

3 ANGOLA

3.1 Constitutional Requirements for Environmental Protection in Angola

The Constitution of the Republic of Angola (*Lei Constitucional da República de Angola*) was signed into law in 1992 and provides the basis for the Environment Framework Act through two articles that enable environmental protection and conservation, and the right to a healthy and unpolluted environment.¹

Article 12:

- *All natural resources existing in the soil and subsoil, in internal and territorial waters, on the continental shelf and in the exclusive economic area, shall be the property of the State, which shall determine under what terms they are used, developed and exploited.*
- *The State shall promote the protection and conservation of natural resources guiding the exploitation and use thereof for the benefit of the community as a whole.*
- *Land, which is by origin the property of the State, may be transferred to individuals or corporate bodies, with a view to rational and full use thereof, in accordance with the law.*
- *The State shall respect and protect people's property, whether individuals or corporate bodies, and the property and ownership of land by peasants, without prejudice to the possibility of expropriation in the public interest, in accordance with the law.*

Article 24:

All citizens shall have the right to live in a healthy and unpolluted environment.

- *The State shall take the requisite measures to protect the environment and national species of flora and fauna throughout the national territory and maintain ecological balance.*

¹ Republic of Angola, 1994

- *Acts that damage or directly or indirectly jeopardise conservation of the environment shall be punishable by law.*

The above Constitutional articles are extremely important for the achievement of sustainable development – a concept implying improvements in the quality of life of people as well as their environment. Indeed, the two articles are concerned with the conservation and protection of natural resources, biodiversity and a healthy environment, with a view to maintaining the natural ecological balance and meeting basic human needs. Unfortunately, the Constitution does not mention the importance of meeting the needs of future generations whose rights to a healthy environment, rich and diverse natural resource base, and decent quality of life are thus not explicitly recognised.²

However, Angola's overriding concern in recent years is how to recover from a protracted armed conflict that has afflicted the country for four decades: 14 years of liberation struggle, followed by 27 years of civil war. Events in 2002 have given fresh hope that seemingly never-ending warfare pitting Angolans against fellow Angolans has finally come to an end. Without durable peace, stable democracy, lasting reconciliation among warring factions, and sustained reconstruction of the devastated physical and social infrastructure, there will be no real development, let alone sustainable development.³

Accordingly, all policy frameworks and strategic plans designed to contribute to sustainable development are based, explicitly or implicitly, on the assumption or anticipation of a new era of peace, social justice, reconciliation and reconstruction within which the psychological trauma, socio-economic decay and environmental devastation left by the war can be reversed and healed – and within which development for all can once again become a realistic goal.⁴

3.2 Institutional and Administrative Structure

3.2.1 Ministry of Environment

In 1993 the National Secretariat for the Environment was established, which became, in 1997, the Ministry for the Environment. Over the years, the name of this Ministry has changed several times, but it is currently known again as the Ministry of Environment.

The Ministry is responsible for the development and coordination of the country's environmental policy and for implementing the National Environmental Management

² Russo, V, P Roque and H Krugman, 2003. Country Chapter on Angola in *"EIA in Southern Africa"* by Southern African Institute for Environmental Assessment, Windhoek, Namibia, pp 25-43.

³ Op. Cit. Footnote 2.

⁴ Op. Cit. Footnote 2.

Programme (PNGA) (see section 3.3.1). As the key authority responsible for the implementation of the Environmental Framework Law, No. 5/98 (EFL), the Environmental Licensing Law, No. 59/07 and all associated regulations, the Ministry is also responsible for the review and regulation of environmental impact assessments (EIAs). Depending on the type of project to be developed, the EIA report should also be approved by the appropriate line ministry. This ensures that the EIA not only addresses the requirements of the Environmental Framework Law and EIA Decree, but also relevant sectoral legislation.

3.2.2 National Directorate for Prevention and Environmental Impact Assessment

Responsibility for EIA falls under the National Directorate for Protection and Environmental Impact Assessment, which, among other things, is responsible for reviewing and commenting on draft EIA reports.

The granting of an environmental licence (see section 3.3.7 below) for a proposed project is based on the results and recommendations of the EIA done on that project. If required, different institutions and stakeholders are invited by the Ministry of Environment to give comments and suggestions on the final report. Although there are efforts to identify partners for this process, the Ministry of Environment currently retains full control of the EIA process and there is no decentralisation in decision-making to lower government levels.

3.2.3 Inter-sectoral Co-operation

Cooperation between the Ministry of Environment and other ministries is evident from the well-established Multi-sectoral Commission dealing with environmental matters, which has representation from over 12 different ministries and three environmental NGOs, as well as a number of environmental experts. However, there is a need to strengthen and improve this co-operation in a way that effectively addresses issues such as bureaucracy, lack of skills, and lack of continuity.

3.3 Policy and Legal Framework for EIA

The sustainable use of the environment is recognised as a fundamental dimension of sustainable development. The Government's environmental strategies, policy framework and management approaches and priorities are spelled out in two major documents – the *Programa Nacional de Gestão Ambiental*⁵ (PNGA) and the *Estratégia Nacional do Ambiente*⁶

⁵ National Environmental Management Programme.

⁶ National Environmental Strategy.

