

Angola Diamond 1994

TRANSLATION

## NATIONAL ASSEMBLY

Law no. 16/94,  
of 7 October 1994

In order to assess the current situation of the diamond mining industry in Angola it was necessary to conduct a detailed analysis of the legislation in force in this field and its impact on the work of institutions, on the operations of mining companies and on the socio-economic situation of the populations of the Lundas and the Country in general. This assessment has revealed an extremely sharp increase in illegal digging ("*garimpagem*") and theft of diamonds within the concession areas, which has led to uncontrolled depletion of the richest deposits, deterioration in the social and economic conditions of the populations, the inevitable escape from the country of extraordinary amounts of foreign currency and great difficulties for the concessionaire companies, all of which amount to a flagrant breach of the Constitutional Law and the legislation approved by the sovereign bodies, with the consequent loss of State prestige and the undermining of the authority of institutions.

One of the fundamental reasons for the situation which currently exists in the diamond mining areas derives from the application of Law No. 30/91, which liberalized the possession and trade of diamonds, creating the idea that any citizen could appropriate for himself of a wealth which, under the constitution, belongs to the State, and which should be exploited for the benefit of the entire Nation. In addition to the extremely negative consequences to the national economy, such liberalization created the false idea that the movement of persons and goods in all Angolan territory is entirely free and not subject to any restrictions or constraints, which is in contradiction with the Constitutional Law, as well as it creating a situation which is at best out of control, with regard to the prevention and punishment of the illegal diamond trafficking, as the criminal provisions on this matter are not currently being applied.

It is therefore clearly necessary to make radical changes to the current situation, by creating new legal foundations which enable to protect a national wealth which, due to its importance, requires a technically and politically careful treatment, given that a diamond industry protected and controlled by the State, on rational lines, should result in benefits for the entire Nation, and in particular for the population of the diamond mining areas.

Thus, the State needs to be equipped with a body organized on a necessarily corporate basis, the Empresa Nacional de Diamantes, in order to execute the diamond mining and marketing policy, with the diamond mining rights being granted exclusively to such company or to mixed companies in which it may participate. Moreover, if such exclusive rights are not granted to ENDIAMA - U.E.E., the company will be reduced to the role of operator, in a highly unfavorable competing position with foreign investors.

Such an exclusivity regime does not, however, mean that, for each project, ENDIAMA - U.E.E. is not required to apply for the concession of the corresponding mineral rights, which applications shall be assessed by the Government on a case by case basis in the light of the interests of the State.

Accordingly, and legitimately hoping that Angola will once again become a major diamond producer, ENDIAMA - U.E.E. shall be maintained and strengthened, not with a view to playing the role of competitor of the investor companies, but rather to serve as the Government's agent for minimal but essential entrepreneurial intervention and participation in the complex and delicate technical and commercial diamond activity.

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It has therefore been decided that the rationalization of diamond mining and marketing is not compatible with the legalization of the possession and sale of diamonds, even if acquired outside the mining concession areas, given that Law No. 30/91 has led to the opposite process, with illegal digging ("*garimpagem*") and theft of diamonds within those areas, as well as illegal movement and settling of foreigners.

In order to avoid the shock of an abrupt change in the situation that arose, the main innovation in this law is to allow the artisanal mining of diamond deposits selected for their features, according to rational rules and in a controlled fashion. This type of mining will be implemented over deposits which are not suitable for industrial mining, and shall only be permitted within the surrounding areas (protection zones) of the current or future areas identified for industrial mining.

The law deals with the question of investment in the diamond industry, given its specificities, and creates innovative rules on the movement of persons and goods within the diamond production zones and reserve areas, permitting mining by national or foreign companies, provided that they meet the required conditions.

Finally, the law defines the bodies responsible for inspection, security and control of the said areas, permitting private security companies to act, as well as it redrafts all the rules on the prevention and punishment of illegal diamond trafficking.

