

## **COUNCIL OF MINISTERS**

### **DECREE LAW 17/09**

**OF 26 JUNE**

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Whereas the training of Angolan staff is one of the tasks within the set of priorities of the Government and in view of the need to provide the Republic of Angola with national staff capable of ensuring the operation of this sector of the national economy;

Whereas from the time it came into force Decree 20/82 of 17 April has been the statutory instrument driving forward the recruitment, integration, training and development of Angolan staff in the petroleum industry, providing employment and technical and scientific training to thousands of Angolans involved at present in the petroleum activity;

Whereas the time that has elapsed since then, the technological development that has taken place in the oil industry, and also the new political options of human resources set out in Law 10/04 of 12 November, the Petroleum Activities Law, make it advisable not only to redraft Decree 20/82 of 17 April but also to create of a new regulatory framework that will support the updating and adaptation to the new reality of the development of human resources in the national oil sector;

Using the legislative authorisation granted by Resolution 21/09 of 26 March of the National Assembly, under Article 86 of Law 10/04 of 12 November, the Petroleum Activities Law, Article 57 of Law 13/04 of 24 December, the Petroleum Activities Taxation Law, and pursuant to the combined provisions of Articles 90(f) and 113, both of the Constitution, the Government decrees as follows:

#### **CHAPTER I**

##### **Purpose and Scope**

#### **ARTICLE 1**

##### **(Purpose)**

The purpose of this statute is to set the amount of the contribution payable by the entities referred to in Article 3 and also to define the rules and procedures to be complied with in the recruitment, integration, training and development of Angolan

personnel and when hiring foreign personnel for the execution of the petroleum operations referred to in Law 10/04 of 12 November and for the activities of oil refining and processing, and the storage, transport, distribution and commercial sale of petroleum products.

## ARTICLE 2

### (Definitions)

For the purposes of this decree-law and except as otherwise expressly indicated in the text hereof, the words and expressions used herein shall have the following meanings, and definitions in the singular shall apply equally in the plural and vice versa:

- a) *recruitment* – the process that takes place between the decision to fill a vacancy and the selection of the candidate who meets the profile of the function and meets the requirements to perform that function;
- b) *integration* – the set of actions and measures intended to create appropriate working conditions for the functions attributed to Angolan personnel and their development, taking account of human resources and career plans, for the purpose of improving professional performance by means of training and granting social benefits;
- c) *training* – the process aimed at developing specific skills and behaviours for work with a view to professional satisfaction, economic performance and the compulsory and visible substitution of foreign staff, technicians and executives by national citizens;
- d) *personal development* – the process of continuous training that seeks to reinforce or increase knowledge and skills of personnel, seeking their development in the career path existing in the company;
- e) *human resources plan* – the plan of recruitment, integration, training and development for Angolan personnel;
- f) *transfer of knowledge* – the set of actions carried out by the entities covered by this statute, intended to transfer to Angolan personnel all the necessary knowledge for the performance of their tasks.

## ARTICLE 3

### (Scope)

1. This statute applies to all foreign-registered companies and Angolan-registered companies, the majority of the share capital of which is held by foreign persons or entities, which carry out within the national territory activities of petroleum prospecting, exploration, appraisal, development and production, and also companies

engaging in oil refining and production, and the storage, transport, distribution and commercial sale of petroleum products.

2. This statute applies also to all foreign-registered companies and Angolan-registered companies, the majority of the share capital of which is held by foreign individual persons or entities, that provide services to the entities referred to in the previous section on a permanent basis.

3. The companies referred to in the previous section will be considered to be collaborating on a permanent basis with the companies mentioned in section 1 of this article if in the performance of their activities they provide services within the national territory for a period equal to or greater than one year, whether consecutive or non-consecutive, irrespective of the block, concession area or segment of activity where they are carried out.

4. In order to comply with the provisions of this statute, the operator of each block or concession area must present to the Ministry of Petroleum during the last month of each quarter a list of all contracts signed with the companies referred to in section 2 of this article.

## **CHAPTER II**

### **Hired Foreign Personnel**

#### **ARTICLE 4**

##### **(Hiring Foreign Personnel)**

1. The companies referred to in Article 3 are required to fill their staff establishment in all job grades and functions with Angolan citizens.

2. Where it can be proved that insufficient Angolan citizens with the required qualifications and experience are available in the Angolan labour market, the hiring of foreign personnel may only be performed with prior authorisation from the Ministry of Petroleum upon request by the company involved, and this may be granted en bloc or on a case-by-case basis, according to the particular situations that make this advisable or justifiable.