(ENA). Responsibility for formulating and implementing environmental policies and programmes and for environmental management lies with the Ministry of Environment. This includes the promotion of a policy to support environmental education processes within the formal and informal education sectors.⁷

3.3.1 Programa Nacional de Gestão Ambiental

The PNGA is seen as an important instrument for the achievement of sustainable development. The Ministry of Environment, with assistance from the United Nations Development Programme (UNDP), finalised the PNGA in 2009. The PNGA emphasises the need for implementing an environmental management strategy to protect the environment, even though most of Angola's natural resources are still largely intact.

Importantly, the Environment Framework Law (EFL) recognises that the implementation of the PNGA should be the responsibility of all sectors of government whose activities may have an influence on the environment, all private individuals and organisations that make use of natural resources as well as those individuals who may use resources unsustainably and cause pollution.⁸

The PNGA has five strategic sub-programmes, defined as:

1. Promotion of Inter-sectoral Coordination;
2. Protection of Biodiversity, Flora, Terrestrial and Marine Fauna;
3. Ecosystem Rehabilitation and Protection;
4. Environmental Management
5. Environmental Education, Information and Awareness.

A series of themed papers was published in draft in June 2005. Of these development plans, the Strategy to Combat Poverty has been the only plan available for review.⁹

3.3.2 Estratégia Nacional do Ambiente

The ENA is a guiding framework closely related to the PNGA, which aims to identify the main environmental problems in Angola, with a view to addressing them in order to achieve sustainable development goals.¹⁰ The ENA is geared to meet Angola's needs but also reflects

⁷ Op. Cit. Footnote 2.

⁸ Article 6 of the Environment Framework Act, 1998.

⁹ ERM (2009). Chapter 2 of the draft Scoping Report for the Baynes Hydropower Project.

¹⁰ Ministério das Pescas e Ambiente, 2000. "Estratégia Nacional do Ambiente (ENA) – Environmental National Strategy, Draft Document." Unpublished Report, Luanda.

the goals and objectives of the United Nations Conference on Environment and Development.¹¹ It is seen by some as the Angola's 'Agenda 21'.

3.3.3 Other Relevant Policies

Angola 2025: Long-Term Strategy (*Estratégia de Longo Prazo*)

This strategy document reviews the significant challenges in Angola (very low human development, very weak economic situation, institutional instability, lack of health and education services, regional inequality etc) and establishes strategic options up to 2025. The plan considers the possible growth of various sectors and key activities to realize this growth. The strategy has been drafted and is being revised to include stakeholder aspirations.¹²

Strategy to Combat Poverty (2003)

The government of Angola has developed its strategy to combat poverty following the reconstruction process and national development, which has commenced. The global objective focuses on improving conditions of the Angolan citizens, in particular those who are vulnerable, by motivating them to actively participate in the social economic development process.¹³

National Biodiversity Strategy and Action Plan (2006)

The government of Angola approved this strategy (*Resolution No. 42/06 of 26 July*) to guarantee the conservation and sustainable use of biological diversity components that enable the fair and equitable sharing of the benefits of the use of biological resources. The objective of the strategy is to incorporate measures for the conservation and sustainable use of biological diversity and fair and equitable sharing of biological resources into development policies and programs for the benefit of all Angolans.¹⁴

3.3.4 Environment Framework Law

Environmental legislation in Angola was outdated until the early 1990s, when a new State Secretariat for the Environment was established. This new Secretariat developed new strategies and policy approaches leading to the formulation of the Environment Framework Law in 1998 (*Lei de Bases do Ambiente*), No. 5/98 of 19 June. This act is based on Articles 12 and 24 of the Angolan Constitutional Law (see Section 3.1)¹⁵.

¹¹ UNCED 1992. Agenda 21. Rio de Janeiro, United Nations Conference on Environment and Development.

¹² Op.Cit. Footnote 9

¹³ Op. Cit. Footnote 9

¹⁴ Op. Cit. Footnote 9

¹⁵ Op. Cit. Footnote 2.

The Law provides the framework for all environmental legislation and regulations in Angola. It provides the definitions of key concepts including protection, preservation and conservation of the environment, the promotion of quality of life and the use of natural resources. The Law incorporates key international sustainable development declarations and agendas (e.g. Agenda 21), and also establishes citizens' rights and responsibilities.

Article 14 allows for the establishment of environmental protection areas and the setting of rules for those areas, including the identification of activities which would be prohibited or permitted in the protected areas and their surroundings.

Article 16 of the Law makes provision for environmental impact assessments (EIAs) to be mandatory for all undertakings which may have an impact on the balance and wellbeing of the environment and society. Clause 2 of this Article states that more specific legislation on EIAs will be developed by the Government. This was accomplished when the Decree on Environmental Impact Assessment (No 51 of 2004) was passed on 23rd July 2004. Article 17 deals with the issue of environmental licensing and Article 18 with environmental auditing. These steps are based on the guidelines provided by the World Bank.

3.3.5 Decree on Environmental Impact Assessment

The aim of the Decree on Environmental Impact Assessment (*Decreto sobre Avaliação de Impacte Ambiental*) No. 51/2004 of 23 July is to ensure better environmental protection, particularly of human activities likely to have an impact on the environment (e.g. mining, civil construction, exploration of natural resources, etc.) by:

- Providing regulations to supplement the Environment Framework Law on EIAs, in particular on the procedures and mechanisms to be used in EIAs;
- Establishing norms for conducting an EIA of public and private projects which, due to their nature, dimension or location, might have significant environmental and social impacts; and
- Establishing which projects should be subject to an EIA, what elements are to be included in an EIA, the nature and extent of public participation, the entity responsible for compliance with these legal requirements, and the EIA monitoring process.

