

MINING

Angola



Mining

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Quick reference guide enabling side-by-side comparison of local insights into mining industry issues, including industry overview; basis of legal, regulatory and resource/reserve reporting system; ownership and acquisition of mining rights and title; restrictions on foreign parties; state participation, expropriation and compensation mechanisms; duties, royalties and taxes, including stabilisation mechanisms; business structures; financing sources and security regime; restrictions on movement of goods, services, people and capital in connection with mining activities; environmental, closure and remediation, health and safety, labour, social and community, and international law issues; anti-bribery and corrupt practices; and recent trends.

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MINING INDUSTRY

Standing

What is the nature and importance of the mining industry in your country?

Angola has significant reserves of copper, diamonds, gold, iron ore, manganese and phosphates, among other valuable natural resources. With over 60 per cent of the country's basins vastly untapped, under-explored, and backed by progressive industry reforms, the country is now ushering in a new wave of investment that will see output increase significantly.

The export of gems and precious metals (particularly diamonds) continues to represent Angola's second-largest export (only after crude oil, which accounts for 90 per cent of the country's exports). The country, at present, holds the position of the fourth-largest diamond producer worldwide, producing an average of 8.7 million carats in 2021. In 2022, Angola intends to ramp up production to 10.1 million carats, a revised forecast from initial targets of 13.8 million carats.

Angola plans to attract more investment from companies specialising in cutting and polishing diamonds, for them to set up factories in the Saurimo Diamond Development Hub. The government is also focused on the strategic positioning of the country as one of the major mineral resources producing countries and a key player in the global energy transition scene.

A number of high-profile mining projects are currently underway, which are not only boosting the industry itself, but also the wider economy through considerable infrastructure development to facilitate exporting the mining output.

Law stated - 20 April 2022

Target minerals

What are the target minerals?

Angola has a remarkable heritage of mineral resources.

Target minerals are currently copper, diamonds, gold, iron ore, nickel and ornamental stones. Investment has diversified into rare earth metals (niobium), ferrous metals (manganese), and industrial and construction mineral resources (limestone).

According to the Geological Institute of Angola, there are also indications and occurrences of many other target minerals, such as anorthosites, barite, bentonite, bitumen, diatomite, fluorite, gypsum, kaolin, marbles, muscovite, phosphates, potassium salts, quartz, rock salt, titanium and uranium.

Law stated - 20 April 2022

Regions

Which regions are most active?

Angola's most important reserves are located in Cuanza-North, Huíla, Lunda North, Lunda South, Malange and Uíge. With investment arising in rare earths, industrial minerals and construction minerals resources, new regions are taking the lead, such as Bengo, Benguela, Bié, Cabinda, Cuando Cubango, Cuanza-South, Cunene, Huambo, Moxico and Zaire.

Law stated - 20 April 2022

LEGAL AND REGULATORY STRUCTURE

Basis of legal system

Is the legal system civil or common law-based?

Angola's legal system is civil law-based.

Law stated - 20 April 2022

Regulation

How is the mining industry regulated?

The mining industry is regulated at the state level by the Angolan Constitution, Law No. 31/11 of 23 September 2011 (the Mining Code) and some additional statutory and regulatory acts.

The Angolan mineral regime may be described as a contractual system, with material terms and conditions (including detailed operational and economic terms and conditions) often found under the mineral investment contracts awarded by the government for the exercise of mineral rights.

Law stated - 20 April 2022

What are the principal laws that regulate the mining industry? What are the principal regulatory bodies that administer those laws? Were there any major amendments in the past year?

The mining sector is primarily governed by the Mineral Code, which covers most of the rules applicable to the mining industry and mineral operations, from exploration to mining beneficiation, and the marketing of all sorts of minerals.

Complementary to the rules of the Mining Code, the following are also noteworthy:

- Presidential Decree No. 161/20 of 5 June 2020, which establishes the National Agency for Mineral Resources;
- Angolan National Bank Order 13/20, of 29 May 2020, which approves the foreign exchange regime applicable to the diamond subsector;
- Presidential Decree No. 143/20, of 26 May 2020, which approves the Governance Model for the Mining Sector;
- Presidential Decree No. 85/19 of 21 March 2019, which approves the regulations for semi-industrial mining of diamonds;
- Presidential Decree No. 35/19 of 31 January 2019, which approves the technical regulations for the marketing of rough diamonds;
- Presidential Decree No. 175/18 of 27 July 2018, which approves the new rough diamonds marketing policy;
- Executive Decree No. 346/17 of 14 July 2017, which sets forth the criteria for delimitation of concession areas for exploitation of construction materials;
- Joint Executive Decree No. 316/17 of 27 June 2017, which approves the list of equipment (for use in exploration and mining activities) exempted from customs duties and fees;
- Presidential Decree No. 231/16 of 8 December 2016, which classifies rare metals and rare earth elements as strategic minerals;
- Presidential Decree No. 158/16 of 10 August 2016, which sets forth administrative offences and relevant penalties; and
- Order 255/14 of 28 January 2014, of the Ministry of Geology and Mines, on monitoring of posting of bonds and payments of surface fees and royalties under the Mining Code.

The Ministry of Mineral Resources, Petroleum and Gas (MMRPG), the National Agency for Mineral Resources, the Ministry of Finance and the Angolan Central Bank are the main regulatory entities. In addition, Sodiam EP (Empresa Nacional de Comercialização de Diamantes de Angola, EP) acts as the single-channel for marketing all diamond productions extracted from Angola.