Therefore, under the terms of sub-paragraph (m) of Article 89 of the Constitutional Law, the National Assembly approves the following:

### **DIAMOND LAW**

#### **CHAPTER I SCOPE AND GRANTING OF MINERAL RIGHTS**

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

This law is applicable to the activities of reconnaissance, prospecting, evaluation, mining, treatment and marketing of rough diamonds in the territory of the Republic of Angola.

##### **Article 2 (Granting of mineral rights)**

1. The mineral rights for reconnaissance, prospecting, evaluation, mining, treatment and marketing of rough diamonds in the whole of the Angolan territory, including the continental shelf and the economic exclusive zone, will be exclusively granted to ENDIAMA - U.E.E. or to mixed companies in which ENDIAMA - U.E.E. participates, pursuant to Law No.1/92.
2. The above mentioned rights may be exercised directly by ENDIAMA - U.E.E. or by mixed companies in which ENDIAMA - U.E.E. participates, pursuant to Law No.1/92, and will be granted, on a case by case basis, by means of a concession contract to be approved by the Council of Ministers, pursuant to the same law.
3. In the case of ENDIAMA - U.E.E. own projects, the Council of Ministers will approve the corresponding project and no contract shall have to be entered into.

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4. In the case of investment projects with a view to the formation of mixed companies in which ENDIAMA - U.E.E. participates, the contract will be signed between ENDIAMA - U.E.E. and the other partners in the company to be formed.
5. ENDIAMA – U.E.E. may also exercise the rights that it may be granted through associations in participation or by means of other contracts to be signed with Angolan or foreign companies, which may adopt any of the forms internationally used in mining activities.
6. The participation of Angolan companies shall be encouraged, provided that those companies meet the required technical and financial conditions.
7. The concession contracts for mineral rights shall comprise the specific rules of the fiscal, foreign exchange and customs regimes set by prior agreement with the competent authorities, without prejudice to the constitutional provisions on fiscal and foreign exchange obligations foreseen in the legislation in force.
8. The provision of services or supplies by the associates or entities contracted by ENDIAMA – U.E.E. is not allowed for diamond projects.
9. The prohibition referred to in the preceding paragraph does not apply to subsidiary companies of the associates of or entities contracted by ENDIAMA – U.E.E.
10. In order to exercise the mineral rights to be granted, ENDIAMA – U.E.E. shall, whenever possible, tender for the contracting of, or association with, other entities.

## **CHAPTER II**

### **FOREIGN INVESTMENT IN THE DIAMOND SECTOR**

#### **Article 3 (Legislation on foreign investment)**

1. The foreign investment in the diamond sector shall be governed by the provisions of the following article and by the applicable provisions of Law No. 1/92.
2. The cases not governed under the terms of the preceding paragraph shall be residually governed by the general rules and principles of the Foreign Investment Law, adapted as may be necessary.

#### **Article 4 (Investment procedure)**

The procedure relating to foreign investments is regulated by the following provisions:

- (a) As a rule, the contracts relating to diamond activities shall adopt the form of a two-stage contract whenever a mining-geological investigation phase is to take place;
- (b) For the mining-geological investigation phase, the prospective investor must submit to ENDIAMA – U.E.E. a statement of intent of investment defining the area and the programme of work, with the successive stages referred to in Law 1/92;

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- (c) For the mining phase, the investor must submit the technical-economic feasibility study which, once approved, will be an integral part of the concession contract for mineral rights;
- (d) When the project concerns diamond deposits with known reserves and more data allowing an immediate preparation of the technical-economic feasibility study, ENDIAMA – U.E.E. will, preferably, open a public or limited tender;
- (e) The terms of reference of the tenders to be conducted by ENDIAMA - U.E.E. shall be firstly agreed with the Ministry of Geology and Mines, the Ministry of Finance, the National Bank of Angola and the Government of the Province on which the prospective investment is to be made;
- (f) The concession contracts for mineral rights shall be negotiated by ENDIAMA - U.E.E., which shall obtain the agreement of the bodies referred to in the preceding paragraph prior to the same being submitted to the Council of Ministers by the Ministry of Geology and Mines;
- (g) ENDIAMA – U.E.E. is the sole interlocutor on the part of the Angolan State on everything concerning the provisions of the contract;
- (h) After the approval by the Council of Ministers, the contracts relating to the concession of mineral rights will be returned to the Ministry of Geology and Mines, which will send copies thereof to ENDIAMA – U.E.E., to the Ministry of Finance, to the National Bank of Angola and to the Government of the relevant Province.