Other important aspects of the EIA Decree include:

- Article 3: Definitions, including what is meant by environmental audit, environmental impact assessment, environmental impact study, public consultation, etc.

- Article 4: Indicates which projects will require an EIA and which projects, e.g. those aimed at national defence and security, might be exempted from the need to conduct an EIA.
- Article 6: Indicates the kind of information that needs to be included in the EIA.
- Article 10: Explains the procedure for public consultation and indicates that the costs of such consultations should be covered by the project proponent.
- Article 16: Indicates what is considered to be an infraction to this Decree.
- Article 17: Sets out the penalties for various offences.
- Article 22: States that environmental audits shall be conducted.

The EIA procedures set out in the EIA Decree are described in detail in Section 3.4 of this chapter.

3.3.6 Decree of Environmental Licensing

A new piece of Angolan legislation relevant to environmental permitting (*Decree 59/07: on Environmental Licensing*) came into force on 14 October 2007. This Decree provides additional legislation to supplement *Decree 51/04* on EIAs by providing guidance such as: which project is subject to an EIA; what elements are to be included in an EIS; the nature and extent of public participation; the entity responsible for compliance with these legal requirements; and the EIA monitoring process. It also indicates that only Angolan registered environmental companies can submit an EIS for approval.¹⁶

3.3.7 Permits and Licences

In terms of Chapter 2 of the Decree on Environmental Licensing, the following licences are required:

An **Environmental Licence** is required for all activities, which, because of their nature, location and scale may have a significant environmental or social impact. The Environmental Licence is issued on the basis of the findings of an EIA and is required prior to any other permits or licences which may need to be issued under other laws.¹⁷

An **Environmental Installation Licence** is issued by the Ministry of Environment to authorise the setting out and change of works, in accordance to the specifications contained in the project.

An **Environmental Operations License** is a document issued by the Ministry of Environment, which permits, subject to verification that all the requirements contained in the EIS are complied with, an undertaking or activity to operate, and allows for the integration of the activity into the area of interest.

3.3.8 Offences and Penalties

In terms of Article 26 of the Decree on Environmental Licensing, a person who constructs, implements or alters any installation without an Environmental Installation Licence, or anyone who alters a system of production without the relevant licence, will be liable of an offence and subject to a fine. The fines are based on the value of the project as follows:

Value of the Project	Fine
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¹⁶ Op. Cit. Footnote 9

¹⁷ Article 17 of the Environment Framework Act.

Less than Kz90,000	10%
More than Kz 90,000 and less than Kz500,000	7%
More than Kz500,000 and less than Kz1,000,000	5%
More than Kz 1,000,000	3%

In addition the competent authority can suspend, embargo, interdict the operation or activity and notify the Public Ministry and the Line Ministry accordingly (Article 27).

Article 16 of the EIA Decree specifies the following as offences which are liable to a fine ranging between USD1,000 to USD 1 million, depending on the seriousness of the case:

- The installation, start-up or extension of an activity in breach of the EIA Decree and any related Regulations;
- Obstruction or non-collaboration with the environmental auditing team as per Article 22(5);
- Breach of the conditions of the Environmental Licence;
- Non-compliance with the recommendations contained in the EIS documentation.

In addition, offenders may have their machinery or equipment seized, and/or their operations closed down and/or be prevented from tendering for government contracts (Article 17).

3.3.9 Fees

The developer is responsible for all professional fees, costs and expenses associated with the preparation of an environmental impact study (EIS). Currently, there are no fees for government review of the EIS, but Article 25 of the new Decree on Environmental Licensing makes provision for a fee system to be developed.

3.3.10 Guidelines

EIA Guidelines are currently being developed to assist developers and practitioners with the EIA process in Angola.

3.3.11 Environmental Standards

Article 19 of the Environment Framework Law recognises the seriousness of pollution as a by-product of economic development and makes provision for strict measures to be taken to

eliminate or minimise its effects. Clause 2 of Article 19 allows for the promulgation of pollution control legislation to address the production, discharge, deposit, transport and management of gaseous, liquid and solid pollutants. Clause 3 states that the government will establish urban and non-urban environmental quality standards in respect of the burning of fossil fuels and Clause 4 prohibits the importation of hazardous waste except through specific legislation, approved by the National Assembly.

However, to date, there is no specific pollution control legislation and environmental standards for Angola are still in the process of being developed. In the meantime, the standards established by the World Bank and World Health Organisation are applied, and most foreign companies or aid agencies apply these or the pollution control standards from their home countries.

3.3.12 Certification of Consultants

In terms of Article 29 of the new Decree on Environmental Licensing, only specialists and medium or senior technical staff registered in terms of the Decree may be allowed to perform EIAs in Angola. Individual environmental consultants, environmental consulting companies and consortia may register with the Ministry of Environment. A certificate of registration will be issued within 30 days of the date of receipt of the application. In order to register, the individual applicant must submit the following in terms of Article 30:

- Name, nationality, profession, office location, residential address and tax number;
- Academic and professional registration certificates;
- CV listing environmental consulting experience and knowledge of the environmental situation in Angola; and
- A declaration that he/she is not an employee of, or contractor to the competent authority.

In the case of joint ventures and partnerships, the following must be submitted:

- Relevant information about their consultants in the terms of numbers;
- A compilation of studies already completed;
- Commercial Registration Certificate and tax number.

In case of doubt, the competent authority reserves the right to demand proof of the information supplied by the interested party, as well as of other additional information.

