

AFRICA RISK CONSULTING

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Angola is introducing a new diamond sales system for its \$1 billion industry, ousting the previous privileged buyers, while the old system is being investigated for indicators of economic crime. Angolan nationals with funds in foreign bank accounts now have until December to repatriate the monies or face penalties under the new Lei do Repatriamento de Recursos Financeiros (Repatriation of Financial Resources Law). The law has been criticised as not going far enough in penalties for illicit gains. The Banco Nacional de Angola (BNA) (central bank of Angola) has made available a €100m (\$117m) "ceiling" to commercial banks, to open letters of credit in foreign currency for imports.

New diamond sales system for Angola

Angola is to introduce a new diamond sales system in the immediate future. This will replace the current system in which 'preferential buyers' have been accused of buying the country's diamond production at about 25% under market value, over the last six years.¹ President **João Lourenço** (2017-present) told the **Antwerp (Belgium)** diamond industry during his visit on 5 June,

*"Due to our country's policies, we have not been able to benefit properly from our diamond resources. We have a great responsibility. It is time to reverse the status quo."*²

Angola is the world's fifth largest producer of rough diamonds, producing close to 10 million carats of diamonds a year, valued at just over \$1 billion.³ Industrial-scale mines account for 92% of Angola's output, with artisan-mined diamonds providing the remaining 8%.⁴ Angola has sold all its diamond output through the state-owned **Sociedade de Comercialização de Diamantes de Angola (Sodiam)** since 2004.⁵

The cabinet has already drafted the presidential decree that radically reshapes Angola's diamond sales, following creation of a working group by the **Ministério dos Recursos Minerais e Petróleos** (ministry of oil and mineral resources) in December to examine new strategies.⁶ The draft legislation will reportedly remove considerable powers from Angola's diamond trading monopoly.⁷ Sodiam will now have simply an oversight role.⁸ In terms of the legislation, producers will be able to:

- sell up to 60% of their production to companies of their choosing, including to their own trading divisions;

¹ Reuters, 6 June 2018

² Angop, 5 June 2018

³ Kimberley Process world production indices 2017

⁴ Club-k Net, 19 June 2018

⁵ Source, ARC diamond industry expert

⁶ Despacho no 724/17 18 December 2017

⁷ Reuters, 6 June 2018

⁸ Mining Weekly, 6 July 2018

- price stones according to a benchmark based on a selling sample of Angola's diamonds, and use price lists in line with the international market;
- introduce sales to pre-approved diamond buyers, probably by auction, a system used briefly in the 1980's; and
- sell larger stones – 'specials' – individually by auction, as is normal industry practice.⁹

The natural resources and oil ministry will be able to appoint its own independent valuers to intervene in any disputes and set the criteria by which Sodiam selects buyers. The ministry will give priority to polishers and jewellery makers over rough diamond trading companies.¹⁰

Angola's largest mining company by revenue, **Sociedade Miniera de Catoca**, estimates it has lost \$464m in diamond sales revenue over the past six years, about 24% of the value of the diamonds due to the government-imposed marketing system. Catoca produces about 61% of Angola's diamonds by value.¹¹ Catoca executives told oil and natural resources minister **Diamantino Azevedo**:

"The current marketing process, where diamonds are sold to 'preferential buyers', destroys the value for the producer (less revenue) and the government (less tax) it does not stimulate producers to increase their production or invest in exploration."¹²

As important as the revenue loss is, changes in the diamond trading system and increasing investment revenue are of particular significance to Catoca, and to **Russian** diamond company **Alrosa**, the world's largest diamond mining company and majority shareholder in Catoca.

According to an ARC source with knowledge of Angola's diamond industry:

*"Catoca is developing new kimberlite mines in Angola which will considerably increase Angola's diamond production. This includes a 50.5% share in the **Luaxe [Lunda Sul]** project, which will become Angola's highest value mine when it comes on-stream in about 2020, and is expected to double Angola's diamond output. Luaxe is now in process of being commissioned. Alrosa has its own diamond sales system and will be in a position to market the Angolan output through that, under the new law."*

There are indicators of criminal investigations into activity under the previous sales system. The criminal investigation arm of the **Direcção Nacional de Inspeção e Investigação das Actividades Económicas (DINIAE)** (national directorate for the inspection and investigation of economic activities) questioned **António Carlos Sumbula**, previous chairman of **Empresa Nacional de Diamantes E.P. (Endiama)** (national diamond prospecting, mining, polishing and marketing company of Angola) and a longstanding major player in Angola's diamond industry through his other official posts, at the end of June.¹³

