(Conditions for Extending Mining Titles)**

1. Holders of a mining title may request its extension, with the respective application having to be submitted with a minimum advance notice of six months in relation to its termination.

2. The extension application must contain the following data:

- a) indication of extension period required and grounds stating why extension is needed;
- b) area needing to be maintained, outlined on an updated topographical map;
- c) proposal of operations program to be carried out during extension period.

3. The extension request must be accompanied by a detailed report containing, namely:

- a) balance of reserves;
- b) estimated economic life of mine;
- c) any other aspects that the applicant may consider relevant.

## **ARTICLE 141**

### **(Decision on Extension Application)**

1. It shall be incumbent on the head of the regulatory body to decide on the extension application submitted in accordance with the previous article.
2. The head of the regulatory body shall grant the extension within a period of six months starting from the date of the application being submitted, upon verification of the following conditions:
  - a) submission of application with a minimum advance notice of six months in relation to the expiry period of mining title;
  - b) compliance with mining conditions during validity of mining title;
  - c) compliance with contracts;
  - d) compliance with tax and social security conditions.
3. The decision on the extension application shall be final, without right of appeal.

## **SUBSECTION III**

### **Mining Plan & Program**

## **ARTICLE 142**

### **(Mining Plan)**

1. Mining activities shall be carried out in accordance with a mining plan, which shall be part of the Technical and Economic Feasibility Study, which must contain the elements referred to in article 143 (on Contents of Mining Plan).
2. Each mining plan shall correspond to a concession, without prejudice to that stipulated in article 148.
3. The regulatory body may authorize adjustments to initial forecasts in the approved mining plan, when requested and duly substantiated by the concessionaire.

## **ARTICLE 143**

### **(Contents of Mining Plan)**

The mining plan must contain the following elements:

- a) description of mining scheme, including details on scale of operations, probable location of main mining operations, boreholes, wells, landfills and dams;
- b) detailed description of mining methods;
- c) forecast date for start up of commercial production;
- d) production and capacity profile;
- e) characteristics and nature of final products;
- f) forecast date for start up of mining development;
- g) in the case of underground mining, description of rocks overlying the deposit, fixed and temporary slopes of mine walls and superficial earth;
- h) in the case of opencast mining, indication of location of dam for decantation of waste;
- i) in the case of underwater mining, indication of technical and geological data enabling identification of location, upper layer of water up to the surface, mining system utilized and means of protecting and preserving marine environment;
- j) description of hauling, ventilation, illumination, drainage and safety systems;
- k) description of local water, energy and materials supply systems;
- l) description of beneficiation procedures and, where appropriate, mineral-processing technology;
- m) description of infrastructure essential for mining and proposals by the applicant in that respect;
- n) proposal for anti-pollution measures, environmental protection, restoration and reclamation of land, including vegetation and proposals for minimizing effects of mining on land and in superficial waters located in the mining area and adjacent to same;
- o) identification of any risks to health and safety of personnel involved in mining and public in general and proposal for control, mitigation, monitoring and elimination of any of those risks;
- p) skilled and unskilled labor requirements;
- q) any other data that the applicant may consider relevant, or requested by the relevant entity.

## **ARTICLE 144**

### **(Technical Management of Mining)**

1. Each mining concession must have a technical manager who is responsible for the technical safety of the mine under his/her supervision, for the technical mining conditions of same, and the best execution of the mining plan, with the said manager being permitted to work in more than one concession mined by the same titleholder.
2. The regulatory body shall define the standards for technical personnel, in accordance with the specificity of the mining of each mineral.
3. Mining concessions for the mining of construction materials on a small scale and for artisanal mining shall be exempt from the obligation referred to in N° 1 of this article.

4. It shall be incumbent on the head of the regulatory body to define the need, or otherwise, for a technical manager for minerals earmarked for civil construction, in relation to the greater or lesser scale of the respective mining.

## **ARTICLE 145**

### **(Civil & Criminal Liability of Technical Management)**

1. The technical managers of mining units shall be accountable both civilly and criminally to the State, holder of the concession and third parties for any acts that are attributable to them while acting as the technicians responsible for mining.

2. Technical managers may be legitimately exempted from civil and criminal liability on concrete mining aspects, provided they are able to prove to the relevant authorities, in writing and to the holder of the mining right, that they have indicated, in a timely manner, their reasons for not accepting such liability for each concrete case and that the measures suggested by them to overcome shortcomings were ignored.

3. In the cases referred to in the previous number of this article and in other cases, the liability that may occur, shall be borne by the holder of the mining right, under the general terms of law.

## **ARTICLE 146**

### **(Work Program)**

1. The holder of the mining rights must submit a current work program, and a forecast of the minimum expenditure to be outlaid in the following year, to the regulatory body, up until October 31 of each year.

2. The holder of the mining title may, with justified reasons, revise any details of the work programs submitted and that of forecast minimum expenditure.

3. The regulatory body must be apprised of the revisions referred to in the previous number.

## **ARTICLE 147**

### **(Demarcation)**

Each mining right shall relate to a mining demarcation, whose limits must be strictly defined and established in the physical mining space, with their having to correspond to the area considered necessary to execute the approved mining plan, including mining complex facilities and with regard to the security of the areas provided for in articles 200 and 202 of this Code.

## **ARTICLE 148**

### **(Integration of Mines)**

1. The relevant entity that approves contracts granting mining rights may authorize the incorporation of contiguous or neighboring mines and their respective demarcations into a single unit, when they belong to the same titleholder and when such integration results in a more rational utilization of same with a greater economy of resources.

2. That stipulated in the previous number shall likewise be applicable when the mines and respective demarcations belong to various holders, but, in such cases, a new mining plan must be submitted and a new contract granting mining rights must be signed, adapted to the circumstances in which the mining rights have already been granted.

## **ARTICLE 149**

### **(Commencement of Mining Work)**

Holders of industrial-scale mining rights must, up to 30 days prior to the start of mining activities, submit to the regulatory body, with notification to the national concessionaire, should such exist, written information on the commencement of the work, as well as the environmental program and the eventual authorization for the utilization and efficient use of land, when such is the case.

## **ARTICLE 150**

### **(Changes in Production Capacity of Mine)**

1. Whenever there is a change in installed capacity, the titleholder must submit information in writing to the relevant body of the regulatory ministry regarding the changes occurring in the mine's installed capacity, or, when such involves mineral processing, in the processing plant.

2. Should production remain, for five consecutive years, equal to or at less than 20% of the potential referred to in the feasibility studies and plans approved, the mining title concession may be revoked by the regulatory body, in accordance with paragraph d) of article 56.

## **ARTICLE 151**

### **(Mining Report)**

1. In respect of the monitoring and inspection of mining activities by the regulatory body, the holder of the mining rights must provide the regulatory body with the following information:

- a) by the 5<sup>th</sup> of each month, monthly information on the production and trading of mineral substances, realized in the previous month;
- b) within a deadline of 15 days subsequent to the end of each quarter, the report on activities realized in the previous quarter;
- c) by January 31 of each year, the annual report on activities developed during the previous year.

2. The information and reports referred to in the previous number shall be delivered to the respective provincial department and relevant regulatory body.

3. The mining report shall abide by, in its form and contents, that established in the directive approved by the regulatory body.

## **ARTICLE 152**

### **(Abandonment of Mining Area)**

1. During the validity of the mining contract the holder of the mining rights may, by a notification addressed to the head of the regulatory body made no less than 180 days in advance, and without prejudice to the terms and conditions provided for in the respective investment contract, abandon part of or the entire mining area.

2. The abandonment shall only come into effect starting from the date approved by the regulatory body, which must be not less than three months, or not more than the period of prior notice given by the titleholder.

3. In the case of total abandonment of the mining area, the mining title shall expire in accordance with article 54 of this Code.

4. In the case of partial abandonment of the mining area, the titleholder shall undertake an obligation to update the limits of the remaining area, with the updated area having to be registered and recorded in the mining title.

5. The abandonment of any area in accordance with the previous numbers shall not release the titleholder from having to:

- a) pay tax, taxes, fines or any compensation due at the date of the abandonment being formally recognized by the relevant body of the regulatory ministry;
- b) comply with all environmentally-related obligations;
- c) comply with any obligations required by law or by investment contract at date on which abandonment starts to come into effect.

## **ARTICLE 153**

### **(Insurance)**

1. Holders of mining rights for industrial-scale mining must take out an all-risks insurance policy.
2. The insurance referred to in the previous number must cover the following risks:
  - a) damage to mining facilities;
  - b) third-party liability;
  - c) work-related accidents of personnel involved in mining operations.

## **ARTICLE 154**

### **(Reimbursement of Investment)**

1. The reimbursement of investments executed during the exploration phase by holders of mining rights shall be effected through the results of the mining of mineral resources discovered within the framework of the respective concession contracts.
2. The said reimbursement shall include all capitalized costs and must be effected in accordance with contractually-agreed terms.

## **SUBSECTION IV**

### **Tax Facilities & Foreign Investment**

## **ARTICLE 155**

### **(Obtaining Tax & Customs Facilities)**

After the contract has been approved and the mining title issued, the head of the regulatory body shall send a copy of same to the Ministry of Finance for the granting of tax and/or customs exemptions, in those cases where these have been negotiated by the Negotiations Committee and approved by the head of the regulatory body.

## **ARTICLE 156**

### **(Specific Foreign Investment Procedures)**

In the case of foreign investors, defined as such in law, after the contract has been approved and the mining title issued and a copy has been sent to the Ministry of Finance, the regulatory body shall send a copy of the contract to the National Agency for Private Investment which, in its turn, shall issue the

respective Private Investment Registration Certificate and request the National Bank of Angola to license the importation of capital as required.

## **CHAPTER IX**

### **Mining Investment Processing Procedures**

#### **ARTICLE 157**

##### **(Investment Execution Deadlines)**

1. Whenever such is not established by the rules in this Code, specific legislation or in the respective investment contracts, the investment execution deadlines on the part of the investor shall be those established in the general investment regime approved by the Private Investment Law and its regulations and by taxation and foreign exchange legislation, with offenders being subject to the sanctions provided for in that legislation in the event of noncompliance with investment execution deadlines.

2. It shall be incumbent on the regulatory body to oversee the execution of investment deadlines by the investor, in accordance with the exact terms of the legal and contractual obligations undertaken by the latter.

#### **ARTICLE 158**

##### **(Deadlines for Processing Mining Investments)**

The deadlines to be observed in processing mining investments shall be as follows:

- a) response to Mining Concession Application – up to 30 days subsequent to reception of application by respective geological-mining services department;
- b) issue of Application for Mining Concession Registration Certificate (CRPCM) - up to 15 days subsequent to proof that Mining Concession Application is viable, i.e., that it has not been contested, or a challenge has been decided in favor of the applicant;
- c) setting up of Negotiations Committee, or forwarding of process to the specific entity, when such exists, to conduct the negotiations - up to 30 days subsequent to submission of Investment Letter of Intent by the investor, accompanied by the CRPCM or EVTEF and Environmental Impact Assessment, if required;
- d) negotiation of concession contracts – up to 180 days subsequent to the setting up of Negotiations Committee to be defined in the decree creating the said Negotiations Committee;
- e) formulation of the Negotiations Minutes and remittance to relevant entity for approval of contract - up to eight days subsequent to the close of negotiations;



- f) approval of contract by the regulatory minister - up to eight days subsequent to having received the Negotiations Minutes;
- g) issue of Mining Title - up to eight days subsequent to approval of contract by the relevant entity;
- h) remittance of copies of contract to the Ministry of Finance, the Executive of the Province and ANIP - up to eight days subsequent to mining title having been issued by the relevant entity;
- i) issue of the Private Investment Registration Certificate (CRIP) by ANIP and remittance of a copy of same to the National Bank - up to eight days subsequent to having received the copy of the approved contract and mining title;
- j) issue of the Capital Importation Title - up to 15 days subsequent to reception by the National Bank of Angola of a copy of the CRIP sent by ANIP.

## **ARTICLE 159**

### **(Public Tender Deadlines)**

With regard to public tender procedures, the rules and deadlines applied shall be those provided for in legislation on public works tenders, with due modifications. The Executive Power shall be empowered to approve specific rules on procedures and deadlines for public tenders for the mining sector.

## **ARTICLE 160**

### **(Effects of Noncompliance with Deadlines)**

Noncompliance with deadlines on the part of the regulatory bodies to make a decision shall signify the rejection of the application, with the legal effects of administrative procedures and litigation.

## **ARTICLE 161**

### **(Control of Deadlines)**

The control of procedural deadlines for private investment in the mining sector shall be ensured by documents being recorded throughout every stage of the processing of the private investment, bearing the names of the institution and that of the employee receiving or sending the documents, the dates, times, signatures and, should such be the case, the rubber stamps utilized by the institutions involved.

## **ARTICLE 162**

### **(Penalties for Noncompliance with Deadlines)**

Noncompliance with deadlines shall be liable to administrative litigation procedures in accordance with current legislation, with the national concessionaires and their legal representatives being subject

to this regime by virtue of the public administrative power vested in them in their administrative relationship with the holders of mining rights.

## **ARTICLE 163**

### **(Complaints & Appeals)**

1. The decisions and practices of the regulatory bodies may be the subject of complaints and appeals, in accordance with administrative procedure and litigation.

2. The non-exercise of rights to file a complaint or appeal within the deadlines established in legislation on administrative procedure and litigation shall mean that the decisions and practices relating to the acts that originated same shall come into effect, in accordance with law.

## **CHAPTER X**

### **Investment in Strategic Minerals Regime**

## **ARTICLE 164**

### **(Special Rules & Procedures)**

Private investment for the mining of minerals considered strategic in accordance with this Code and complementary legislation, shall be put in place in accordance with the general regime governing the rules and procedures established in this Code, with the following modifications:

- a) the authority to negotiate contracts shall be exercised by the body created by the Executive Power to regulate the exercise of rights on certain strategic minerals and by the national concessionaire;
- b) the approval of contracts shall be the prerogative of the Executive Power;
- c) the authority to approve investment contracts for the geological-mining investigation and mining phase may be delegated by the Executive Power to the regulatory body if, having completed the prospecting phase, the investment to be made in the first five years of mining proves to be equivalent to or less than that corresponding to USD 25 million;
- d) the drawing up of the terms of reference for the public tender and the composition of the Negotiations Committee referred to in articles 97 and 111 must include the participation of the national concessionaire, or of the body which the Executive eventually sets up to regulate the exercise of certain mineral rights, in accordance with the terms referred to in those paragraphs;
- e) it shall be incumbent on the Titleholder of the Executive Power to approve the committee or relevant body to negotiate the contracts on those strategic minerals that are not yet subject to a specific public regulator.

## **ARTICLE 165**

### **(Processing of Contracts Subsequent to Approval)**

After approval by the Executive Power, the contracts shall be returned to the regulatory body for the issue of the mining title, remittance of copies of the contract and mining title to the national concessionaire, the Government of the Province where the investment is made, the Ministry of Finance, when the approval of tax exemptions by the Executive Power applies and to ANIP, for the purpose of obtaining the CRIP and the Capital Importation License, whenever foreign investment is involved, under the terms established in the general regime for private investment, provided for in the previous section of this Code.

## **ARTICLE 166**

### **(Execution of Investment)**

1. It shall be incumbent on the regulatory ministry to oversee the execution of private investment in strategic minerals not coming under the legal remit of a national concessionaire, in accordance with the same terms for overseeing execution of the investment as established in the general regime of the previous section of this Code.