In terms of Article 31 of the Decree on Environmental Licensing, foreign consulting companies or consortia intending to perform consulting work in Angola are compelled to associate themselves with Angola consultants or consulting companies formed under Angolan Law.

3.4 EIA Procedural Framework in Angola

The Framework Environment Law states that one of the principal instruments for environmental management is Environmental Impact Assessment (EIA), which has the primary objective of determining the effects that public and private projects may have on the environment and which thus allows fair and balanced decision making by the authorities.¹⁸ The EIA procedures which must be followed are set out in the sub-sections below.

3.4.1 Screening

The EFL establishes a broad rationale for the kinds of projects which are subject to an EIA stating that it is compulsory to carry out an EIA when actions 'interfere with the social and environmental equilibrium and harmony'.¹⁹ More detailed criteria are spelled out in the EIA Decree which stipulates that EIAs must be conducted for all public or private projects mentioned in the Annex to the Decree, with the exception of all projects considered by the Government to be of vital interest to national defence or national security.²⁰

The activities listed in the Annex to the EIA Decree are categorised according to the following sectors:

- Agriculture, fishery and forestry;
- Extractive industries, e.g. petroleum, mining, dredging;
- Energy industry;
- Glass industry;
- Chemical industry;
- Infrastructure projects; and
- Other projects.

The full list of projects is provided in Appendix 3-1 of this chapter.

¹⁸ Adapted from the Preamble to the EIA Decree No 51/04.

¹⁹ Article 16(1) of the Environment Framework Act.

²⁰ Article 4(3) of the EIA Decree No 51/04

3.4.2 Scoping

There is no separately defined scoping phase required in Angola.

3.4.3 Environmental Impact Study

The EIA Decree specifies the **activities** that are required to be undertaken during the EIA process, as well as the **content** of the EIA Report. The activities required as part of the environmental impact study (EIS) are set out in Articles 6 and 7 of the EIA Decree. The EIA consultants must give due consideration to:

- A thorough analysis of the baseline conditions prior to development, including the interactions within and between the physical, biological and socio-economic environments;
- Providing a full description of the project;
- Evaluating all technological alternatives and alternative locations for the project and comparing these to the no-go option;
- A systematic identification and assessment of the environmental impacts generated in each project phase (design, construction, operation and decommissioning). The impact assessment must include the identification and prediction of the magnitude and scale of impacts, detailing:
 - The positive and negative impacts, direct and indirect, immediate, medium and long-term, temporary and permanent;
 - The degree to which the impacts are reversible;
 - The cumulative and synergistic properties of impacts;
 - Distribution of the social burden and benefits;
- The measures required to mitigate negative impacts;
- Defining the boundaries of the area which may be directly or indirectly affected by the project (sphere of influence), considering human population, wildlife, and the hydrographic basin in which the project is located;
- All government plans and programmes, proposed and being implemented in the project area of influence and the compatibility of the project with these;
- A monitoring and auditing programme;
- Any other information which may be relevant to the project e.g. international protocols etc.

The EFL (Article 16) and the EIA Decree (Article 9) specify the following contents of an EIA report:

- A non-technical summary of the project;
- A description of the planned activities, including all technological alternatives including the no-go option;
- A general description of the state of the environment of the chosen locations for the project;
- Summary of opinions and criticisms resulting from public consultations (see section 3.4.4 below);
- A description of possible environmental and social changes caused by the project;
- An indication of the measures envisaged to eliminate or minimise negative social and environmental effects; and
- An indication of the systems envisaged for controlling and monitoring the activity.

3.4.4 Public Consultation

All projects which are listed in the Annex to the EIA Decree (see also Appendix 3-1) must be subjected to a public consultation programme organised by the Ministry of Environment, as prescribed in Article 10 of the EIA Decree. The public consultation process, to be undertaken by the responsible Ministry, comprises the following steps:

- Release of the non-technical summary of the EIA Report to the interested and affected parties (as defined in Article 3 of the Decree);
- Consideration and appraisal of all presentations and comments relating to the proposed project;
- Compilation of a brief report within **8 days** of the completion of the consultation period, specifying the steps taken, the level of public participation and the conclusions which may be drawn.

The consultation process must take place over a period of **5-10 days** and the costs must be borne by the developer.

