Mining in Angola
Business Environment

- 2018 DOING BUSINESS REPORT: 175 OF 190 (UP 7 RANKINGS)
- 2018 GLOBAL COMPETITIVENESS INDEX (NOT YET RANKED)
- 2017 INDEX OF ECONOMIC FREEDOM: 165 OF 180 (DOWN 9 RANKINGS)
- 2016 CORRUPTION PERCEPTIONS INDEX: 164 OF 176 (DOWN 1 RANKING)
- 2016 UN DEVELOPMENT PROGRAMME HUMAN DEVELOPMENT INDEX: 150 OF 188 (DOWN 1 RANKING)

POPULATION: 28.6 MILLION        GNI PER CAPITA: US $6,220
Profile

Following the end of civil war in Angola in 2002, a post-war reconstruction boom has created jobs and encouraged the rebuilding of infrastructure. Political stability has returned to Angola and the Angola Government is motivated to make the mining sector more attractive and diversified for investors and contribute to the development of local communities.

There is a new business environment in Angola.

João Lourenço became President of the Republic of Angola in September 2017 and has defined a set of policies for economic reform in order to overcome the crisis of recent years caused by several factors, especially the drop in the oil prices and the corresponding crisis in obtaining foreign currency.

One of the key points is the degree of external openness of the Angolan economy, including the movement of people, goods and capital. For example, there is a new policy of exemption and facilitation of procedures for obtaining tourist visas for some countries.

The other key point is the attack on the corruption.

There is a new Competition Law and it was created the Angolan Competition Regulatory Authority.

Mining Industry

Angola has extraordinarily appreciable natural resources, with the aim of developing sectors such as mining. Diamond mining remains the most significant mining operation in Angola. Most of diamond mines are found in the areas of Lunda Norte and Lunda Sul. Angola has 38 of the 50 most wanted minerals in the world. The list of metals in the Angolan subsoil includes gold, iron, manganese, titanium, chromium, copper, lead, zinc, tungsten, tin, nickel, cobalt, lithium, niobium, tantalum, gold, silver, platinum and rare earths. Therefore, the mining sector is an attractive investment sector.

There is a new central body for the management of investment processes which is AIPEX-Agency for Private Investment and Promotion of Exports (Presidential Decree no. 81/18 of March 19) and a new Private Investment Law (Law no. 10/18 of June 26) with the respective regulation (Presidential Decree No. 250/18 of October 30).
Legal Framework

The Mining Sector is governed by the **Mining Code** (approved by Law no. 31/11 of 23 September 2011), which contain most of the rules applicable to the mining industry and mineral operations, such as the rules for acquiring the rights to conduct reconnaissance, exploration and mining. This Code regulates the activities of exploration, evaluation, mining and marketing of mineral resources.

In addition to the Mining Code, there are other regulations which also apply to this sector such as the following:

- Presidential Decree No. 35/19 of January 31 – Approves the technical regulation for the trading of raw diamonds;
- Joint Executive Decree no. 316/17 of 27 June 2017 – Approves the list of equipment and machinery that may benefit from customs exemptions;
- Presidential Decree no. 231/16 of 8 December 2016 – Classifies the rare metals and rare earth elements as strategic minerals;
- Presidential Decree no. 158/16 of 10 August 2016 – Approves the mineral administrative offences and relevant penalties regime.

There is specific legislation for diamonds such as the following:

- Presidential Decree no. 175/18 of 27 July 2018 – Approves the policy for the marketing of diamonds;
- Decree no. 53/09 of 22 September 2009 – Regulation on the exploration of diamonds;
- Decree no. 56/03 of 26 August 2003 – Regulation of the Kimberley process certification system;
- Notice no. 2/03 of 28 February 2003 – Exchange regime of diamond producing and exporting companies and associations and other holders of mining rights;
- Decree no. 46/01 of 13 July 2001 – Establishes the rules that regulate the transport of values and diamonds in the interior of the country.

Other legislation applied to the sector:

- Law no. 10/18 of 26 June 2018 – Private Investment Law;
- Law no. 7/15 of 15 June 2015 – General Labour Law;
- Law no. 5/98 of 19 June 1998 – Environmental Law;

Regulators

The main regulators are the following:

- Ministry of Mineral Resources and Petroleum;
- Ministry of Finance;
- National Bank of Angola.

Other important entities for this sector:

- Endiama E.P. – Angola’s national diamond company;
- Sodiam E.P. – Angola’s diamond trading national company;

Bilateral Treaties

There are some bilateral cooperation treaties for the mining sector such as those that exist with Democratic Republic of Congo, Mozambique and South Africa.

Through Resolution no. 3/03 of 25 February 2003 Angola approved the model of the Kimberley process certificate. By Decree no. 56/03 of 26 August 2003 defined the regulation of the Kimberley process certification system which establishes the rules governing the exercise of the activity of export, import and transit of rough diamonds in accordance with the requirements of international diamond certification approved by the General Assembly of the United Nations through Resolution no. 55/56.
Foreign Investment

The new Private Investment Law (PIL), which entered into force on June 26, establishes the principles and general bases of private investment in Angola, establishes the benefits and facilities that the Angolan State grants to private investors and the criteria for access to them, and establishes the rights, duties and the guarantees of private investors. However, the foreign investment in domestic mining companies and projects is deemed a special private investment operation subject to the investment rules of the Mining Code. The PIL shall only be applied to mining investment projects on a subsidiary basis.