2. When strategic minerals subject to the legal remit of a national concessionaire are involved, after the respective contract has been approved by the Executive, and respective mining title issued by the regulatory body, aside from the entities referred to in the previous article, the regulatory minister shall send a copy of the contracts and titles issued to the national concessionaire, within a period of five business days, with the latter having to oversee the execution of the investment by the investor, subsequent to having obtained the CRIP and the Capital Importation License, in the case of foreign investment, under the same terms of oversight as established in the general private investment regime, provided for in the previous section of this Code.

## **CHAPTER XI**

### **Small-Scale Mining Investment Regime**

#### **SECTION I**

#### **Investment in Small-Scale Mining**

## **ARTICLE 167**

### **(Definition)**

1. Small-scale mining shall be deemed as such when salaried labor is not employed and when it exclusively utilizes artisanal methods and resources, without the involvement of mechanized resources, or industrial mining technology.

2. The materials and equipment utilized in small-scale mining shall be, namely; hoes, pickaxes, shovels, machetes, colanders or sieves, basins, buckets, gloves, brushes, scales, helmets and boots.

## **ARTICLE 168**

### **(Prohibition of Industrial Equipment)**

1. The utilization of any equipment or resources with characteristics differing from those specified in the previous article shall be prohibited, with banned materials found in the possession of miners being subject to confiscation, without prejudice to any other specific measures determined by law and this Code.

2. A duly substantiated application made by the holder of the mining right, addressed to the head of the regulatory body, may lead to authorization being granted by same to employ semi-industrial equipment in the applicant's small-scale production.

## **ARTICLE 169**

### **(Legal Regime & Framework)**

1. Small-scale mining shall only be admissible, in accordance with this Code.

2. The Executive Power may approve supplementary rules to regulate small-scale mining activities, in accordance with the specificity of each mineral.

3. The regime governing the small-scale production of diamonds is established in Chapter XIX of this Code.

## **ARTICLE 170**

### **(Economic Integration)**

The regulatory ministry must lay the groundwork for the integration of small-scale miners into cooperatives or other organized forms of action, that result in a better utilization of natural resources for the benefit of the population, in harmony with the Executive Power's policy for the mining sector.

## **ARTICLE 171**

### **(Small-Scale Investment Regime)**

1. Investment in small-scale mining activities shall be subject to the small-scale mining regime, in accordance with the definition of small-scale production and the rules established for such activity in this Code and respective complementary legislation.

2. In all that does not contradict specific provisions on investment in small-scale production as established in this Code and complementary legislation, the general regime regulations governing private investment and the concession of mining rights shall be applied to investment in small-scale mining activities, with the necessary modifications.

## **ARTICLE 172**

### **(Obtaining Small-Scale Mining Rights)**

1. Investment in small-scale mining activities shall be enabled by concession titles for small-scale mining rights, designated as a mining pass, granted by an order issued by the regulatory minister.

2. The application to obtain a title to small-scale mining concession rights shall be addressed to the Minister, containing the data identifying the investor, meeting with the conditions and requisites required by this Code and complementary legislation on small-scale mining, together with a map of the area being requested.

## **SECTION II**

### **Concession of Small-Scale Mining Rights**

## **ARTICLE 173**

### **(Areas for Small-Scale Mining)**

1. The Executive may reserve areas of mineral occurrences for carrying out small-scale mining.

2. Only those areas whose geological characteristics are not conducive to carrying out mining on an industrial scale shall be considered adequate for small-scale mining.

3. Those areas barred to mining activity or that are subject to other types of mining rights may not be reserved for small-scale mining.

## **ARTICLE 174**

### **(Licensing)**

The concession of rights to undertake small-scale mining shall be granted by the minister responsible for the mining sector or by any other entity in the sector to which that power is delegated.

## **ARTICLE 175**

### **(Dimension of Areas)**

1. The dimensions of areas for small-scale mining may not exceed 5 km<sup>2</sup>, with their having to be demarcated under the same terms applying to the demarcation of industrial production areas.
2. The dimensions of an area for the small-scale production of diamonds are established in N° 2 of article 283.

## **ARTICLE 176**

### **(Duration)**

Except for that stipulated in the legal regime governing the small-scale production of diamonds, the mining rights to engage in small-scale mining shall be granted for a period of up to three years, which may be extended for three more years, with that later being extended by successive periods of one year, to the depletion of the exploitable mineral resource.

## **ARTICLE 177**

### **(Requirements for Access to Small-Scale Mining)**

1. Mining rights for small-scale production may only be granted to national citizens over 18 years of age.
2. When strategic minerals are involved, the citizens referred to in N° 1 of this article must reside in the area for at least 10 consecutive years.
3. The administrative authority for the place of residence shall be authorized to issue the document proving such residence, with the respective traditional authority having been consulted.
4. Mining rights may be granted to individuals or collectively to family members, partnerships or cooperatives that satisfy the requirements stipulated in this Code and in specific regulation.

## **ARTICLE 178**

### **(Restrictions)**

1. It shall not be permissible for the same titleholder to hold more than one small-scale mining concession.

2. Only those who are legally authorized may undertake small-scale mining, in accordance with this Code, with their being entitled to extend that activity to immediate family members up to a maximum of 10 persons.

3. The inclusion of members of the titleholder's family in small-scale mining shall require a document to be obtained in advance by the titleholder of the right by applying to the relevant provincial entity, which shall identify how they are connected to that title, as well as including an indication of the names, degree of relationship, copies of identification documents and proof of residence. This identification document shall abide by a type approved by the regulatory body and shall be valid for one year, being renewable.

## **ARTICLE 179**

### **(Identification Obligation)**

1. Only the holder of the mining right and those bearing a valid identification document, as referred to in the previous article, may stay in the small-scale mining area.

2. During their permanence and operation in the areas granted for this purpose, all small-scale mining workers shall be compelled to carry a legally-instituted identification document.

## **ARTICLE 180**

### **(Exemption from Surface Taxes)**

Holders of small-scale mining rights shall be exempt from the payment of surface tax.

## **ARTICLE 181**

### **(Register)**

It shall be incumbent on the regulatory body for the sector to establish a specific register for the monitoring and control of small-scale mining.

## **ARTICLE 182**

### **(Monitoring)**

Without prejudice to the responsibilities of law enforcement and security bodies, it shall be incumbent on the regulatory body for the sector and other relevant local sectorial authorities to monitor and inspect the legal and technical aspects of small-scale mining activity.

## **ARTICLE 183**

### **(Environmental Protection)**

1. The holders of small-scale mining rights shall be obligated to comply with environmental standards for this type of mining activity.
2. The regulatory body shall define the regulations to which the holders of small-scale mining rights shall be obligated, so that the latter may comply with that established in this Code and other environmental legislation.

## **ARTICLE 184**

### **(Suspension of Small-Scale Mining)**

1. Whenever so justified, because of public health, environmental issues or other major reasons, which are duly substantiated and justified, the operation of any small-scale mining-related activity in a certain area may be temporarily suspended.
2. A temporary suspension may only be maintained while the circumstances, which had determined its existence prevail, except for the occurrence of new situations that come within the requirements stipulated in the previous number for prolonging the said suspension of the mining.

## **ARTICLE 185**

### **(Extinction of Rights)**

The regulations governing the extinction of other mining rights shall also apply to the extinction of small-scale mining rights, with the necessary modifications.

## **ARTICLE 186**

### **(Rights of Small-Scale Miner)**

1. Holders of small-scale mining rights shall be guaranteed the right to carry out artisanal mining operations on an authorized mineral in the area granted to them, to store, transport and sell the product obtained, in accordance with the rules established in this Code and in regulations governing small-scale mining.



2. Holders of small-scale mining rights may also invoke in their favor the rights enjoyed by the holders of mining rights in general, except if, due to their characteristics, it is clear that same may not be applied to this type of activity.

## **ARTICLE 187**

### **(Obligations of Small-Scale Miner)**

1. Holders of small-scale mining rights shall be subject to the following obligations to:

- a) execute mining activities in accordance with that established in this Code, regulations on the subject and in concession titles;
- b) comply with environmental standards within the framework of relevant legislation;
- c) collaborate with the authorities, whenever circumstances so demand;
- d) be accountable for the deficiencies and noncompliance of persons who work with them in the mining concession, with their having to be jointly liable for any damage caused by them to the State or third parties;
- e) maintain concession titles and identification-related documents regarding the exercise of small-scale mining concession rights, up-to-date.

2. Holders of small-scale mining rights must cooperate with the relevant authorities in reporting illegal mining practices, illicit trafficking of strategic minerals and all activities that may constitute crimes or administrative infringements provided for in law.

## **CHAPTER XII**

### **Trading of Minerals**

#### **SECTION I**

#### **General Provisions**

## **ARTICLE 188**

### **(Trading of Mining Product)**

Holders of mining rights shall be entitled to sell the mining product, while having to abide by the conditions established in this Code regarding the trading of minerals, as well as the stipulations in the respective sales and purchase agreements.

## **ARTICLE 189**

### **(Export of Minerals)**

1. The export of minerals extracted in Angola must be licensed by the relevant entity of the Ministry of Trade and in accordance with an order issued by the National Customs Service, with the regulatory body being apprised of the fact.
2. The export of national mineral resources coming from non-authorized mining shall be prohibited, in accordance with this Code, without prejudice to the penalties provided for in this Code and in any other applicable legislation.
3. All minerals extracted and exported from Angola must have a certificate, to be issued by the relevant entity, classifying their origin.

## **ARTICLE 190**

### **(Import of Minerals)**

1. Before the introduction of any mineral into national territory a prior opinion must be issued by the regulatory body. When permissible, it shall always be the subject of an order issued by the Customs, in general terms, and of licensing by the Ministry of Trade.
2. As soon as the mineral resource importation operations have been completed, the regulatory body must be apprised of the respective technical and quantitative data for statistical and control purposes.
3. The importation of raw materials of mineral origin for construction materials and mineral water, whose regime is that as established in the respective chapters of this Code and in special legislation, shall be excluded from the regime established in this article.

## **SECTION II**

### **Trading of Strategic Minerals**

## **ARTICLE 191**

### **(Legal Regime)**

1. The trading of strategic minerals must be realized in observance of the rules of this Code, except if otherwise defined by the specific legislation on each strategic mineral.
2. The trading of strategic minerals must take into account the specific and special nature of the classification and assessment of same, as well as characteristics peculiar to the international market, while endeavoring to enhance the value of these resources in the interest of the national economy.

3. It shall be incumbent on the Titleholder of the Executive Power to approve the trading system rules, including production sharing, with it being permissible to delegate this authority, or part of it, to the head of the regulatory body.

4. Whenever the trading system is underpinned by production sharing, or any other system that involves the division in kind of production, the parties must adopt a partnership model that maintains the legal personality of each partner for taxation, commercial and other purposes applicable to the case.

## **ARTICLE 192**

### **(Public Trading Company)**

1. In cases where reasons of sovereignty or public interest so justify, the trading of strategic minerals may be promoted by an institution set up by the Executive Power with the specific function of serving as a public trading company, with the legitimate interests of producers always being safeguarded.

2. The public trading company shall promote the sale of the strategic minerals of producers, with it having to be responsible for the following tasks:

- a) organizing the sales systems, creating execution rules for trading systems in force, as well as ensuring physical conditions for the efficient participation of buyers and sellers in trading operations;
- b) ensuring the commercial interests of producers by an efficient marketing and sales promotion system;
- c) ensuring the security of transactions by the application of rules of conduct, business ethics and for prevention of fraud;
- d) safeguarding, through adequate commercial measures, the stability of international market prices;
- e) issuing certificates of origin for minerals earmarked for export;
- f) producing, storing and publishing statistical data on the trading of strategic minerals.

3. The public trading company for strategic materials shall obtain its revenue from the following sources:

- a) General State Budget;
- b) the Committees to cover the operating costs in which same is involved, whose amount shall be approved by the regulatory body and the Ministry of Finance.

4. It shall be incumbent on the Titleholder of the Executive Power to approve the rules governing the trading system, including those for production sharing, with it being empowered to delegate this authority, or part of same, to the head of the regulatory body.

5. Companies holding mining rights participate in their own right in negotiations and in the drawing up of contracts or agreements for the trading of minerals produced by the mines under their concession.

## **ARTICLE 193**

### **(Public Acquisition of Strategic Minerals)**

1. The Executive Power may create one or more companies trading in strategic minerals to acquire strategic minerals direct from the producer, in an open market system, whenever such an operation arises out of the regulations in this Code, law or of objective need for public intervention in the market.

2. The Executive Power may promote the acquisition of certain types of strategic minerals by the trading companies referred to in the previous number, in order to set up a public reserve, guarantee strategic inventories, prevent a fall in market prices or for other purposes of public interest.

3. It shall be incumbent on the Titleholder of the Executive Power to approve the regulations to which the acquisition and public sale of strategic minerals, and the allocation of the respective revenue, shall be subject.

## **ARTICLE 194**

### **(Export of Strategic Minerals)**

1. The export of strategic minerals shall be licensed by the relevant body of the Ministry of Trade and National Customs Service, with the regulatory ministry being apprised of the fact.

2. The export of strategic minerals must be preceded by assessment and classification, and, whenever the circumstances or nature of the mineral so demand, recourse may be had to an appraiser of international repute engaged for that purpose.

3. During every phase of the assessment process, the producer shall be entitled to use an appraiser of its own choosing.

## **ARTICLE 195**

### **(Certification of Strategic Minerals for Export)**

1. It shall be mandatory for the regulatory body to institutionalize a system for the certification of the origin of strategic minerals earmarked for export.

2. Whenever the de facto reasons, which led to the adoption of the Kimberly Process Certification (KPC) for diamonds, are verified in respect of a mineral considered strategic, i.e., the reasons invoked in United Nations General Assembly Resolution Nº 55/56, the relevant certificate of origin must be issued.

3. The national standards adopted within the KPC scheme framework shall be additionally applicable to other strategic minerals, with the specificities of each mineral being respected.

## **ARTICLE 196**

### **(Extraterritoriality of Certification Rules)**

1. The importation, trafficking, processing, beneficiation, trading or other type of placement of strategic minerals in national territory shall be prohibited, when their acquisition has implicated the practice of actions contrary to the purposes encompassed by the current system of certification in Angola.

2. The prohibition referred to in the previous number shall also be applicable to cases where there is a justifiable suspicion that the strategic minerals have been obtained:

- a) without observance of the minimum requirements regarding environmental preservation and respect for communities;
- b) by the employment of child labor;
- c) with recourse to forced labor or other forms of labor forbidden by Angolan law.

3. Strategic minerals that prove to have been obtained in defiance of that stipulated in the previous numbers shall be subject to the same treatment that, in similar circumstances, is applied to diamonds within the scope of the KPC.

## **ARTICLE 197**

### **(Trading of Accessory Minerals)**

The trading of accessory minerals that occur in strategic mineral deposits shall be done in accordance with the previous section of this chapter, except when other strategic minerals are involved, in which case all production shall be traded in accordance with the terms referred to in this section and in special legislation on the subject.

## **ARTICLE 198**

### **(Trading of Small-Scale Production of Strategic Minerals)**

1. Strategic minerals extracted in small-scale mining areas shall be mandatorily sold to the respective public trading company.
2. Prior to the sale of the strategic minerals referred to in the previous number, an assessment shall be made of same at the location, in order to determine the purchase price.
3. The value of each consignment of strategic minerals of small-scale origin acquired by the public trading company shall be paid to the licensed miner in those locations approved for that purpose, after assessment and the establishment of prices.