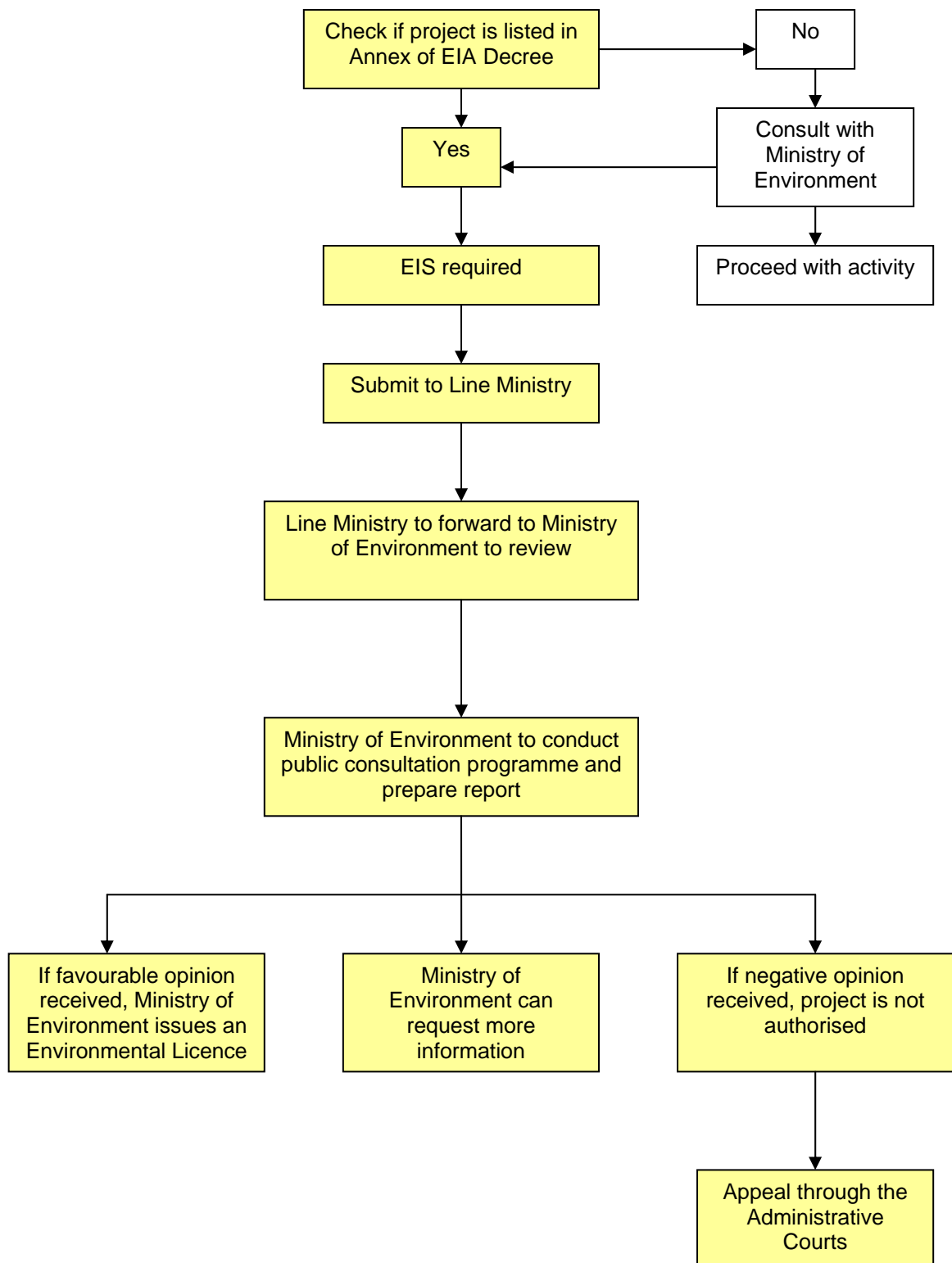
3.4.5 Review of EIA reports

Once completed, the EIA Reports and any supporting documents must be sent to the relevant line ministry (Figure 3.1). Within **5 days** of receiving these documents, the line ministry must forward such documentation to the Ministry of Environment. The review therefore is conducted by the Directorate for Prevention and EIA, the line ministry relevant to the project in question and, for projects which may occur in urban areas or affect human settlements, the Minister responsible for planning should also be included in the review process.

Within **30 days** from the date of receipt of the documents, the EIA Directorate in the Ministry of Environment must evaluate the EIA Report. If a favourable opinion is received, the Ministry of Environment shall issue an Environmental Licence. If there is insufficient information contained in the EIS, the Ministry of Environment may request more information to be provided before it can make a decision. If however, a negative opinion is received from the Directorate for EIA, the project cannot be authorised or licensed. The final decision must be made public.

3.4.6 Appeals

An appeal may be brought against the decision of the Minister through the administrative courts.

**FIGURE 3.1: EIA PROCESS DIAGRAM**

3.4.7 Environmental monitoring and audits

According to Article 22 of the EIA Decree, the competent environmental authority (in this case the Ministry of Environment) is responsible for monitoring the implementation of the EIA in specific projects. However, in practice, there is often no follow up from the Ministry and its Directorate, due to the lack of available resources and professional capacity. Consequently, it is rare that mitigation measures are taken or penalties are imposed on projects that do not comply with EIA rules and recommendations or which otherwise impact very negatively on the environment. Currently most monitoring activities are carried out by the project implementers or in collaboration with Angolan institutes such as the Natural History Museum and the Agostinho Neto University's Faculty of Science.

3.5 Other Relevant Environmental Legislation in Angola

The EFA is complimented by various pieces of sectoral legislation (Table 3.1).

Table 3.1: Other Potentially Applicable Sectoral Legislation

Legislation	Key elements	Responsible authority
Fisheries		
<i>Lei das Pescas</i> , No. 20/92 of 14 August 1992 (Fisheries Act, No. 20 of 1992)	<ul style="list-style-type: none"> Regulates fishing activity in marine and interior waters. Establishes the principle that fisheries resources are for public use and stipulates quotas consistent with the conservation of marine resources, adjusted according to available fishing potential and season. Regulates the fishing industry with the aim of achieving sustainable development. 	Ministry of Fisheries

