November 2015 • legalweek.com

LegalWeek
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New law governing private investment in Angola

Little over four years ago, the legislative text that months later would become the new Angolan private investment law was in the process of being enacted. There was much reservation and scepticism at the time, in particular as to the minimum amount for investment, which would change from $100,000 to $1m. In other words, it was to increase by 1000%.

The year 2011 was special because, in hindsight, it confirmed that the world had changed. Besides the upheavals in the financial world of 2008 and 2009, 2011 saw the Arab Spring and the start of austerity programmes for Ireland and Portugal. Bin Laden died in Pakistan and a devastating tsunami in Japan led to the nuclear catastrophe in Fukushima. In this same year, we witnessed the beginning of the protest movement against the Syrian government, Fidel Castro gave up political leadership in Cuba and Hugo Chavez announced, curiously in Havana, that he was ill. Finally, the USA announced and carried out a withdrawal of 39,000 troops from Iraq. The world was changing and we already knew that the capacity for investment had moved.

For Angola, as an importing country needing goods and services produced, to a great extent, abroad, it was possible that with the crisis in Europe and with the challenges faced by the US economy would make it become more attractive as a market. This market would entice investors with their internationalisation strategies, bringing capital, human resources and the retention of know-how and business techniques. In other words, it would capture value. However, the strategy and the law were excessively limited to capital, as a more tangible asset, and they neglected less tangible assets.

The minimum value for investment has acted as a deterrent, at least when it comes to small and medium-sized companies. The rule applies regardless of the type of investment, with no exceptions, full stop. And the effect turned out to be more dissuasive than selective, in contrast with the expectation when the law was approved. This effect, in conjunction with the changes referred to above, may have contributed to a change in the origin of investment in Angola. There has been less US and European investment, but more Asian investment. In itself, there is nothing wrong in this change, which could be seen as the result of a new geo-strategy.

However, from what we know of the new legislative text recently approved by the National Assembly, the inevitable conclusion is that the (still) current law has not met the objectives for which it was intended. And, of course, this conclusion becomes even more obvious when we factor in the fall in the price of oil, which is being felt across the whole Angolan economy and the reduction in investment.

The future law does not contain the $1m rule. In turn, the right to repatriate profits and dividends no longer depends on that condition, but only on completion of the project. The tax incentives do indeed depend on a minimum investment of 100m kwanzas (approximately $791,000). They also depend on compliance with other criteria that will be set out in the future law: location, number of jobs, value of the investment and even the degree of Angolan shareholder participation in the investment.

The future law also confirms the policy of Angolanisation as it provides for tax incentives that increase with the size of the stake held by Angolan shareholders. The list of priority sectors has been subject to major change given that it now only provides for electricity and water; insurance; transport and logistics; and telecommunications and media, in which foreign investors are only allowed to invest if at least 35% of the capital and participation in the management is reserved to Angolan citizens. There is also provision for a supplementary rate of tax – between 15% and 50% – on the part of distributed profits and dividends that exceeds the stake in the share capital. In return, any reinvestment will bring entitlement to tax incentives.

In particular, in its recent history, Angola has been not only the destination for a confluence of nationalities, but also the country where French, English and German spoken along its borders. Due to its potential in natural resources, to the international economic situation and, finally, to its geostrategic location, which is both Atlantic and continental, it is clear that the strategy to capture investment must be tied in harmoniously with this law.

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