### **BOOK III**

#### **Circulation of People & Goods, Monitoring & Penalties**

### **CHAPTER XIII**

#### **Circulation of People & Goods in Mining Areas**

### **ARTICLE 199**

#### **(Limitations on Circulation of People & Goods)**

1. Access, the circulation of people and goods, residence and engaging in economic activities, may be controlled, limited or forbidden in mining areas or those reserved for same, in accordance with that which is set out in the following articles.
2. For the purposes of this Code, mining production areas shall be divided into restricted zones, protection zones and reserved zones.
3. Small-scale areas for the production of minerals for civil construction and mineral water shall be deemed mining production areas for the purposes of this chapter, being considered restricted zones.
4. Areas granted for prospecting and demarcated in accordance with N° 5 of article 120 shall not have restrictions on the circulation of people and goods, except in those places where drilling and similar types of equipment are installed, which shall be considered restricted zones for the purposes of limiting the circulation of people and goods.

### **ARTICLE 200**

#### **(Restricted Zones)**

1. Those mining areas, consisting of deposits or underground deposits and respective beneficiation facilities, up to a radius of 1,000 meters, demarcated within the framework of this code, shall be considered as restricted zones.

2. Restricted zones must be marked on the land, by way of markers and signs - clearly visible and legible - facing outward and located at the vertexes of the geometric figures defining them and at other points of reference, as well as at points crossing public roads and pathways, displaying the wording "Restricted Zone - Access Prohibited" and with a clear indication of the mining right title and its respective holder.

3. The holder of the mining right in question shall be responsible for constructing, at its own cost and according to the plan which shall be indicated to it by the relevant authorities, alternative roadways to the public roads and pathways passing through a restricted zone.

4. The holder of the mining right may, in its own interest and without requiring authorization, delimit, in whole or in part, the restricted zones with continuous fencing, as well as the deposits, mines and facilities located inside them.

## **ARTICLE 201**

### **(Circulation of People in Restricted Zones)**

1. Excepting in those cases provided for in this Code, access to and the circulation of strangers who are not directly linked to the mining activity in restricted zones shall be prohibited.

2. Access by State entities to restricted zones, as well as of other entities or guests or those especially authorized by the holder of the mining rights, shall be permissible, provided that same is realized after a prior formal communication has been made to the holder of the right and the local law enforcement authorities.

3. The circulation of people inside restricted zones shall be monitored by the holders of the respective mining rights, who must take adequate measures to prevent the adverse effects that these restrictions seek to prevent, within the limits of the law.

## **ARTICLE 202**

### **(Protection Zones)**

1. Protection zones shall be as follows:

- a) areas corresponding to strips of land that surround restricted zones, within a radius of up to 5 km, to be established by the prudent criterion of the relevant entity, starting from the external limits of the deposits or underground deposits protected by mining demarcation;

- b) areas corresponding to mineral occurrences found, covered by a prospecting title, plus a surrounding strip added within a radius of up to 5 km, to be established by the prudent criterion of the relevant entity, starting from the external limits of the protected deposits or underground deposits, during the period between the discovery of the occurrences and the concession of mining rights.

2. Protection zones must be marked on the land, by way of markers and signs - clearly visible and legible - facing outward and located at the vertexes of the geometric figures defining them, as well as at points crossing public roads and pathways, displaying the wording "Mining Protection Zone – Permanence Prohibited" and with a clear identification of the title of the mining right and its respective holder.

3. The protection zones referred to in paragraph b) of N° 1 must maintain the same or other limits, when, in those cases involving occurrences of protected minerals, they are demarcated as small-scale production areas.

4. Protection zones shall be established by the regulatory ministry, at the request of the concessionaires, and shall be designed to prevent the removal, extraction and illicit trafficking of minerals, with their dimensions having to be in line with the objective contextual need, inside a certain zone, to prevent those practices.

5. The regulatory ministry may establish a greater distance than enshrined in this article when the production of strategic minerals is involved.

## **ARTICLE 203**

### **(Circulation of People in Protection Zones)**

1. People may only circulate inside protection zones on public roads and pathways, with the persons who circulate on them having to do so accompanied by the following documents:

- a) ID card or other official document proving respective identity, provided that same bears a photograph;
- b) document issued by the services for which they work, or by the administrative authority for the respective area of residence or by the concessionaire.

2. Traffic passing on public roads and pathways existing in protection zones shall be subject to inspection by the relevant law enforcement authorities, with the presentation of the documents referred to in the previous number of this article being mandatory, as a condition to proceed on their journey.

## **ARTICLE 204**



### **(Zones Reserved for Mining)**

1. Those areas of national territory that, in accordance with article 13, have not as yet been the subject of any mining concession, but shall, however, be reserved for the future development of mining activities, shall be considered as zones reserved for mining.
2. It shall be incumbent on the Executive to establish zones reserved for mining, whenever there is knowledge or a sound prediction of mineral occurrences in any area of national territory.

## **ARTICLE 205**

### **(Circulation of Goods)**

1. No merchandise may enter or leave a restricted zone without authorization from the holder of the respective mining rights.
2. The circulation of goods in protection zones shall be permissible provided that they are accompanied by a shipment note issued by the provincial government, in which the goods are clearly identified, with reference to the consignee.
3. The circulation of goods in a protection zone shall also be permissible with a credential issued by the holder of the respective mining rights.

## **ARTICLE 206**

### **(Economic Activities)**

1. Engaging in any type of economic activity, aside from mining, in restricted zones and protection zones shall be banned, whatever its nature; be it industrial, commercial, agricultural or any other kind of activity.
2. The holders of the respective mining rights shall be responsible for compensating the owners of commercial, industrial, agricultural, livestock or other operations, existing at the date of the demarcation inside restricted zones and protection zones, for any damage that the prohibition referred to in the previous number may cause them.
3. Expropriation shall be permissible due to the public interest of assets existing in protection zones, whenever strategic mineral mining areas are involved, or for other relevant public purposes, in accordance with law.

## **ARTICLE 207**

### **(Residence)**

1. Residing in restricted zones shall be prohibited. Only persons linked to mining production activities shall be permitted to reside in protection zones.

2. The creation and demarcation of restricted zones or protection zones shall only be permissible, provided that the residential relocation of the local population residing there is guaranteed outside of those zones, and as close as is possible to them, with, in such cases, the holder of the respective mining rights being obligated to observe the following:

- a) construct decent housing, never inferior to that possessed by the people dislocated;
- b) construct social and community infrastructure, namely, schools, health centers, community centers, houses of worship, water supply and other systems, in conditions that are at least equivalent to those that had existed in the dislocated communities.

3. That stipulated in paragraphs a) and b) of the previous number shall not apply to buildings and constructions located in restricted zones and protection zones expropriated on account of their public usefulness, in accordance with law.

4. It shall be incumbent on the Governor of the Province, in cooperation with the local community representatives involved, to approve the relocation program, proposed by the titleholder of the mining rights, taking into account that established in this article.

5. The holder of the mining rights whose responsibility it is to carry out the residential relocation of the population shall take into consideration economic development and social promotion programs defined by the Executive, with it being incumbent on the Provincial Government to ensure integral compliance.

## **ARTICLE 208**

### **(Small-Scale Mining Area Restrictions)**

Access, circulation and permanence in areas demarcated for small-scale mining shall only be permissible for the bearers of the respective title and those who, in accordance with this Code and of that established in a special regime, work there, with any economic activity other than mining production within same being strictly forbidden.

## **ARTICLE 209**

### **(Entities Controlling People & Goods)**

1. The surveillance and control of people and goods in restricted zones and protection zones, as well as the security of the respective mineral deposits and mining production activity, shall be carried out by the titleholders of the respective mining rights, employing their own resources and personnel, as a

self-protection system, or by employing specialized security companies, in accordance with that permissible by law.

2. The surveillance and control of people and goods in areas demarcated for small-scale production shall be carried out by the State. When such areas are located close to industrial production zones, surveillance shall be realized in cooperation with the titleholders of the respective mining rights.

3. The powers exercised in the surveillance and control of people and goods assigned to the entities referred to in the previous numbers shall not prejudice the general authority attributed by law to the National Police and security entities.

## **ARTICLE 210**

### **(Powers of Titleholders of Mining Rights for Security Purposes)**

1. In exercising the powers of surveillance, security and control of the circulation of people and goods that this Code confers on them, the titleholders of mining rights and security companies shall be responsible for:

- a) maintaining constant surveillance of the zones under their control and monitoring the transit of people and goods;
- b) impeding the residence, transit, engagement in economic activities and access of unauthorized persons in areas of mining activity;
- c) preventing the carrying out of unauthorized activity involving the exploration and mining of minerals;
- d) ensuring the protection of mineral deposits and occurrences, opposing all and any activity that threatens their security;
- e) guaranteeing the security of people, facilities, assets and services linked to carrying out mining activities.

2. When exercising their powers, those entities and persons tasked with the security and control of the circulation of people and goods may perform the following acts:

- a) identify and make routine searches of their workers and, in general, persons who enter or leave the restricted zones or who circulate or are found in other areas under their control, as well as objects and goods that same are carrying or for which they are responsible;
- b) demand the presentation of access authorizations, credentials or shipment notes for merchandise or goods, whenever access to an area legally demands those authorizations;
- c) take the perpetrators of the crimes provided for in this Code into preventive custody when caught while committing a crime, and hand them over immediately to the relevant law enforcement authorities, and seize the instruments used in the crime carried by same.

3. For the purposes of that stipulated in paragraph c) of the previous number, the means of transportation, weapons, materials and camping equipment found in the possession of the perpetrators of the violation shall be deemed instruments of the crime.

4. Persons who have been detained and seized goods must be handed over immediately to the Public Prosecutor magistrate or National Police station that is closest to the location of the detention or seizure, in accordance with law.

5. It shall be incumbent on the titleholders of mining rights to publish internal regulations on matters of surveillance, security and control, applicable in the restricted zones, earmarked for their workers and people authorized by law or invited to enter those zones.

6. The regulations referred to in the previous number must be sent in advance to the regulatory ministry, which, after a favorable opinion, shall send same to the National Police for approval.

## **ARTICLE 211**

### **(Mineral Shipments)**

1. The shipment of minerals shall be subject to the observance of specific rules that take into account the nature of the minerals and the need to guarantee their safety, the protection of people's health and the cleanliness of the places through which they pass, as well as protection of the environment.

2. Without prejudice to any other measure to be approved by the relevant bodies of the Executive, when transporting minerals the titleholders of mining rights shall be obligated to:

- a) obtain the necessary shipment notes from the relevant bodies;
- b) communicate the shipment of minerals to the local authorities where they will be passing through, whenever such minerals are liable to cause damage to people's health or the environment;
- c) comply with the rules and regulations of the relevant authorities on the shipment of goods subject to special care;
- d) pack or wrap minerals to be transported in adequate packing and containers for safe transportation;
- e) guarantee that the packaging and packing of minerals meet with the safety conditions required for the type of mineral to be transported;
- f) guarantee the safety of crews, preventing risks of air contamination in their cabins, cargo falling off or being dislodged;
- g) prevent theft or other assaults on property, taking measures shown to be adequate, with their being able to request support from law enforcement authorities, whenever such need is imposed.

3. The shipment of minerals for laboratory samples or other temporary purposes shall be subject to the regime defined in this article, while abiding by the contractual obligations or those contained in the titles of rights regarding the samples of each mineral in particular.

## **CHAPTER XIV**

### **Monitoring, Inspection & Administrative Infringements**

#### **ARTICLE 212**

##### **(Monitoring & Inspection)**

1. It shall be incumbent on the regulatory body to monitor and inspect the carrying out of geological-mining activities.

2. The monitoring of mining seeks to ensure that the national mining industry develops harmoniously, underpinned by a healthy and rational exploitation and efficient use of the country's mineral resources, to guarantee that this takes place in line with public interests and to prevent infringements of the provisions of this Code and complementary legislation.

3. The inspection of mining activity seeks to guarantee compliance with this Code and its regulations, as well as to establish administrative and technical controls of the works involved in the exploration and mining of mineral resources, including construction materials of mineral origin, underpinned by that established in law and in contracts.

4. Mining activity areas shall be considered as under the permanent monitoring and inspection of the regulatory body, in accordance with this Code, with the holders of mining rights having to collaborate with the monitoring and inspection officials when duly accredited and mandated to perform monitoring and inspection actions.

5. The purpose of the monitoring and inspection of mining shall be, among others, to safeguard and ensure that:

- a) the exercise of the mining rights granted, in accordance with this Code and complementary legislation is carried out in accordance with the respective directives;
- b) titleholders of mining rights carry out their activities in accordance with current technical, economic, administrative and social standards;
- c) working conditions in the mines and their facilities are in accordance with the legal demands and recommendations of the relevant bodies;
- d) the conservation and dissemination of documentation of a general character on the mining of mineral resources are realized in accordance with that which is legally established.

6. The monitoring of mining must be exercised in such a way so as not to disturb the regular operation of mining activities.

7. Interference in the management of mining activities on the pretext of monitoring or inspection of the mining activity shall be prohibited.

## **ARTICLE 213**

### **(Penalties for Administrative Infringements)**

1. Without prejudice to the criminal penalties provided for in this Code and in other applicable criminal legislation, violations of the provisions of this Code and complementary legislation shall be punished as administrative infringements, in accordance with law, with pecuniary penalties in national currency, plus the suspension of geological and mining operations of up to 90 days whenever the nature of the infringement so justifies.

2. It shall be incumbent on the Executive Power to typify and approve administrative mining offenses and establish the corresponding sanctions, as well as the amount of the fines to be applied and the budgetary allocation of same.

## **ARTICLE 214**

### **(Procedural Process)**

1. The case for the application of administrative sanctions shall be based on an official notification or investigative process.

2. The instigation and procedural process shall be incumbent on the regulatory body and its officials, with the application of the sanctions being decided by the respective minister, without prejudice to the faculty of delegating those powers, when entailing an infringement punishable exclusively by a fine.

3. Should the sanction to be applied implicate the suspension of geological and mining operations or be one of a fine higher than an amount equivalent in national currency to USD 10,000, the titleholder of the respective mining rights must be heard before the decision is taken to apply the fine.

## **ARTICLE 215**

### **(Effects of Noncompliance with Administrative Penalties)**

Noncompliance with penalties applied in accordance with article 213, subsequent to notification of the ruling by the regulatory minister who applied same, for an administrative infringement or for motives justifying the suspension of mining operations, in accordance with this Code and complementary

legislation, shall be punishable as a crime of qualified disobedience and shall constitute grounds for rescission of the contract.

## **ARTICLE 216**

### **(Powers of Security Entities)**

That stipulated in the previous article shall not prejudice the exercise of the powers that, as regards surveillance, security, and control of people and goods, are conferred on public security authorities and private companies specializing in security in restricted zones, protection zones and in areas demarcated for small-scale mining, in accordance with this Code.

## **ARTICLE 217**

### **(Prohibition of Criminal Prosecution)**

The holders of mining rights or the private security agents referred to in the previous articles shall be prohibited from exercising procedural activities in relation to criminal prosecution.

## **ARTICLE 218**

### **(Obligation to Collaborate with Authorities)**

The personnel of concessionary companies or specialized private security companies tasked with the control of people and goods in areas producing strategic minerals must, in preventing and combating the illicit trafficking of strategic materials and other illicit activities provided for in this Code, act in strict collaboration with law enforcement, criminal prosecution and judicial authorities.

## **CHAPTER XV**

### **Criminal Offenses**

#### **SECTION I**

#### **Prevention & Repression**

## **ARTICLE 219**

### **(Material Scope)**

1. The criminal regime established in this chapter shall be applied to acts involving strategic minerals, typified in this Code as a crime.
2. Common criminal law shall be applied to criminal acts involving common minerals.