<p>Biological and Aquatic Resources Act (n° 6-A/04 of October 8)</p>	<ul style="list-style-type: none"> • This innovative Act is very comprehensive and places emphasis on the need for policies aimed at preserving and regenerating the biological and aquatic resources. The Act is also a mechanism for the harmonisation of different legislation on the marine resources, particularly with regards to fisheries and aquaculture activities. • The Ministry has to be consulted before the implementation of any project pertaining to the exploitation of natural resources within inland waters. • The Act considers the discharge of any objects or substances which are likely to cause serious damage to the biological resources as a crime. It further states that any individual or collective person that causes damage to the environment has to recover the damage and also indemnify the State. • The Act has been developed as part of the Government's policies towards environmental protection and sustainable use of natural resources. It has drawn on the Constitution and the Environment Framework Act. The Act also considers international instruments such as the United Nations Law of the Sea (UNCLOS), Convention on Biological Diversity and SADC Protocol on Fisheries. • The biological and aquatic resources are considered in this Act to be important food sources for subsistence, economic activities and renewable resources. • Title I deals with General Dispositions; Title II deals with Measures for the Protection of Biological Resources and Marine Environment; Title III focuses on Vessels, Procedures for Processing and Aquaculture; Title IV elaborates on the Institutions and Services for Biological Water Resources control; Title V deals with Responsibility; and Title VI concludes with Final and Transitory Dispositions. • The most important area of the Act in relation to environmental protection is Title II which deals in its five chapters with Measures for the Protection of Biological Aquatic Resources and the Marine Environment. • Moreover, an enabling legislation of the above act has been approved focusing on the rules of fishing concessions and licensing (Decree n° 14/05 of May 2005). 	<p>Ministry of Fisheries</p>
Conservation		
<p>Prohibition of importation of transgenic genetically modified seeds or grains. Decree No 92/04</p>		<p>Ministry of Agriculture</p>

<p>Various decrees from the colonial period</p> <p>Decree on Soil, Flora and fauna Protection, No 40.040 of 1955</p>	<ul style="list-style-type: none"> • The first legislation on nature conservation and on the establishment of protected areas for different purposes (initially for hunting purposes and later for nature conservation) was issued on 20 January 1955 through the Decree nº 40 040 (published in the Official Bulletin on 9 February 1955). This Decree covered aspects related to soil, fauna and flora protection, conservation and use of game, establishment of national parks, nature reserves and controlled hunting areas. This Decree pioneered the establishment of an institution (<i>Conselho de Protecção à Natureza</i> – Nature Conservation Council) responsible for controlling the protected areas and developing important enabling legislation for this effect. • This legislation included the Hunting Regulation (<i>Regulamento de Caça</i>, Decree nº 2 873 of December 11, 1957), Forestry Regulation (<i>Regulamento Florestal</i>, Decree 44 531) and National Parks Regulation (<i>Regulamento de Parques Nacionais</i>, Decree 10 375 of October 15, 1958). • In its annexes, the Decree nº 40 040 included a list of mammal and bird species whose hunting was considered illegal. • A Decree nº 43/77 of 5 May 1977 approved the structure of the Ministry of Agriculture and defined five different categories for protected areas, namely national park; strict nature reserve; partial reserve; regional nature park and special reserve. This differentiation of categories does not include issues such as rural community use of wildlife, the conservation on heritage sites and important monuments. The above legislation is currently being reviewed through a FAO project known as "Participatory Formulation of Policy and Legislation on Forest, Wildlife and Protected Areas". 	<p>Ministry of Agriculture</p>
<p>Mining</p>		
<p><i>Lei das Minas</i>, No. 5/79 of 27 April 1979 (Mining Act, No. 5 of 1979)</p>	<ul style="list-style-type: none"> • Regulates the exploration of minerals. • Stipulates that mineral resources are state property. • Recognises the need for environmental rehabilitation following mining activities that damage the environment. 	<p>Ministry of Geology and Mines</p>
<p>Geological and Mining Activities Law (No. 1/92 of January 17)</p>	<ul style="list-style-type: none"> • This Act is administered through the Ministry of Geology and Mines and has been developed to broaden the understanding of exploration of mineral resources, particularly with regards to the exploration of resources not known before. It was also developed to become consistent with the Act on Foreign Investment as well as the principles of an open market economy being implemented in Angola. 	<p>Ministry of Geology and Mines</p>

	<ul style="list-style-type: none"> • This Act reflects the new mining policy aiming at creating the necessary conditions to include the development of the mining industry in the national and international context. By doing this, the Act promotes the reduction of the dominance of the State owned companies by eliminating monopoly of mineral rights and providing opportunities for the private sector, both national and international, to invest in the mining sector leading to a better development of Angola and its economy. • The Act states that all minerals belong to the State as evident in the Constitutional Law and gives the Ministry of Geology and Mines the right to manage and supervise all mineral exploration and development activities through the granting of relevant prospecting and mining titles. • Apart from providing information on the mechanisms to be followed for the concession of a prospecting licence this Act also provides details on the duration for the exploration of mineral resources. • The Act also includes a clause on environmental protection translated in the commitment of the entities in possession of the prospecting licence (concessionaries) to protect the environment, fauna and flora and to recover any damaged soils and deviated water courses so as to avoid any problems to the populations. However, it does not explain how and what mechanisms will be put in place to ensure that such commitments are achieved. • This Act aims to create the necessary conditions to include the development of the mining industry in the national and international context. The Act gives the Ministry of Geology and Mines the rights to manage and supervise all mineral prospecting and development activities through the granting of licences. 	
Diamond Act (No. 16/94 of 7 October)	<ul style="list-style-type: none"> • This Act does not mention the need for Environmental Impact Assessment (EIA) for the exploration of mineral resources as stipulated in the Environment Framework Law and in the Environmental Impact Assessment Decree. • The Act has also been developed to contribute to the economic growth of Angola and to better protect this important mineral resource. In doing so, the Diamond Act gives mineral rights exclusively to ENDIAMA (<i>Empresa Nacional de Diamantes de Angola</i>), the State National Diamond Company. This company can, however, develop joint venture activities with private foreign/local investors. As result of this many foreign companies are currently involved in the development and/or exploration of potential kimberlitic and alluvial deposits. • This Act deals with aspects related to prospecting, researching, exploration, treatment and commercialization of diamonds. In this Act a special provision is made for small-scale mining as well as for artisanal exploration of diamonds. There are no references with regards to environmental protection or environmental damage caused by the exploration of diamonds. 	Ministry of Geology and Mines
Land		

