

Angola Mining 1992.

REPUBLIC OF ANGOLA

LAW ON GEOLOGICAL AND MINING ACTIVITIES

"MINING LAW"

LAW NO. 1/92 OF 17 JANUARY 1992

ANGOLA

LAW NO. 1/92

OF 17TH JANUARY

Laws Nos. 5/79 and 11/87 defined a mining policy which, for well known reasons, it was not possible to implement except in some restricted sectors. On the other hand, such mining policy, based on the participation of the State at every stage, from discovery to mining, of most mineral resources, is no longer in accordance with the Law on Foreign investments, subsequently published, and with the principles of a Market Economy now being implemented in the Country.

It should be added that the recent evolution of the Mining Industry, at an international level, makes it advisable to alter some of the adopted principles, by introducing new legal updated provisions and consequently reformulating the current Law on Mining and Geological Activities.

The present Law aims, therefore, at creating the conditions required to insert the development of the Angolan mining industry into present national and international circumstances, by encouraging cooperation with national and foreign economy agents, at all project stages, and reserving for the State the fundamental role of allocating all geological and mining operations and efficiently observing their development, discipline and control.

Therefore, it is expected that national mineral resources may, in the short term, significantly contribute to the Country's economic and social development.

In these terms, and under paragraph b) of article 51 of the Constitutional Law, and using the powers conferred to me by paragraph q) of article 47 of that same Law, the People's Assembly approves and I sign and send for publication the following:

LAW ON GEOLOGICAL AND MINING ACTIVITIES

CHAPTER 1

PRELIMINARY PROVISIONS

DEFINITIONS

In this Law, and except where the context in which they are used requires otherwise, the following words must be interpreted as follows:

1. **Mineral Deposit** - A general term which includes mineral deposits, rocks and industrial minerals, underground, spring, mineral, mineral/medicinal and table waters as useful mineral resources.
2. **Reserves** - Amount of mineral resources existing in each mineral deposit.
3. **Mine** - Set of installations over and/or underground, including diggings used for mining and for processing of mineral resources, including those in respect of beneficiation and industrialisation of ornamental stones. One or more mines may form a production unit.
4. **Geological Surveys and Studies** - In this Law, a distinction is made between Geological Cartography of the territory, corresponding to a basic geological survey of the Angolan territory, under the responsibility of the State, and the studies of supervision of partial geological surveys, to support prospecting, research, reconnaissance and mining operations, to be carried out by companies authorised by the State to do so.
5. **Prospecting** - A number of operations to be carried out at sea, on the ground or above it, by using geological, geochemical or geophysical methods, with a view to locate mineral resources.
6. **Research** - A number of operations comprising work of a mining nature such as ditches, trenches, pits and drilling which, together with geological, geochemical, geophysical and laboratory work, are carried out to determine the characteristics of mineral deposits.
7. **Reconnaissance** - A number of operations comprising work of a mining nature such as pits and drilling, galleries and passageways which, together with geological prospecting and research work, are carried out to determine the size of

- mineral deposits and assess their respective reserves.
8. **Mining** - A number of operations with the aim of removing and extracting mineral resources.
 9. **Processing or Treatment** - A number of operations with the object of processing, that is, separation and concentration of mined mineral resources, including cutting and industrialization of ornamental stones.
 10. **Mineral Rights** - Rights granted by the State as a result of the enforcement of this Law.
 11. **Prospecting, Research and Reconnaissance Licence (in brief Prospecting Licence)** - Document granting the right to carry out prospecting, research and reconnaissance operations. In Contract form.
 12. **Title Concession of Mineral Rights (in brief Mining Title)** - Document granting the concession of mineral rights. In Contract form.
 13. **Prospecting, Research and Reconnaissance Plan** - Document containing the location, area and description of the operations to be carried out, methods and technology to be used, objectives to be reached and respective budget description. Detailing of this plan will form the Programme.
 14. **Mining Plan** - Project for the performance of mining and processing operations, containing description of methods and plants, operations programme, estimate of costs, and forecast of economic and financial results.

