
COUNCIL OF MINISTERS

DECREE NO. 120/08

OF 22 DECEMBER

Decree 120/08:

Determines the rules governing access to onshore areas and the acquisition of land rights¹[1] for the purpose of the performance of petroleum operations on the territory of the Republic of Angola .

Whereas the performance of petroleum operations on the soil and in the subsoil of the national territory in internal contiguous waters in the territorial sea in the exclusive economic zone and on the continental shelf are regulated by Law 10/04 of 12 November the Petroleum Activities Law;

Whereas Law 9/04 of 9 November the Land Law lays down the general foundations of the legal regime governing land in original ownership of the State and also the land rights that may be constituted thereon and the general regime governing the constitution exercise transfer and extinguishment of those rights;

Whereas Decree 58/07 of 12 July approving the general regulations governing the concession of land²[2];

Whereas Article 28.1(c) of the Petroleum Activities Law grants licensees and the National Concessionaire the right to occupy with respect for law and existing rights areas necessary for the performance of work of petroleum operations prospecting and also on-site accommodation for personnel allocated to those operations;

Whereas for the performance of the petroleum operations in onshore areas there are competing rights to natural resources under the oversight of various State agencies and these also collide with the rights of individuals which require comprehensive and unified legislative treatment;

¹[1] *Direitos fundiários* defined in the Angolan Land Law as all types of rights relating to land in the regime of private ownership of the State held by individuals or corporations in private or public law - Translator

²[2] There is a verb missing in this sentence - Translator.

Whereas it is necessary to determine rules related with the granting of land rights for the performance of petroleum operations considered to be in the national interest in order to guarantee efficiency transparency impartiality rigour objectivity and justice for all interested parties;

Pursuant to the combined provisions of Article 112(d) and Article 113 both of the Constitutional Law the Government decrees as follows:

CHAPTER I

General Provisions

Article 1

(Object)

1. This decree determines the rules governing access to onshore areas and the acquisition of land rights for the purpose of the performance of petroleum operations on the territory of the Republic of Angola .
2. Access to land and the acquisition of rights to land in public and private ownership of the State and to land on which any type of land right has been constituted in favour of private individuals are subject to the provisions of this decree provided that the performance of petroleum operations is the intended aim under the Petroleum Activities Law.

ARTICLE 2

(Definitions)

Unless expressly provided otherwise for the purpose of this decree the words and expressions used herein will have the following meanings irrespective of whether they are used in the plural or singular:

1. *Development area* – the extent of the whole area within the area of a petroleum concession susceptible of petroleum production of a deposit or deposits identified in a commercial discovery.
2. *National Concessionaire* – the entity to which the State grants mineral rights.
3. *Lease agreement* – a contract entered into between the licensees or the National Concessionaire and the holder of the land rights for the acquisition of the right of access and use of land for the purpose of the performance of petroleum operations.

4. *Barter agreement* – a contract entered into between the National Concessionaire and the holder of land rights to land whereby the latter after prior authorisation by the competent authorities transfers to the National Concessionaire its rights in consideration for the transfer of its activity to land susceptible of similar use and of equal value or where this is not possible upon payment of a sum of compensation.
5. *Right of access and use* – the right to utilise land forming part of areas destined for the performance of petroleum operations under a prospecting licence concession statute or licence for the construction of oil pipelines gas pipelines or other facilities destined for petroleum exploration and production.
6. *Civil usufruct* – as defined in Article 38 of Law 9/04 of 9 November the Land Law.
7. *Customary usufruct* – as defined in Article 37 of Law 9/04 of 9 November the Land Law.
8. *Petroleum Activities Law* – Law 10/04 of 12 November.
9. *Territorial Management and Town Planning Law* – Law 3/04 of 25 June.
10. *Cultural Heritage Law* – Law 14/05 of 7 October.
11. *Land Law* – Law 9/04 of 9 November.
12. *Geological and Mining Activities Law* – Law 1/92 of 17 January.
13. *Licensee*: the entity to which a prospecting licence has been issued under Chapter IV of the Petroleum Activities Law.
14. *Petroleum operations* – the activities of petroleum prospecting exploration appraisal development and production carried out under the Petroleum Activities Law.
15. *Exploration period* – the period defined in the concession statute.
16. *Production period* – the period defined in the concession statute.
17. *Exploration* – the activities of prospecting drilling and well testing leading to the discovery of petroleum deposits.
18. *Prospecting* – the set of operations to be executed on land or at sea using geological geochemical or geophysical methods for the purpose of locating petroleum deposits exclusion of well drilling processing analysis and interpretation of data acquired in the respective surveys or the information available in the files of the Ministry of Petroleum or the National Concessionaire and also regional studies and

mapping leading to an appraisal and greater knowledge of the petroleum potential of the area.

