



GLA

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June 2012

LARGE PROJECTS IN ANGOLA



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PROJECTS ABOVE USD 10 MILLION

After publication of Law no. 20/1 of 20 May – the Private Investment Law (“PIL”) – and the need to adjust investments in Angola in face of the new reality created by the PIL, in particular the increase in the minimum amount of investments that can benefit from the incentives and benefits to be granted by the National Agency for Private Investment (“ANIP”) to USD 10 million, there were, however, some matters still to be regulated. Following the PIL, the recently published Presidential Decree no. 84/12, of 14 May (“Decree”) lays down the regulations for the procedure to be adopted for investment projects submitted to ANIP in which the amount of the investment exceeds USD 10 million, as well as in relation to those investment projects which are the responsibility of the Angolan Holder of Executive Power.

THE PROCESS

It is important to note that, despite the approval of investment projects exceeding USD 10 million being the responsibility of the Holder of Executive Power, the processing of these projects will continue to be done by ANIP, as this entity has the power to check whether or not the formal requirements under the PIL have been met. This means that ANIP will issue – within a maximum of 48 hours - a notice of definitive receipt of the proposal, as long as the formal

requirements that investment projects must follow under the terms of the PIL have been met.

After certification of compliance with the formal requirements that apply, the investment proposal is then sent by ANIP to the Holder of Executive Power who gives specific instructions as to the handling of the investment project. The steps that may be taken include:

The Holder of Executive Power may return the investment project to ANIP with precise recommendations to be followed by ANIP. In these cases, the investment project will follow the procedure for an investment process as defined in the PIL;

The Holder of Executive Power may set targets for the investment projects’ incentive policy and may take the final decision in terms of incentives and tax benefits;

Pursuant to the PIL, the Holder of Executive Power may grant incentives under the terms of the contract, after a prior declaration confirming the high importance as a strategic project for the development of the Angolan economy. It should be noted that this high importance statement regarding a project, is issued independent of the existence of prior request to do so by the investor. Therefore, even without such a request being made by the investor, the

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Holder of Executive Power may grant it anyway if it considers the project to be of such high importance;

With regard to projects valued at over USD 50,000,000.00, the Holder of Executive Power will create an ad hoc commission for the negotiation of facilities and incentives which will negotiate with the investor on the incentives and benefits to be granted and the final decision regarding the approval of the project will be made by the Holder of the Executive Power.

DEADLINES

There are substantial differences, depending on whether or not there is an intervention of ANIP in the negotiation of investment projects, regarding the later transfer of the approval of the Holder of the Executive Power.

In the case of direct intervention by the ANIP, the deadline for the assessment of the investment project with this entity is 45 days, from the order of final acceptance of the investment proposal to be issued by ANIP.

In the case of investment projects without direct intervention by ANIP, the deadline for approval of investment projects is 30 days, and in respect of projects where the investment amount exceeds USD 50,000,000.00, the deadline for approval thereof is 15 days.

This newsletter was prepared by a multidisciplinary team made up of lawyers from GLA – Gabinete Legal Angola and lawyers from PLMJ. This team was brought together under an agreement for international cooperation and membership of PLMJ International Legal Network, in strict compliance with applicable rules of professional ethics.