CHAPTER II

GENERAL PROVISIONS

ARTICLE 1

SCOPE

This Law is applicable to all operations for the purpose of obtaining scientific knowledge of the Peoples Republic of Angola's territory, from a geological and mining point of view, as well as discovering, specifying, evaluating and mining of mineral resources, comprising:

- (a) Geological studies and respective cartography to an appropriate scale.

- (b) Prospecting, research and reconnaissance of mineral resources.
- (c) Mining and processing of mineral resources.
- (d) Marketing of mineral resources.

ARTICLE 2

MINERAL RESOURCES

1. For the purpose of this Law, the following are mineral resources:
 - (a) Mineral deposits, existing in the soil, subsoil, continental platform and other territorial domains established in international conventions or agreement, which are under national sovereignty;
 - (b) Useful mineral components from slag heaps and other stock piles resulting from former mining or factory work which may be economically usable.
2. The following are excluded from the above paragraph:
 - (a) The soil, as a live layer of the earth's crust;
 - (b) Liquid and gaseous hydrocarbons in their natural state and primary deposits.

ARTICLE 3

OWNERSHIP OF MINERAL RESOURCES

Mineral resources as defined in Article 2 are State property, in terms of the Constitutional Law.

CHAPTER III
MINING OPERATIONS AND MINERAL RIGHTS

ARTICLE 4
EXECUTION AND CONTROL OF GEOLOGICAL SURVEYS AND STUDIES

1. The State, through its appropriate state authority, is responsible for:
 - (a) Preparation of geological cartography of the national territory, for which effect it may negotiate Contracts with specialized Angolan or foreign institutions, through cooperation agreements or contracts.
 - (b) Geological information control, as well as its collection, disclosure and publication.
2. Concessionaires of mineral rights, including those of the oil industry, may carry out geological surveys within the scope of their regular operations.
3. For the purposes of paragraph b) of No. 1, data and results from geological work carried out and to the carried out by mineral rights concessionaires, including oil industry companies, must be handed over to the State's appropriate authority as soon as they are obtained.

ARTICLE 5
PROSPECTING, RESEARCH AND RECONNAISSANCE OF MINERAL RESOURCES

1. Prospecting, research and reconnaissance operations for mineral resources will normally be carried out by the appropriate state authority or other entities, though contracts to be signed for that effect.
2. Prospecting, research and reconnaissance operations may also be carried out by either State owned, mixed, private of joint mining companies, and joint ventures formed in accordance with legislation in force, through Prospecting Licences.

3. Prospecting Licences will be granted to applicants of recognized worthiness, who are capable of guaranteeing their own technical competence and the financial resources required to execute the operations correctly to meet the intended purposes.
4. The State, through its appropriate authority, may organise a public tender or issue an invitation to submit proposals for the allocation of Prospecting Licences for one or more previously marked areas.
5. Each Prospecting Licence will be for a well marked area of a simple geometrical shape and for a maximum period of five years, including all its eventual extensions.
6. The object of each Prospecting Licence may be one or more prospecting, research and reconnaissance operations of one or more mineral types or deposits. The discovery of other minerals during work may impose the amendment of the contract's provisions, if that is in the interests of the State.

