

**REPUBLIC OF ANGOLA
COUNCIL OF MINISTERS**

**Decree No. 51/04
of 23 July 2004**

The General Environmental Law lays down that one of the principal instruments for Environmental Management is the Environmental Impact Assessment, which has the primary objective of determining the effects which given public and private projects may have on the environment, on the basis of Environmental Impact Studies previously drawn up.

These studies are to be carried out in relation to projects which, due to their nature, size or location, may have implications for the environmental and social equilibrium and balance, so that the Environmental Impact Assessment may serve as an effective instrument for environmental protection and management, and also as a guarantee of fair and balanced decision making by the public authorities.

This Decree establishes a set of procedures which should be followed in drawing up Environmental Impact Studies, preceding approval, by the relevant State body, of the project subject to Environmental Impact Assessment, together with the rules on how such assessments are to be conducted.

Therefore, under the combined terms of Article 16 of Law 5/98, of 19 June 1998, and Articles 112 (d) and 113 of the Constitutional Law, the Government hereby decrees the following:

ON ENVIRONMENTAL IMPACT ASSESSMENT

**Article 1
(Purpose)**

The purpose of this Decree is to establish the rules and procedures for the Assessment of the Environmental Impact of public and private projects.

**Article 2
(Scope)**

The provisions of this Decree apply to all public and private projects subject to Environmental Impact Assessments, except for those indicated in Article 4.3 herein.

**Article 3
(Definitions)**

For the purposes of this Decree, the following words and expressions shall have the meanings set opposite them:

- (a) "Approval" – the decision by the competent authority (ies) granting the developer the right to carry out a project;
- (b) "Environmental Impact Assessment" – a preventive environmental management procedure consisting of identification and prior qualitative and quantitative analysis of the beneficial and negative environmental effects of a proposed activity;
- (c) "Public Consultation" – the hearing of concerned citizens, residents in the area covered or those affected by the project, their representative associations, namely conservation associations, local authorities in the territorial area affected and also the representatives of traditional power structures, if the project has effects on rural communities;
- (d) "Developer" – the applicant for approval of a private project or the public body which takes the initiative with regard to a project;
- (e) "Environmental Impact" – any change to the environment, either to better or worse, especially with effects on the air, water, soil and subsoil, biodiversity, health of persons and cultural heritage, resulting directly or indirectly from human activities;
- (f) "Project" – the execution of construction works or works for other facilities or works, or other interventions in the natural environment or landscape, including interventions for the exploitation of resources in the soil;
- (g) "Environmental Impact Study" – the document drawn up by the proponent in the course of an Environmental Impact Assessment, containing a brief description of the project, identification and assessment of the likely impacts, both positive and negative, which execution of the project may have on the environment;
- (h) "Environmental Audit" – the assessment, *a posteriori*, of the environmental impacts of a project, taking as a reference environmental quality standards, together with forecasts, management measurements and recommendations resulting from the Environmental Impact Assessment.

Article 4 **(Conduct of the Environmental Impact Assessment)**

1. The licensing of agricultural, forestry, industrial, commercial, residential, tourism or infrastructure projects which by virtue of their nature, size or location may have implications for the environmental and social equilibrium and balance are subject to a prior process of environmental impact assessment, which involves the preparation of

an Environmental Impact Study (EIS) to be submitted for approval from the Government body responsible for environmental affairs.

2. The projects referred to in the preceding paragraph are *inter alia* those, without limitation, described in the Annex to this Decree.
3. Projects deemed by the Government to be of interest for national defense and security may be exempted from Environmental Impact Assessments and Studies.

Article 5 (Presentation of Environmental Impact Study)

1. At the beginning of the administrative procedure for authorization or licensing of the project, the developer shall submit an Environmental Impact Study to the public authority competent to take the decision in question.
2. Within five days of receiving the document, the public authority referred to in the preceding paragraph shall send the following documents and information to the member of the Government responsible for environmental affairs:
 - (a) The project to be authorized or licensed;
 - (b) The Environmental Impact Study;
 - (c) Other documents or information deemed of relevance for a correct assessment of the project.

Article 6 (Environmental Impact Study)

The Environmental Impact Study shall contain the following information:

- (a) Description of the project;
- (b) The Environmental Impact Study report;
- (c) All the technological alternatives and alternative locations for the project, comparing these with the hypothesis of non-execution of the project;
- (d) Systematic identification and assessment of the environmental impacts generated in the phases for setting up and carrying out the activities to which the project relates;
- (e) Definition of the boundaries of the geographical area to be affected directly or indirectly by the impacts, to be called the project area of influence, considering, in all cases, the human populations, wildlife, and the hydrographical basin in which it is located;
- (f) Consideration of the government plans and programs, proposed and being implemented in the project area of influence, and the compatibility of the project with these;

- (g) Other information deemed to be relevant due to the particular nature and characteristics of the project.