3. The proof referred to in the previous section must be provided by presentation of the publication of advertisements of job vacancies, the description of the function to be carried out and also the CVs or evidence presented by possible candidates for the posts to be filled.

4. In relation to foreign personnel already engaged, the companies referred to in Article 3 must send to the Ministry of Petroleum within 45 days from the publication date of this statute, a list stating their names, occupation, functions carried out,

place of work, salary, allowances and any other welfare benefits earned, and also a justification of their recruitment, proof of professional qualifications and the job description.

5. In relation to the provisions of sections 2 and 4 of this article, the Ministry of Petroleum must notify the company, within a maximum of 60 days from the date of receipt of the documents indicated therein, of the decision taken.

## **ARTICLE 5**

### **(Equality of rights)**

Angolan and foreign personnel employed by the companies referred to in Article 3 of this statute who have the same job grade and perform identical functions, must enjoy the same benefits in respect of pay and welfare, and also the same working conditions, and any type of discrimination is expressly prohibited.

## **CHAPTER III**

### **Programme Contract**

## **ARTICLE 6**

### **(Programme Contract)**

1. The companies covered by this statute must enter into a programme contract with the Ministry of Petroleum, in which the respective obligations in relation to the development of their human resources must be set out.
2. The programme contract referred to in the previous section must be entered into within the following times:
  - a) companies in the exploration period only: 30 days after the entry into force of the contract entered into with the National Concessionaire;
  - b) companies in the production period: 60 days following the date of declaration of the first commercial discovery;
  - c) companies carrying on activities of petroleum refining and processing, storage, transport, distribution and commercial sale of petroleum products: 60 days following the commencement of the activity;
  - d) companies providing services: 30 days following the entry into force of each contract.

3. For the purpose of this statute, programme contract shall mean the agreement between the Ministry of Petroleum and the companies referred to in Article 3 that lays down the compulsory presentation and achievement of targets to be met in the process of integration of Angolan personnel, with a view to achieving effective Angolanisation.

4. The programme contracts to be entered into with companies which on the date of entry into force of this statute are carrying on the petroleum activities referred to in Article 1 must take account of the current state of development of their human resources.

5. For the purpose of the provisions of the above sections and with respect to the stipulations of section 6, the programme contract must contain at least the following items:

- a) institutional structure of the company and prospects for its growth;
- b) number, functions and occupational profiles of the national and foreign work force, with their pay scales on the date of signature of the programme contract;
- c) career plan;
- d) targets to be met in the integration process of Angolan personnel.

6. The programme contract must lay down review periods for any adjustments considered to be necessary.

7. The items that form part of the programme contract must fit the nature of the activities carried on by the companies mentioned in Article 3.

## **ARTICLE 7**

### **(Human Resources Development Plans)**

1. For the purpose of the annual execution of the programme contract, the companies referred to in Article 3 must submit to the Ministry of Petroleum for approval the human resources development plans by 31 October each year, and these must contain at least the following items:

- a) definition of the knowledge of petroleum technology and management experience to be transferred to Angolan personnel, its detailed description, form and time of transmission;
- b) description of the forecast work force, including the number of technicians to be employed in petroleum operations with their occupational profiles and an indication of the total number of workers in each job grade;

- c) specification and programming of the process of integration of Angolan personnel, indicating their numbers, jobs to be filled, job grades and salary groups;
  - d) specification of training schemes for Angolan personnel to be implemented, according to the defined career path plans;
  - e) precise definition of the needs of accommodation, transport, meals and other welfare benefits necessary for the integration of Angolan personnel and programmes for their implementation in accordance with this decree-law.
2. The Ministry of Petroleum may request that any other items it considers to be necessary be presented.
  3. The time limit fixed in section 1 may be extended by a period not exceeding 30 days, for a duly justified substantial reason.
  4. Initial development plans for human resources must be submitted to the Ministry of Petroleum for approval within 180 days from the signature of the programme contract.

## **ARTICLE 8**

### **(Decision of the Ministry of Petroleum)**

1. Within 30 days from the date of receipt, the Ministry of Petroleum must notify the decision taken in respect of the human resources development plans presented by the companies.
2. Human resources development plans approved by the Ministry of Petroleum are mandatory and may not be altered without proper authorisation from the Ministry of Petroleum.

## **ARTICLE 9**

### **(Implementation Report)**

The entities referred to in Article 3 must present to the Ministry of Petroleum, in the first quarter of each year, a detailed report on the implementation of the human resources development plans in relation to the previous year.

## **ARTICLE 10**

### **(Difficulties in implementation)**

Within 60 days following the receipt of the report referred to in the previous article, the Ministry of Petroleum, on the basis of the difficulties identified in the

implementation of the human resources development plans and according to new technological requirements of the petroleum industry, must take adequate measures to ensure that these difficulties are overcome, and notify the aforesaid entities of the decisions taken.