## **CHAPTER III**

### **ARTISANAL PRODUCTION**

#### **Article 5 (Artisanal mining)**

1. Artisanal mining means the mining in which employs exclusively artisanal methods and means, meaning without the intervention of mechanical means and mining technology.
2. ENDIAMA – U.E.E. may authorize the demarcation of areas for the artisanal mining of those diamond occurrences which cannot be economically mined by means of the normal operations of the concessionary company.

#### **Article 6 (Areas for artisanal mining)**

1. Artisanal mining may only be allowed in protection areas as defined in Article 15 of the present law.
2. In the case of Article 15.1(a), demarcation for the purposes of artisanal mining will be proposed to ENDIAMA – U.E.E. by the respective concessionary company.
3. In the case of Article 15.1(b), ENDIAMA – U.E.E. is responsible for carrying out the demarcation, directly and on its own initiative, whenever the holder of the prospecting licence does not apply for the mining title.

**Article 7  
(Licensing of artisanal mining)**

1. Licenses for artisanal mining in the areas previously demarcated may only be granted to Angolan citizens who have been resident for more than 10 years in the communities surrounding the areas meant for artisanal mining.
2. The residence referred to in the previous paragraph must be certified by the traditional authorities of the respective area. In case of doubt the Head of the Community must be consulted.
3. Artisanal mining licences may only be applied for by citizens over 18 years of age who must, to that effect, produce their Identity Card or official document which proves that identity.
4. The artisanal mining licence may be requested, in writing or verbally, to the concessionaire or to ENDIAMA – U.E.E., in accordance with the provisions of paragraphs 2 and 3 of the preceding article.
5. The licence is granted on an individual basis by the Ministry of Geology and Mines, with the formation of companies, associations and cooperatives not being allowed for purposes of artisanal mining.
6. The Ministry of Geology and Mines may delegate on ENDIAMA – U.E.E. the authority to grant artisanal mining licenses.
7. After the license is issued and the area for the corresponding artisanal is demarcated, a copy thereof shall be sent to the community and municipal authorities and to the Provincial Government.
8. The licensee may employ in the mining members of his family or of his village up to a maximum of five persons under the terms and conditions defined by regulations.

**CHAPTER IV**

**MARKETING OF DIAMONDS**

**Article 8  
(Marketing)**

1. The marketing of diamonds shall take into account the specific and highly specialised nature of diamond valuation and the particular characteristics of the international market, with the aim to attribute value, insomuch as possible, to this national resource.
2. The marketing of diamonds shall be exclusively carried out by ENDIAMA – U.E.E. or by a company to be expressly incorporated with the specific purpose of marketing, taking care of the legitimate interests of the producers.
3. Without prejudice to what may be established contractually in that respect between the diamond producing concessionary companies and the marketing company, the latter will be entitled to a fee to cover operational costs, which cannot exceed 2.5% of the value of the exported diamonds.

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4. The entities contracted by ENDIAMA – U.E.E. that share in the profits of diamond production shall have the right to negotiate and participate in the drafting of the marketing contracts or agreements in respect of the diamonds that have been produced.

**Article 9  
(Licensing of exports)**

Exports will be the object of licensing by the competent body of the Ministry of Commerce, keeping the Ministry of Geology and Mines informed thereof.

**Article 10  
(Valuation)**

1. Prior to the export of diamonds, ENDIAMA – U.E.E. will carry out the sorting and valuation of the diamonds delivered by the producers.