ARTICLE 6

GRANTING OF A PROSPECTING LICENCE

1. The granting of a Prospecting Licence will be through a Contract with the appropriate State authority, after prior authorization of the Minister's Council.
2. The Contract will include all the conditions which are not mentioned in the legislation in force, that is, the rights and obligations of each contracting party, namely the following:
 - a) Exclusivity regime to carry out prospecting, research and reconnaissance operations within the area defined by the Prospecting Licence;
 - b) Prospecting, research and reconnaissance plan to be developed by the holder of the Prospecting Licence, showing which objectives to reach, restrictions as mentioned in N. 5 of Article 5 above, chronology of operations, studies and other work, minimum investments to be made, technology to be used, technical staff's qualifications and operators' special skills, schedule to relinquish uninteresting areas, and all other data required to understand the methods and resources to be used;
 - c) Conditions for the extension of the initial validity period of the Prospecting Licence, one of which will be the relinquishment of 50% of the initially assigned area;
 - d) Maximum employment of Angolan workers, according to their

qualifications, giving absolute priority to their training, which will be carried out by the Prospecting Licence holder, according to a specific and detailed programme;

- e) Preferential use of Angolan companies as sub-contractors, when these possess sufficient capacity and qualifications.
 - f) Periodic supply, by the Prospecting Licence holder to appropriate State authority, of a report covering all data and information obtained during the course of the Programme;
 - g) Fulfilment, by the Licence holder, of all prescribed and normally required safety rules.
 - h) Compensation, by the Prospecting Licence holder, for any damage caused to third parties as a consequence of the operations performed.
 - i) Access or acquisition, by the Prospecting Licence holder, of available technological-mining information on the area covered by the Programme.
 - j) Precise setting up of a particular fiscal regime to be applied and guarantee that it will be kept.
 - k) Rules for monitoring and inspection by the State of the Programme's execution.
 - l) Penalties for failure to fulfil the Contract's provisions.
 - m) Guarantee, for the Prospecting Licence holder, of a sole interlocutor for the Angolan State, for all matters concerning the Contract's provisions.
 - n) Conditions for granting of mineral rights in case of discovery of economically feasible deposits.
 - o) Securities pledge to be provided by the Prospecting Licence holder.
 - p) Conditions for recovery of the investment from the mining profits, if mining takes place.
3. Prospecting Licences are not transferable, assignable or negotiable except with the prior and express consent of the Minister's Council.
 4. Any resort to third parties, by the Prospecting License holder, to obtain investment funds, must be approved by the appropriate Angolan State authority.
 5. Specialized companies may be sub-contracted for restricted operations, without prejudice of the responsibilities to the Angolan State undertaken by the Prospecting Licence holder.

ARTICLE 7

SUSPENSION OF THE PROSPECTING LICENCE

The Prospecting Licence will cease to be in force when the Contract which authorized it ceases to be valid for any of the following reasons:

- a) Agreement between the parties.
- b) Lapse of the Contract.
- c) Notice by the State, if the Prospecting Licence holder does not fulfil his obligations in terms of the Contract, for reasons which may be attributed to him, and his failure to fulfil his obligations cannot be solved by mutual agreement.

In this case, the licence holder may resort to the provisions of article 23.

- d) Notice by the Prospecting licence holder, if he can prove the technical infeasibility of finding economically interesting mineral deposits within the area covered by that Licence, or the impossibility, due to 'force majeure', of fulfilling the contract provisions.

ARTICLE 8

DISCOVERY OF MINERAL RESOURCES

Any national or foreign citizen who, through a simple inspection of the ground, discovers mineral resources and, in terms of this Law, cannot or is not interested in obtaining a Prospecting Licence or Mining Title, or does not meet the required conditions for that effect, will be entitled to a premium, to be fixed by the appropriate decree, for informing the appropriate State authority, if the discovery proves to be of economic interest.

ARTICLE 9

EVALUATION AND CLASSIFICATION OF RESERVES OF MINERAL RESOURCES

1. The definition and evaluation of the reserves, as well as their changes due to new geological studies and other prospecting, research and reconnaissance work, to be the use of new technology, to different criteria for evaluation rules, or to changes in market conditions, will be subject to acceptance and approval by the appropriate State authority.
2. Reserves will be classified in accordance with the regulation of the present Law.
3. No mining project of mineral resources can be carried out without approval of the evaluation of its respective reserves by the appropriate State authority.