Law stated - 20 April 2022

Classification system

What classification system does the mining industry use for reporting mineral resources and mineral reserves?

The Mining Code refers to secondary legislation for the classification of reserves, although that legislation has yet to be enacted. In its absence, mineral resources and mineral reserves should be classified in accordance with internationally accepted methods and systems, to be approved by the MMRPG.

Law stated - 20 April 2022

MINING RIGHTS AND TITLE

State control over mining rights

To what extent does the state control mining rights in your jurisdiction? Can those rights be granted to private parties and to what extent will they have title to minerals in the ground? Are there large areas where the mining rights are held privately or which belong to the owner of the surface rights? Is there a separate legal regime or process for third parties to obtain mining rights in those areas?

Angola's Constitution and Law No. 31/11 of 23 September 2011 (the Mining Code) establish that the state is the owner of all mineral resources, found in the soil, subsoil or water are the sole property of the state. It also refers that the state sets forth the terms and conditions for their concession, exploration and mining, which gives it effective control over the grant of mining rights. Under the Mining Code, state-owned, mixed-ownership or private companies may be granted and enforce mineral rights for exploration and mining.

The state is entitled to participate in mineral production in consideration for the award of mining and marketing, through a state-owned company with at least a 10 per cent shareholding in the company to be set up for the mining stage, or a participation (or both) in kind (minerals produced) in a proportion to be defined (the proportion increases directly with the increase in the internal rate of return of the project).

Law stated - 20 April 2022

Publicly available information and data

What information and data are publicly available to private parties that wish to engage in exploration and other mining activities? Is there an agency, or securities commission regulating public companies, which collects mineral assessment reports from private parties? Must private parties file mineral assessment reports? Does the agency or the government conduct geoscience surveys, which become part of the database? Is the database available online?

Private entities wishing to invest in the mining sector may request access to mining data from the Ministry of Mineral Resources, Petroleum and Gas (MMRPG) and the Angolan Institute of Geology; however, no official databases are available online.

Awarding concession decrees are published in the Angolan Official Gazette and there is also a public registry for mining companies.

The National Geology Plan for geological mapping and surveying of national mineral resources was to be completed by the end of 2021. This did not occur due to the covid-19 pandemic, which culminated in the slight delay of the projects.

Law stated - 20 April 2022

Acquisition of rights by private parties

What mining rights may private parties acquire? How are these acquired? What obligations does the rights holder have? If exploration or reconnaissance licences are granted, does such tenure give the holder an automatic or preferential right to acquire a mining licence or more senior tenure? What are the requirements to convert to a mining licence?

The Mining Code adopts a single-contract model for the entire mineral process. The Mining Code divides mineral activities into three stages – reconnaissance and exploration, appraisal and mining – and explicitly states that the rules, rights and obligations for the three stages will be set forth in the relevant mineral investment contract.

Under the single-contract model, all mineral rights (from exploration to marketing, including evaluation, reconnaissance and mining) are formally granted from the outset pursuant to the mineral investment contract. However, the holder of the relevant mineral rights is required to obtain an exploration title, which is issued at the same time as the approval and gazetting of the mineral investment contract, and a mining title, as a condition for the exercise of the rights granted to it. The transition of a given mineral project from the exploration stage to the mining stage is subject to the preparation and approval of a technical, economic and financial viability study. The mining title is then issued after the study is approved (which must include an environmental impact study), and the holder of the relevant rights can exercise its mining and marketing rights from then on.

The Mining Code prefers public tenders, which can be either optional or compulsory, depending on the geological potential of the relevant area or the 'strategic' classification of the mineral in question.

Minerals are classified as 'strategic' if warranted by their economic importance, use for strategic purposes, or specific technical mining aspects. The mineral's rarity, relevant impact on economic growth, high demand on the international market, significant job creation, the importance of state-of-the-art technology, positive influence on the balance of payments and importance to the military industry are deemed as fundamental factors to be weighted by the executive branch when classifying a mineral as strategic. Diamonds, gold and radioactive minerals are expressly defined as strategic minerals in the Mining Code and rare metals and rare earth elements were also defined as strategic minerals in Presidential Decree No. 231/16 of 8 December 2016.

If no public tender is required, mineral reconnaissance, exploration, evaluation, appraisal and mining rights will be granted on a first come, first served basis. The applicant must, nevertheless, demonstrate that it possesses the technical and financial capacities required to carry out the mineral activities for which it has applied.

The following titles are issued for mineral rights:

- exploration title: for the reconnaissance, exploration, evaluation and appraisal of mineral resources;
- mining title: for the mining of mineral resources;
- mineral permit: for the exploration or mining of mineral resources used in civil construction; and
- mineral ticket: for artisanal mining.

Among several other obligations, holders of mineral rights must:

- ensure the hiring of Angolan technicians and workers and provide training and technical and vocational instruction to the employees;
- apply the methods most suited to obtain maximum yield consistent with market economic conditions, environmental protection and sound exploitation of the mineral resources, without carrying out rapacious mining;
- relinquish the initial area covered by the mineral rights for exploration step-wise;
- ensure and enforce compliance with the rules on health and safety at work and the requirements of the environmental impact assessment study;
- report on the impact of the mineral activities on land occupancy and environmental characteristics; and
- repair the damage caused to third parties by the performance of geological and mineral activities.

Law stated - 20 April 2022

Renewal and transfer of mineral licences

What is the regime for the renewal and transfer of mineral licences?