3. Common criminal law shall be applied to acts not typified as a crime by this Code, but which constitute a criminal offense involving mining activity.

## **ARTICLE 220**

### **(Relevant Bodies)**

1. The prevention and repression of crimes involving strategic minerals shall be the responsibility, throughout national territory, of special law enforcement bodies for the prevention and repression of crimes involving strategic minerals, under the terms established in this Code and in common law.

2. The Executive may create structures specialized in the prevention, investigation and prosecution of strategic mineral criminal cases, within the regular judiciary bodies responsible for investigation and prosecution, which shall, nonetheless, be subject to one and the same departmental structure and common oversight of the Public Prosecution Service.

3. The Executive may create a specialized law enforcement corporation for the prevention and repression of crimes involving strategic minerals.

4. The prevention and repression of crimes involving common minerals shall be the responsibility, throughout national territory, of the State's regular authorities for crime prevention and repression, under the terms established by common law.

## **ARTICLE 221**

### **(Special Remuneration Systems)**

The Titleholder of the Executive Power may establish special remuneration systems for the National Police, Judicial Magistrates and Public Prosecution Service, judicial employees and other workers in other crime prevention and repression authorities, located in mineral production areas, whenever the need for the prevention of illicit trafficking so justifies.

## **ARTICLE 222**

### **(Rewards for Collaboration)**

1. Those persons who, in any form, are instrumental in the seizure of strategic minerals, shall be entitled to a financial reward of up to the equivalent of 51% of the respective value.

2. It shall be incumbent on the Titleholder of the Executive Power to approve the amount and form of granting the rewards referred to in the previous number.

## **ARTICLE 223**



### **(Seized Minerals)**

1. Minerals seized within the scope of a criminal case must be submitted for examination and assessment by experts duly accredited by the regulatory body and consigned to the latter or their local representatives, which act as trustees while the assessment lasts.
2. At the request of the authorities responsible for investigation and prosecution, the minerals seized and appraised and the instruments of crime eventually seized shall be turned over, against an official receipt, into the custody of same.
3. Seized minerals, subsequent to a confirmed conviction, shall be turned over to the following entities:
  - a) those companies holding titles to prospecting or mining rights, when it is clearly determined that they were extracted or stolen from the production beds, selection, processing, storage or security facilities of the respective holders;
  - b) aside from the cases provided for in the previous paragraph, to the public trading companies for strategic minerals, when they exist;
  - c) the State, via the regulatory ministry, in other cases.

## **SECTION II**

### **Mining Crimes**

#### **ARTICLE 224**

##### **(Non-Authorized Entry into Restricted Zone)**

1. Access to and permanence of persons in a restricted zone producing strategic minerals, aside from those cases in which the law so permits, shall be punishable with a prison sentence and a fine of up to two years.
2. In cases of negligence, the penalty shall be that of imprisonment for up to six months or a fine of up to one year.

#### **ARTICLE 225**

##### **(Intrusion into Small-Scale Mining Areas)**

1. Non-authorized entry into an area demarcated for the small-scale mining of strategic minerals shall be punishable with a prison sentence of up to six months or a fine of up to one year.

2. Should the intruder not reside permanently in the area where the offense was committed, the penalty shall be that of imprisonment and a fine of up to two years.

3. In cases of negligence, the penalty shall be that of imprisonment of up to three months or a fine of up to six months.

## **ARTICLE 226**

### **(Illicit Prospecting)**

1. Any activity involving the exploration of strategic minerals without being authorized, in accordance with this Code and complementary legislation, shall be punishable with a prison sentence and a fine of up to two years for their perpetrators.

2. The same penalty shall be applied to the instigators.

3. The agents or representatives of the instigators or perpetrators shall be deemed accomplices.

## **ARTICLE 227**

### **(Illicit Mining)**

The mining of strategic minerals, as well as their simple extraction, without the relevant and valid mining concession rights, shall be punishable with a long-term prison sentence of from two to eight years, excepting if, in the case of extraction, another more serious sentence is handed down, in light of the value of the minerals extracted.

## **ARTICLE 228**

### **(Theft of Strategic Minerals)**

1. The theft of strategic raw minerals shall be punishable with a long-term prison sentence of from eight to 12 years.

2. The theft of transformed strategic minerals, deposited in storage and conservation locations, shall be punishable by sentences for aggravated theft.

## **ARTICLE 229**

### **(Illicit Possession of Strategic Minerals)**

1. The possession or mere holding of strategic raw minerals shall, aside from those cases legally authorized, be punishable with a long-term prison sentence of from two to eight years.

2. The possession or mere holding of non-authorized transformed strategic minerals, deposited in storage and conservation locations, without intent to steal, shall be punishable with a prison sentence, with it being permissible for same to be substituted by a fine of up to one year, in relation to the minor gravity of the act.

## **ARTICLE 230**

### **(Illicit Trafficking of Strategic Minerals)**

1. The purchase, sale, payment in kind or any other form of transfer of strategic raw minerals, as well as their exit from national territory, aside from those cases legally authorized, shall be constituted as the illicit trafficking of strategic minerals.

2. The illicit trafficking of strategic minerals shall be punishable with a long-term prison sentence of from eight to twelve years.

3. The trading of transformed strategic minerals, whenever such trading is subject to express authorizations or special safety measures, because of their danger to public health, shall be punishable with prison sentences of from two to eight years.

## **ARTICLE 231**

### **(Illicit Introduction of Strategic Minerals into National Territory)**

1. The non-authorized introduction into national territory of strategic raw minerals shall be punishable with a long-term prison sentence of from two to eight years.

2. Where strategic minerals, raw or transformed, that are dangerous to public health are involved, the long-term prison sentence shall be from eight to 12 years.

## **ARTICLE 232**

### **(Trafficking of Fake Minerals)**

The trafficking of fake minerals, passing them off as strategic minerals, raw or transformed, shall be punishable with a prison sentence and a fine of up to two years.

## **ARTICLE 233**

### **(Additional Fine)**

1. The additional penalty of a fine for the conviction of any mining crime provided for may not be less than 1/3 of the value of the strategic minerals that were the subject of the crime committed, or more than their total value.

2. Should the crime be committed by representatives, agents or employees of companies or other legal persons, and in their interest, same shall be jointly liable for payment of the fine.

## **ARTICLE 234**

### **(Security Measures)**

1. The perpetrators of the crimes provided for in this chapter who, in accordance with Angolan law, are foreigners, may be expelled from national territory, after they have served their sentence.

2. In cases of the existence of international or bilateral conventions on extradition or other similar measures, to which the Angolan State is a signatory, those shall be applied in conjunction with the penalties provided for in this Code.

3. Should the perpetrators of the same crimes exercise a titled profession or economic activity subject to licensing, or should they be agents or directors of legally-incorporated companies, the additional penalty of being banned from the exercise of the profession, activity of management, administration or other responsibility may be applied to them, for a period of from six months to three years.

4. That stipulated in Nº 5 of article 70 of the Criminal Code may be applied to the interdiction established in the previous number, with the necessary modifications.

## **ARTICLE 235**

### **(Destination of Seized Goods)**

1. When punishing the serious crimes in this chapter, the seized minerals and materials shall be deemed confiscated.

2. When a public trading company exists for the strategic mineral seized, such minerals shall be turned over to same, for sale, with the proceeds being deposited in the Treasury Single Account.

3. The confiscation measure shall include the mineral production or processing equipment utilized in the crime, goods that, aside from the conditions provided for in this Code, circulate in those mining areas with restricted access, defined as such in this Code, and vehicles in which those goods and the perpetrators of the crime are transported, excepting if, some or others, belong to people who have not participated in the crime and who act in good-faith.

## **ARTICLE 236**

### **(Special Reduction in Sentences)**

1. In the case of a voluntary and useful confession leading to the discovery of crimes and their perpetrators, the court may substitute any long-term imprisonment for lighter prison sentences and exempt the defendants from the execution of the prison sentences or additional fine.

2. The court may also reduce any long-term imprisonment up to a minimum of one year, or substitute it for a correctional imprisonment of never less than six months, whenever, with circumstances occurring that justify the use of the faculty to make a special reduction to the sentence, the damage or danger of damage produced is of a minor or insignificant value.

## **ARTICLE 237**

### **(Disobedience)**

1. Holders of mining rights refusing to comply with the orders and guidelines transmitted by officials of the State with the powers established in this Code or general legislation, shall commit the crime of disobedience, in accordance with criminal law.

2. The crime of disobedience shall be aggravated in cases in which the act results in damage to the State or to persons, cases in which the offender must be held additionally liable for the damage caused.

## **BOOK IV**

### **Tax & Customs Regime**

## **CHAPTER XVI**

### **Tax Regime**

#### **SECTION I**

### **General Provisions**

## **ARTICLE 238**

### **(Object & Scope)**

The provisions contained in this chapter shall constitute the tax regime applicable to all national or foreign entities that engage in activities involving the exploration and mining of minerals, in accordance with this Code, in national territory, as well as in other territorial or international areas

over which the law or international agreements recognize the power of the taxation jurisdiction of the Republic of Angola.

## **ARTICLE 239**

### **(Tax Liabilities)**

1. The entities referred to in the previous article shall be subject, depending on their activity, to the following tax liabilities:

- a) income tax;
- b) tax on the value of mineral resources (royalty);
- c) surface tax;
- d) small-scale mining tax.

2. The liabilities referred to in Nº 1 of this article shall not exclude the subjection of the entities referred to in article 238 to other types of taxation or taxes, payable by law, for engaging in actions that are complementary or additional to the activities referred to in the previous number of this chapter, excepting when they are expressly exempt, as well as the fees provided for in this Code.

## **ARTICLE 240**

### **(Independence of Tax Liabilities & Obligations)**

The calculation of taxable items and the settlement of tax liabilities of the entities referred to in article 238 shall, for each mining concession, be made in an autonomous form, with each tax obligation being independent of one another in respect of a specific mining concession and any others payable by law.

## **ARTICLE 241**

### **(Investment Income Tax)**

Dividends distributed by companies or other entrepreneurial entities, derived from income obtained from mining operations, shall be subject to tax on income derived from investment, in accordance with law.

## **ARTICLE 242**

### **(Personal Income Tax)**

Foreign workers, resident or non-resident, hired by concessionaires or by whoever engages, in a legal form, in the research, prospecting or mining of mineral resources, as well as all those who are hired to

provide technical, scientific or artistic services, not taxed by another tax, shall be subject to tax on income derived through work, in accordance with the terms and conditions provided for in law.

## **ARTICLE 243**

### **(Additional Legislation)**

The General Tax Code and other separate legislation of a taxation and administrative nature shall be applied subsidiarily to all that regarding taxation which is not provided for in this Code.

## **SECTION II**

### **Tax Liabilities**

## **SUBSECTION I**

### **Income Tax**

## **ARTICLE 244**

### **(Definition)**

The income tax on mining activity referred to in paragraph a) of N° 1 of article 239, is the corporate tax which is generically regulated in general legislation.

## **ARTICLE 245**

### **(Rate)**

1. The rate of income tax for the mining industry shall be 25%, of which 5% shall revert to the municipality under whose jurisdiction the respective mine operates.
2. The percentage referred to in the previous number shall be distributed proportionally, when the area of geological-mining activities spreads over more than one municipality.

## **ARTICLE 246**

### **(Levy)**

1. The income tax provided for in this Code shall be levied on profits attributable to the fiscal year of national or foreign entities that, in accordance with this Code, have acquired mining rights.

2. Joint ventures or other partnerships without legal personality shall be responsible for complying with the tax obligation arising out of their activity, without prejudice to the joint liability of their partners, in proportion to their respective stakes, in the event of default.

3. For the purposes referred to in the previous number, joint ventures and other entities without legal personality must register with the respective tax office, under the terms established by the Ministry of Finance.

## **ARTICLE 247**

### **(Exemptions)**

Those entities engaged in mining that, in accordance with this Code, are subject to payment of tax on that activity, shall be exempt from the payment of income tax.

## **ARTICLE 248**

### **(Deductible Costs or Losses)**

1. For the purposes of determining the taxable net income of those entities subject to income tax, in accordance with this Code, costs or losses considered attributable to fiscal years shall be as follows:

- a) costs of basic, additional or complementary activities, related to mining production, such as those for materials consumed, labor, energy and other general production, maintenance and repair expenses;
- b) distribution and sales costs, including transportation, advertising and placement of minerals produced;
- c) costs of a financial nature, among which interest on outside capital committed to the company, discounts, goodwill, transfers, foreign exchange fluctuations, expenditure on credit operations, debt collection, share and bond issues and redemption premiums;
- d) costs of an administrative nature, namely, related to remunerations, subscriptions, subsidies and contributions to business associations and corporate organizations, family allowances, daily expense allowances or subsidies, current material consumed, transportation and communications, rentals, litigation, retirement pensions, social welfare and insurances, with the exception of life insurances in favor of partners;
- e) costs related to analyses, rationalization, investigation, consultancies and technical specialization of personnel;
- f) fiscal and parafiscal costs to which the taxpayer is subject, in accordance with law;
- g) depreciations and amortizations of those assets subject to depreciation, but with observance of that stipulated in this chapter and of articles 30 to 35 of the Corporate Tax Code;



- h) customs charges that have been paid by incorporation into the price of capital equipment acquired locally from non-holders of mining rights that do not benefit from exemptions similar to those of holders of mining rights, in accordance with this Code;
- i) provisions, including those for environmental reclamation;
- j) compensation and damages resulting from events whose risk is not insurable;
- k) costs arising out of the safety of mining activities;
- l) royalties on mineral resources;
- m) prospecting and research costs;
- n) contribution to Environmental Fund.

2. Gifts or donations made to the State or for the purposes of an educational, cultural, scientific, charitable and good causes nature, provided that same have been authorized in advance by the tax authority, shall also be considered as costs or losses attributable to the fiscal year.

## **ARTICLE 249**

### **(Amortization & Depreciation Tax Costs)**

The following depreciation and amortization costs of fixed assets shall constitute costs or losses for the fiscal year, to the limit of the indicated annual rates:

- a) fixed mining equipment: 20%;
- b) movable mining equipment: 25%;
- c) mining tools and utensils: 33.3%;
- d) camping equipment: 20%;
- e) intangible assets, including prospecting and research expenses: 25%.

## **ARTICLE 250**

### **(Provisions for Environmental Reclamation)**

1. Holders of mining rights must set up a provision earmarked to finance environmental restoration or reclamation, resulting from damage caused by geological and mining activities and the useful life of mining operations.

2. The rates and limit of provision shall be set in accordance with the amount determined by the Environmental Impact Assessment accompanying the Technical and Economic Feasibility Study during the process to obtain mining rights.

3. Before it may be deducted as a fiscal year cost, expenditure on environmental reclamation must first be deducted from the accumulated value of the existing provision and to its limit.

4. The existing provision must be utilized before the end of the concession or contract, with the holder of the respective mining right or partnership having, during the final year of mining, to provide a bond in the form of a bank guarantee, equivalent in value to the provision or its remaining amount.

5. In the event of manifest carelessness by the holder of the mining right or by whoever legally undertakes the mining activity, certified by the ministers regulating mining and the environment, and without prejudice to the application of other measures as provided for in law by the relevant entities, expenditure on the respective environmental reclamation shall not be deductible from taxable income.

## **ARTICLE 251**

### **(Deduction of Losses of Previous Fiscal Years)**

Losses verified in a particular financial business year shall be retained and carried forward to subsequent fiscal years, in accordance with that stipulated in N° 3 of article 129.