*"Sumbula gave the first diamond sales rights to the **Dos Santos** family in 1999, then established the **ASCorp** syndicate in which **Isabel dos Santos** was a shareholder. In 2011, he approved the decision to sell the majority of Angola's output – and that of Catoca in particular – to a single 'preferential buyer', also a member of the Dos Santos family, whose company in **Dubai** imported about 70% of Angola's diamond production."*

⁹ Despacho no 724/17 18 Dec 2017

¹⁰ Reuters, 6 June 2018

¹¹ IDEX online, 12 June 2018

¹² IDEX online, 12 June 2018

¹³ Club-K net, 29 Jun 2018

Endiama owns SODIAM, and instructed the company, so Sumbula is ultimately responsible for the decisions. That these decisions have led to considerable losses to Angola and the mining companies, is clear.”¹⁴

The new sales system will immediately increase revenues for the state and mining companies and is needed if Angola is to attract more mining companies to invest in its many potential diamond mines, since the previous sales system was viewed as an impediment. Further, it may help reduce the corruption levels often associated with the global diamond industry, as well as potentially targeting the Dos Santos family’s assets.

Repatriation of Financial Resources Act signed into law

Angola’s **Assembleia Nacional** (national assembly) approved the **Lei do Repatriamento de Recursos Financeiros** (repatriation of financial resources law) on 17 May and it was signed into law on 13 June. The purpose of the law is to provide instruments and mechanisms to enable the repatriation of what are explicitly described as “*financial resources of illicit origin*”.¹⁵ The law provides an effective amnesty for those who choose to return monies domiciled offshore, however obtained, provided this is not already under investigation for criminal activities, and draws a line under much financial criminality from the previous regime.

The law gives “*natural persons resident in **Brazil** and to legal entities with headquarters or domicile in the national territory and who have financial resources domiciled abroad*” 180 days from 13 June to repatriate these funds voluntarily to Angola or face coercive repatriation of funds by the state.¹⁶ The new law does not apply to resident Angolan nationals, who before the passage of the new law:

*“... are defendants in criminal proceedings or administrative proceedings for the commission of crimes related to the resources illegally detained or... crimes related to the subtraction of financial resources from the public purse”.*¹⁷

The new law provides incentives for returning money to Angola within the six-month period, as well as an amnesty for any previously unknown criminal offences committed. In addition, there will be no tax or foreign exchange liabilities, and return of the funds to Angola cannot be used as evidence in a new criminal, disciplinary or related case.¹⁸

Angolan journalist and political activist **Rafael Marques** has been one of the most vociferous critics of the new law:

*“This new law might as well be aptly named the Law on Money Laundering, for that is what it is. According to this law, those who have siphoned off funds from the public purse and parked them abroad can now return them home safely, and become the rightful and legitimate owners of the loot. There will be no questions asked, and the corrupt will be able to dispose of the funds as they please, even resending them abroad as legally laundered money.”*¹⁹

Despite Marques’ strictures, any financial resources repatriated voluntarily will not be free to be used immediately. The funds are to be applied in economic and social development

¹⁴ Source, ARC diamond industry expert

¹⁵ Lei do Repatriamento de Recursos Financeiros- Law No. 9/18, in force as of 13 June 2018

¹⁶ Lei do Repatriamento de Recursos Financeiros- Law No. 9/18, in force as of 13 June 2018

¹⁷ Lei do Repatriamento de Recursos Financeiros- Law No. 9/18, in force as of 13 June 2018

¹⁸ Lei do Repatriamento de Recursos Financeiros- Law No. 9/18, in force as of 13 June 2018

¹⁹ Rafael Marques quoted in Maka Angola, 20 May 2018

programmes, directed by the state, either through a closed collective investment undertaking – a joint venture between the state and the putative owner of the funds – or through investment in foreign currency, bearer and freely marketable securities, with a maturity of at least five years.²⁰

Banco Nacional de Angola (BNA) governor **José de Lima Massano** warned that in cases where illicit resources are not repatriated within the period in question, the national authorities will make use of all available means.²¹ After the six-month grace period, a coercive repatriation regime will apply, in which any financial resources repatriated coercively will revert, in totality, in favour of the State. All the funds must be returned in foreign currency, which may help boost Angola's currency reserves.²²