When the investment entails the import of capital from a foreign country of the granting of benefits and exemptions the Ministry of Mineral Resources and Petroleum shall send a copy of the Mineral investment contract and relevant title to the Ministry of Finance and to AIPEX in order the latter issues the CRIP-Private Investment Registration Certificate.

Artisanal mining activities may only be carried out by Angolan citizens. The mineral rights for civil construction and public works, minerals and mineral-medicinal waters exploration may only be granted to Angolan citizens or legal entities having at least two-thirds of its share capital owned by Angolan citizens.
Technical Regulation for the Trading of Raw Diamonds

Presidential Decree No. 35/19 of January 31 approved the technical regulation for the sale of raw diamonds, which regulates Law No. 31/11 of September 23 which approved the Mining Code, in relation to the rough diamonds trading.

The sale of raw diamonds, for export or for the national market is made in the modalities of sale by sights, spots and auctions.

The sights are long-term, periodic contract sale sessions designed to implement the parties’ obligations under contracts for the sale of rough diamonds.

Spots are sales sessions for invited buyers selected under the terms of this Regulation, in which producers and Sodiam E.P. sell lots of their production not linked to long-term contracts, to the buyer who offers a higher price proposition, not inferior to the base price.

In the auctions, organized by the public marketing body, producers sell, for the best offer that results from the bidding among the interested parties, part of their production not linked to long-term contracts.

The special stones are sold at auctions or acquired for the strategic reserve of the State, at the market price.

Sodiam E. P. is the public trading body.

As the sole channel for the sale of diamonds, sodiam E.P.:

- Promotes the issuance of commercial invoices by producers/sellers in their own room and issues invoices for their services;
- Obtains the certificate of the Kimberley Process from the competent body;
- Obtains the license from the Ministry of Commerce;
- Promotes expedited customs clearance and requests the competent authorities to transport the diamonds sold to the point of export by plane.

As sole purchaser of rough diamonds from the artisanal exploration areas, Sodiam E.P.:

- Performs the classification and valuation, evaluation, of the diamonds of the artisanal exploration areas in accordance with the rules established in the Regulation;
- Manages the commercialization of diamonds from artisanal exploration areas
- Guarantees the issuance of Kimberley Process certificates;
- Elaborates in collaboration with Endiama E.P. the Manual of Commercialization of the Artisan Production for its diffusion among the artisanal miners, as well as the Manual of Commercialization of Industrial Production.

Holders of mining rights have the right to sell their production of rough diamonds. Producers sell their production either directly or through the market trading companies established in accordance with the Regulation.

The producers of rough diamonds sell their annual production according to the following quotas, determined according to the volume and value of production:

- Up to 60% of its production to selected purchasers under the Regulation;
- From 15 to 20% of its production to Sodiam E.P.;
- Up to 20% of its production to national; polishing companies.

Producers or Sodiam E.P. may conclude contracts for the purchase and sale of rough diamonds only with those companies which prove their legal capacity, suitability and technical and financial capacity. The Regulation lays down the criteria for selecting long-term buyers as well as the list of documents proving legal capacity requirements, suitability and technical and financial capacity (Annex II of the Regulation).

For the determination of selling prices the uniform classification criterion is used. This criterion is ensured by the mandatory use of the Standard-Sample for the classification of raw diamonds. While the national Standard-Sample is not constituted, the classification of rough diamonds is made in accordance with
the practices of the international diamond industry, currently observed. The national standard sample for the classification of rough diamonds is a collection of diamonds of different weights, colors and shapes, representative of national production with a unit weight of less than 10.80 carats. The costs of payment to Producers for the purchase of diamonds to the Standard-Sample are assumed by Endiama E.P. who will own the Standard-Sample.

The evaluation of raw diamonds for the determination of the basic selling price is carried out based on the International Reference Price List, associated to the classes and subclasses contained in the Standard-Sample. The prices in the price list are adjusted periodically by the Minister who oversees the mining sector, by joint proposal of Endiama E.P. and Sodiam E.P. As long as the Angolan list of prices is not established, the Producers evaluate the diamonds based on a Provisional Price List of Reference of the international market of diamonds whose use must be approved in advance by the Minister, on joint proposal of Sodiam E.P., Endiama E.P., the Producers and of the Independent Evaluator.