Exploration, evaluation and reconnaissance rights may be extended by successive one-year periods up to a maximum of seven years. If the seven-year period proves insufficient to prepare or complete the feasibility study, the holder of the mineral rights may apply for and be granted an exceptional one-year extension.

Mining rights are (which includes the exploration and appraisal stage), extendable by one or more 10-year periods. Holders of mineral rights applying for extension must submit their request at least six months before expiry and justify their application by submitting the relevant technical, operational and other grounds. Extensions are only granted if the applicant is not in breach of its legal and contractual obligations.

Mineral rights may be transferred upon specific authorisation from the MMRPG or the head of the executive branch (the President), as applicable, which is only granted to prospective assignees that meet the same (technical and financial) requirements as the original rights holders. Although mining laws do not specifically address the issue, changes of control of the holders of mineral rights or their parent companies are typically notified to and approved by the MMRPG.

Law stated - 20 April 2022

Duration of mining rights

What is the typical duration of mining rights? Is there a requirement to relinquish a portion of the mining rights to the government after a certain number of years?

Exploration, evaluation and reconnaissance rights may be awarded for an initial period of up to five years. At the end of the initial five-year period, the holder of the mineral rights for exploration shall relinquish 50 per cent of the concession area and, at the end of each extension, shall relinquish such area as the body responsible for the mining sector may define upon assessing the results obtained in during the relevant period. If the holder of the mineral rights wishes to retain the entire concession area, it shall be subject to the payment of additional surface fees.

Mining rights are granted for a period of up to 35 years (which includes the exploration and appraisal stage).

Concession contracts may be terminated early and concession titles are withdrawn in some of the following instances:

- a termination or withdrawal is triggered under specific contractual clauses;

- the project becomes technically or economically unviable;
- a breach of legal obligations, contractual obligations or obligations arising from the concession title;
- the abandonment, suspension or reduction of the mineral operations, except as provided for in the Mining Code, the title or the contracts;
- the suspension of mineral operations owing to force majeure events, as defined in the contract or concession title;
- the concession holder is convicted of a crime of aggravated contempt because it failed to perform acts provided for in the Mining Code or ordered by the relevant authority;
- the reconnaissance, exploration, evaluation and appraisal or mining of mineral resources not included in the contract or concession title; and
- the performance of the contractual obligations is not possible.

Law stated - 20 April 2022

Acquisition by domestic parties versus acquisition by foreign parties

Is there any distinction in law or practice between the mining rights that may be acquired by domestic parties and those that may be acquired by foreign parties?

As a rule, Angolan law does not require the participation of local partners in mineral concessions, therefore, both foreign and local mining companies (owned by Angolan nationals) may be awarded concessions and engage in the exploration and mining of minerals. The national concessionaires (where applicable) may partner with local or foreign entities in connection with mineral projects, as members of unincorporated joint ventures set up for the exploration stage and as shareholders of the companies incorporated for the mining stage.

The award of mineral mining and marketing rights entitles the state to participate in mining concessions. Other than that, there are no industry-specific rules or restrictions on corporate structures, nor are there mandatory participation or ownership interests reserved for national associates. However, preference is to be given to national partners or companies when setting up a business partnership.

Semi-industrial and artisanal mining of diamonds and construction minerals are the exception to the above rule; only Angolan citizens are allowed to carry out diamond artisanal mining operations and only Angolan citizens or legal persons whose share capital is majority-held (two-thirds) by Angolan citizens may be awarded mineral rights for semi-industrial mining of diamonds, exploration and mining of construction minerals and mining rights of mineral-rich waters.

Law stated - 20 April 2022

Protection of mining rights

How are mining rights protected? Are foreign arbitration awards in respect of domestic mining disputes freely enforceable in your jurisdiction?

Investors are afforded broad legal guarantees:

- the unrestricted right to mine the mineral resources discovered during exploration, except as expressly provided for in the Mining Code or ancillary legislation;
- the right to freely dispose of and market the mining products;
- the right to recover investment expenses incurred during the reconnaissance, exploration, evaluation and appraisal stage from the mining proceeds; and

- the right to be compensated for any losses resulting from actions limiting the exercise of mineral rights, under the law or the mineral investment contract.

In contrast with the former legal framework, which foresaw arbitration in Angola as the proper mechanism to resolve any disputes that could not be resolved amicably between the parties, the Mining Code is silent on the proper venue to resolve disputes, leaving it up to the dispute resolution clauses of mineral investment contracts. Contracting parties tend to include arbitration clauses in their agreements; however, disputes arising from the termination of the concession contract or withdrawal of the concession title, overlapping areas, or compensations due to landowners or possessors by the holders of mineral rights must be resolved by national courts, and disputes on the significance or insignificance of minerals extracted during the reconnaissance, exploration, evaluation and appraisal stage for the purpose of assessment of the relevant tax should be settled by the Minister responsible for the mining sector.

Angola is a signatory of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 and so international arbitral awards are recognised and enforceable in Angola, provided they are handed down in another contracting state. The Convention entered into force in Angola on 4 June 2017.

Law stated - 20 April 2022

Surface rights

What types of surface rights may mining rights holders request and acquire? How are these rights acquired? Can surface rights holders oppose these requests or does the holder of the mineral tenure have priority over surface rights use?

Holders of exploration licences or mining titles do not acquire surface rights in relation to the concession areas. If the land belongs to and (or) is occupied by individuals or private entities or is in the private domain of the state or of public law corporate bodies, holders of mineral rights will need the consent of the relevant owners or occupants to use or exploit the land, on the terms that may be agreed between the parties. This consent is also required for any geological-mineral investigation works involving the use of the land. Consent is presumed given in the case of deposit of the annual rent and the provisional bond set forth in the Mining Code.