## **ARTICLE 11**

### **(Compulsory Provision of Work)**

1. The companies or entities covered by this statute must enter into a written agreement with the Angolan personnel benefiting from training, in which they undertake to maintain the relationship of employment with them for a certain minimum period of time to be defined by the Ministry of Petroleum, according to the parameters set out in the section below.
2. When determining the period of time referred to in the previous section, account must be taken of the nature of the training, the function to be carried out after training and the respective costs.

## **CHAPTER IV**

### **Contributions and Charges**

## **ARTICLE 12**

### **(Contributions)**

1. In accordance with this statute, the companies or entities referred to in Article 3 are required to allocate, each year, an appropriation in internationally convertible currency to constitute the training and development fund for Angolan human resources in the petroleum sector, under the management of the Ministry of Petroleum.
2. The annual contributions of the companies or entities referred to in Article 3 must be calculated on the basis of the following criteria:
  - a) company holding a prospecting licence: USD 100,000.00;
  - b) company in the exploration period, USD 300,000.00;
  - c) company in the production period: 15 cents of a United States dollar per barrel produced during the year;
  - d) company carrying out the activity of petroleum refining and processing: 15 cents of a United States dollar per barrel of crude oil processed during the year;

- e) company or entity carrying on activity of storage, transport, distribution and commercial sale of petroleum products: contribution corresponding to 0.5% of the revenue from annual turnover;
  - f) company or entity providing services: contribution corresponding to 0.5% of the value of the contracts executed into during the year.
3. If the gross revenue of the companies or entities referred to in section (e) has not been determined at the time of payment, a calculation will be made of the contribution payable on estimated revenue for the period, and the necessary adjustment must be made once the final gross revenue is determined.

## **ARTICLE 13**

### **(Form of Payment of Contributions)**

1. In blocks where there is one more than one associate of the National Concessionaire, the contribution must be paid by the operator on behalf of the other associates, without prejudice to the right of redress that may be applicable.
2. Companies participating in more than one block or concession area must pay the part allocated to them in each block or concession area in compliance with the provisions of the previous section.
3. The companies or entities referred to in Article 12(2)(a), (b), (c), (d) and (e) will be responsible for the payment of their respective contributions.
4. The block operator, and also other companies not carrying out petroleum operations which come within this statute, must collect from the companies or entities with which they are associated or with which they have entered into contracts for the provision of services, or others related with the petroleum activity, the amounts of the contributions of their associates or contractors, making the deposit of the amounts collected in the development fund for human resources in the petroleum sector with an identification of the contributing companies.
5. Payment of the contributions set out in this statute must be made quarterly by the last day in the first month following the quarter to which they relate.
6. For the purpose of the provisions of the previous section, companies subject to contributions in accordance with section 2 of this article must present to the Ministry of Petroleum by the 15th day of the first month following the month to which the payment relates, a written statement of the amount payable, showing the calculations.

## **ARTICLE 14**

## **(Charges)**

1. The following are charges of the Angolan Human Resources Development Fund:
  - a) expenses of the training and specialisation of Angolan personnel in the petroleum field;
  - b) subsidies to the National Institute of Petroleum and other educational establishments related directly or indirectly with the petroleum industry;
  - c) purchase of books, documentation and technical equipment related with training and specialisation of Angolan personnel in the petroleum sector;
  - d) expenses of visits and traineeships at exploration, production, refining centres and other petroleum installations;
  - e) expenses resulting from participation in seminars or conferences related with the petroleum industry;
  - f) appropriations allocated to the Agostinho Neto University , the Catholic University and the National Institute of Vocational Training;
  - g) appropriations allocated to the execution of development projects in higher education and vocational training, according to criteria to be laid down;
  - h) any other expenses related with training Angolan personnel in the petroleum field not specified in the above sections.
2. Whenever circumstances make it advisable to do so, the Ministry of Petroleum may award subsidies to educational establishments related with scientific and technical research within the national territory.

## **CHAPTER V**

### **Breaches and Fines**

#### **ARTICLE 15**

##### **(Breaches)**

The following constitute breaches of this statute:

- a) failure to enter into a programme contract with the Ministry of Petroleum, as laid down in Article 6(1);

- b) failure to present to the Ministry of Petroleum human resources development plans each year as specified in Article 7;
- c) failure to implement the human resources development plans approved by the Ministry of Petroleum, and also altering these without proper authorisation, as laid down in Article 8;
- d) failure to present to the Ministry of Petroleum the report on the implementation of the human resources development plans laid down in Article 9;
- e) failure by the operator to present the list of contracts referred to in Article 3(4) or failure to present a complete list;
- f) failure to give national personnel identical conditions to those of foreign personnel, in breach the provisions of Article 5;
- g) failure to pay the contributions referred to in Article 13(5) within the specified time;
- h) failure to present to the Ministry of Petroleum the statement specified in Article 13(6);
- i) hiring foreign personnel without authorisation from the Ministry of Petroleum, in breach of the provisions of Article 4(2);
- j) failure to send to the Ministry of Petroleum the list of foreign personnel already admitted, as provided by Article 4(4).