19. *Land in private ownership of the State* – as defined in Article 28(b) of the Land Law.

20. *Land in public ownership of the State* – as defined in Article 28(b) of the Land Law.

21. *Holder of a land right*: the holder of any right to land whether legal or customary as provided in the Land Law.

ARTICLE 3

(General principles)

Access to onshore areas for the performance of petroleum operations will be governed by the following fundamental principles:

- a) prevalence of the public interest;
- b) safeguarding of national interests;
- c) fair consideration and resolution of conflicts between public interests involved;
- d) harmonisation of public and private interests;
- e) negotiation and conciliation;
- f) expropriation on the ground of public utility.

ARTICLE 4

(Prevalence of the public interest)

1. Petroleum deposits existing on the national territory form an integral part of the public ownership of the State.

2. In the case where the public interest of the State and private interests collide the public interest must prevail according to the terms defined in this decree.

ARTICLE 5

(Safeguarding national interests)

1. The performance of the petroleum operations must be conducted in such a way as to protect national interests with respect for defence security cultural heritage the environment shipping research and conservation of natural resources in particular living and non-living aquatic bioresources.

2. The National Concessionaire and the licensees owe obedience to any restrictions whatsoever on land rights imposed by the laws in force in particular in respect of:

- a) total and partial reserves the cultural architectural and archaeological heritage;
- b) requirements applied by the prior environmental impact assessment;
- c) rules or principles enshrined for the protection of the cultural heritage the erection and building of accommodation and installations and natural resources in particular living and non-living aquatic bioresources and the ecological structure.

ARTICLE 6

(Fair consideration and resolution of conflicts between the public interests involved)

In the case where there are competing public interests between the performance of petroleum operations and the performance of other activities the Government will decide which interest must prevail.

ARTICLE 7

(Harmonisation of public and private interests)

When granting rights for the performance of petroleum operations the competent agencies of the public administration must obey the principle of harmonisation of public and private interests involved in the territorial areas which are the object of the petroleum operations that contribute to the Country's social and economic development.

ARTICLE 8

(Negotiation and conciliation)

The acquisition of the right of access and use of land to which private persons hold title for the performance of petroleum operations must be made on the basis of the principle of negotiation and conciliation.

ARTICLE 9

(Expropriation on the ground of public utility)

Expropriation on the ground of public utility of onshore areas intended for the performance of petroleum operations may only take place in accordance with Law and in compliance with the principles of necessity proportionality equity non-discrimination pursuit of the public interest the hearing of interested parties and the exhaustion of all means of negotiation provided in this decree.

CHAPTER II

Cadastral Register

ARTICLE 10

(Right to prior information on the cadastral register)

1. The agencies of the public administration responsible for the organisation and keeping of the archives and the full cadastral register of onshore areas must upon request by the Ministry of Petroleum the National Concessionaire or companies interested in the performance of petroleum operations supply up-to-date information on the identification of each area not only in respect of its occupation but also in respect of the legal facts subject to registration.

2. In particular those agencies must supply information on the legal situation of the land forming part of areas in which it is intended to perform petroleum operations in particular:

- a) whether it is in public or private ownership of the State;
- b) land for which concessions or licences have been awarded for the exploitation of other natural resources;
- c) land for which territorial plans or equivalent instruments have been approved;
- d) land subject to total or partial reserve identifying existing restrictions and the extent of those restrictions;
- e) cultural heritage landscapes monuments and other protected areas;
- f) land in respect of which land rights have been awarded under Article 34 of the Land Law.

ARTICLE 11

(Identification of encumbrances and charges on land to be the object of petroleum operations)

1. Before a licence for prospecting is awarded or an invitation is made to tender for National Concessionaire associate status the Ministry of Petroleum and the National Concessionaire must identify and conduct a prior assessment of the

encumbrances and charges that lie on the land which is the object of the petroleum operations in order to ensure that the petroleum operations to be performed comply with existing territorial plans or equivalent instruments that may attach the land to other uses or purposes of territorial management.

2. The identification and prior assessment must relate to:

- a) the existence or otherwise of territorial plans pursuant to the Territorial Management Law and Decree 2/06 of 23 January approving the General Regulations governing Territorial Plans and Town and Country Plans;
- b) the existence or otherwise of wholly or partly reserved areas or other restrictions on the use and useful development of the land;
- c) the existence of cultural heritage monuments and protected areas under the Cultural Heritage Law;
- d) the social and population structure of the area;
- e) the identification of holders of land rights;
- f) the identification of mineral and other rights that require legal protection.