If the holder of mineral rights fails to reach an agreement with the owners or occupants of the land within the boundaries of any demarcated area during the mining phase it is barred from starting any operations until it either purchases the land or the state expropriates the land for reasons of public interest, pursuant to the law.

Conversely, private owners of a surface right over a certain area are not entitled to carry out exploration or mining activities without first securing the relevant exploration licence or mining title.

Law stated - 20 April 2022

Participation of government and state agencies

Does the government or do state agencies have the right to participate in mining projects? Is there a local listing requirement for the project company?

The state is entitled to participate in the mineral production (either through a minimum 10 per cent shareholding in the company holding the mining rights, a production-sharing mechanism or a combination of the latter).

The project company is required to establish a legal presence in the country (eg, a subsidiary organised and run under Angolan law or a local branch of a foreign company), just as any other company wishing to engage in activities that

require a physical presence in Angola.

Law stated - 20 April 2022

Government expropriation of licences

Are there provisions in law dealing with government expropriation of licences? What are the compensation provisions?

The Mining Code lists mineral investment contracts' termination events and the grounds for withdrawing concession titles and also foresees the possibility of redeeming the concession area for reasons of public utility in the event of a discovery of strategic mineral resources or minerals subject to a special framework (whose mining is in the higher interest of the national economy), subject to fair compensation to the holder of the relevant mineral rights.

The compensation will be calculated on the basis of:

- the amount of the investment made in the exploration, evaluation, reconnaissance and appraisal stage;
- the unrecovered amount of the investment made in the exploration, evaluation, reconnaissance and appraisal stage, if the project has already moved on to the mining stage; and
- the value of the assets redeemed (including real estate property acquired for the exercise of the mineral rights), the average estimated profit for the next 10 years of mining and the outstanding debts.

Law stated - 20 April 2022

Protected areas

Are any areas designated as protected areas within your jurisdiction and which are off-limits to mineral exploration or mining, or specially regulated?

Under the Mining Code, mineral rights may be awarded for areas in the territorial or maritime domain under the jurisdiction of the Republic of Angola that have not been granted for the carrying out of other activities, or that are not allocated to the same. The executive branch may also declare portions of the national territory with considerable mineral potential as mineral reserve areas, which will then be restricted in terms of the movement of people and goods.

To date, no areas of Angolan territory have been declared as mineral reserve areas.

Law stated - 20 April 2022

DUTIES, ROYALTIES AND TAXES

Duties, royalties and taxes payable by private parties

What duties, royalties and taxes are payable by private parties carrying on mining activities? Are these revenue-based or profit-based?

Industrial tax (income tax on mineral activities)

The tax rate currently in force is 25 per cent. For purposes of determining the taxable income, costs of exploration, evaluation and reconnaissance, contributions to the Mining Development Fund, among others, are considered as tax deductions additional to those provided for in the general tax law.

Royalty (tax on the value of mineral resources)

The tax rates currently in force are as follows:

- strategic minerals (including industrial diamonds) and precious metals and stones: 5 per cent;
- semi-precious stones: 4 per cent;
- metallic minerals, semi-industrial and artisanal diamonds: 3 per cent; and
- construction materials of mining origin and other minerals: 2 per cent.

Surface fee (fee levied on the concession area awarded payable during the exploration phase)

The surface fee value varies according to the size of the concession area, the type of mineral explored and the exploration year in question, and can range from US\$2 to US\$40 per square kilometre. These amounts are doubled in the event of an extension of the exploration period.

Contributions to the Mining Development Fund and Environmental Fund

Law No. 31/11 of 23 September 2011 (the Mining Code) imposes holders of mineral rights the duty to make annual contributions to the Mining Development Fund and the Environmental Fund (contributions ranging from roughly US \$1,250 and US\$3,000).

Other taxes and contributions

Other (non-industry-specific) taxes or contributions are also worth noting, such as:

- capital gains tax (on profits or distributed dividends);
- personal income tax and social security contributions; and
- stamp duties.

Law stated - 20 April 2022

Tax advantages and incentives

What tax advantages, tax credits and incentives are available to private parties carrying on exploration and mining activities?

According to the Mining Code, holders of mineral rights may apply for and be granted investment premiums (uplift), grace periods for the payment of income tax and any other tax incentive provided for by law. A new tax benefits code is under review in the Angolan National Assembly. However, based on the available information, said tax benefits code will not apply to the mining industry.

Tax advantages and incentives are negotiated and set out in the relevant mineral investment contract and must be applied for with the Minister of Finance (subject to an opinion of the Ministry of Mineral Resources, Petroleum and Gas (MMRPG)). The application for tax exemptions is discussed and negotiated during the contractual stage of the investment procedure and is attached to the contract, after approval by the negotiations committee and issue of a favourable opinion by the MMRPG. The negotiations committee comprises representatives from:

- the MMRPG;

- the national concessionaire (if applicable);
- the Ministry of Finance (in the event fiscal and customs benefits and exemptions are to be negotiated); and
- the regulatory authority (should it be created).

The executive branch may also authorise tax and customs exemptions to Angolan companies exclusively engaged in the processing, dressing and cutting of minerals extracted in the country.

Law stated - 20 April 2022

Tax stabilisation

Does any legislation provide for tax stabilisation or are there tax stabilisation agreements in force?