2. While ENDIAMA – U.E.E. does not have appropriate facilities to carry out the final valuation in Angolan territory, it will carry out a provisional valuation and the final valuation will take place at the facilities of the buyer with the participation of an internationally recognized valuer engaged for both the provisional valuation and to take part in and certify the final valuation.

3. The producer has the right to employ a valuer of his own choice in at all stages of the valuation process.

**Article 11  
(Marketing of accessory minerals)**

The marketing of the accessory minerals occurring in the deposits being mined is free, save in the case of gold, where the whole production will be sold under the terms of the legislation in force.

**Article 12  
(Valuation and marketing of artisanal production)**

1. Diamonds, as well as accessory minerals extracted in artisanal mining areas must, without exception, be sold to the concessionary company in the case referred to in Article 6.2, and to ENDIAMA – U.E.E. or the mixed company specialized in the purchase of diamonds in which ENDIAMA – U.E.E. participates, in the case referred to in Article 6.3.

2. Prior to their sale, the diamonds referred to in the preceding paragraph shall be valued on site in order to determine their buying price.

3. When the valuation is carried out by the concessionaires referred to in Article 6.2, ENDIAMA - U.E.E. will always take part in the valuation through its valuers.

4. The value of each diamond parcel acquired will be paid immediately after the valuation.

**CHAPTER V**

**CONTROL OF PERSONS AND GOODS IN THE DIAMOND PRODUCING AREAS**

**Article 13**

**(Limitations on the movement of persons and goods)**

1. The access to, the movement of persons and goods, residence and the exercise of economic activities in the areas of mining production or reserved for that purpose in areas where diamonds occur, may be controlled, limited or prohibited under the terms provided for in the following articles.
2. For the purposes of the present Law, the areas of mining production are divided into RESTRICTED ZONES and PROTECTION ZONES.
3. The areas demarcated for artisanal mining purposes are also considered mining production areas.

**Article 14**

**(Restricted zones)**

1. RESTRICTED ZONES are the areas for mineral mining demarcated pursuant to Law No. 1/92.
2. RESTRICTED ZONES must be sign-posted on the ground by plainly visible and legible, outward facing beacons and signboards placed at the corners of the polygons which define them, as well as at the crossings of roads and public thoroughfares, bearing the words "Restricted Zone - Entry Forbidden" and identifying the concessionary company.
3. The concessionary company is responsible to build, at its own cost and following the route indicated by the competent authorities, alternative road links to the roads and public thoroughfares passing through a restricted zone.
4. The concessionaire may, in its own interest and without the need of a permit, confine wholly or in part with a continuous fence the restricted zones and the deposits, mines or facilities located therein.

**Article 15**

**(Protection zones)**

1. PROTECTION ZONES are:
  - (a) the areas corresponding to the strips of land surrounding the restricted zones of a width of up to 5 km measured from the outer limit of the demarcated mining area;
  - (b) the areas corresponding to diamond occurrences found pursuant to a prospecting license, increased by a surrounding strip, of width of up to 5 Km, measured from the outer limit of the protected deposits or reservoirs, in the period between discovery of the occurrences and the granting of the mining rights.

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2. PROTECTION ZONES must be sign-posted on the ground by plainly visible and legible, outward facing beacons and signboards placed at the corners of the polygons which define them, as well as at the crossings of roads and public thoroughfares, bearing the words "Diamond protection zone - Loitering forbidden" and identifying the concessionary company.

3. The PROTECTION ZONES referred to in paragraph 1(b) above must be preserved, with the same or other limits, in the cases where areas are demarcated for artisanal mining in protected diamond occurrences.

4. PROTECTION ZONES are established by the Ministry of Geology and Mines, on request of the concessionaires, with the purpose of preventing the pilfering, recovery and illicit diamond trafficking.

### **Article 16 (Reserved zones)**

1. RESERVED ZONES are the portions of the territory which, having not yet been the object of any concession of mineral rights, are demarcated with a view to the future development of diamond related activities.