ARTICLE 10

MINING OF MINERAL RESOURCES

1. Mining of mineral resources cannot start before the respective mining plan is approved.
2. Each mine will have a mining plan, which will comply with a specific set of rules on the matter, with mining technology established rules, and with the respective technical and economic feasibility study, taking into account a rational mining of the available reserves.
3. The mining plan will include a project for the processing of mineral resources, taking into account processing operations, and it may include projects for metallurgical plants.

ARTICLE 11

GRANTING OF MINERAL RIGHTS

1. The mining of mineral resources is a company activity, and mineral rights are granted by means of a Mining Title, under the shape of a Contract with the appropriate State authority, after approval of the Minister's Council

2. The granting of mineral rights does not imply possession by the concessionaire of the ground surface where mineral deposits and their respective plants are located.
3. Mining operations can only be carried out by mining companies, either state owned, mixed, private or joint, and partnership associations, formed in accordance with legislation in force, and complying with the following conditions:
 - a) Being the holder of Prospecting Licences under which one or more mineral deposits have been discovered and evaluated by means of a technical-economic feasibility study.
 - b) Being companies formed with the participation off one or more Prospecting Licence holders, under which one or more mineral deposits have been discovered and evaluated by means of a technical-economic feasibility study.
 - c) Offering acceptable conditions for the State, in proposals submitted either of their own initiative or in reply to tenders or public invitation promoted by appropriate authority, concerning deposits already known and evaluated.
 - d) Being contracted by the mining title holder.
4. Sands, gravels, clays and other rocks which are directly applicable in building construction within Angolan territory, may be excepted from the provisions of numbers 1 and 3 of this article, as well as those substances which are exclusively used as main raw materials for national transforming industries, which mining rights will also be the object of concession through a specific document, not only to state-owned or mixed mining companies, but also to private or joint companies, partnership associations and cooperatives formed in accordance with legislation in force.
5. Each Mining Title will refer to a mining boundary which limits must be strictly defined and established on the ground, corresponding to the area deemed as necessary to carry out the approved mining plan, and for the mining, treatment, industrial and ancillary installations.
6. contracting of specialized companies is allowed for restricted operations, during the stage of implementation of the mine, after mining begins. Any sub-contracting of persons or companies must be approved by the appropriate State authority.
7. The resort to third parties, by the Mining Title holder, in order to obtain funds for the investment required to carry out the mining plan, must be approved by the appropriate

State authority.

8. The Angolan State has option rights on the purchase of shares and quotas of companies concessionaire of mineral rights, as well as on their mining titles.

ARTICLE 12

CONTENT OF MINERAL RIGHTS

1. As well as the right to extract, mining rights include performing the operation of processing mineral resources, as well as the right of trading and also that of altering the natural shape of the ground, underground, continental platform and other zones established by international pacts, over which Angolan sovereignty is held, in accordance with the provisions of article 21 of the present law.
 - Within the scope and validity of the mining contract, and by formal application by their respective title-holders, the integration of neighbouring areas into a sole concession may be exceptionally authorized, when this results in a better economic and national improvement of their respective resources.
2. Each Mining Title will show the rights and obligations of its title-holder, also referred to as 'concessionaire', namely the following:
 - a) Fulfilment, by the concessionaire, of the mining plan approved by the appropriate State authority, as well as of the respective rules and regulations in force, according to the best mining technology.
 - b) Fulfilment, by the concessionaire, of the periods established for the execution of operations and production programme, keeping mining in operation, except by express permission of the appropriate authority for temporary or final interruption of mining work, due to duly justified and accepted reasons.
 - c) Restraint from over-ambitious mining, understood as the disregard of economically minable reserves.
 - d) Guarantee, by the concessionaire, regarding safety and health conditions of workers in working sites.
 - e) Guarantee, by the concessionaire, of environmental, fauna and flora protection, and recovery of destroyed soils and river diversions, to avoid any damage to populations.