There is no specific legislation on this matter in Angola. Nevertheless, investors often seek the inclusion of specific provisions on tax stabilisation under their relevant mineral investment contracts.

Law stated - 20 April 2022

Carried interest

Is the government entitled to a carried interest, or a free carried interest in mining projects?

There is no express state free carried interest right under the Mining Code. Yet, financial commitments on the part of the state are not common, particularly where state participation in the mining and marketing projects (as opposed to exploration projects) is a statutory requirement.

Law stated - 20 April 2022

Transfer taxes and capital gains

Are there any transfer taxes or capital gains imposed regarding the transfer of licences?

No. Gains resulting from the transfer of mineral rights will be taken into consideration when assessing the transferor's liability in terms of industrial tax (corporate income tax). However, a 2 per cent conveyance tax may apply in certain cases.

Law stated - 20 April 2022

Distinction between domestic parties and foreign parties

Is there any distinction between the duties, royalties and taxes payable by domestic parties and those payable by foreign parties?

There is no distinction between duties, royalties and taxes payable by domestic parties and foreign parties.

Law stated - 20 April 2022

BUSINESS STRUCTURES

Principal business structures

What are the principal business structures used by private parties carrying on mining activities?

Mineral activities are carried out through unincorporated joint ventures or locally incorporated companies or branches of foreign corporations. Mining concessions (under which the mining or production phase is developed), however, are usually reserved for companies incorporated under the laws of Angola – although the companies may be entirely foreign-owned.

The costs of registering a branch are broadly similar to those of incorporating a local company, although the latter are slightly higher.

Law stated - 20 April 2022

Local entity requirement

Is there a requirement that a local entity be a party to the transaction?

As a rule, Angolan law does not require the participation of local partners in mineral concessions (without prejudicing the right to participate in mining concessions). The award of mineral mining and marketing rights entitles the state to participate in mining concessions. Other than that, there are no industry-specific rules or restrictions on corporate structures, nor are there mandatory participation or ownership interests reserved for national associates. However, preference is to be given to national partners or companies when setting up a business partnership.

The semi-industrial and artisanal mining of diamonds and construction minerals are the exception to the above rule; only Angolan citizens are allowed to carry out diamond artisanal mining operations and only Angolan citizens or legal persons whose share capital is majority-held (two-thirds) by Angolan citizens may be awarded mineral rights for semi-industrial mining of diamonds, exploration and mining of construction minerals and mining rights of mineral-rich waters.

Law stated - 20 April 2022

Bilateral investment and tax treaties

Are there jurisdictions with favourable bilateral investment treaties or tax treaties with your jurisdiction through which foreign entities will commonly structure their operations in your jurisdiction?

Angola adhered to double taxation treaties with China, Portugal, the United Arab Emirates.

Notwithstanding the information published in the Angolan Official Gazette and that made available on the United Nations Conference on Trade and Development's official website, the only bilateral investment treaties with Angola already fully implemented and in force are with Brazil (28 July 2017), Cape Verde (15 December 1997), Germany (1 March 2007), Italy (21 May 2007), Portugal (24 April 2020), the Russian Federation (12 January 2011) and Turkey (21 October 2021).

Angola has also entered into bilateral investment treaties with Congo, Cuba, France, Guinea Bissau, Mozambique, Namibia, Sao Tome and Principe, Spain, South Africa, the United Arab Emirates and the United Kingdom.

On 21 October 2021, Angola recognised the Convention on the Settlement of Investment Disputes between States and

FINANCING

Principal sources of financing

What are the principal sources of financing available to private parties carrying on mining activities? What role does the domestic public securities market play in financing the mining industry?

Private parties (holders of mineral rights or relevant shareholders) generally fund their mining activities in Angola with their own capital, national or international funding instruments, or both.

Angola has a stock market but remains in its infancy.

Law stated - 20 April 2022

Direct financing from government or major pension funds

Does the government, its agencies or major pension funds provide direct financing to mining projects?

Typically, the government does not finance mineral projects.

Law stated - 20 April 2022

Security regime

Please describe the regime for taking security over mining interests.

Mineral rights may be pledged by way of credit security, but only to secure credits contracted by the holder of the relevant mineral rights to finance the activities covered by the concession title. The pledge is created by delivering an authentic copy of the title and the concession contract for the relevant mineral rights to the pledgee.

The holder of the mineral rights does not forfeit possession or the exercise of the mineral rights pledged and must still comply with all its legal and contractual obligations. Mineral rights pledged may neither be transferred by the relevant holder, nor encumbered again, without the express prior authorisation of the pledgee.

Law stated - 20 April 2022

RESTRICTIONS

Importation restrictions

What restrictions are imposed on the importation of machinery and equipment or services required in connection with exploration and extraction?

Law No. 31/11 of 23 September 2011 (the Mining Code) neither imposes specific restrictions on the importation of machinery and equipment nor services required in connection with exploration and mining.

In addition, holders of mineral rights benefit from a customs duty exemption on the importation of goods for exclusive

and direct use in carrying out mineral exploration, evaluation, reconnaissance, mining and processing operations. The exemption does not cover stamp tax, statistical tax and miscellaneous service fees.

In the interest of protecting local industries, the exemption does not apply if goods of the same or a similar quality (available for delivery within a reasonable delay) and at a price not exceeding 10 per cent of the cost of the imported item, are available in Angola.

Law stated - 20 April 2022

Standard conditions and agreements

Which standard conditions and agreements covering equipment supplies are used in your jurisdiction?