2. The Council of Ministers is responsible for establishing RESERVED ZONES at the request of ENDIAMA - U.E.E., whenever there is knowledge or well-founded expectations of diamond occurrences in any part of the Angolan territory.

3. The limits of, and the movement of persons and goods, residence and the exercise of economic activities within RESERVED ZONES shall be governed by special law.

### **Article 17 (Access to diamond zones)**

1. Access to the RESTRICTED ZONES is forbidden, except to the personnel allocated to diamond production activities.

2. Access is, however, allowed to persons and entities travelling to the RESTRICTED ZONES on official business, to State officials and to other entities or persons invited or specially authorized by the concessionaire.

### **Article 18 (Movement of persons)**

1. The movement of persons within the RESTRICTED ZONES is regulated by the corresponding concessionaires.

2. Movement within PROTECTION ZONES can only take place via roads and public thoroughfares and it is compulsory for persons in transit thereon to carry the following documents:

(a) Identity Card, or another document proving their identity;

(b) Document issued by the department where employed, by the competent administrative authority of the area where resident or by the concessionaire.

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3. At the request of ENDIAMA – U.E.E., the Governor of the Province may set other restrictions to the transit of persons within the PROTECTION ZONES, whenever the security needs of the diamond mining activities so require.

### **Article 19 (Movement of goods)**

1. No merchandise may enter or leave a RESTRICTED ZONE without the permission of the concessionaire.
2. The movement of merchandise through the PROTECTION ZONES is allowed as long as it is accompanied by a dispatch bill where such merchandise is clearly identified, listed and quantified, or by a credential issued by the concessionaire.

### **Article 20 (Economic activities)**

1. Any kind of economic activity unrelated to diamond production, of whatever nature, be it industrial, commercial, agricultural or other, is forbidden in the RESTRICTED ZONES and in the PROTECTION ZONES.
2. The concessionary companies shall be responsible to indemnify the owners of commercial and industrial establishments and of agricultural or cattle stations, or of any other assets in existence in their respective areas at the time of the creation of the restricted zones and the protection zones, for the losses caused to them by the prohibition referred to in the preceding paragraph.
3. Expropriation for the public good both in favour of the State and for the benefit of the concessionary company is permitted in the RESTRICTED ZONES and in the PROTECTION ZONES.

### **Article 21 (Residence)**

1. It is forbidden to reside in the RESTRICTED ZONES and in the PROTECTION ZONES, save for persons allocated to the diamond production activities.
2. The resident inhabitants of the RESTRICTED ZONES and of the PROTECTION ZONES at the time of their creation must be relocated outside, but as near as possible to, those zones, and in such a case the concessionaire must ensure that:
  - (a) decent accommodation is built of a condition at least equivalent to that which the relocated persons possessed;
  - (b) social and community infrastructures are built, namely schools, community centres, worship halls, water supply networks and others, of a condition at least equivalent to that which existed in the relocated villages.
3. The provisions of paragraphs (a) and (b) above are not applicable to buildings and constructions expropriated for the public good in the RESTRICTED ZONES and in the PROTECTION ZONES.
4. The Provincial Governor is responsible for the approval of the relocation plan proposed by the concessionaire.

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5. The plan shall take into consideration the programmes of economic aid and social support determined by the Government, being the Provincial Government responsible for overseeing its whole fulfilment.

### **Article 22 (Restrictions in the artisanal mining areas)**

Access, movement and permanence in the areas demarcated for artisanal mining shall only be permitted to the holders of the respective licence, and it is strictly forbidden to carry out therein any economic activity unrelated to diamond mining.

### **Article 23 (Controlling bodies for persons and goods)**

1. The surveillance and control of persons and goods in the RESTRICTED ZONES and in the PROTECTION ZONES, as well as the security of the corresponding deposits and diamond production activities, shall be performed by the concessionaires by employing their own means and personnel recruited by themselves, through a system of self-defence or by means of hiring specialized security companies, under the terms permitted by law.