## **ARTICLE 16**

### **(Fines)**

1. The breaches specified in the previous article are punishable with the following fines:
  - a) the breach referred to in section (a) is punishable with a fine in national currency of an amount equivalent to 25% of the annual training contribution;
  - b) the breach referred to in section (b) is punishable with a fine in national currency of an amount equivalent to 20% of the annual training contribution;
  - c) the breach referred to in section (c) is punishable with a fine in national currency of an amount equivalent to 25% of the annual training contribution;
  - d) the breach referred to in section (d) is punishable with a fine in national currency of an amount equivalent to 10% of the annual training contribution;

- e) the breach referred to in section (e) is punishable with a fine in national currency of an amount equivalent to 10% of the annual training contribution and the immediate repatriation of the workers improperly engaged and the obligation to terminate their employment;
  - f) the breach referred to in section (f) is punishable with a fine in national currency of an amount equivalent to 2.5% of the annual training contribution and the immediate repatriation of the workers improperly engaged and the obligation to terminate their employment;
  - g) the breach referred to in section (g) is punishable with a fine in national currency of an amount equivalent to 10% of the annual training contribution;
  - h) the breach referred to in section (h) is punishable with a fine in national currency of an amount equivalent to 10% of the annual training contribution;
  - i) the breach referred to in section (i) is punishable with a fine in national currency of an amount equivalent to 25% of the annual training contribution;
  - j) the breach referred to in section (j) is punishable with a fine in national currency of an amount equivalent to 50% of the annual training contribution.
2. Repeat breaches will be punished with three times the fine specified for each breach.
  3. The fines specified in this article will be imposed by the Ministry of Petroleum and must be paid within 30 days from the date of their notification.
  4. Proceeds of fines will be applied as follows:
    - a) 50% to the General State Budget;
    - b) 50% to the Social Fund of the Ministry of Petroleum.
  5. Companies that contravene the provisions contained in sections (a), (b), (c), (d), (e), (f), (h) and (i) of Article 15.1 may not enter into new contracts related with the petroleum activity in Angola until such time as they fulfil the obligations to which the aforesaid breaches relate.

## **ARTICLE 17**

### **(Challenge)**

Decisions taken under the previous article may be challenged in accordance with current legislation.

## **CHAPTER VI**

### **Final and Transitional Provisions**

#### **ARTICLE 18**

##### **(Audit)**

Whenever it deems it necessary to do so, the Ministry of Petroleum may arrange for audits to be carried out of the companies and entities referred to in Article 3.

#### **ARTICLE 19**

##### **(Management Report)**

Each year the Ministry of Petroleum must publish in the third series of *Diário da República* a report on the management of the allocations made under Article 12.

#### **ARTICLE 20**

##### **(Costs of training and development of Angolan human resources)**

The costs of the obligations stated in Article 12 of this statute will be treated as allowances when calculating taxable revenue for corporation tax applicable to the companies subject to the regime specified in this decree-law.

#### **ARTICLE 21**

##### **(Database)**

The Ministry of Petroleum must set up a database of temporary national workers in order to allow their integration in future projects.

#### **ARTICLE 22**

##### **(Regulation)**

The Ministry of Petroleum must issue regulations for the implementation of this decree-law within 90 days.

#### **ARTICLE 23**

##### **(Doubts and lacunae)**

Any doubts and lacunae arising in the interpretation and enforcement of this statute will be resolved by the Council of Ministers.

## **ARTICLE 24**

### **(Repeal)**

All legislation contrary to the provisions of this decree-law is repealed, in particular Decree 20/82 of 17 April, Executive Decree 124/82, 125/82 both of 31 December, Article 26 of Decree 52/92 of 16 September, and also Decree 116/08 of 14 October.

## **ARTICLE 25**

### **(Entry into force)**

This decree-law comes into force on its publication date.

Seen and approved by the Council of Ministers in Luanda , on 28 January 2009.

The Prime Minister, *António Paulo Kassoma*.

Promulgated on 12 June 2009.

Its publication is ordered.

The President of the Republic, JOSÉ EDUARDO DOS SANTOS .