No standards apply, although nothing is preventing the parties from applying any standards they may deem appropriate.

Law stated - 20 April 2022

Mineral restrictions

What restrictions are imposed on the processing, export or sale of minerals? Are there any export quotas, licensing or other mechanisms that prevent producers from freely exporting their production?

Holders of mineral rights are allowed to market the products of mining, in accordance with the conditions set forth in the Mining Code and the provisions of the relevant mineral investment contracts.

The export of minerals extracted in Angola is subject to licensing by the relevant body of the Ministry of Commerce and to customs clearance by the Customs National Service. The Ministry of Mineral Resources, Petroleum and Gas (MMRPG) must be notified. The relevant entity must issue a certificate of origin for all minerals extracted in and exported from Angola. The importation of any mineral in the national territory is subject to the prior approval of the MMRPG. When allowed, the operation is always subject to standard customs clearance under the general terms of the law and to licensing by the Ministry of Commerce. The MMRPG is notified of the technical and quantitative data on the export or import of mineral resources as soon as the relevant operations are carried out, for statistical and monitoring purposes.

Regarding strategic minerals, the executive branch may set up one or more marketing companies, with a view to purchasing minerals directly from the producers, in an open-market regime. The executive branch may promote the acquisition of certain types of strategic minerals by the above-mentioned companies if it is required to do so to create a public reserve, guarantee strategic stocks, prevent the fall of market prices or for any other reason of public interest.

The marketing of diamonds is subject to specific export and marketing rules and must be made through the single channel institutionalised by Sodiam EP (Empresa Nacional de Comercialização de Diamantes de Angola, EP). Under the new technical regulations for marketing rough diamonds, a producer's right to sell its product in the Angolan domestic or international market is subject to the following marketing quotas:

- up to 60 per cent to buyers elected by producers;
- from 15 to 20 per cent to Sodiam EP; and
- up to 20 per cent to the local cutting and polishing industry.

Angola is a party to the Kimberley Process Certification Scheme (KPCS) and has adopted the international system of certification of diamonds for export. Under the Mining Code, and for the same reasons that led to the adoption of the KPCS for diamonds, including those stated in United Nations General Assembly Resolution 55/56, a similar certificate of origin should be issued for other strategic minerals that are to be exported.

Law stated - 20 April 2022

Import of funds restrictions

What restrictions are imposed on the import of funds for exploration and extraction or the use of the proceeds from the export or sale of minerals?

The foreign exchange regime applicable to mining activities in Angola is set forth in:

- the Mining Code;
- Angolan National Bank (BNA) Order 13/20 (which approves the foreign exchange regime applicable to the Diamond Sector);
- Presidential Decree No. 35/19; and
- Presidential Decree No. 175/18.

General foreign exchange law, notably Law No. 5/97 of 27 June 1997, applies to all matters on which the above statutes are silent, as well as its ancillary regulations and instructions and orders from the BNA.

Investors are free to import funds to conduct mineral operations upon approval of the relevant mineral investment contract. Subject to BNA control, foreign investors are also entitled to repatriate dividends or profits abroad and seek foreign funding.

As a general rule, the proceeds from the export or sale of minerals must be kept in bank accounts domiciled in Angola.

Law stated - 20 April 2022

ENVIRONMENT

Principal applicable environmental laws

What are the principal environmental laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

Specific environmental requirements may be found in Law No. 31/11 of 23 September 2011 (the Mining Code) and are usually detailed under the mineral investment contract, including provisions on environmental impact, preservation, recovery and rehabilitation. The general framework within which such provisions operate is derived from environmental statutes, most significantly the following:

- the General Environmental Law;
- General Regulations for Environmental Impact Assessment and Environmental Licensing Procedure; and
- the Decree on Environmental Audits.

The national and regional sector strategy and programmes in the fields of environment and sustainable development, as well as the international instruments to which Angola has subscribed, include:

- the Rio Convention on Biodiversity 1992;
- the Montreal Cartagena Protocol on Biosafety to the Convention on Biological Diversity 2003;
- Agenda 21; and
- the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal 1989.

Angola also approved a new National Biodiversity Strategy and Action Plan for 2019–2025 to ensure sustainable use and protection of the country's natural resources.

The relevant regulatory body is the Ministry of Culture, Tourism and Environment.

Law stated - 20 April 2022

Environmental review and permitting process

What is the environmental review and permitting process for a mining project? How long does it normally take to obtain the necessary permits?

Projects that by their nature, dimension or location bear upon the environmental and social balance and harmony shall be subject to environmental impact assessment (EIA), which shall be made an integral part of the mineral investment contract. Operations in the mining phase are subject to such requirements.

The EIA must contain information on:

- a waste management plan (along with the assessment of the effects of the project on the environment);
- the social impact of the projects;
- an environmental management plan;
- an environmental monitoring programme;
- environmental audits, as well as the respective environmental reports;
- environmental restoration programmes;
- a site abandonment plan;
- environmental financial charges and the financial guarantee for these charges;
- plans for water usage; and
- the control of hazardous substances.

Moreover, holders of mineral rights are required to:

- comply with the obligations deriving from the environmental impact study and the environmental management plan, on the terms established therein;
- take the measures necessary to reduce the formation and propagation of dust, waste and radiation in mining areas and surrounding areas;
- prevent or eliminate the contamination of waters and soil, using appropriate means to that end;
- carry out mineral operations to minimise damage to the soil;
- reduce the impact of noise and vibrations to acceptable levels as determined by the relevant authorities, when using explosives in the vicinity of settlements; and
- inform the authorities of any occurrence that has caused or may cause environmental damage.