Producers shall classify diamonds by highlighting their carat weight of each Class of Standard-Sample according to the adopted criterion or, for as long as this Sample is not complete, by listing those classes and subclasses included in the Reference Price List in force. Once the classification is made, the value of each class will be the result of the multiplication of the respective unit price, established in the Reference Price List, by the carat weight of the diamonds of that class. This rule applied to the different classes gives the final price of each lot. In the case of stones considered special because they have a weight equal to or greater than 10.80 carats or special coloring, these are evaluated separately and in function of the expected result in their lapidation. Each lot is individualized, highlighting the name of the seller, the lot number, the respective classes and quantities in carats and the respective total base sale price. In the case of lots subject to long-term contracts, the base price defined by the Producer and validated by Sodiam E.P. and the Independent Evaluator is increased by a differential agreed between the entities that participate in the determination of the base price.

The basic sales prices are established in United States dollars (USD). The final value resulting from the evaluation process by the Producer must be verified and validated separately by Sodiam E.P. and the Independent Evaluator. The Independent Evaluator is selected by lot to serve in the sales facilities.

The Regulation also lays down the method of settling disputes concerning the determination of basic prices and the method of preparation of sales sessions.
In the case of sale of lots or stones intended for export, the selling prices are EXW at the exit of the building of Sodiam E.P., in which the respective customs charges are excluded, as well as the costs of transport by vehicle to the mouth of the airplane, to be added to the price at which the corresponding rough diamonds are sold. In the case of exports, Sodiam E.P., as a single channel, ensures the transport and safety of diamonds sold to the mouth of the aircraft, as well as the respective customs clearance. Export licensing is performed on behalf of the seller. In the case of exports, the buyer will bear the remaining costs from EXW to FOB mode at Luanda Airport, as well as the remaining costs associated with the destination CIF-Airport modality. In the case of sales to companies based in the national territory, Sodiam E.P. assures the transport and safety of the diamonds purchased to its premises.

The buyer must, within 72 business hours, transfer the value of all the lots acquired to the bank accounts domiciled in Angola, indicated by the Seller. The amounts owed for the services provided by Sodiam E.P. and Endiama E.P. are paid directly to the accounts held by these two companies. Batches of diamonds are only delivered to the buyer, upon proof of payment of the respective payment to the beneficiaries' bank account and confirmed by original of the respective bank statement.

The commercial invoice for the sale of each lot or special stone is issued, which must be signed by the seller. The purchaser examines each batch and/or special stone and signs the discharge document stating that the rough diamonds of each batch received correspond in classes, subclasses and quantity to the specifications presented in the sales session.

Then there are specific rules for open auctions of upward price, for spots and for sights.
TAX

The entities that carry out the activities of recognition, research, prospection and exploration of minerals, in accordance with the Mining Code, in national territory as well as in other territorial or international areas over which the international law or agreements recognize the power of tax jurisdiction to Republic of Angola are subject to the following tax burdens according to their activity:

- Income tax
- Tax on the value of mineral resources (royalties)
- Surface fees
- Artisanal Fee

**Income Tax**
The income tax rate for the mining industry is 25%, of which 5% revert to the municipality under whose jurisdiction the respective mine is located.

The Mining Code establishes a list of costs and losses that are deductible.

**Royalties**
The tax on the value of mineral resources or royalty is levied on the value of the minerals extracted at the mine head or, when processing is appropriate, on the value of the concentrates. In the case of artisanal diamond mining the royalty is levied on the value of the lots acquired by the public marketing bodies. In the case of artisanal mining of other minerals, whether strategic or otherwise, the royalty is levied on the value of the minerals acquired by public marketing bodies and other authorised buyers.

The rates of royalty to be applied to the value of mineral resources are the following:

- strategic minerals: 5%
- precious stones and metallic minerals: 5%
- semi-precious stones: 4%
- non-precious metallic minerals: 3%
- building materials of mining origin and other minerals: 2%

**Surface Fees**
In the initial period of fifth years, holders of mining prospecting rights granted under the Mining Code are obliged to pay a surface fee per year that is levied on the concession area.

- Diamonds: USD 7 to USD 40
- Remaining strategic minerals: USD 5 to USD 35
- Precious stones and metals: USD 5 to USD 35
- Semi-precious stones: USD 4 to USD 20
- Non-precious metallic minerals: USD 3 to USD 8
- Construction materials and other minerals: USD 2 to USD 15

For each extension of the initial five-year term, the surface fee rate shall be double the value of the fifth year for each extension year or, if the mineral right holder decides to retain the whole exploration area, three times the amount set for the fifth year, relating to the unreleased part of the concession area.

**Artisanal Fees**
Entities carrying our artisanal mining activity of non-strategic minerals shall be liable to pay an artisanal fee which will be established by executive decree as proposed by the ministers of Finance and of Mineral Resources and Petroleum.

**Contribution for environmental recovery**
Holders of mining rights shall constitute a provision for the cost of restoring the environment resulting from damage caused by geological and mining activities and the useful life of the operation. The rates and the limit of the contribution shall be fixed in accordance with the amount determined by the environmental impact study.
Foreign Exchange

According to the Notice 2/03 of 28 February 2003, which established the foreign exchange rules for diamond producers and exporters companies and associations and other holders of mining rights, the diamond producers and other holder of mining rights are entitled to request to Angola Central Bank the authorization for opening and operating offshore bank accounts with the justification that they serve to reimburse financing agreements.
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