<p>Land Use Planning and Urban Development Act (n° 3/04 of June 25)</p>	<ul style="list-style-type: none"> • After independence, issues relating to land use planning and urban management were never fully considered as part of the country priorities in terms of the development of new legislation. Most of the legislation available in this field has also been inherited from the colonial period and thus is outdated and inefficient. Most of the existing legislation on territory, town and country planning and urban issues is fragmented and not in line with the scientific and technological progress. • In addition, the growth of the capital cities, particularly due to urbanization to the cities in the coastal areas as result of the war factor, the belief that the opportunities in the cities are greater than in the rural areas, has increase the problems related to the management of urban areas leading to overcrowded and dilapidated cities. The lack of integrated and coordinated plans associated with an inefficient development and growth of the cities to respond to the growing number of people has motivated the development of this law. • This law adopts a concept of integrated planning, which does not only include socio-economic aspects but also attempts to create synergies between the relationship between the city and countryside. This law calls for the establishment of a decentralised system to coordinate the work of planning land use. 	<p>Ministry of Environment Ministry of Agriculture</p>
<p>Land Law (No 9/04 of November 9)</p>	<ul style="list-style-type: none"> • This new Land Law considers land as a property of the State and proposes the following multiple uses for the land: <ul style="list-style-type: none"> ○ To provide shelter and home for inhabitants of Angola. This implies the existence of an appropriate urban planning system; ○ A source of natural resources which can be used for mining, agriculture, forestry and land planning; ○ A support for economic, agricultural and industrial activities. • This new Land Law contains a number of environmental related aspects which are important to foster sustainable development in Angola as well as better use of the soil and natural resources. It makes references to a number of other pieces of environmental legislation with particular emphasis on the Environmental Framework Law. The other legislation is used to support mechanisms for the implementation and enforcement of certain articles and clauses of the new Land Law. • It presents two land classifications, namely urban land (areas for construction of buildings) and rural land (areas for agriculture, livestock-raising, forestry and mining). The ministry dealing with land planning and environment is the government institution that declares such land based on a proposal from other government entities dealing with similar issues. This is the case for the establishment of mining and oil schemes and industrial sector. The government has the competence to decide on the establishment of protected areas (total and partial reserves) for specific purposes and these include for environmental protection, national security, preservation of monuments and historical sites. These reserves include both coastal areas (e.g. territorial sea, contiguous zone, economic exclusive zone, islands, estuaries) and land areas (e.g. roads, inland borders, airports and ports, military bases). 	<p>Ministry of Environment</p>
<p>Water</p>		
<p><i>Lei das Águas</i> – (Water Law No 6/02 of June 21)</p>	<ul style="list-style-type: none"> • This Act states the priorities for the use of water resources in Angola, particularly in relation to internal/continental waters. It gives the right to 	<p>State Secretariat for Water</p>

	<p>the State Secretariat to ensure environmental protection and conservation of areas of partial protection. It provides a list of water management principles particularly the harmonization of the water management policy with land use planning. It calls for the development of a General Plan for the Development and Use of Water Resources in Basins.</p> <ul style="list-style-type: none"> • This Act clarifies the priorities for water resources use in Angola, particularly in relation to internal waters (both surface and underground). The Act states the priorities for the use of water resources in Angola, particularly in relation to interior waters both surface and underground waters. It further notes that water resources are State property. Article 6 gives the right to the organ of state responsible for water affairs to ensure the preservation and conservation of areas of partial protection. • A number of principles of water management that shall be put into practice by the Government are described in this Act. These include: right for individuals and entities to access water; integrated management of water resources; institutional coordination and community participation; the harmonisation of the water management policy with land use planning and environmental policies; water as a renewable resource for people; the relationship between pollution and social and financial issues. • This Act encourages the development of a new administrative policy for the water sector which includes a decentralised system of control on the use of water as well as for the protection of water resources and the environment. In the implementation of such policy, the Government aims at achieving a number of objectives, namely to ensure access to water resources; to ensure a continuous balance between availability of water resources and demand; to promote research activities and sustainable use of existent water resources; to ensure proper sewage systems and to regulate the discharge of domestic effluents. 	
<p><i>Lei sobre águas interiores, oceanos e zona económica exclusiva</i>, No. 21/92 of 28 August 1992 (Law on internal waters, ocean and exclusive economic zone, No. 21 of 1992)</p>	<ul style="list-style-type: none"> • Regulates control over internal waters and lakes. • Regulates the use of natural resources, the protection of the marine environment, the promotion of scientific marine research, and the use of artificial structures. 	State Secretariat for Water
Local authorities		
<p><i>Lei das Autoridades Locais</i>, No. 17/99 of 1999 (Local Municipalities Act, No. 17 of 1999)</p>	<ul style="list-style-type: none"> • Establishes that local governments are responsible for the promotion of development, basic sanitation, environmental protection and land management. 	Provincial and local authorities
Investment		
<p><i>Lei do Investimento Estrangeiro</i>, No. 15/94 of 23 September 1994 (Foreign Investment Act, No. 15 of 1994)</p>	<ul style="list-style-type: none"> • Plays an important role in setting up mechanisms to enforce regulations relating to environmental protection, sanitation, and the protection and security of workers against occupational diseases and accidents at work. 	Ministry of Planning
Petroleum		