In addition, holders of mineral rights must not:

- reduce or in any other way prejudice the normal water supply to populations; or
- discharge into the sea, water currents and lagoons contaminant waste that is harmful to human health, wildlife and flora.

The Mining Code contains special rules for the protection of water resources in the mining process. Mineral operators must adopt the following measures for the protection of water resources, and keep updated records pertaining to them:

- build decanting basins for sediments extracted during the ore processing stage to avoid polluting and silting rivers and lagoons;
- create water recycling circuits to allow the reuse of water during the various mineral production stages; and
- perform periodic water analysis at numerous river locations within the concession allowing for quality control.

As regards exploration, evaluation and research activities, much will depend on the activities in each case. Where such research work includes, for instance, the execution of trenches, pits, holes, drilling or perforations, and any work associated with it, the impact upon the environment may be such that an EIA may become legally necessary before the mining phase is reached.

Law stated - 20 April 2022

Sustainability

Do government agencies or other institutions in your jurisdiction provide incentives or publish environmental and social governance (ESG) guidelines for green projects?

Angola is a signatory to the Paris Agreement. In response to the country's commitments undertaken according to this Agreement, the Angolan government has approved the National Strategy for Climate Change for 2018 to 2030 (ENAC).

ENAC focuses on the integration of policies that strengthen the national capacity to respond to climate change and international climate commitments. The four areas of priority targeted to address climate change mitigation measures are energy, industry, agriculture and waste management.

However, while measures have been outlined for the oil and gas industry (which is responsible for 49 per cent of the country's greenhouse gas emissions), ENAC has not established specific measures for the mining industry.

There are no provisions under ENAC on incentives for green projects.

Law stated - 20 April 2022

Closure and remediation process

What is the closure and remediation process for a mining project? What performance bonds, guarantees and other financial assurances are required?

The holder of the exploration licence or mining title is liable for any damage caused by geological and mining activities. Penalties may be assessed and the holder is further subject to the obligation to pay damages, regardless of contractual provisions.

Generally, in the mandatory environmental impact assessment, it is already set forth how the closure of the project will

be handled from an environmental standpoint as well as the environmental financial charges and the relevant financial guarantee.

Mining titles frequently focus on the actions necessary for recovery and rehabilitation purposes (eg, dismantling and removing facilities and infrastructure, reforestation, social rehabilitation and watercourse restoration).

Holders of mineral rights for exploration or mining of mineral resources at an industrial scale are required to post a bond to guarantee compliance with the contractual obligations (including closure and remediation commitments). The bond for the reconnaissance, exploration, evaluation and appraisal stage shall be up to 2 per cent of the investment amount, and at the mining stage of up to 4 per cent.

Holders of mineral rights are further required to set up a legal reserve for purposes of mine closing and environmental restoration, of an amount corresponding to 5 per cent of the investment.

Law stated - 20 April 2022

Restrictions on building tailings or waste dams

What are the restrictions for building tailings or waste dams?

There are no express restrictions on building tailings or waste dams under the Mining Code (general environmental rules shall apply). However, mining plans must include, inter alia, the description of the mining scheme, including details on the operation's scale, the likely location of the main mining operations, drill holes, wells, building tailings and dams.

Law stated - 20 April 2022

HEALTH AND SAFETY, AND LABOUR ISSUES

Principal health and safety, and labour laws

What are the principal health and safety, and labour laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

Further to the specific provisions in Law No. 31/11 of 23 September 2011 (the Mining Code), Angolan General Labour Law (Law No. 7/15, of 15 June 2015) contains the key principles, rules, requirements and procedures applicable to employment in the mining industry. There is also a fairly extensive list of ancillary statutes and regulations to consider.

It is important to mention that in pandemic times, with the emergence of home teleworking as a form of maintaining work and business activity in times of physical distance and confinement, Angola enacted the Presidential Decree No. 52/22, of 17 February 2022, which approved the framework for home teleworking.

The principal regulatory body is the Ministry of Public Administration, Employment and Social Security.

Law stated - 20 April 2022

Management and recycling of mining waste

What are the rules related to management and recycling of mining waste products? Who has title and the right to explore and exploit mining waste products in tailings ponds and waste piles?

Apart from the applicable environmental rules, there are no specific rules on recycling mining waste products. There are also no specific titles to explore and exploit mining waste in tailings and waste piles.

Use of domestic and foreign employees

What restrictions and limitations are imposed on the use of domestic and foreign employees in connection with mining activities?

Holders of mineral rights must favour the hiring of Angolan individuals (preferably members of local communities) over expatriates.

Further, the general principle under Presidential Decree No. 43/17 of 6 March 2017 is that at least 70 per cent of the workforce of an Angolan or foreign employer that employs more than five workers must be Angolan nationals. This principle is considered by the Angolan authorities as the minimum standard for the structuring of a company's workforce. Therefore, only 30 per cent can be foreign non-resident employees.

Law stated - 20 April 2022

SOCIAL AND COMMUNITY ISSUES**Community engagement and CSR**

What are the principal community engagement or corporate and social responsibility (CSR) laws applicable to the mining industry? What are the principal regulatory bodies that administer those laws?