## **ARTICLE 252**

### **(Nondeductible Costs or Losses)**

1. The following shall not be considered as fiscal year costs or losses:

- a) income tax;
- b) expenses incurred by serious failure, serious negligence or fraud on the part of the taxpayer or whoever acts on behalf of same;
- c) commissions paid to intermediaries;
- d) compensation, fines or penalties for noncompliance with legal or contractual obligations and those that result from the occurrence of events whose risk is insurable;
- e) expenses incurred with arbitration processes, excepting when realized in defense of mining operations;
- f) gifts or donations that have not been made to the State or for purposes of an educational, cultural, scientific, charitable and good causes nature and with prior authorization from the tax authority;
- g) interim interest paid, in accordance with paragraph 2 of article 192 of the Commercial Code;
- h) expenditure on training expatriate personnel and training programs that do not respect the mandatory terms applicable by law;
- i) any tax and contributions, of whatever kind, owed by resident and non-residents workers in Angola, as well as by board directors, executive officers, managers, members of audit committees and others who serve the taxpayer, when the latter substitutes them in the payment of such taxes;
- j) representation expenses of any description, recorded in the accounts and although duly documented, in that part which exceeds 20% of the basic remuneration;

- k) expenses of a personal nature of taxpayer's partners or shareholders;
- l) quid pro quos offered to the State for the granting of mining concessions.

2. Duplicated deductions shall not be permissible.

## **ARTICLE 253**

### **(Tax Incentives)**

1. Holders of mining rights subject to corporate tax may obtain tax incentives in the form of deductible costs, by the interested parties making an application, addressed to the Minister of Finance, with the regulatory minister having expressed an opinion.

2. The application containing the request for tax exemption shall be discussed and negotiated during the contractual phase of the investment process and shall be appended to the contract, after having been approved by the Negotiations Committee and a favorable opinion has been obtained from the regulatory minister.

3. The following acts of importance to the economy of the country may possibly be granted incentives, namely:

- a) recourse to local market for goods and complementary services;
- b) development of activity in remote areas;
- c) contribution to training of local human resources;
- d) carrying out of research and development activities in cooperation with Angolan academic and scientific institutions;
- e) local processing and beneficiation of minerals;
- f) major contribution to increase in exports.

4. Holders of mining rights requesting same, in accordance with N° 1 of this article, may be granted investment uplifts, grace periods for income tax payments, whenever they are covered by any of the paragraphs in N° 32 of this article, or any other modality of fiscal incentive provided by law.

5. The Executive may authorize the granting of tax and customs duty exemptions to companies incorporated under Angolan law that are exclusively dedicated to the processing, beneficiation and disposal of minerals extracted in the country.

## **SUBSECTION II**

### **Royalty on Mineral Resources**

## **ARTICLE 254**

### **(Levy)**

1. Tax on the value of mineral resources or royalties shall be levied on the value of the minerals extracted at the minehead or, if they are to be processed, on the value of the concentrates.
2. When small-scale diamond mining is involved, royalties shall be levied on the value of the batches acquired by the public trading companies, in accordance with this Code.
3. When the small-scale mining of other minerals is involved, strategic or otherwise, royalties shall be levied on the value of the minerals acquired by the public trading companies and other authorized buyers, in accordance with the following article.

## **ARTICLE 255**

### **(Value of Minerals)**

1. Entities subject to royalties on mineral resources must, by the 15th of every month, hand in a Form D declaration in triplicate, or other document that eventually legally substitutes same, to the relevant tax office, which must contain the monthly quantities produced in the previous month, their value, the bases utilized for the determination of their price and other elements necessary to the calculation of the royalty payable.
2. The value of minerals produced, for the purposes of calculating royalties, shall be determined in relation to the average effective price of sales made in the reported period or, when such is not possible, it shall be set in relation to the average of international prices.
3. The copies of the declaration referred to in N° 1 of this article, after having been stamped by the Ministry of Finance and authenticated with the official seal, shall be sent to the respective sender of the declaration, with one copy going to the process held by the Ministry of Finance and the other to the regulatory ministry.
4. The provisions contained in the previous numbers of this article shall be applicable to those trading entities that, in accordance with this chapter, must pay royalties on the minerals acquired by them from entities engaged in small-scale mining.

## **ARTICLE 256**

### **(Exemptions)**

1. Those entities only engaged in prospecting and research activities shall be exempt from the payment of royalties on any minerals extracted whose commercial value is insignificant.

2. The regulatory minister shall be responsible for settling conflicts on the relevance or irrelevance of minerals extracted during the exploration phase.

## **ARTICLE 257**

### **(Rate)**

1. The royalty rates applied to mineral resources shall be as follows:

- a) strategic minerals: 5%;
- b) precious stones and metallic minerals: 5%;
- c) semi-precious stones: 4%;
- d) non-precious metallic minerals: 3%;
- e) construction materials of mining origin and other minerals: 2%.

## **ARTICLE 258**

### **(Payment)**

1. The payment of royalties on mineral resources shall be made by the end of the month established for reception of the declaration referred to in article 255.

2. Should there be no notification for payment in kind, this shall always be made in cash.

3. When the State opts to receive the royalty in kind, the obligation of handing over the respective revenue to the State coffers shall pass to the official body tasked with receiving and managing minerals given in lieu of payment by mining companies, with the said companies having to consign the corresponding minerals to that organization on a monthly basis.

4. The delivery deadline for the minerals referred to in the previous number shall be 15 days, as of the end of the period to which the royalty payment refers.

5. The official organization described in N° 3 of this article shall be obligated to hand over to the Treasury the proceeds from the sale of minerals in the previous month, accompanied by a revenue collection document, by the last day of every month, or to communicate, within the same deadline, the situation that no sales were made, should that be the case.

6. In cases of payment being made in kind, a declaration identical to that referred to in article 255 shall be provided in quadruplicate to the official organization referred to in this article, which shall retain a copy, with the remaining copies being distributed to the entities mentioned in this article.

## **ARTICLE 259**

### **(Penalties)**

1. Whenever, owing to a fact attributable to the taxpayer, the payment of a royalty falls into arrears, the interest referred to in article 39 of the General Tax Code shall be added to it, without prejudice to the fine applied to the offender.
2. With 30 days having elapsed since the deadline referred to in the previous article, a fine of an amount equivalent to the unpaid tax shall also become payable.
3. With more than 30 days having elapsed, without the tax and legal increments having been paid, an aggravated fine shall be imposed, of an amount equivalent to twice the amount of the unpaid tax, without prejudice to legal procedures for enforced collection of the debt incurred.

## **SUBSECTION III**

### **Surface Tax**

## **ARTICLE 260**

### **(Levy)**

Holders of prospecting rights granted in accordance with this Code shall be obligated to make an annual payment of a surface tax levied on the concession area.

## **ARTICLE 261**

### **(Rate)**

1. During the first five-year period of the validity of the exploration title, its holder shall be subject to the payment of surface tax, in the monetary unit of legal tender, per square kilometer of the area corresponding to each title, of the following amounts vis-à-vis:

- a) *diamonds*: the equivalent in Kwanzas of USD 7, in the first year; USD 12, in the second year; USD 20, in the third year; USD 30, in the fourth year and USD 40, in the fifth year;
- b) *other strategic minerals*: the equivalent in Kwanzas of USD 5, in the first year; USD 10, in the second year; USD 15, in the third year; USD 25, in the fourth year and USD 35, in the fifth year;
- c) *precious stones and metals*: the equivalent in Kwanzas of USD 5, in the first year; USD 10, in the second year; USD 15, in the third year; USD 25, in the fourth year and USD 35, in the fifth year;
- d) *semi-precious stones*: the equivalent in Kwanzas of USD 4, in the first year; USD 7, in the second year; USD 10, in the third year; USD 15, in the fourth year and USD 20, in the fifth year;

- e) *non-precious metallic minerals*: the equivalent in Kwanzas of USD 3, in the first year; USD 5, in the second year; USD 7, in the third year; USD 12, in the fourth year and USD 18, in the fifth year;
- f) *construction materials of mining origin and other minerals*: the equivalent in Kwanzas of USD 2, in the first year; USD 4, in the second year; USD 6, in the third year; USD 10, in the fourth year and USD 15, in the fifth year.

2. For each extension period of the first five-year period, provided for in this Code, the tax amounts shall be those corresponding to twice the value of the fifth year, for each extended year.

3. The values of the surface tax established in N° 1 of this article may be altered by an Executive decree, based on variations in monetary exchange, inflation and any other alterations that have occurred and that motivate the objective need for such alterations.

4. When part of the concession area is retained, in accordance with the provisions of this chapter, the holder of the respective mining rights must pay three times the values established for the fifth year, levied on that part of the concession area not freed up.

## **ARTICLE 262**

### **(Payment)**

1. To obtain the prospecting title or its extension, the interested parties must proceed with the payment of the surface tax at the relevant tax office, based on a payment document to be issued in triplicate by the regulatory ministry, wherein shall be stated:

- a) mineral that is the subject of prospecting title;
- b) area covered by prospecting title, its units in square kilometers and its location;
- c) exploration phase, distinguishing the initial or extension period in which it should figure;
- d) amount payable annually, under the terms established in this Code.

2. Payments subsequent to the first year must be made by January 31 of the year to which the title refers, being dispensed from the presentation of a new document, excepting when there is any amendment to its terms.

3. Of the copies of the payment document referred to in N° 1 of this article, after the elements proving payment have been filed by the relevant Tax Office, one copy shall be presented to the regulatory ministry, another shall be incorporated into the respective Tax Office file and the third shall be provided to the interested party.

## **ARTICLE 263**

### **(Penalties)**

1. Delays in making payment of the surface tax, of up to 60 days, aside from the deadline established in N° 1 of the previous article, shall be punishable with a fine equivalent to twice the value of the tax.
2. Should 30 days elapse subsequent to the deadline referred to in the previous number, without the amount of the tax payable and the sanctions provided for therein having been settled, the debtor shall be subject to a fine equivalent to five times the value of the tax.
3. In the event of the deadline mentioned in the previous number being exceeded, or with arrears still reoccurring and without prejudice to the execution of the previous penalties, the concession title shall be annulled, in the appropriate legal form.

## **SUBSECTION IV**

### **Small-Scale Mining Tax**

## **ARTICLE 264**

### **(Small-Scale Tax on Nonstrategic Minerals)**

Entities engaged in the small-scale mining of nonstrategic minerals, in accordance with this Code, shall be subject to the payment of a small-scale mining tax, or artisanal tax.

## **ARTICLE 265**

### **(Small-Scale Tax & Payment)**

1. The small-scale tax referred to in the previous article shall be established by Executive decree, on the recommendation of the Minister of Finance and the regulatory minister.
2. The value of the small-scale tax shall be set on minimum wages, with it being different for each type of mineral mined.
3. The procedural rules for the payment of the small-scale tax shall be approved by the Executive Power, which shall also set the rate.

## **ARTICLE 266**

### **(Small-Scale Taxation & Taxes on Strategic Minerals)**



1. The holder of a title for the small-scale mining of strategic minerals shall be subject to the payment of tax and legal taxes and a royalty of up to 5% of the value of the minerals.
2. The tax and taxes described in the previous number shall be withheld at source by the public trading company for strategic minerals for each effective payment, and handed into the State coffers through the Tax Office for the area where the small-scale mining is carried out, with a provisional receipt of that value having to be given to the holder of the respective mining rights.
3. The settlement and handing in of taxes payable shall be the responsibility of the public trading company for strategic minerals, which shall be accountable for the total amount of each tax and increments, in cases of nonpayment.
4. The public trading company for strategic minerals shall be responsible for delivery of the proof of royalty payment to the title holder.
5. Tax Offices must maintain organized files on each holder of a small-scale mining title for strategic minerals, assigning them the respective taxpayer number.

#### **SUBSECTION V**

#### **Environmental Fund**

#### **ARTICLE 267**

#### **(Contribution Obligation)**

1. With the exception of small-scale mining, those entities engaged in mining shall be subject to the payment of a contribution to the State, which shall be earmarked for the setting up of an Environmental Fund.
2. The authority to set up the Environmental Fund and approve its organic structure shall be the prerogative of the Titleholder of the Executive Power, which must regulate the amount of the contribution referred to in the previous number, as well as other rules, including how its respective revenue shall be collected and allocated.

#### **CHAPTER XVII**

#### **Customs Regime**

#### **ARTICLE 268**

#### **(Legal Regime)**

1. Holders of mining rights granted within the framework of this Code shall be subject to the customs regime provided for in this chapter.

2. The current general regime shall be applicable to all that which is not established in this chapter.

## **ARTICLE 269**

### **(Exemption for Mining Operations)**

1. The importation of equipment earmarked exclusively and directly for the execution of the exploration, mining and processing operations of mineral resources shall be exempt from duties and the service tax relating to general customs fees, with the exception of stamp duty, the statistical tax of 1/1000 and other service-related taxes.

2. The equipment referred to in the previous number shall be contained in an approved list and updated by a joint executive decree issued by the Ministry of Finance and the regulatory minister.

3. At the request of the respective holder of mining rights and subsequent to an opinion from the National Customs Service, other goods, assigned exclusively and directly for the execution of the mining operations referred to in the previous number, may be added to the appended lists by way of an executive decree issued by the Minister of Finance and the regulatory minister.

## **ARTICLE 270**

### **(Protection of National Industry)**

The exemption provided for in the previous article shall not be applicable in cases where the goods subject to exemption are produced in Angola, provided that they possess the same or similar quality and that they are available for sale and timely delivery, and provided that the price does not exceed 10% in relation to the cost of the imported article, before the application of customs charges, but after inclusion of freight and insurance costs, with the World Trade Organization method being utilized to assess the value.

## **ARTICLE 271**

### **(Exclusivity)**

1. At the time of importing the goods referred to in article 269, a declaration of undertaking must be presented to the customs authorities, endorsed by the regulatory body, regarding their exclusive application in the mining operations that are the subject of this Code of which it is a titleholder, with those authorities being responsible for their control.

2. The endorsement referred to in the previous number may only be affixed by an entity of the regulatory ministry whose signature is recognized by the National Customs Service.

3. Without prejudice to that stipulated in the following number, the utilization of goods and equipment for purposes differing from those provided for and authorized, as referred to in article 269 and whose importation is exempt, shall constitute an evasion of duties, as provided for and punishable by the customs legislation in force.

4. Any deviation from the exclusivity rule imposed on goods imported with customs exemption to be utilized in mining operations, as provided for in this customs regime, as well as their disposal, must, in accordance with prevailing legislation, be requested in advance from the Minister of Finance, with the goods, in those cases where the application is officially accepted, being subject to the payment of the charges due.

## **ARTICLE 272**

### **(Selling Prohibition)**

Equipment imported within the scope of the exemption system provided for in article 269, cannot be sold in national territory without prior authorization from the National Customs Service, with same being subject to the payment of duties and other customs charges in the case of an authorized sale.

## **ARTICLE 273**

### **(Temporary Import)**

Temporary importation shall be permissible, with exemption from providing a bond, of the goods referred to in article 269, with the consequent re-exportation being free of customs charges, with the exception of clearance stamp duty and fees normally payable for services provided.

## **ARTICLE 274**

### **(Temporary Export)**

Temporary exportation shall be permissible, with exemption from providing a bond, of the goods mentioned in article 269, which go for repair, beneficiation or arrangement, fairs, exhibitions or other valid temporary purposes, with the respective re-importation being free from customs charges, and by presenting, for that purpose, a declaration of undertaking to re-import within the maximum period of one year.