2. The surveillance and control of persons and goods in the areas demarcated for artisanal production are to be performed by the concessionaires, by ENDIAMA - U.E.E. or the mixed company which may replace it, under the terms of the provisions of Article 15.

3. The surveillance and control authority regarding persons and goods conferred upon the entities referred to in paragraphs 1 and 2 of this article does not exclude the general authority legally granted to the National Police.

## **CHAPTER VI**

### **ILLCIT DIAMOND TRAFFICKING**

#### **Article 24 (Prevention and punishment of illicit diamond trafficking. Jurisdiction)**

1. The prevention and punishment of illicit diamond trafficking for the whole of the Angolan territory belong to the jurisdiction of the general bodies of the State responsible for criminal prevention and punishment, under the terms of the criminal procedure legislation.

2. The provisions of the preceding paragraph are without prejudice to the exercise of the responsibilities which, in terms of surveillance, security and control of persons and goods, are conferred upon the concessionaires and the private specialized security companies within the RESTRICTED ZONES, PROTECTION ZONES and areas demarcated for artisanal mining under the terms of this law.

#### **Article 25 (Duties of the concessionaires and security companies)**

1. When performing the duties concerning surveillance, security and control of persons and goods that the law confers upon them, the concessionaires and security companies are to:

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- (a) Keep under constant surveillance the areas under their control and monitor the transit of persons and goods;
- (b) Bar the residence, transit, exercise of economic activities and the access of persons and goods to the areas where such are forbidden by law;
- (c) Prevent any unauthorized activity of diamond reconnaissance, prospecting, evaluation and mining;
- (d) Ensure the protection of the deposits and occurrences, opposing all and any unauthorized activity of diamond prospecting and mining;
- (e) Guarantee the security of facilities, goods, services and persons engaged in the exercise of diamond production activities.

2. When performing their duties, the entities and persons charged with the control of persons and goods may:

- (a) Identify and carry out routine searches of their workers and, in general, of persons who enter or leave the restricted zones or travel through, or find themselves in, any other areas under their control, as well as of the items and merchandise that those workers or persons carry or which are under their responsibility;
- (b) Require the production of access permits, credentials or dispatch bills for the merchandise and goods;
- (c) Arrest preventively the offenders caught in the act of committing the crimes foreseen herein;
- (d) Apprehend the product or object of the infringements, the instruments with which the same were committed and, generally, all material proof likely to be lost or destroyed or concealed.

3. For the purposes of paragraph 2(d) above, the means or transport, the weapons and the camping equipment or gear found in possession of the offenders are instruments of the crime.

4. The goods apprehended and the persons detained must be handed over to a Public Prosecutor or to the National Police station nearest to the place of apprehension or detention, under the terms of, and within the period set forth in Article 9 of Law No. 18-A/92, of 17 July 1992.

5. The concessionaires shall be responsible for the publication of internal regulations on the surveillance, security and control, applicable in restricted zones to their workers and to the persons legally authorised or invited to enter such zones, following approval by the Ministry of Internal Affairs.

### **Article 26 (Duty of co-operation)**

The workers of the concessionary companies or security companies in charge of controlling persons and goods in the diamond producing areas must, in the prevention and fighting against illicit diamond trafficking or any other illicit activities foreseen

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hereunder, act in strict co-operation with the police, the criminal procedure and the judiciary authorities, abiding by the most scrupulous respect for the legitimate rights of the citizens and the legal provisions in force.

### **Article 27 (Investigation and prosecution)**

The security agents referred to in the preceding article may not, under any circumstances, carry out activities of criminal investigation and prosecution.

### **Article 28 (Trespassing into restricted zones)**

1. The access to and the permanence of persons in a restricted zone under conditions other than those permitted by law, are punished with prison and fine of up to 2 years.
2. In case of negligence, the sentence is prison of up to 6 months or fine of up to 1 year.

### **Article 29 (Movement and permanence in protection zones)**

1. The movement and permanence of persons in the protection zones under conditions other than those established in Article 18 are punished with prison or fine of up to 1 year.
2. In case of negligence, the sentence is prison of up to 3 months or fine of up to 6 months.