Law No. 31/11 of 23 September 2011 (the Mining Code) has a number of provisions on the rights of local communities residing in areas where mineral activities are to be carried out, including the right to be consulted during the preparation of the environmental impact assessment, and prior to any decisions being made that could affect their living conditions or rights. This consultation is mandatory if a mining project is likely to destroy or damage any assets or cultural or historical heritage belonging to the local community as a whole.

Holders of mineral rights must relocate, at their expense, any local community that is displaced because of the mineral operations, and all traditions, customs and practices of local communities must be taken into account in the relocation process.

Law stated - 20 April 2022

Rights of aboriginal, indigenous or disadvantaged peoples

How do the rights of aboriginal, indigenous or currently or previously disadvantaged peoples affect the acquisition or exercise of mining rights?

Not applicable.

Law stated - 20 April 2022

International law

What international treaties, conventions or protocols relating to CSR issues are applicable in your jurisdiction?

Not applicable.

Law stated - 20 April 2022

ANTI-BRIBERY AND CORRUPT PRACTICES

Local legislation

Describe any local legislation governing anti-bribery and corrupt practices.

Angola has specific legal statutes on public probity, anti-corruption and anti-money laundering, and counter-terrorism financing.

Angola is also party to the African Union Convention on Preventing and Combating Corruption.

Law stated - 20 April 2022

Foreign legislation

Do companies in your country pay particular attention to any foreign legislation governing anti-bribery and foreign corrupt practices in your jurisdiction?

Yes. Particular attention is usually paid to the US Foreign Corrupt Practices Act and the UK Bribery Act.

Law stated - 20 April 2022

Disclosure of payments by resource companies

Has your jurisdiction enacted legislation or adopted international best practices regarding disclosure of payments by resource companies to government entities in accordance with the Extractive Industries Transparency Initiative (EITI) Standard?

No. However, it is worth noting that Angola is in the process of completing its EITI adhesion process.

Law stated - 20 April 2022

FOREIGN INVESTMENT

Foreign ownership restrictions

Are there any foreign ownership restrictions in your jurisdiction relevant to the mining industry?

The only restrictions relate to mineral rights for diamond artisanal production, which may only be granted to Angolan citizens, and those relating to minerals for diamond semi-industrial mining, civil construction or mining rights of mineral-rich waters, which may only be granted to companies organised under Angolan law in which Angolan citizens hold at least two-thirds of the capital.

Law stated - 20 April 2022

INTERNATIONAL TREATIES

Applicable international treaties

What international treaties apply to the mining industry or an investment in the mining industry?

Bilateral cooperation treaties for the mining sector have been entered into with Cuba (Presidential Decree No. 91/14 of 25 April 2014), the Democratic Republic of the Congo (Resolution No. 8/08 of 21 January 2008), Mozambique (Resolution No. 89/09 of 6 October 2009) and South Africa (Resolution No. 33/05 of 5 August 2005).

Recently, Angola has entered into bilateral cooperation for the mining sector with Russia (Letter of Ratification No. 30/21 of 24 June 2021).

Law stated - 20 April 2022

UPDATE AND TRENDS

Recent developments

What were the biggest mining news events over the past year in your jurisdiction and what were the implications? What are the current trends and developments in your jurisdiction's mining industry (legislation, major cases, significant transactions)?

After a tough year, Africa's diamond industry is regaining its sparkle after the covid-19 pandemic decimated consumer markets, paralysed supply chains and led to the closure of mines.

Angola expects to produce 13.8 million carats of diamonds in 2022 and a turnover of US\$1.5 billion. The Angolan government continues to be bullish on diamonds, and recently announced its intention to become the largest diamond producer in the world by value by the end of 2023.

The Saurimo Diamond Hub, in Lunda-Sul, has already concluded work on four of the 26 factories it plans to put into operation as part of the country's economic development strategy and of the sector in particular. Angola (Sodiam EP (Empresa Nacional de Comercialização de Diamantes de Angola, EP)) also organised with the support of New Jeweller International Media Group, a forum taking advantage of the revolving platform that is Dubai, to:

- communicate and present the opportunities generated by the Saurimo Diamond Development Hub (make investors aware of the reality of the facilities, benefits and tax incentives of the free-trade zone, which will become the Hub);
- capitalise on the investment made in the construction of the infrastructures of the Hub; and
- materialise the Angolan government's intention, in the short and medium term, to increase the cutting of rough diamonds produced in the country.

Currently, Angola has licensed 28 gold mining projects, 20 of which are already in the prospecting phase. The average production capacity for each mine is 4.5 kilograms a month of gold concentrate – a significant amount for the market. The Buco-Zau gold mine in the northern province of Cabinda is likely to produce one of the country's most significant gold exports in nearly half a century. The sale of 15 kilograms of gold from a secondary deposit is a momentous occasion, one that marks an exciting new chapter for Angola.

Law stated - 20 April 2022

Jurisdictions

	Angola	VdA
	Argentina	Allende & Brea
	Canada	Cassels Brock & Blackwell LLP
	East Timor	VdA
	Ecuador	Tobar ZVS
	Finland	Kalliolaw Asianajotoimisto Oy
	Ghana	Kimathi & Partners Corporate Attorneys
	Greenland	Nuna Law Firm
	India	Trilegal
	Ireland	Whitney Moore
	Mexico	RB Abogados
	Mozambique	VdA
	Nigeria	ENR Advisory
	Philippines	Cruz Marcelo & Tenefrancia
	South Africa	Beech Veltman Inc
	Sweden	Foyen Advokatfirma
	Thailand	Chandler MHM Limited
	USA	Haynes and Boone LLP