- f) Ways and means of guaranteeing the use, by the concessionaire, of the land required for mining operations and implementation of installations, buildings and equipment.
- g) Provisions for the use of surface and underground waters existing near the concession area, which have not been put to use or are not covered by mining titles, in accordance with legislation in force.
- h) Penalties to be applied to the concessionaire in cases of failure to fulfil the contract's clauses.

ARTICLE 13

DURATION OF MINING OPERATIONS

1. The duration of mineral rights will normally be the period required for exhaustion of existing mineral reserves, taking into account market conditions and developments for the minerals to be exploited.
2. As a rule, a period of duration of mineral rights shorter than the one provided in No. 1 above will be established, which may be followed by one or more extension periods, in the same conditions, or in other conditions to be negotiated.
3. The appropriate state authority may approve a suspension or reduction of mining operations, when justified by technical or economic reasons, or in circumstances considered to be prejudicial to the environment.
4. Suspension of mining operations which has not been approved by the appropriate State authority, or reduction of such operations to a rate lower than provided in the Contract, will be considered as unjustified failure to fulfil its terms, and will put into operation the clauses applicable.
5. With regard to major projects, the mining plan must include a study of one or more projects for economic activities to be developed by the Angolan State, or by any other body, after exhaustion of reserves in the deposits which are the object of mining, so as to provide new jobs for the workers and the economic recovery of those same areas.

ARTICLE 14

RECOVERY OF INVESTMENT

1. Prospecting Licence holders are assured the recovery of investments made in fulfilling prospect, research and reconnaissance plans, only from mining profits from deposits which are discovered or which value is increased by those plans.
2. Recovery conditions, ways and terms will be established in the respective Mining Title, taking into account the expected profitability, estimated in each technical-economic feasibility study.

CHAPTER IV

MISCELLANEOUS PROVISIONS

ARTICLE 15

FISCAL REGIME

1. an annual surface tax will be established for each Prospecting Licence, converted into an amount in cash per square kilometre of the allocated area, which will be reviewed for the extension periods, if any, and will vary according to the risk estimated for the investment.
2. An applicable fiscal regime will be established, with precision, for each Mining Title, which will include:
 - a) A tax on the value of run-of-mine mineral resources, where there is no processing, or on the value of concentrates, where there is processing, which will be the result of using a perceptual tax on the annual production value, to be established in accordance with the unit value of each mineral resource to be extracted.

This tax, also referred to as "royalty", may be paid in kind, when this is convenient to the Angolan State. In any case, it is considered as an operating cost and will be paid monthly.

- b) An income tax, an industrial tax created by law no.

35/72 of 29th April, ensuring the possibility of reducing its tax or other fiscal profits, to be proposed as a result of analysis of the technical viability study for each contract project, in accordance with provisions regulating the matter.

ARTICLE 16

PROVISIONS FOR A MINING DEVELOPMENT FUND

Besides legal contributory taxes, Prospecting Licence and Mining Title holders must contribute with an amount for the mining development fund.

ARTICLE 17

CANCELLATION AND SUSPENSION OF MINERAL RIGHTS

Mineral rights may be totally or partially cancelled, or temporarily suspended, in the following cases:

- a) Uselessness of maintaining the rights granted or exhaustion of reserves of mineral resources.
- b) End of the duration period of granted mineral rights.
- c) Development of serious risk for the life or health of the population or other cases of 'force majeure'.

ARTICLE 18

MARKETING OF MINERAL RESOURCES

1. Marketing of mineral resources which are the product of mining, processing or metallurgical extraction, belongs to Mining Title holder companies, who will inform the authority in charge of controlling and inspection of the mining activities, with justification of the respective prices.
2. Marketing of Angolan mineral resources, which do not come from mines approved for exploitation under mineral rights, is forbidden.

