CLARIFYING ANGOLA'S INVESTMENT RULES - AVM ADVOGADOS

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A rise in the thresholds applicable to foreign investment in Angola is aimed at encouraging investors with longer-term horizons as well as to better formalise the rules

The amendment of Angola's Private Investment Law indicates a desire by the Government to increase both the scale and depth of expertise of the international investment coming to the country, says António Vicente Marques, Founding Partner of Luanda-based AVM Advogados. "There is no doubt that Angola presents a lot of opportunities, but there is an evident desire to encourage longer-term investment to the country and to ensure that the wealth and employment opportunities being created are shared with its own citizens."

The most obvious change to the investment regime, which is in its final phases of approval, is that foreign or private investors will only now be able to benefit from certain tax advantages and to repatriate profits from their Angolan business activities if they have a minimum initial investment of

US$1m. This applies to investments or commercial activities which occur in Angolan territory, to the establishment of new companies, or the acquisition of operating entities.

"It represents quite a significant change to the existing regime, which stipulated an investment threshold of US$100,000, but in reality was often higher. The threshold also now applies to all commercial entities, there is no exemption for those with a 50 percent shareholding by the State or other public legal entity," says Vicente Marques.

The National Private Investment Agency (ANIP – Agência Nacional para o Investimento Privado) is the Government body that issues investment approvals, and the changes impacting on the investment regime will also affect it, he says. "There is a desire to formalise some of the procedural functions that ANIP performs and to give it more authority in specific instances."

Certain areas of activity will therefore remain outside the scope of the new law and remain subject to individual scrutiny. Among them private investment programmes relating to oil exploration and diamond mining, including the rights, guarantees and incentives associated with them, and the operation of financial institutions.

"The predictions are that Angola will continue to see dramatic growth for at least the next decade, and the Government wants to ensure that this is done in a more transparent and predictable way," adds Claudia Santos Cruz, Managing Partner of the firm's Lisbon office.

"Obviously the new thresholds will not present a barrier to multinationals' investments or for investments in the continued project infrastructure development programs, where companies are already committing very large sums, but it may impact on the attraction of Angola to smaller investors."

The return to health of the Angolan economy, in line with rising oil prices and Government revenues, continues to attract considerable international interest they say. Portuguese companies are obviously already high profile across most sectors, while there is also major Chinese investment – Angola is China's main oil supplier – and US companies are dominant in the oil sector, but there is growing South African, UK and German activity.

Alongside the obvious need to continue to develop the country's road, rail, air and communication infrastructure, the new investment rules will also help further open up other areas of economic activity. Among them, energy and water, housing, health and education and tourism, they say.

"The Government wants to benefit from international expertise and to bring in new technologies but it also wants to create a balance with the expectations of the domestic population. It wants to reduce the clear desire of some investors to 'get rich quick' and then take all their profits out of the country. It wants companies to put something back."

Such developments are accompanied by changes to the tax regime, notably affecting sales tax, imports and real estate transactions, as well as the creation and promotion of development hubs and special investment economic zones. The raising of the investment threshold barrier may reduce the ability of smaller companies to begin operations in the country, at least on their own, but it does not diminish the underlying attraction of the country which has one of the fastest development rates in Africa.

"Companies still face challenges when doing business in Angola, but there is now movement to remove some of the opaqueness that surrounded new investments and to put what were perhaps unwritten rules on a more formal setting," says Vicente Marques.