### **Article 30 (Movement of goods)**

1. The movement of goods in conditions other than those established in Article 19, is punished with prison of up to 1 year.
2. In case of negligence, the prison sentence is of up to 3 months or fine of up to 6 months.

### **Article 31 (Trespassing into areas of artisanal mining)**

1. All persons who enter an area demarcated for artisanal mining without a permit will be punished with prison of up to 6 months or fine of up to 1 year.
2. The sentence is prison and fine of up to 2 years if the offender does not reside permanently in the zone where the infringement is committed.
3. In case of negligence, the prison sentence is of up to 3 months or fine of up to 6 months.

### **Article 32 (Punishment requirement)**

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The offenders in the crimes described in Articles 28 to 31 will only be punished if caught in the act.

**Article 33**  
**(Illicit prospecting activities)**

The carrying out of the diamond activities of reconnaissance, prospecting and evaluation without a prospecting license is punished with 9 to 12 years imprisonment.

**Article 34**  
**(Illicit mining and extraction activities)**

The activity of mining diamonds, as well as their mere extraction, without a concession title for mining rights, is punished as theft with 8 to 12 years imprisonment unless, in the case of extraction, a more severe punishment is applicable by reason of the value of the diamonds collected.

**Article 35**  
**(Theft of diamonds)**

The theft of rough diamonds is punishable with 8 to 12 years imprisonment, unless a more severe punishment is applicable by reason of the value of the stolen diamonds and the circumstances on which the crime was committed.

**Article 36**  
**(Illicit possession of diamonds)**

The possession or mere holding of rough diamonds, under circumstances other than those legally authorized, is punishable with 8 to 12 years imprisonment.

**Article 37**  
**(Illicit diamond trafficking)**

1. Illicit diamond trafficking means the buying and selling, the giving in payment or any other form of transmission, as well as the exit from Angolan territory, of rough diamonds under circumstances other than those legally authorized.

2. The illicit diamond trafficking is punishable with 8 to 12 years imprisonment.

**Article 38**  
**(Illicit introduction of diamonds into Angolan territory)**

The unauthorized introduction of rough diamonds into Angolan territory is punishable with 8 to 12 years imprisonment.

**Article 39**  
**(Trafficking of worthless stones)**

The trafficking of worthless stones as diamonds is punishable with 2 to 8 years imprisonment.

**Article 40**  
**(Preparatory acts, complicity and deception)**

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In the crimes described in Articles 33 to 38:

- (a) Preparatory acts are punishable with the corresponding imprisonment and fine;
- (b) Accomplices are punishable with the same sentences applicable to the respective offenders, but extenuated;
- (c) Deception is punishable with 2 to 8 years imprisonment.

### **Article 41 (Accessory fine)**

1. In case of conviction for any of the crimes foreseen under Articles 33, 34, 35 and 37, a fine of not less than NKz 5 000 000.00 and never greater than one third of the value of the diamonds object of the crime committed may accrue to the sentence.
2. If the crime is committed by representatives, agents or employees of companies or of other juridical persons, and in their interest, the latter will be jointly and severally responsible for the payment of the fine.

### **Article 42 (Security measures)**

1. In case of conviction, foreigners who have committed wilful crimes foreseen herein may be expelled from Angolan territory after having served the corresponding sentence.
2. If the offenders in those crimes are members of a licensed profession or exercise an economic activity subject to licensing, or are managers or directors of a legally incorporated company, the sentence may bar them from practising the aforementioned profession, activity, management or directorship for a period of 1 to 5 years.
3. The provisions of Article 70.5 of the Penal Code, with the necessary adaptations, are applicable to the interdiction referred to in the preceding paragraph.

### **Article 43 (Goods forfeited to the State)**

In the wilful crimes foreseen in Articles 17 and 19, not only the goods in transit which do not observe the conditions set forth in Article 19, but also the vehicles in which such goods and the offenders in those crimes are transported, must be declared forfeited to the State, except if those goods and vehicles belong to good faith persons who are not in any way involved in the crime.