The new law is a pragmatic attempt to recover illicit assets and put them to work in Angola. While commentators such as Marques and opposition politicians would have preferred to see prosecutions rather than a six-month amnesty, Angola lacks the investigative resources and technical capacity to process what could be a large number of cases, and will undoubtedly have to seek aid in its investigations when the amnesty period ends. A major part of President Lourenço's recent foreign visits has been about soliciting aid in locating hidden money offshore. The recent visit to **Switzerland** by Angola's Procurador Geral (attorney general), **Hélder Fernando Pitta-Gróz**, to sign a co-operation agreement relating to criminal investigations, is likely to be the first of many. The 'Paradise Papers' have revealed hidden Angolan assets; the **Portuguese** have been investigating the assets of the Angolan elite held there for at least a decade, so it is reasonably possible that at least a part of these funds will be recovered. So far, the government has revealed only the carrot. Next year, the stick may well appear.

Letters of Credit system to guarantee payment for imports by private companies

The BNA has made available a €100m (\$117m) "ceiling" to commercial banks to open letters of credit in foreign currency for imports.²³ According to the **United States (US) Department of Commerce**, letters of credit have previously been impossible to secure, since Angolan banks are unwilling to assume foreign exchange risk.²⁴ BNA governor José de Lima Massano introduced the new system to the business community in Angola on 20 June. The new regulations have the cumbersome title of "*Nova Instrução das Regras de Procedimentos das Operações de Câmbio para Importação e Exportação de Bens*" (new instruction of rules for procedures of foreign exchange operations for import and export of goods).²⁵

According to Massano, unlike transfer orders, letters of credit guarantee either the entry of merchandise into the country or confirmation of the availability of resources to pay exporters:

*"Letters of credit are the best instrument for international trade, which will guarantee both the entry of goods into the country and the confirmation of the availability of funds to pay the importer."*²⁶

²⁰ Lei do Repatriamento de Recursos Financeiros- Law No. 9/18, in force as of 13 June 2018

²¹ Angop, 4 July 2018

²² Lei do Repatriamento de Recursos Financeiros- Law No. 9/18, in force as of 13 June 2018

²³ Lusa, 27 Jun 2018

²⁴ US Department of Commerce Export.gov 2017

²⁵ Lusa, 21 Jun 2018

²⁶ Lusa, 27 Jun 2018

Massano told the meeting that 21 commercial banks would distribute this amount with the "purpose of ensuring the importation of miscellaneous goods".²⁷ However, formal guarantees of payments by commercial banks will remain in place, according to Massano:

*"We had, for example, a requirement of a formal guarantee from a commercial bank before the start of any transaction. We are saying that we will have a kind of recommendation for this to be so, especially for smaller operations."*²⁸

Payments to importers had become a crisis with the increasing lack of foreign exchange in Angola since 2015. However, even before that, importers reported difficulties and long delays in payments for goods imported into Angola, with the US Department of Commerce reporting in 2017:

*"Most international companies report cancelling export credit terms to their Angolan clients due to outstanding payments on accounts resulting from foreign exchange delays."*²⁹

Angola is significantly dependent on imports, importing goods worth \$19.5 billion in 2017 – a significant drop from the high of \$25.6 billion in 2014.³⁰ In 2017, the government was reportedly prioritising foreign exchange for essential goods and services including food, health, and the petroleum industry.³¹ The €100m (\$117m) guarantee, however welcome to smaller exporters, is only a tiny fraction of the problem. Angola has yet to announce how – or if – it will improve its systems for importers. The **World Bank** ranks Angola among the countries with the most time-consuming import procedures worldwide in the category of "Trading Across Borders", at 183 for this process out of 190 countries assessed.³²

The introduction of Letters of Credit and a promise of a new and hopefully simplified financial system for importers are perhaps crucial to ease the import bottleneck in Angola, which is highly dependent on imports of even basic commodities such as food. Payment guarantees will give comfort to some importers who have had to wait inordinate periods, even when Angola had sufficient foreign exchange. It is not yet known if the customs procedures for imports will be simplified from their current onerous levels, or what steps are being taken to reduce corruption in that sector. Letters of credit are thus simply a first step, not a full resolution of Angola's difficulties with imports.