Article 7

(Technical Activities in the Environmental Impact Study)

In conducting the Environmental Impact Study, the following technical activities shall be carried out, as a minimum:

1. Environmental diagnosis of the project area of influence and description, analysis of environmental resources and their interactions, as they currently exist, in order to characterize the environmental situation in the area, prior to the project, considering:
 - (a) The physical environment, soil, subsoil, waters, air and climate, making special mention of mineral resources, topography, soil types and suitability, bodies of water, the hydrological regime, marine currents and atmospheric currents;
 - (b) The biological environment and natural ecosystems – fauna and flora, making special mention of species indicative of environmental quality, species of scientific and economic value, rare species and those threatened with extinction, and permanent preservation areas;
 - (c) The socio-economic environment, land use and occupation, the use of water and socio-cultural features, making special mention of archeological, historical and cultural sites and monuments of the community, relations of dependency between local society, environmental resources and the future potential use of these resources.
2. Analysis of the environmental impacts of the project and the alternatives to the project, by identifying, predicting the magnitude and interpreting the scale of the likely relevant impacts, detailing:
 - (a) The positive and negative impacts, direct and indirect, immediate and medium and long term, temporary and permanent;
 - (b) The degree to which impacts are reversible;
 - (c) The cumulative and synergetic properties of impacts;
 - (d) Distribution of the social burden and benefits.
3. Definition of measures to mitigate negative impacts.
4. Preparation of a program for follow-through and monitoring of the positive and negative impacts, indicating the factors and parameters to be considered.

Article 8 (Costs of Environmental Impact Study)

The developer is responsible for payment of the expenses and costs relating to the execution of the Environmental Impact Study, such as:

Gathering and acquisition of data and information, field work and inspections, laboratory analyses, technical and scientific studies, monitoring of impacts, drafting of the report and provision of the required number of copies, costs relating to the public consultation process.

Article 9 (Environmental Impact Assessment)

The documentation required for the Environmental Impact Assessment shall conform to the principles and objectives set out in the General Environmental Law, and include namely:

- (a) A non-technical summary of the project;
- (b) A description of the planned activities;
- (c) A general description of the environmental situation in the location planned for the activity;
- (d) A summary of opinions and criticisms collected through public consultation;
- (e) A description of the possible environmental and social changes caused by the project;
- (f) Indication of the measures envisaged to eliminate or minimize the negative social and environmental effects;
- (g) Indication of the systems envisaged for controlling and monitoring the activity.

Article 10 (Public Consultation)

1. Projects subject to Environmental Impact Assessment are obligatorily subject to public consultation organized by the Ministry responsible for environmental affairs.
2. The public consultation process shall start with the release of a non-technical Environmental Impact Study stating the main effects which the project may have on the environment, namely the use of natural resources, emission of pollutants, creation of disruption (intensity of lighting and temperature, through to noise and odors) or the disposal of waste, identifying the preventive methods for assessing and reducing the effects on the environment and the impacts of the project on the socio-economic milieu.

3. The information released under the terms of the preceding paragraph shall respect industrial secrecy and comply with the legal rules protecting non-patented technical knowledge.
4. In the course of the public consultation process, the presentations and complaints submitted and relating to the project shall be considered and appraised.
5. The public consultation process shall be carried out during a period of no less than 5 and no more than 10 days for the projects described in the Annex.
6. On expiry of the time limit for public consultation, a brief report shall be drawn up within eight days, specifying the steps taken, the level of public participation and the conclusions to be drawn.
7. The costs of the public consultation process shall be borne by the developer.

Article 11
(Body Responsible for the Environmental Impact Assessment)

1. The Environmental Impact Assessment process lies within the sphere of competence of the Minister responsible for environmental affairs, who shall appoint the body entrusted with conducting the process.
2. The powers referred to in the preceding paragraph shall be exercised jointly with the Minister responsible for the business sector of the project in question and the Minister responsible for territorial planning, in the case of projects located within urban areas or which extend over human settlements.

Article 12
(Time limits)

1. Within no more than 30 days from the date of receipt of the documentation referred to in Article 5.2, the Ministry responsible for environmental affairs shall forward its opinion to the body responsible for licensing or authorizing the project, accompanied by the report on the public consultation process it has organized and analysis of the same.
2. A favorable opinion shall be deemed to have been issued if, on expiry of the time limit referred to in the preceding paragraph; notice is not given to the body responsible for authorizing or licensing the project.