## **ARTICLE 275**

### **(Fiscal Responsibility)**

The exemptions provided for in the previous articles shall not include eventual fines and costs arising out of prosecutions for infringements of customs laws, which shall always be payable.

## **ARTICLE 276**

### **(Export of Minerals)**

1. The export of mineral resources legally extracted and transformed, performed directly or indirectly by the holders of mining rights, provided same are properly licensed, in accordance with prevailing legislation, shall not be subject to the payment of duties and other customs charges, including service fee, with the exception of stamp duty and other fees.

3. That stipulated in the previous number shall not be applicable to the export of mineral resources that have not been transformed, on which a tax shall be levied for the export of raw minerals, with a tax of 5% being levied on the market value of the said mineral.

## **ARTICLE 277**

### **(Export of Samples)**

The export of mineral samples earmarked for analyses and tests realized in accordance with article 124 shall not be subject to the payment of duties and other charges, with the exception of stamp duty and fees for services provided.

## **ARTICLE 278**

### **(Expeditious Customs Clearance)**

1. In the case of goods that, by their very nature, require urgent customs clearance, the customs authorities must authorize their immediate release, with appropriate precautionary measures, with the importer being responsible for finalizing the respective clearance document within a maximum period of 30 business days.

2. In order to benefit from the expeditious customs clearance regime referred to in the previous number, and should the National Customs Service so decide, holders of mining rights may provide a bond that covers the payment liable for customs charges within the scope of this special customs regime, as well as eventual fines and costs resulting from noncompliance with the periods referred to in the previous number and other customs procedures.

## **ARTICLE 279**

### **(Opening of Customs Posts)**

1. Whenever objective reasons so justify, the Minister of Finance may authorize the opening of customs posts in areas where mining projects are located.

2. All goods of any nature, which are imported in light of this Code, may be cleared through customs at a customs post and at any that has been a place of entry into Angola, provided that their packaging abides by international standards for the circulation of goods in international transportation.

## **ARTICLE 280**

### **(Customs Inspection in Mining Areas)**

Mining concession areas shall be subject to permanent inspection by the customs authority, which must be allowed free access to all locations, with restrictions imposed by law being respected.

## **PART II**

### **Special Legal Regimes**

## **CHAPTER XVIII**

### **Small-Scale Production of Diamonds**

## **ARTICLE 281**

### **(Legal Regime)**

Access to and the exercise of mining rights for small-scale diamond mining shall be subject to the rules defined in this chapter.

## **ARTICLE 282**

### **(Concession of Rights for Small-Scale Diamond Mining)**

1. It shall be incumbent on the regulatory ministry, on the recommendation of the national concessionary company for diamond mining rights, to grant mining rights for small-scale diamond mining.

2. Small-scale diamond mining may only be carried out in alluvial deposits, provided that it is not economically possible to carry out mining on an industrial scale or in primary deposits rejected after having been mined and abandoned.

## **ARTICLE 283**

### **(Mining Pass)**

1. The carrying out of small-scale diamond mining shall be authorized with the issue of a title by the regulatory ministry, designated as a mining pass.
2. The area authorized for each mining pass to undertake small-scale mining shall be of up to one hectare, properly delimited and demarcated.
3. It shall not be permissible for each individual to accumulate more than one mining pass.

## **ARTICLE 284**

### **(Duration of Title)**

1. The small-scale diamond mining authorization shall be granted for one year, counted as starting from the date of issue of the title, which may be extended for similar periods, provided that the holder has fully complied with their legal obligations in the previous period.
2. For the purposes of that stipulated in N° 1 of this article, the application must be sent to the regulatory body, through the local administrative body, within a maximum period of 45 days, before the expiry of the previous title.
3. The lack of any response to the application within a period of 45 days shall signify that it has been granted, with the mining operations being able to continue under the exact same terms.

## **ARTICLE 285**

### **(Requirements for Obtaining Title)**

1. In order to obtain a small-scale diamond mining title, applicants must fulfill the following requirements:
  - a) be a national citizen of over 18 years of age;
  - b) have lived for more than five years in the surrounding communes of the areas earmarked for the small-scale mining operation requested;
  - c) issue and sign at the Local Administrative body a declaration of good repute and undertaking of total respect for the law and regulations.
2. The capacity and residency of national citizens shall be recognized, by the presentation of an ID card and certificate of residence issued by the Communal Administration, respectively.
3. In the event of any doubt as to the information provided concerning residence, this must be confirmed by the traditional authority of the respective area, verified by a testimonial made before the local administrative body of the regulatory ministry, of which minutes shall be drawn up and signed by the parties involved.

4. In the event of the traditional authority not confirming the residency claim, that fact must be communicated to the Communal Administration that issued the residence certificate and to the relevant law enforcement body for resolution, before the process to grant the title may proceed.

## **ARTICLE 286**

### **(Rights of Titleholder)**

Small-scale diamond mining titleholders enjoy, among others, the following rights to:

- a) access available geological-mining information, from the regulatory body and concessionary company;
- b) trade the extracted diamonds in the area granted, in accordance with the regime established by this Code.

## **ARTICLE 287**

### **(Obligations of Titleholder)**

Titleholders have, among others, the following obligations:

- a) utilize the identification credential provided for the activity;
- b) allow monitoring and inspection of the activity on the part of the regulatory body, relevant authorities, concessionary company and relevant law enforcement authorities;
- c) inform relevant authorities of occurrences of other minerals eventually found during the course of small-scale mining operations;
- d) sell diamonds resulting from small-scale mining operations to the public diamond trading company, under the terms established in this section;
- e) promptly pay tax and other taxes due;
- f) inform relevant authorities of the occurrence of work accidents or professional diseases;
- g) preserve nature and repair damage caused to the environment;
- h) guarantee and promote compliance with hygiene and safety standards in the workplace;
- i) deposit mined and unsold diamonds in the safe of the concessionaire, in the presence of a representative of the relevant law enforcement body.

## **ARTICLE 288**

### **(Powers of Regulatory Body)**

The regulatory ministry shall be empowered to perform the following actions:

- a) issue, suspend and revoke titles for the carrying out of small-scale mining activity;
- b) monitor and inspect small-scale mining activity;

- c) control and register the production and trading of diamonds produced by artisanal methods;
- d) organize the single register of small-scale mining activity, in accordance with that stipulated in this section.

## **ARTICLE 289**

### **(Responsibility of National Concessionaire)**

1. The national concessionaire for diamond mining rights shall be responsible for defining, delimiting and freeing up areas for small-scale diamond mining, duly based on the results of prospecting work or complementary studies carried out in mining areas.
2. The national concessionaire for diamond mining rights must cooperate with the regulatory ministry and with the relevant law enforcement body in the monitoring and inspection of the carrying out of small-scale mining.

## **ARTICLE 290**

### **(Powers of Local State Administration Authorities)**

The Municipal Administration of the Province where the holder of the title carries out its activity shall be empowered to:

- a) issue residence certificate and declaration of good repute for candidates applying to obtain titles, based on a certified testimonial from the traditional authority;
- b) confirm by written declaration that candidate applying to obtain title satisfies the requirements demanded by this Code to carry out the small-scale production of diamonds;
- c) ensure the application of regulations regarding the circulation of people and goods, as well as of commercial, industrial, agricultural or any other activities other than the production of diamonds, in small-scale mining areas;
- d) guarantee institutional cooperation between the different public institutions headquartered in the province entailing mining activity, concessionary companies and traditional authorities.

## **ARTICLE 291**

### **(Procedures to Obtain Title)**

1. A title may be requested by addressing an application to the regulatory minister, in conformity with the small-scale mining-title form as pre-established by the regulatory body.
2. The application shall be sent to the local administrative body of the regulatory ministry in the province where the requested mining area is located, and be recorded in its reception book, according to order of arrival, with the respective receipt having to be issued.



3. The application must be accompanied by the following documents of the applicant and members of its work team:

- a) residence certificate;
- b) photocopy of identity card;
- c) photocopy of taxpayer card;
- d) lists of names of members of its work team;
- e) criminal record or certificate of good repute issued by the Communal Administration;
- f) three passport-type photos.

4. Once the application has been received, the regulatory ministry shall notify the relevant law enforcement body, appending copies of the process for analysis, in order to obtain the respective opinion from the latter within a deadline of 15 days.

5. Subsequent to the issue of a favorable opinion by the relevant law enforcement body, the regulatory ministry shall have a period of 30 days, counting from the date of its reception in the relevant body of the regulatory ministry, to decide on the application.

6. Once the request has been accepted by the regulatory ministry, the latter shall notify the applicant, through its local administrative bodies, to collect the respective title and credentials.

7. The handing over of the title and credentials shall be made by the local administrative bodies of the regulatory ministry against payment of the following fees in respect of:

- a) title: corresponding to two minimum wages;
- b) credential: corresponding to a minimum wage for each one.

8. The issue of further copies of the title and credential shall be subject to the payment of fees corresponding to the values referred to in the previous number.

9. The values referred to above must be paid to the Tax Department of the Ministry of Finance for the area where the title is granted, with copies of the respective Collection of Revenue Document being presented to the local bodies of the regulatory ministry and the relevant law enforcement body when collecting the title and credential.

## **ARTICLE 292**

### **(Special Prohibitions)**

Without prejudice to other prohibitions provided for in law, in the carrying out of small-scale mining activity, engaging in the following acts shall be prohibited:

- a) producing diamonds outside of area granted;

- b) including foreign citizens in activity;
- c) providing false declarations on production result;
- d) permitting unauthorized mining or illicit trafficking of diamonds within limits of the area of activity;
- e) utilizing equipment or resources not authorized for small-scale activity;
- f) trading diamonds outside of circuit established in this Code and by the relevant authority;
- g) carrying out industrial, agricultural or other activity, in small-scale mining area.

## **ARTICLE 293**

### **(Non-Assignability of Title)**

1. The assignment of a title between living persons and upon the decease of its titleholder shall be prohibited.
2. In the case of the decease or permanent incapacity of the holder of the mining pass, any member of the immediate family shall enjoy the preemption right on the area granted, provided that same manifests an interest in giving continuity to the works in the same area, demonstrates capacity, fulfills the requirements provided for in this Code and applies to exercise the respective rights.
3. In order to comply with that stipulated in the previous number the interested party must, by way of an application addressed to the regulatory minister, manifest its interest, within a period of 30 days subsequent to the decease of the titleholder or manifestation of incapacity of same.

## **ARTICLE 294**

### **(Suspension of Title)**

1. The regulatory minister may order the suspension of the title to exercise small-scale diamond mining rights whenever one of the following situations occurs:
  - a) for reasons of force majeure;
  - b) incapacity of titleholder or declared interdiction of mining pass;
  - c) noncompliance of titleholder with mining pass obligations;
  - d) noncompliance with obligation to cooperate, provided for in this section.
2. The relevant authority must maintain the registration of suspended titles updated.
3. The suspension of titles for the reasons provided for in paragraphs a) and b) of N° 1 of this article shall also suspend the countdown of their validity period, until such time as the causes for the suspension are overcome.

## **ARTICLE 295**

### **(Rescission of Title)**

The regulatory minister may rescind the title and small-scale mining credentials whenever one of the following situations occurs:

- a) relevant public interest, incompatible with the small-scale mining in question;
- b) falsification of proof of nationality or residence;
- c) providing false information on income from small-scale mining activity;
- d) falsification of production register;
- e) noncompliance with prohibitions provided for in article 292;
- f) infringement of cooperation obligation;
- g) direct or indirect inclusion of foreign citizens in the activity;
- h) trading of diamonds outside the legal circuit.

## **ARTICLE 296**

### **(Cessation of Right to Title)**

Aside from the causes provided for in law, the title and credential issued within the scope of this section, shall cease to exist in the following cases:

- a) expiry;
- b) decease of titleholder;
- c) rescission.

## **ARTICLE 297**

### **(Title & Credential Forms)**

The type of title form for undertaking small-scale diamond mining activity and its validity shall be defined by the regulatory ministry on a recommendation from the relevant law enforcement body.

## **ARTICLE 298**

### **(Assessment of Diamonds)**

1. Diamonds obtained from small-scale mining shall be assessed at the time of sale.
2. Any disputes that may eventually occur during the process of assessing diamonds obtained by small-scale mining, must be settled by negotiation.
3. In the event of disputes, it shall be incumbent on the regulatory ministry to mediate and obtain a definitive negotiated solution.

## **ARTICLE 299**

### **(Buying & Selling)**

1. Diamonds obtained from small-scale mining must be mandatorily sold by the titleholder direct to the public diamond trading company.
2. The value of each diamond batch acquired shall be paid immediately by the public diamond trading company to the holder of the mining pass after assessment of same.
3. When purchasing the diamonds, the public diamond trading company shall issue a payment receipt specifying the batch and values attributed for certification purposes.
4. Procedures for the purchase and sale of diamonds must take place in the presence of a representative of the relevant law enforcement body.
5. The locations where diamonds may be purchased and sold shall be established by the public diamond trading company, with their having to meet with the conditions required to guarantee the security of transactions and safekeeping of the diamonds.

## **ARTICLE 300**

### **(Taxation & Taxes)**

1. Holders of a small-scale diamond mining title shall be subject to the payment of tax and legal taxes and a royalty of 3% on the value of the diamonds.
2. The tax and other taxes described in the previous number shall be withheld at source by the public diamond trading company for each effective payment, and handed into the State coffers via the tax office for the area where the small-scale mining is carried out, with a provisional receipt for that value having to be given to the holder of the mining pass.
3. The settlement and handing in of taxes payable shall be the responsibility of the public diamond trading company, which shall be accountable for the total amount of each tax and increments, in cases of nonpayment.
4. The public diamond trading company shall be responsible for delivery to the holder of the mining pass of the document proving royalty payment has been made.
5. Tax Offices must maintain organized dossiers on each holder of a small-scale diamond mining title, assigning the respective taxpayer number to them.

## **ARTICLE 301**

**(Fees)**

Public acts for the concession of mining rights shall be subject to the payment of fees, in accordance with this Code and of applicable legislation.

**CHAPTER XIX**

**Diamond Cutting**

**ARTICLE 302**

**(Economic Regime)**

The cutting and any other forms of industrial processing and beneficiation of rough diamonds shall, in accordance with paragraph c) of N° 1 of article 2, be considered a mining activity, regulated by the relevant ministry.

**ARTICLE 303**

**(Investment in Cutting Industry)**

The investment regime for the diamond cutting industry shall be that established in general legislation on private investment, with the following modifications:

- a) letters of intent shall be delivered to the diamond concessionary company, which shall forward them to the National Agency for Private Investment (ANIP) with the respective technical, economic and commercial opinion;
- b) the negotiation of investment contracts must always involve the participation of the diamond concessionary company and the diamond trading company, when such exists.

**ARTICLE 304**

**(Tax & Customs Regime)**

The tax and customs regime, including tax and customs incentives regime, shall be those established in this Code for mining.

**ARTICLE 305**

**(Licensing)**

Engaging in the industrial cutting of gemstones shall be subject to obtaining the respective titles and permits, in accordance with the general terms of economic and commercial activity, with the following requirements having to be observed:

- a) be a company incorporated under Angolan law;
- b) have technical and financial capability adequate to engaging in gemstone cutting activities and investing in that industry;
- c) present a Technical, Economic and Financial Feasibility Study, together with an investment letter of intent, for approval by the relevant entity responsible for approving investments, which may be submitted to an independent audit before approval;
- d) indicate location of cutting plant's facilities, annual production capacity, technical characteristics of same and minimum and maximum size of rough diamonds that it is capable of cutting, as well as the cut-diamond sales market;
- e) comply with the security demands established in this section.