Planner

2022: End date for **Banco Poupanca e Credito's** recovery plan.

2021: Next national elections in Angola

2020: First local and municipal elections to be held in Angola

Dec 2018: Amnesty for repatriation of illicit funds held offshore by Angolan nationals expires;

Sep 2018: President of Portugal, **António Costa**, to make State visit to Angola;

Sep 2018: **Baroness Lindsay Northover**, UK Special Envoy for Trade with Angola, to visit

²⁷ Lusa, 27 Jun 2018

²⁸ Lusa, 27 Jun 2018

²⁹ US Department of Commerce Export.gov 2017

³⁰ Statista Import of goods to Angola 2007 - 2017

³¹ US Department of Commerce Export.gov 2017

³² US Department of Commerce Export.gov 2017

and discuss Angola's application to join **Commonwealth**.

8 Sep 2018: The sixth extraordinary congress of the ruling **Movimento Popular de Libertação de Angola (MPLA)** party will be held, at which **José Eduardo dos Santos** is expected to resign as head of the MPLA and be replaced by President **Joao Lourenço**.

Chronology

13 Jul 2018 **Luanda (Angola)** *Angop* FILDA trade fair in Luanda attracts 372 exhibitors from fifteen countries;

11 Jul 2018 **(Angola) (European Union)** *Angop* Foreign affairs minister **Manuel Augusto** says the Angolan government intends a new *Europe-Africa* cooperation;

10 Jul 2018 **(Switzerland) (Angola)** *Angop* Attorney General of Angola, **Hélder Fernando Pitta-Gróz**, travels to Switzerland to discuss international judicial cooperation in criminal matters and sign a cooperation protocol;

6 Jul 2018 **(Angola) (Washington, US)** *Human Rights Watch* Investigative journalist **Rafael Marques** and editor **Mariano Bras** are acquitted of accusations of insulting the state;

5 Jul 2018 **Strasbourg (France)** *Lusa* Portugal's prime minister, **António Costa**, is to make a state visit to Angola by end of year;

5 Jul 2018 **Luanda (Angola)** *Angop* Finance minister **Archer Mangureira** says that domestic fuel prices will rise sharply, but Angola will not follow **International Monetary Fund (IMF)** advice to double fuel prices;

4 Jul 2018 **Strasbourg (France)** *Lusa* President **Joao Lourenço** tells **European Parliament** that positive results of the fight against corruption and impunity will be felt soon;

4 Jul 2018 **(Luanda) Angola** *Angop* **Port of Luanda** to increase cargo shipments to more than 8 million tons of goods in 2018, against the 7.7 million tons registered in 2017;

29 Jun 2018 **(Angola) (Namibia)** *Lusa* **Bank of Namibia** deputy governor **Ebson Uanguta** says the **Banco Nacional de Angola** has paid the outstanding \$51.1m debt owed to Namibia;

28 Jun 2018 **Luanda (Angola)** *Maka Angola* **Banco Nacional de Angola (BNA)** (central bank) has failed to produce its accounts for the second year running;

27 June 2018 **Luanda (Angola)** *Lusa* **Banco Nacional de Angola (BNA)** sets a ceiling of €100m (\$117m) for letters of credit to guarantee payments to foreign providers of goods;

27 Jun 2018 **(Angola)(Russia)** *Angop* President **João Lourenço** discusses bilateral co-operation with Secretary of the **Security Council of the Russian Federation**, **Nikolai Patrushev**;

27 Jun 2018 **Luanda (Angola)** *Angop* **Banco Nacional de Angola (BNA)** (central bank) sacks the Board of Directors of the **Banco Angolano de Negócios e Comércio [BANC]** (Angolan business and trade bank) and appoints interim administrators;

19 Jun 2018 **Luanda (Angola)** *Angop* The sixth extraordinary congress of the ruling MPLA party will be held on 8 September this year, to elect the party's president, according to a statement from its political bureau (BP) meeting;

13 Jun 2018 **Luanda (Angola)** *MinFin* 49.8 million barrels of crude oil exported in May 2018 sold for \$68.9 a barrel.

13 June 2018 **(Angola) (Washington)** *IMF* The **International Monetary Fund** commends the way the Angolan government is committed to reinstating macroeconomic stability and implementing reforms.