

# LEGAL BUSINESS



LEGAL BUSINESS | JULY/AUGUST 2019 | ISSUE 292 | www.legalbusiness.co.uk

# Decisions, decisions

Global elite aspirations hand  
Freshfields stark choices

# Angola: time for private sector participation?

Raul Mota Cerveira discusses the latest measures from the Angolan parliament to boost the private sector's contribution to the economy

The Angolan Parliament has recently enacted two very important acts, namely the Privatization Framework Act (Law 10/19) and the new Public-Private Partnerships (PPPs) Act (Law 11/19). The acts came into force on 14 May 2019, and are part of the reforms being implemented in Angola to increase private sector participation and stimulate the economy.

The PPPs act repeals the former act enacted in 2011, and defines PPPs by reference to a contract executed between public and private partners for the development of an activity to address a collective need, whereby certain tasks typically undertaken by the public sector are fully or partially carried out by the private partner. The following aspects are particularly noteworthy:

- (a) the PPPs Act significantly simplified the PPP approval and launch procedure, now entirely subject to the supervision of the contracting authority;
- (b) there is no minimum amount for PPPs other than as set by the executive for purposes of evaluating partnership projects;
- (c) the choice of the applicable procedure is governed by the Public Procurement Code;
- (d) the relevant PPP award procedures are conducted by a committee appointed by the contracting authority;
- (e) the private partner should be allocated a significant part of the risks arising from a PPP;
- (f) contractual modifications, such as financial balance, benefit sharing and contract renegotiation, are conducted by an ad hoc negotiation committee; and
- (g) the conflicts arising from contracts under a PPP scheme are settled by alternative dispute resolution mechanisms, such as mediation, conciliation and arbitration.

The Privatization Framework Act applies to the privatisation of state-owned companies, sale of equity interests held by the state or any other public entities and

the transfer of exploration rights over the means of production previously barred to private initiative for reasons of public interest. Companies can be privatised by means of:

- (a) a capital increase;
- (b) disposal of assets or shares; and
- (c) assignment of exploration and management rights.

Privatisations can be launched by public tender, limited tender with prior qualification or a public offer on the stock exchange.

The President of the Republic has been gradually disclosing the list of companies and assets to be privatised. A few state-owned companies and assets have already been evaluated. Procedures for the privatisation of a few assets have already been launched.

These new legal tools are expected to increase the engagement of the private sector and boost Angola's economy. A few ancillary measures required effectively to allow private participation in the economy, including foreign exchange measures facilitating the access to hard currency; a friendlier immigration law; decrease of local content measures; and reforms to the courts, are pivotal measures for the effective involvement of the private sector. Hopefully, these measures will be implemented in the near future.

*Raul Mota Cerveira is partner in the public law practice. He has extensive experience co-ordinating matters of public law in Angola, Mozambique, São Tomé and Príncipe, Guinea-Bissau and Cape Verde. He has worked on projects in the infrastructure, water, sanitation, electricity and ports sectors. Cerveira has also been involved in public contracts, environment, administrative litigation and misdemeanour matters. He has advised the most relevant national and international companies operating in those sectors, as well as oil industry corporations. Cerveira has long-held expertise in administrative, planning and environmental law, in particular in regard to African countries, where he regularly assists several public and private entities regarding planning issues.*



**‘A few state-owned companies and assets have already been evaluated. Procedures for the privatisation of a few assets have already been launched.’**

Raul Mota Cerveira, Vda

For more information, please contact:

Raul Mota Cerveira, partner, Vda

T: +35 121 311 3461

E: rmc@vda.pt

[www.vda.pt](http://www.vda.pt)