## **ARTICLE 306**

### **(Acquisition of Rough Diamonds)**

The acquisition of rough diamonds for cutting shall be subject to the tax and other taxes established by law in general for commercial activities and to the payment of the taxes and commissions eventually involved in order to cover public expenditure on the process to market and promote diamonds at home and abroad and the stability of the market.

## **ARTICLE 307**

### **(Acquisition Channels for Rough Diamonds)**

1. Rough diamonds for cutting shall be acquired from domestic market production or importation.
2. Any one of the two modes for acquiring rough diamonds for cutting, referred to in N° 1 of this article, shall require the intervention of the public diamond trading company, when such exists.
3. The public diamond trading company must guarantee the supply of diamonds necessary for the functioning of the cutting policies existing in the country.

## **ARTICLE 308**

### **(Import of Rough Diamonds Regime)**

1. The importation of rough diamonds for cutting shall adhere to regular import procedures, but be subject to prior authorization from the regulatory minister, with a favorable opinion from the public diamond trading company, when such exists.

2. Applications for authorization to import rough diamonds for cutting shall be addressed to the regulatory minister, with same having to contain an indication of the quantity and quality of diamonds to be imported, origin, partial and overall value and justification as to why they need to be imported.
3. Only companies owning cutting plants established in the country shall be authorized to import rough diamonds for cutting.
4. The importation of rough diamonds for cutting shall be subject to warranty formalities and the Kimberly certification of origin process (KPC) established in this Code and specific legislation on the subject.

## **ARTICLE 309**

### **(Characteristics & Volume of Stones to be Acquired)**

1. Companies owning cutting plants may only acquire, on the national or foreign market, rough diamonds of a size compatible with the characteristics and technical capability of the respective plant.
2. Companies owning cutting plants may not constitute inventories of rough diamonds beyond the respective three-month production capacity of the plant.

## **ARTICLE 310**

### **(Prohibition on Trading & Exporting Rough Diamonds)**

1. Companies owning cutting plants may not engage in the trading or exporting of rough diamonds.
2. Rough diamonds that, for any reason, cannot be cut in the respective plant, must be resold to the public diamond trading company.
3. When imported rough diamonds that cannot be cut in the respective plant are involved, the import companies must, within three months subsequent to their importation, sell them to the public diamond trading company, at their purchase price, plus import duties and taxes paid.

## **ARTICLE 311**

### **(Justification for Possession of Rough Diamonds)**

1. Companies owning cutting plants shall be obligated to inform the public diamond trading company, by way of a standard report to be approved and ratified by same, of the existence of rough diamonds still uncut, in relation to each batch of rough diamonds acquired, within three months subsequent to their acquisition.

2. For the purposes of article 229, proof of legal authorization for the possession of rough diamonds shall be constituted by a document that proves their acquisition and the information provided to the public diamond trading company on the possession of rough diamonds still uncut, regulated in the previous number, after having been homologated by that entity.

3. Failure to present proof of legal authorization for the possession of rough diamonds as referred to in the previous number of this article, shall lead to whoever is responsible being charged with the crime of illicit possession of strategic minerals, as provided for in article 229.

## **ARTICLE 312**

### **(Security System)**

1. Plants engaged in cutting rough diamonds must be equipped with security systems that are compatible with the need to adequately prevent the theft of the rough and cut diamonds in their possession.

2. The security system must be part of the plant's technical specifications that are submitted with the Technical, Economic and Financial Feasibility Study, for the purposes of the investment being approved.

3. The security systems of diamond-cutting plants must adequately combine both human and electronic surveillance resources.

4. The theft and eventual disappearances of rough or cut diamonds must be immediately communicated to the relevant authorities, in writing, indicating the circumstances of the theft or disappearance, the place, time, persons involved and persons suspected of having perpetrated the theft, value of the stone and its characteristics.

## **CHAPTER XX**

### **Trading of Cut Diamonds**

#### **SECTION I**

##### **General Provisions**

## **ARTICLE 313**

### **(Commercial Freedom)**



The trading of cut diamonds on the national market shall be unrestricted, but, the conditions and formalities defined in the following articles, aimed at ensuring the stability of the market and the security of transactions, must be complied with.

## **ARTICLE 314**

### **(Trading Systems)**

The trading of cut diamonds on the national market shall be realized through wholesale and retail outlets.

## **ARTICLE 315**

### **(Wholesale Business)**

1. Only companies owning cutting plants shall be authorized to sell cut diamonds wholesale.
2. Companies owning cutting plants that sell cut diamonds wholesale must obtain the respective certificates of quality and origin in advance from the public diamond trading company, containing an indication of the quantities of batches, with their origin and composition in terms of the size and quality of stones.
3. The following entities may acquire cut diamonds wholesale, from cutting plants:
  - a) jewelry stores and other similar establishments licensed to operate on the national market;
  - b) national buyers legally authorized to engage in the international cut-diamond trade;
  - c) foreign buyers authorized to import cut diamonds from Angola.
4. The authorization to engage in the wholesale business of cut diamonds and to import cut diamonds wholesale from Angola, shall be conferred by the regulatory ministry, with a favorable opinion from the public diamond trading company.
5. The selling of cut diamonds wholesale shall be realized by auctions held in the country, open to jewelers and similar operators, national buyers and to authorized foreign buyers, whose rules of organization and operation shall be approved by the regulatory ministry, on a recommendation from the public diamond trading company.

## **ARTICLE 316**

### **(Retail Business)**

1. Only jewelry stores and other similar establishments, legally licensed, shall be authorized to engage in the retail sale of cut diamonds on the national market.

2. The retail sale of cut diamonds shall abide by the rules of the retail trade in general, and shall be subject to the issue, by the respective retail sales establishment, of a certificate of quality and warranty, in accordance with the type approved by the public diamond trading company.

3. Jewelry stores and other similar establishments, legally licensed to engage in the retail business of cut diamonds, must send monthly reports to the public diamond trading company on the quantity of diamonds bought and sold in the previous month, measured in the carats of each stone, sizes and special stones, for statistical purposes.

## **ARTICLE 317**

### **(Investment in Retail Trade)**

Investment in jewelry stores and other establishments to mount or sell cut diamonds, jewels and precious stones for retailing, must abide by the retail trade licensing rules, in general terms, with foreigners being permitted to obtain trading licenses and permits.

## **ARTICLE 318**

### **(Security of Jewelry Stores)**

1. Jewelry stores and other establishments authorized to mount and/or sell jewels and precious stones must put in place special security measures that adequately prevent the theft of the cut diamonds in their possession.

2. Taking into account the prevention of theft, jewelry stores shall be dispensed from the obligation of indicating the prices of precious stones and cut diamonds whose values, contemplated individually, because of their magnitude, are liable to provoke greed in criminals and malefactors.

3. The theft and any eventual disappearances of cut diamonds must be immediately communicated to the relevant law enforcement authorities, in writing, indicating the circumstances of the theft or disappearance, the place, time, persons involved and persons suspected of having perpetrated the theft.

## **ARTICLE 319**

### **(Fees)**

The issue, by the regulatory ministry and the public diamond trading company, of certificates of quality and origin as established in this section, shall be subject to payment of the respective fees.

## **ARTICLE 320**

### **(Statistical Database)**

1. Companies owning cutting plants, jewelry stores and other retail business establishments selling cut diamonds, shall be obligated to constitute, for statistical purposes, a permanently updated database containing all technical information on rough and cut diamonds bought and sold, mentioning, namely, the quantity, weight, cut, color and clarity.
2. The regulatory ministry and the relevant law enforcement body shall be responsible for overseeing compliance with this obligation.

## **SECTION II**

### **Export of Cut Diamonds**

#### **ARTICLE 321**

##### **(Legal Regime)**

The export of cut diamonds shall be realized in general terms, with observance of the following procedures:

- a) obtaining, from the public diamond trading company, a quality certificate, showing origin of diamonds, together with quantity and quality of the different batches;
- b) obtaining, from the regulatory ministry, the Certificate of Origin, under the same terms as required for the export of rough diamonds;
- c) obtaining the respective export authorizations, in accordance with general terms.

#### **ARTICLE 322**

##### **(Entities Authorized to Export)**

1. The export of cut diamonds may be made by companies owning cutting plants and by authorized national and foreign buyers.
2. The export of cut diamonds must be licensed by the Ministry of Trade.

#### **ARTICLE 323**

##### **(Provision of Export Information)**

1. Companies owning cutting plants must send monthly reports to the diamond trading company, for statistical purposes, on the quantity of diamonds exported in the previous month, measured in the

carats of each stone, classified in batches of the same size, special stones and value of diamonds exported, per batch and per special stones.

2. The diamond trading company must maintain a database with information on the export of cut diamonds, including those exported by companies owning cutting plants and those exported by authorized national and foreign buyers, with an indication of the export dates, qualities of stones, per batch and per unit, wholesale purchase prices, the cutting plants selling same, and other data of statistical interest.

### **SECTION III**

#### **Import of Cut Diamonds**

#### **ARTICLE 324**

##### **(Import Conditions)**

The importation of cut diamonds shall only be permissible if the domestic market does not have cut diamonds in sufficient numbers and quality to satisfy the commercial needs of each national retailer.

#### **ARTICLE 325**

##### **(Import Authorization)**

The entry of cut diamonds into the country, for trading purposes on the national market, shall be subject to specific authorization from the Ministry of Trade, with a favorable opinion from the public diamond trading company.

#### **ARTICLE 326**

##### **(Companies Authorized to Import)**

Only jewelry stores and other establishments licensed to mount or sell jewels and precious stones may import cut diamonds.

#### **ARTICLE 327**

##### **(Provision of Import Information)**

Companies authorized to import cut diamonds must send monthly reports to the public diamond trading company, for statistical purposes, on the quantity of diamonds imported in the previous month, measured in the carats of each stone, classified in batches of the same size, special stones and value of the imported diamonds, per batch and per special stones.

## **ARTICLE 328**

### **(Final & Transitional Provision)**

1. The public diamond trading company shall be vested with public powers to undertake responsibilities of a public administrative nature as conferred on that entity in this chapter.
2. The powers of a public administrative nature vested in the public diamond trading company in this chapter shall be assigned to the institution regulating diamond mining, as soon as this is created by the Titleholder of the Executive Power.

## **CHAPTER XXI**

### **Civil Construction Minerals**

## **ARTICLE 329**

### **(Definition)**

1. Any substance of mineral origin utilized directly in construction works or as a raw material for the manufacture of products earmarked for civil construction shall be considered as a mineral for civil construction.
2. Whenever it becomes necessary, the Titleholder of the Executive Power shall publish and update the list of substances of mineral origin considered, for the purposes of this Code, as minerals for civil construction.

## **ARTICLE 330**

### **(Legal Regime)**

The legal regime applicable to minerals for civil construction shall be that established in this Code for common nonstrategic minerals, with due modifications.

## **ARTICLE 331**

### **(Relevant Entity)**

The minister regulating geology and mines shall be empowered to grant rights for the prospecting or mining of minerals earmarked for civil construction.

## **ARTICLE 332**

### **(Concession Conditions)**

Mining rights for the prospecting or mining of minerals for civil construction may only be granted to Angolan citizens or companies incorporated under Angolan law held exclusively by Angolan citizens, or where at least two-thirds of the capital is held by national citizens.

## **ARTICLE 333**

### **(Procedural Process)**

1. Entities planning to engage in the prospecting or mining of mineral resources considered by this Code as applicable in civil construction, must apply to the regulatory minister to grant the respective rights, filling out the application with the data referred to in article 100.
2. The application referred to in N° 1 of this article shall be handed into the relevant mining registration entity, which must issue and send an opinion on the request to the regulatory minister within a period of 30 days subsequent to receipt of the application.
3. The granting of rights for prospecting or mining mineral resources earmarked for civil construction shall be made by order of the regulatory minister, with it being permissible for such authority to be delegated to the local administrative bodies of the regulatory ministry, within a period of 15 days counting from that to entry of the opinion in the office of the regulatory minister.
4. The order granting mining rights for minerals earmarked for civil construction shall be published in the *Diário da República*, subsequent to which the Mining Permit shall be issued, in accordance with article 89.

## **ARTICLE 334**

### **(Rejection of Concession Application)**

The decision to refuse mining rights earmarked for civil construction may only be substantiated in law and in the public interest, with it being permissible to lodge a complaint and appeal, in accordance with administrative procedure and litigation.

## **ARTICLE 335**

### **(Rights of Titleholders)**

Holders of mining rights of mineral resources for civil construction shall enjoy the following specific rights to:

- a) carry out the mining operations arising out of the approved works program;
- b) set up facilities and annexes required for the execution of mining works in the areas granted;

- c) dispose of mineral resources mined to be sold in national territory and for export, in accordance with legal terms.

## **ARTICLE 336**

### **(Obligations of Titleholders)**

Holders of the mining rights of mineral resources for civil construction shall have the following specific obligations to:

- a) periodically send economic information and relevant technical data on their activity to the regulatory ministry, through their local administrative bodies;
- b) utilize appropriate technology;
- c) repair environmental damage arising out of their activity;
- d) comply with the general and specific legal regulations on their activity.

## **ARTICLE 337**

### **(Protection Perimeter)**

1. It shall be mandatory to set up a protection perimeter to ensure the security and availability of minerals, carried out on the basis of the exploration work.
2. The demarcation of prospecting and mining areas shall be made in accordance with that defined in this Code for restricted mining areas, with due modifications.

## **ARTICLE 338**

### **(Prospecting Areas)**

The area for prospecting mineral resources earmarked for civil construction shall be 50 km<sup>2</sup>, with the exact area having to be defined by the granting entity, in relation to the request and local circumstances regarding the use of land for other purposes.

## **ARTICLE 339**

### **(Mining Areas)**

When mining rights are involved, the area to be granted must be confined to the deposit and the respective beneficiation facilities, up to a radius of 1km, to be set by the granting entity in relation to the actual mining conditions.

## **ARTICLE 340**

### **(Demarcation)**

The demarcation of areas granted for the prospecting or mining of mineral resources for civil construction must be executed within 90 days subsequent to the issue of the respective title granting the rights, in accordance with the terms and conditions established in this Code for restricted mining areas.

## **ARTICLE 341**

### **(Duration)**

1. Mining rights for the prospecting of mineral resources for civil construction shall be granted for an initial period of three years, which may be extended for two further periods of one year each.
2. The mining rights for mineral resources, as referred to in the previous number, shall continue for as long as is shown necessary to benefit from their integral potential, but they shall be granted for an initial period of five years, which may be successively extended for periods of equal duration.
3. Titles granting mining rights on minerals for civil construction must state the extension conditions.

## **CHAPTER XXII**

### **Mineral Water**

## **ARTICLE 342**

### **(Definition)**

For the purposes of this Code, mineral water shall be considered as coming from natural sources and reserves that possess physical and chemical elements differing from those of ordinary water, with special characteristics that bestow on it medicinal properties or effects favorable to human health.

## **ARTICLE 343**

### **(Legal Regime)**

1. In accordance with N° 2 of article 2, mineral water shall be considered as a mineral, being subject to regulation by the relevant body of the Executive.
2. The exploration of mineral water deposits shall be performed in accordance with that established in this Code for common nonstrategic minerals and specific complementary legislation that may



eventually be approved by the regulatory bodies, taking into account the rules established in the following articles.

## **ARTICLE 344**

### **(Classification of Mineral Water)**

1. Mineral water shall be classified in accordance with the following criteria:

- a) chemical composition;
- b) physical composition;
- c) gasses;
- d) temperature.

2. The specific regulation to be approved by a joint executive decree issued by the regulatory minister and the minister of health shall establish the group of characteristics and the parameters for classifying mineral water in accordance with the criteria in the previous number of this article.