Article 13
(Opinion and Licensing of Project)

1. The opinion referred to in paragraph 1 of the preceding Article shall be binding, and if the Minister responsible for environmental affairs has issued a negative opinion the project shall not be authorized or licensed.

2. An appeal may be brought against the decision of the Minister referred to in the preceding paragraph on the general terms of administrative procedure and through the administrative courts.

Article 14 (Public Announcement of the Decision)

The final decisions taken on projects assessed under this Decree and the respective proceedings shall be publicly announced, without prejudice to the limitations determined by law.

Article 15 (Inspection)

1. Powers to inspect monitor and control the measures set forth herein shall lie with the competent departments of the Ministry responsible for environmental affairs, without prejudice to the powers of other bodies.
2. The inspectors shall be appointed by the Minister responsible for environmental affairs and shall have powers to bring proceedings in relation to offenses against this law, without prejudice to the special duty of agents of authority and citizens in general.
3. The Minister responsible for environmental affairs shall issue an Executive Decree regulating the procedure for offenses against this Decree.

Article 16 (Offenses)

1. For the purposes of this Decree, the following shall qualify as offenses:
 - (a) The installation, start-up or extension of an activity in breach of this Decree and the regulations;
 - (b) Obstruction or non-collaboration with the environmental audit services provided for in Article 23;
 - (c) Breach of the terms of the opinion of the Minister responsible for environmental affairs;
 - (d) Non-compliance with the recommendations contained in the Environmental Impact Study document;
 - (e) Negligence.
2. Breach of the regulations established by Executive Decree of the Minister responsible for environmental affairs shall likewise qualify as an offense against this Decree.

Article 17
(Fines and Accessory Penalties)

1. Offenses against this Decree are punishable by a fine in Kwanzas, graded from a minimum equivalent to USD 1,000.00 and a maximum equivalent to USD 1,000,000.00, depending on the seriousness of the case.
2. The following accessory penalties may be applied to offenders:
 - (a) Seizure of machinery and equipment;
 - (b) Closure of installations;
 - (c) Forfeit of the right to take part in auctions and tendering procedures organized by public bodies or services, for public works, the supply of works and services or service concessions, licenses or permits.
3. The application of the measures referred to in the preceding paragraph shall not exempt the offender from civil and criminal liability under the general terms of the law.
4. Whenever a demolition order or the duty to restore the situation existing previously is not voluntarily complied with, the relevant State services shall act directly at the offender's expense, the expenses being collected coercively, through the proceedings established for fiscal foreclosure.

Article 18
(Proceeds of Fines)

The proceeds of the fines provided for herein shall be allocated to the Environmental Fund.

Article 19
(Scale of applicable measures)

In order to determine fines, the following shall be taken into consideration: the damage or danger of real damage resulting from the offense, the degree of willfulness or negligence with which it was committed, the economic situation of the offender, the benefit which the offender obtained from the offense and other relevant factors.

Article 20
(Payment and Time Limits)

1. Fines shall be paid in Angolan currency within 30 days, as from the date of notice of payment, on expiry of which the fine shall be collected under the general terms for fiscal foreclosure.

2. The statute of limitations of the procedure for application of fines and accessory penalties is 2 years, as from the date on which the offense was committed.

Article 21 (Decision)

1. The Minister responsible for environmental affairs or the person to whom he delegates the relevant powers shall decide on application of the fine and the accessory penalties, after a summary adversarial procedure for assessment of the evidence and arguments of the offender.
2. An appeal may be brought against the decision under the general terms of the law.

Article 22 (Environmental Audits)

1. All the units in operation and covered by the provisions herein and for which an Environmental Impact Study and Assessment have not been carried out on the terms described herein may be subject to environmental audits, during a period of 1 year as from the date on which this Decree comes into effect.
2. The costs deriving from the repair of environmental and social damage which may be detected by such audit shall be borne by the respective developers.
3. At the end of the period established in paragraph 1, the units which have not been subject to an environmental audit shall carry out Environmental Impact Studies to determine the cumulative environmental impacts of their activity.
4. Subsequently, all activities covered by this Decree shall be subject to environmental audits.
5. Environmental audits shall be conducted by specialized bodies, licensed by the Ministry responsible for environmental affairs.

Article 23 (Revocation)

All legal provisions which are inconsistent with the provisions of this Decree are hereby revoked.

Article 24 (Questions and Omissions)

Any questions or omissions arising from the interpretation and application of this Decree shall be resolved by the Council of Ministers.

Article 25
(Effective Date)

This Decree shall take effect on the date of publication.

Seen and approved by the Council of Ministers, in Luanda, on 7 April 2004.

Be it published.

The Prime Minister, *Fernando da Piedade Dias dos Santos*.

Promulgated on 18 June 2004

The President of the Republic, JOSÉ EDUARDO DOS SANTOS.