<p><i>Decreto Lei das Actividades Petrolíferas</i>, No. 39/00 of 10 October 2000 (Oil Activities Decree, No. 10 of 2000)</p>	<ul style="list-style-type: none"> • States the need to regulate oil exploration activities in a way that ensures sustainable development. • Recognises the important role of oil in the Angolan economy and its impact on the environment, and calls for the compulsory implementation of EIAs for any offshore or onshore project. 	<p>Ministry of Petroleum</p>
<p>Petroleum Activities Law (n° 10/04 of November 12) Including: Petroleum Activities Waste Management, Removal and Disposal, Exec. Decree No. 8/05; Petroleum Activities Spill Notification Procedures, Exec. Decree No 11/05; Management of Operational Discharge during Petroleum Activities, Exec. Decree no 12/05</p>	<ul style="list-style-type: none"> • This Act includes principles of economic policies, particularly for the protection of national interests, promotion of the work force, valuation of minerals and environmental protection. • It establishes the exclusivity principle for the national petroleum concessionary Sonangol, by giving to Sonangol the rights to use natural resources through the establishment of partnerships other foreign companies. • In Article 7/2 it is stated that all petroleum operations must be conducted in a careful way, by considering the safety of people and infrastructure as well as the protection of the environment and conservation of the nature. Furthermore Article 9/3 notes that the attribution of rights related to petroleum operations can only be granted if measures are out in place to ensure the sovereignty of the country, safety, environmental protection, research, management and preservation of natural resources, including the living and non-living aquatic biological resources. • Article 24 on Environmental Protection indicates that all companies, including Sonangol, involved in petroleum operations have to put in place appropriate measures to ensure environmental protection with a view to guarantee its preservation which includes health, water, soil and sub-soil, air, biodiversity preservation, flora and fauna, ecosystems, landscapes, atmosphere and cultural, archaeological and aesthetic values. In addition, Article 24/2 requires that plans on environmental preservation, environmental impact assessment, rehabilitation plans and environmental audits are submitted to the competent authorities within the established timeframes. 	
<p>Decree on Environmental Protection for Petroleum Activities (n° 39/00 of October 10)</p>	<ul style="list-style-type: none"> • This Decree which is administered by the Ministry of Petroleum aims at protecting the environment from petroleum exploration and production activities. It defines the environment as including, <i>inter alia</i>, fauna, flora, soil, water, landscape, cultural values, atmosphere, etc. and is applicable to activities both off- and on-shore (Article 3). • In regulating petroleum activities in a way that ensures the achievement of sustainable development the Decree recognises the impact of these activities on the natural environment. It also calls for compulsory implementation of Environmental Impact Assessments (EIAs) as a key instrument to ensure environmental protection in any project. It provides details on the EIA process with an emphasis on the procedure for obtaining an environmental licence from the Ministry of Urbanisation and Environment (Article 6). • The Government is currently developing complementary legislation to this Decree, namely on the management of operational discharges, management, collection and treatment of waste, and the procedures for the notification of oil spills. • Other legislation for the petroleum industry has recently been approved and it includes an Executive Decree on the procedures for waste management (n° 8/05 of January 5), Executive Decree on the procedures for oil spill notification (n° 11/05 of January 12), Executive Decree on procedures for operational discharges management (n° 12/05 of January 12) 	<p>Ministry of Petroleum</p>

Source: Adapted from *Diário da República, various issues, 1979-1999* and documents from the Ministry of Environment and www.angolaenvironmentalconsulting.com/legsupenv.html

APPENDIX 3-1

The Projects which require an EIA as prescribed in Article 4 of the EIA Decree are listed in the Annex to that Decree as follows:

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-chemical 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:
 - i. Geothermal drillings;
 - ii. Drillings for water supplies;
 - iii. 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. Installation 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 and 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 1000kW;
- j. Power transmission lines at above 230kV;
- 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 500kW;
- 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 fertilisers, 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 trans-shipment 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 defences 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 hydrographic 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 fibres;
- 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.

ACRONYMS

EFL	Environment Framework Law
EIA	Environmental Impact Assessment
EIS	Environmental Impact Study
EMP	Environmental Management Plan
ENA	<i>Estratégia Nacional do Ambiente</i> (National Environmental Strategy)
FAO	Food and Agriculture Organisation
I&APs	Interested and Affected Parties
MoE	Ministry of Environment
NGO	Non-Government Organisation
PNGA	<i>Programa Nacional de Gestão Ambiental</i> (National Environmental Management Programme)
SADC	Southern African Development Community
SEA	Strategic Environmental Assessment
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
USD	United States Dollar
WHO	World Health Organisation

USEFUL CONTACTS

Department	Ministry	Telephone	Fax	Website
Directorate for EIA	Ministry of Environment			www.minam.gov.ao geral@minam.gov.ao