## **ARTICLE 345**

### **(Exploration of Mineral Water)**

Exploration work for mineral water must include geological and analytical studies of the water in question.

## **ARTICLE 346**

### **(Conditions for Extracting Mineral Water)**

1. The extraction of mineral water shall be considered as encompassing all work or activity involved in the capture, conveying, distribution and marketing of mineral water.

2. The extraction of mineral water shall be realized in accordance with that established in this Code for the industrial mining of minerals, with the necessary modifications, and in specific complementary legislation that may eventually be approved by the regulatory body and/or by the relevant bodies involved in the matters to be regulated.

3. When extraction from a mineral water source has not been performed in accordance with the legal, technical, or hygienic conditions established in this Code or complementary legislation, it may be suspended until such time as the failures detected are completely rectified. Furthermore, a ban of up to 60 days may be imposed, subsequent to the suspension notification, should such failures not be rectified.

## **ARTICLE 347**

### **(Concession of Extraction Rights)**

1. The minister regulating geology and mining affairs shall be empowered to grant mineral water extraction rights.
2. Access to the exercise of rights to extract mineral water shall be conditioned by the same access requirements applied to mining rights for the mining of minerals earmarked for civil construction, as established in article 332.

## **ARTICLE 348**

### **(Processing of Applications & Concessions)**

1. The procedural regime for processing applications and the concession of rights to extract mineral water shall be the same as that applied to the applications and concession of rights for minerals earmarked for civil construction.
2. Applications to extract mineral water from a source or reserve must be accompanied by the following elements:
  - a) certificate of physiochemical and bacteriological water analysis;
  - b) installation project and description of processes utilized for the capture and protection of sources, conveying and distribution of the water;
  - c) data on flow and temperature of sources.

## **ARTICLE 349**

### **(Protection Perimeter)**

1. The setting up of a protection perimeter shall be mandatory to ensure the availability and characteristics of the water, realized on the basis of the exploration work.
2. The demarcation of the prospecting and extraction areas shall be performed in accordance with the terms defined in this Code for restricted mining zones, with due modifications.

## **ARTICLE 350**

### **(Marketing of Mineral Water)**

1. In order to market mineral water, the titleholder of the right granted must send the relevant body of the regulatory ministry, annually, by March 30 of the year subsequent to that to which it refers, a

minimum number of six bacteriological tests, with maximum intervals of two months between each test, that prove and guarantee the purity of the source and bottled water, in accordance with the complementary regulations established by the ministries regulating geological and mining activity and health.

2. The utilization of a standard label on the packaging and on the bottles of bottled mineral water shall be mandatory, with an indication of the results of the tests referred to in the previous number and other elements attesting to the validity and purity of the water, which shall be defined jointly by the ministries regulating geological and mining activity and health.

3. The marketing of mineral water shall only be permitted, when the requirements established in this Code and in other applicable legislation are complied with.

The Speaker of the National Assembly, António Paulo Kassoma.

The President of the Republic, José Eduardo dos Santos.

## APPENDIX I

### Glossary

1. *Mining Activity* – a group of activities that includes the exploration (reconnaissance, prospecting, research and assessment) and mining, beneficiation and trading of mineral resources. This activity is also referred to as “mining” in this Code.
2. *Mining Permit* - document issued by the regulatory body for the exploration and mining of mineral resources utilized in civil construction.
3. *Concession Area* - geographical demarcation defined by the body responsible for the mining register and established at the location strictly in accordance with the concession contract.
4. *Assessment* - detailed three-dimensional delimitation of an already known deposit. The methods utilized for this process are as follows: collection of samples from outcrops, trenches, boreholes, galleries, wells, etc, and the detailed study of same. The spread of sampling must be close enough to ensure that the dimensions, shape and structure of the deposit and, accordingly, the grade of ore and other eventual characteristics may be known to a high degree of accuracy. During this phase, it may already be necessary to perform processing tests, which means samples of material, compatible with the goal to be achieved, will have to be collected in bulk. Obtaining this set of information means that the dimensioning and geometrization of the deposit can be carried out, along with a study of the mineralization characteristics and calculation of ore reserves, and that a decision may be made as to whether to perform a feasibility study. Also known as “detailed exploration”.
5. *Calculation of Reserves* - the result of assessment and feasibility studies, indicating the mineral reserve of a deposit. It must be performed by an expert in accordance with procedures and standards internationally accepted and permitted by the regulatory body.
6. *Mining Certificate* - document issued by the regulatory body, based on the contract or concession order issued to prove the granting of mining rights.
7. *Classification of Reserves* - methodological systems utilized to classify mineral reserves and resources based on the results of the geological-mining investigation carried out.
8. *Trading of Mineral Resources* - series of operations covering the assessment, negotiation and sale of minerals, stone or ore concentrates. The expression “trading of mining products” is also utilized.
9. *Concessionaire* - holder of mining rights arising out of the contract, concession order or concession decree, in accordance with the terms and conditions established in this Code and other applicable legislation.

10. *Demarcation* - placement of markers on the land at each vertex of the geometric figure that defines the limits of the area previously delimited for the exercise of mining rights.

11. *Delimitation* - definition of the limits of an area, on a topographical map, to execute the actions authorized within the scope of the mining rights granted.

12. *Mining Rights* - authorizations granted by the Executive, for the execution of geological studies and exploration work or for the mining, processing and/or beneficiation and trading of mineral resources within a defined timeframe and in an area already delimited, arising out of this Code and complementary regulations.

13. *Closure of Mine* - process by which mining activities in a certain area, granted within the framework of the mining rights, are finalized, but which do not terminate with the depletion of the deposit's reserves or with the termination of mining operations for other motives, but do so with the completion of the land restoration and/or reclamation actions, as provided for in the environmental impact assessment studies approved.

14. *Waste Dump* - deposit of overburden or overlay of mining beds, as well as ore of grades inferior to the economic limit of exploitation, extracted from a mine.

15. *Geological Studies* - studies within the scope of geology, the science which studies the history, structure and composition of the earth, to acquire knowledge about the characteristics of geological forms. In mining, geological studies constitute the basis of geological-mining investigation.

16. *Technical & Economic Feasibility Study* - a study performed on the basis of data gathered during the geological-mining investigation phase, to assess the technical quality and economic feasibility of a mining project. It serves as a basis for taking decisions on investments and for obtaining financing for the project. In accordance with this Code, this document is mandatorily required in order for mining rights to be granted. Data relating to costs must be reasonably accurate. The concept of accuracy includes the quantification of the reserves by a reputable entity and is based on a methodologically correct assessment of the mineral reserves. It constitutes an audit of all geological, technical, environmental, legal and socioeconomic data on the project. It contains projects on mining, ore processing, mining facilities and operational and accommodation support annexes, as well as calculations on the respective investments and their return. Sometimes designated simply as "feasibility studies".

17. *Cartographic Studies* – a series of scientific, technical and artistic studies and operations which are involved in the preparation of maps, based on the results of direct observations or exploration of documentation, as well as their utilization. Cartography is undergoing a long and profound revolution, which began in the middle of the last century. The introduction of aerial photography and remote detection, technological advances in recording and printing methods and, more recently, the emergence and widespread use of computers, has profoundly changed the way in which

geographical data are acquired, processed and characterized, as well as the way in which they may be interpreted and explored.

18. *Mining* - activity subsequent to exploration, including preparation and extraction, loading and hauling of crude ore inside the mine, as well as its processing and beneficiation. In some cases in this Code, it is referred to as “exploitation”. [The corresponding terms in English are *mining* or *exploitation*.]

19. *Ambitious Mining* - mining of the richest parts of an ore bed, abandoning another part that, although not so rich, might have been mined economically, in conjunction with the rest.

20. *Unlicensed Mining* - practice of illegal mining, which may be carried out by utilizing artisanal or conventional methods.

21. *Gangue* – a group of valueless minerals that form part of the ore from a mineral bed.

22. *Geological-Mining Information* – a set of documents and data resulting from geological work and other studies within the scope of geological-mining investigation and cartographic studies.

23. *Geological-Mining Investigation* - first phase in a mining project starting from scratch, consisting of geological studies and exploration work, in accordance with the terms of this Mining Code.

24. *Ore Bed* - generic designation that encompasses the natural accumulation of mineral resources, whose economic usefulness and value are still to be determined.

25. *Mineral Deposit* - a natural accumulation of mineral resources, recognized as having economic value and usefulness, ascertained by geological studies, and exploration work on mineral beds, with the potential to be mined economically.

26. *Exploration License* – a document which is issued based on a contract certifying that its titleholder is authorized to proceed with the exploration operations of reconnaissance, prospecting, research and assessment specified therein. Also simply referred to as “Prospecting License” in this Code.

27. *Mining License* - a document which is issued based on the signing of a mining contract certifying that its titleholder is authorized to undertake the mining operations of preparation and extraction, loading and hauling of crude ore inside the mine, its processing and beneficiation, as well as its trading and to execute land restoration and/or reclamation work, as established in the environmental impact assessment study.

28. *Mine* - area duly demarcated for the exercise of the mining right, including the mineral deposit which is the subject of the concession, all technical resources and infrastructure necessary to executing mining operations, as well as improvements of a social nature.

29. *Accessory Mineral* - mineral of secondary importance in a rock, with its definition not being essential.
30. *Miner* - person who engages in small-scale mining, in accordance with this Code and complementary legislation.
31. *Ore* - geological formation containing one or more useful minerals, inside a deposit.
32. *Mining* - the same as mining activity.
33. *Strategic Minerals* - mineral resources declared as such by the Titleholder of the Executive Power, for the economic development of the country in accordance with that stipulated in this Code and other complementary legislation.
34. *Minerals for Civil Construction* - any substance of mineral origin utilized directly in construction works or as a raw material for the manufacture of products earmarked for civil construction is considered as a mineral for civil construction.
35. *Radioactive Minerals* - minerals that contain unstable chemical elements or rare and unstable varieties of certain elements that occur more commonly in a stable form. Those materials decompose naturally and, when that occurs, they liberate major quantities of energy in the form of radiation.
36. *Mining Operations* - work carried out within the scope of a mining license, which consists of the preparation and extraction, loading and hauling of crude ore inside the mine, as well as its processing and beneficiation.
37. *Regulatory Body* - the same as regulatory ministry, or, in other words, the Executive body that oversees geological-mining activities.
38. *Quarry* – a group of facilities, including excavations, needed to extract stone.
39. *Mining Plan* – a document that covers the execution of the mining operations, containing a description of methods, technology and facilities, the programming of operations and production, activities included in the environmental impact assessment study, and industrial safety, as well as the calculation of costs and the forecast of economic results.
40. *Prospecting* – a process designed to systematically search for a mineral deposit through the delimitation of promising areas, i.e., of enhanced mineralization potential. Methods utilized for that purpose are as follows: identification of outcrops, geological mapping and utilization of indirect methods, such as geophysics and geochemistry. Trenches, boreholes and the systematic collection of samples may also be utilized during this phase, although limitedly.

41. *Prospecting Plan* – plan of activities to be executed by the concessionaire within the scope of the mining right obtained to carry out exploration.

42. *Research* - initial delimitation process of an already identified deposit. Methods utilized for that purpose are as follows: surface mapping, sampling from trenches and boreholes, and always fairly widely spaced, while taking into account the preliminary assessment of the quantity and quality of ore, including laboratory studies if necessary, and finally, limited interpolations of the results obtained with the application of indirect methods. The goal here is to determine the major geological characteristics of the deposit, supplying adequate indications as to its continuity and a preliminary determination of its dimensions, shape, structure and grade of ore. Also known as “general exploration”.

43. *Secured Creditor* - creditor entitled to lien on a deposited asset.

44. *Preparation or Processing of Ore* – a series of operations aimed at turning crude ore into utilizable or profitable products on the market, by employing comminuting operations that liberate useful types of ore and separation operations to obtain the concentrates. It may also be defined as the process constituting the successive disaggregation and concentration stages applied to the ore, finishing up with the separation of the desired useful minerals or of ore sufficiently concentrated to enable the economic extraction of useful minerals. The process varies with the type of ore, from simple beneficiation conducted by the extraction of gangue through simple washing, to complex flotation and bacteriological methods. For the purposes of this Code, cutting operations and the industrialization of ornamental stone are considered as being part of this process. The term “beneficiation of ore” is also utilized.

45. *Mineral Product* - ore extracted with or without processing. Also designated as mining product. In this Code, the terms “mining products” and “product of mining activity” are also utilized.

46. *Rejected* - deposit resulting from processing ore, abandoned or stored for future processing by a more effective process.

47. *Reconnaissance* - study, on a regional scale, which identifies areas with enhanced mineralization potential occurrences by the following means: results of regional geological studies, regional geological mapping, preliminary study of land, aerial and indirect methods and extrapolation of geological data. Its goal is to locate mineralized areas where further and more detailed studies are justified.

48. *Mineral Resources for Civil Construction* - generic designation that includes mineral resources directly applied in civil construction. The expression “construction materials of mineral origin” is also utilized.



49. *Mineral Reserve* - quantity of economically exploitable ore existing in a deposit, as is evidenced by the feasibility studies performed. The classification of mineral reserves is made in line with internationally accepted standards and the regulations stipulated by the regulatory body.

50. *Restoration of Areas Utilized for Mining* - actions earmarked to return land utilized for mining to the conditions existing for its use before mining began, to be implemented in accordance with the environmental impact assessment study.

51. *Reclamation of Areas Utilized for Mining* - actions earmarked to return land utilized for mining to the possibility of its supporting one or more different uses of the soil as opposed to its previous use before mining began, without jeopardizing the environment and taking into consideration that established in the environmental impact assessment study.

52. *Mineral Resources* - mineral substances that occur naturally on the surface, in the subsurface, continental shelf and other territorial domains established in international conventions or agreements over which national sovereignty is exercised. Also designated as “minerals”.

53. *Explosive Substances* - chemical compositions or mixtures of chemical products that may produce explosive or pyrotechnic effects.

54. *Mining Pass* - document issued by the regulatory body or by the entity to which the latter delegates due authority, which authorizes the carrying out of small-scale mining.

55. *Grade* - quantity of ore or mineral resource existing in a cubic meter or in a ton of ore from a mineral bed.

## APPENDIX II

- a) *Ferrous Metals* - e.g.: iron, manganese, titanium, chromium;
- b) *Non-Ferrous Metals* - e.g.: copper, lead, zinc, tungsten, tin, nickel, cobalt, molybdenum, arsenic;
- c) *Rare Metals and Rare Earth Elements* – e.g.: beryl, lithium, niobium, tantalum;
- d) *Radioactive Minerals* - e.g.: uranium;
- e) *Precious Metals* – e.g.: gold, silver, platinum;
- f) *Non-Metallic Mineral Resources* - e.g.: quartz, feldspar, kaolin, gypsum, barite, diatomite, wollastonite, muscovite; vermiculite, talc, fluorite, sulfur, kyanite, guano, potassium salts, rock salt, micas, talc, graphite, asbestos, phosphorite, sulfur, bentonite;
- g) *Construction Materials* – e.g.: limestone, dolomites, asphaltite, sands, clays;
- h) *Ornamental Stone* - e.g.: anorthosites, granites, marbles;
- i) *Precious and Semi-Precious Stones* - e.g.: diamonds, rubies, sapphires, emeralds, amethysts, opals;
- j) *Solid Fossil Fuels* - e.g.: peat, lignite.

The Speaker of the National Assembly, António Paulo Kassoma.

The President of the Republic, José Eduardo dos Santos.