3. Marketing of mineral resources from research or reconnaissance work may be authorized, when technically and economically justified.
4. Export and import mineral resources required prior approval of the authority in charge of controlling mining activities.

ARTICLE 19

TRANSIT OF SAMPLES AND MINERAL RESOURCES

1. The sending abroad of any geological samples and parcels of mineral resources from mining or processing, for study, testing, analysis or any other purpose, is subject the approval of the authority in charge of supervising geological operations.
2. The transit of mineral resources or mining products out of the mining areas is subject to the approval of the authority in charge of supervising mining operations.

ARTICLE 20

RESERVE OF MINING AREAS

The appropriate State Authority may promote the establishment of reserved mining areas, so as to guarantee the co-ordination of mining of mineral resources with other economic operations, within the scope of the Country's economic development plan, or to avoid trouble of a social nature or connected with national territorial security, or with the purpose of protecting the environment. The establishment of reserved mining areas required prior approval of the Council of Ministers.

ARTICLE 21

DAMAGE CAUSED BY GEOLOGICAL AND MINING ACTIVITIES

1. Prospecting Licence and Mining Title holders, and their associates or contractors, are under the obligation of protecting Nature and the environment.
2. any damages caused to the life or health of people, to animals, houses, the soil, plant life, surface and underground waters and other natural elements, as a consequence of prospecting, research, reconnaissance mining activities, are considered to be damages caused by geological and mining activities.

3. Any damage caused by geological and mining activities always implies responsibility on the part of the Prospecting Licence or Mining Title holder, who is subject to legal sanctions and to the duty of compensation, independently of contractual provisions.

ARTICLE 22

LICENCE FOR THE USE OF EXPLOSIVES

1. Licences for the use, transport and storage of explosives for geological-mining operations will be granted by the appropriate State Authority, after submission of Prospecting Licences or Mining Titles.
2. Damages of the above provisions will be carried out by the appropriate State Authority superintending geological and mining activities, without prejudice of the duties and jurisdiction conferred by Legislation to other State Authorities.

ARTICLE 23

SETTLEMENT OF DISPUTES

1. Any disagreement which may occur between State Authorities or companies and Prospecting Licence or Mining Title holders, on the interpretation, validity or execution of contractual clauses, will be settled, firstly by joint consent and, if this cannot be obtained, by arbitration, according to the provisions of each individual Contract.
2. In case of arbitration, the arbitration court will officiate in the People's Republic of Angola and will be installed by the relevant civil court of the Luanda Judiciary District, except where otherwise provided.

ARTICLE 24

INSPECTION AND CONTROL OF GEOLOGICAL AND MINING ACTIVITIES

Geological and mining activities in general are subject to the inspection and control of the appropriate Angolan State authority.

CHAPTER V
FINAL AND TRANSITIONAL PROVISIONS

ARTICLE 25

REGULARIZATION OF MINERAL RIGHTS AND CONTRACTS

Contracts which are in force on the date of publication of this Law will continue to be valid, and may be re-negotiated and altered by agreement between the parties.

ARTICLE 26

REVOCATION

All legislation contrary to the provisions of this Law, particularly laws No. 5/79 of 27th April and No. 11/87 of 3rd October, is hereby revoked.

ARTICLE 27

REGULATIONS OF THIS LAW

Regulation of this Law must be published within a period of 180 days.

ARTICLE 28

DOUBTS AND OMISSIONS

Any doubt or omission resulting from interpretation and application of this Law will be settled by the Minister's Council.

ARTICLE 29

SUPPLETIVE LAW

Except where legal provisions provide otherwise, Angolan Law works as subsidiary legislation in matters of contracts granting mineral rights.

ARTICLE 30

ENFORCEMENT

This Law comes into force immediately.

Examined and approved by the People's Assembly.

To be published.

Luanda, 8th October 1991.

THE PRESIDENT OF THE REPUBLIC

JOSE EDUARDO DOS SANTOS