ANNEX

Projects referred to in Article 4

1. Agriculture, fisheries and forestry:

- (a) Projects for the restructuring of rural land holdings;
- (b) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes;
- (c) Water-management projects for agriculture;
- (d) Initial forestation or reforestation projects, when they may cause negative ecological changes;
- (e) Projects for industrial exploitation of forestry resources;
- (f) Projects for the installation of large scale industrial fish farming units or which release waste into water courses;
- (g) Reclamation of land from the sea;
- (h) Irrigation projects.

2. Extractive industry:

- (a) Industrial and agro-industrial complexes and units (petrochemicals, iron works, chloro-chemicals, distilleries, coal, use and operation of water resources);
- (b) Crude oil refineries, oil pipelines, gas pipelines, mineral transport lines, sewer mains and sewage outfalls;
- (c) Deep drillings, except for drillings to study soil stability, namely:
 - Geothermal drillings;
 - Drillings for water supplies;
 - Extraction of minerals other than metalliferous and energy-producing minerals on a large scale.
- (d) Production of petroleum;
- (e) Production of natural gas;
- (f) Extraction of metallic minerals;
- (g) Open cast mining of minerals other than metalliferous and energy-producing minerals;
- (h) Extraction of coal and lignite in underground and open-cast mining;
- (i) Installations for the manufacture of cement.
- (j) Extraction of fossil fuels, (petroleum, shale and coal);
- (k) Large scale ore extraction;
- (l) Installation and location of slag heaps and dumps;
- (m) Installation and location of refuse sedimentation basins;
- (n) Installation and location of storage for explosive substances for mining;
- (o) Installation of mineral transport lines and gas pipelines;
- (p) Pipeline installations;
- (q) Dams and other installations for river diversions;
- (r) Installations for storage of scrap from machinery and mining plant;
- (s) Other specific mining installations.

3. Energy industry:

- (a) Industrial installations for carrying gas, steam and hot water; transmission of electrical energy by overhead cables;
- (b) Surface storage of natural gas;
- (c) Underground storage of combustible gases;
- (d) Surface storage of fossil fuels;
- (e) Industrial briquetting of coal and lignite;
- (f) Installations for the production or enrichment of nuclear fuels;
- (g) Installations for the reprocessing of irradiated nuclear fuels;
- (h) Installations for the collection and processing of radioactive waste;
- (i) Installations for hydroelectric energy production, with capacity greater than 1000 KW;
- (j) Power transmission lines, at above 230 KV;
- (k) Hydraulic works for exploitation of water resources, such as: dams for hydroelectric purposes, sanitation or irrigation, creation of navigable canals, irrigation, straightening of water courses, opening of bars and river mouths, bay crossings, dykes;
- (l) Nuclear power stations with a capacity greater than 500 KW;
- (m) Nuclear power stations generating electricity through fission of isotopes.

4. Manufacture of glass.

5. Chemical industry:

- (a) Treatment of intermediate products and production of chemicals;
- (b) Production of fertilizers, pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides;
- (c) Storage facilities for petroleum, petrochemical and chemical products.

6. Infrastructure projects:

- (a) Highways with two or more traffic lanes and motorways;
- (b) Construction of medium and long distance railways;
- (c) Construction of tunnels;
- (d) Ports and terminals for ore, petroleum and chemical products;
- (e) Airports;
- (f) Projects for the development of industrial zones;
- (g) Urban development projects;
- (h) Construction of railways and facilities for transshipment between different forms of transport and parking terminals;
- (i) Dams and other installations to retain or store water permanently;
- (j) Coastal works designed to combat erosion and maritime works to alter the coastline, such as construction of dykes, piers, sea defenses and other similar works, excluding the maintenance and rebuilding of such works;
- (k) Systems for impounding and artificially replenishing surface waters;
- (l) Works transferring water resources between hydrographical basins.

7. Other projects:

- (a) Permanent racing and test tracks for cars and motor cycles;
- (b) Installations for the disposal of industrial and domestic waste;
- (c) Waste water treatment plants;
- (d) Sludge-deposition sites;
- (e) Storage of scrap iron, including vehicle scrap;

- (f) Test benches for engines, turbines or reactors;
- (g) Installations for manufacture of artificial mineral fibers;
- (h) Manufacture, packing, loading or destruction of gunpowder and explosives;
- (i) Installations for the destruction of products unfit for consumption as food;
- (j) Landfill sites, and installations for processing and final disposal of toxic or hazardous waste;
- (k) Construction of incinerators;
- (l) Construction of cemeteries.

The Prime Minister, *Fernando da Piedade Dias dos Santos*.

The President of the Republic, JOSÉ EDUARDO DOS SANTOS.