### **Article 44 (Apprehended diamonds)**

1. The apprehended diamonds must be submitted for an examination and valuation by experts of ENDIAMA – U.E.E. duly accredited by the Ministry of Geology and Mines and then delivered to ENDIAMA - U.E.E. as bailee.
2. The apprehended diamonds shall be, eventually, delivered to:

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(a) The companies holding prospecting licences or mining rights titles, when it has been clearly established that the diamonds were extracted or stolen from the areas to which such licences or titles relate;

(b) To the State, in the remaining cases.

3. The persons who in any way cause the apprehension of diamonds shall be entitled to a reward equivalent to 25% of their value.

### **Article 45 (Special extenuation and exemption of the sentence)**

1. In case of confession useful to the uncovering of a crime and those who committed the same, the court may, exceptionally, commute any sentence of major imprisonment to mere imprisonment or fine, or exempt the offenders from fulfilling the sentence.

2. The Court may also extenuate any sentence of major imprisonment up to a minimum of 1 year or replace the same with corrective imprisonment of at least 1 year whenever, having been proved circumstances which justify the use of the expedient of extraordinary extenuation of the sentence, the loss or risk of loss produced is of a reduced or insignificant value.

### **Article 46 (Territorial scope of the Law)**

The present Law applies to all crimes foreseen herein which are committed in any part of the Angolan territory by Angolan or foreign nationals.

## **CHAPTER VII**

### **FINAL AND INTERIM PROVISIONS**

#### **Article 47 (Closing of buying offices)**

1. Without prejudice to right acknowledged to the respective companies of Article 5 of Decree 20/92, of 15 May 1992, the diamond buying offices authorized under the terms of such decree and of Law 30/91, of 27 December 1991, shall be closed with immediate effect.

2. For the purposes of the provisions of the preceding paragraph, the holders of diamond buying offices must declare to the Ministry of Geology and Mines, within a period of 5 days, the diamonds purchased up to the effective date of this Law still in their possession.

#### **Article 48 (Extinction of police forces)**

The Mining Police and the Surveillance and Industrial Security Force, created pursuant to Article 3 of Decree No. 1/89, of 7 January, are hereby extinguished, and the Ministry of Internal Affairs and ENDIAMA – U.E.E. shall, within 120 days, submit a proposal on the future duties of the members of those forces.

#### **Article 49**

**(Provisional demarcation)**

In the areas where ENDIAMA - U.E.E. has mining-geological operations under way and which are not yet the object of a concession title for mineral rights, ENDIAMA - U.E.E. will apply to the Ministry of Geology and Mines for the provisional demarcation of the restricted zones and the respective protection zones.

**Article 50  
(Special regimes of remuneration)**

The Council of Ministers may establish special regimes of remuneration for the National Police, Judicial Magistrates and Public Prosecutors, court officers and other workers of the remaining bodies for criminal prevention and punishment, placed in the diamond producing areas, whenever the need to prevent the illicit diamond trafficking so justifies.

**Article 51  
(Revocation provision)**

Laws No. 7/85, of 3 August 1985, and No. 30/91, of 27 December 1991, and Decrees No. 1/89, of 7 January 1989, No. 50/89, of 4 September 1989, No. 79/91, of 27 December 1991, and No. 20/92, of 15 May 1992, as well as all other legal provisions that are contrary to this Law, are hereby revoked.

**Article 52  
(Regulations)**

This law shall be regulated within 90 days.

**Article 53  
(Doubts and omissions)**

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

**Article 54  
(Effectiveness)**

This law shall come into force 90 days after its publication.

Seen and approved by the National Assembly.

Be it published.

Luanda, the 20<sup>th</sup> of July 1994.

The Chairman of the National Assembly, *Fernando José de França Dias Van-Dúnem*.

The President of the Republic, *JOSÉ EDUARDO DOS SANTOS*.