3. For the purposes of section (a) of the previous item the Ministry of Petroleum or the National Concessionaire must arrange diligently for the preparation of a case file including not by way of limitation the obtainment of land registry documents that prove or do not prove the holding of land rights in the area that is the object of the prospecting licence or petroleum concession.

4. The results of the evaluation of the social and population structure and the identification of holders of land rights must be updated both prior to the commencement of any petroleum operations of prospecting and exploration and prior to the commencement of the development and production phases.

5. The results of the inquiries relating to the social and population structure and identification of holders of land rights must comprise:

- a) the area of the petroleum prospecting licence or concession;
- b) other areas irrespective of whether they are under existing licences or concessions for which it is intended to obtain licences for the construction of oil or gas pipelines or other installations intended for petroleum exploration and production and the constitution of legal servitudes of passage and storage facilities;
- c) land adjacent to the petroleum installations and not situated within the concession area;
- d) areas which may potentially be jointly developed or unitised.

CHAPTER III

Coordination of Intervention

ARTICLE 12

(Conflict of public interests)

1. Before a prospecting licence is issued and a work plan for a petroleum concession is approved the Minister of Petroleum must consider whether the proposed petroleum operations are incompatible with other forms of land use in the public interest.
2. If the Minister considers that the petroleum operations are incompatible with aims or other uses of the public interest he must send his conclusions to the Interdepartmental Commission for Territorial Management and Town Planning set up under Law 3/04 of 25 June which will deliver its non-binding opinion to the Council of Ministers upon which it is incumbent to decide which activity will prevail.
3. If any rights should be disregarded by the decision of the Council of Ministers the holders of these will be entitled to appropriate compensation according to law.

ARTICLE 13

(Supervening mineral rights)

1. When other mineral rights are awarded subsequent to the grant of a prospecting licence or petroleum concession and the National Concessionaire considers that the petroleum operations may be jeopardised or that there is interference from those activities the National Concessionaire must immediately notify the Ministry of Petroleum and the holder of the other mineral rights in writing requesting the provisional suspension of the activity of the holder of the mineral right and this notice will serve as a sufficient instrument for the automatic suspension of that activity.
2. Following receipt of the National Concessionaire's request the Ministry must contact the holder of the mineral right and the Ministry exercising oversight of that right and must carry out an assessment of the nature of those activities which must be completed within 20 days following receipt of the notice from the Ministry.
3. If it is concluded that the mineral rights referred to above interfere with or jeopardise the petroleum operations the Ministry of Petroleum must request the ministry with oversight or the Council of Ministers as the case may be to order the suspension or extinguishment of the rights in relation to the areas that affect the petroleum operations in accordance with Article 80 of the Petroleum Activities Law.

ARTICLE 14

(Supervening land rights)

1. Whenever an interested party applies to the State for land rights in accordance with the Land Law in an area in respect of which a prospecting licence or petroleum concession has been granted only surface rights or a right of precarious occupation may be granted.

2. During the performance of the petroleum operations of prospecting and exploration the allocation of surface rights or rights of precarious occupation in accordance with the previous item will be without prejudice to the right of free access and right of way of the licensee the National Concessionaire or its associates to the allocated areas.

3. For the purposes of item 2 the instrument whereby the surface rights or rights of precarious occupation are granted must specify the content of the provisions of the previous item.

ARTICLE 15

(Conflicts with private interests)

1. Under Article 9 of the Petroleum Activities Law petroleum operations are not as a rule incompatible with prior or subsequent rights or uses on the same area.

2. In the case where the licensee or the National Concessionaire intends to perform petroleum operations on land in respect of which land rights have been granted to third parties it must notify the holders of those rights and other entities carrying on economic activities on the respective land specifying the use they intend to make of the land and the calendar for the petroleum operations to be performed.

3. The notice must also specify the date and place where the licensee or National Concessionaire is available to meet the holders of land rights and other interested entities.

4. If the addresses of the holders of land rights and other entities are unknown the licensee or National Concessionaire must publish the notice in the daily newspaper with the largest circulation in the area of the land in question for at least five consecutive days.

5. In any case the meeting must take place no earlier than 20 calendar days following the date on which the notice is first published.

6. In the event of non-appearance of any holder of land rights or other interested party at the meeting convened in accordance with this article the Ministry of Petroleum must appoint a negotiorum gestor to act for and on behalf of the holders of land rights or interested parties that failed to attend the meeting.

7. The negotiorum gestor appointed under the previous item must act in the interest of the holders of land rights or interested parties who did not attend the meeting and negotiate and sign the lease agreements and also receive the agreed compensation on behalf of the holders of land rights or interested parties.
8. The negotiorum gestor shall be liable pursuant to Article 466 and will render accounts pursuant to Article 465(c) both of the Civil Code.
9. During the meeting referred to in the previous items the licensee or the National Concessionaire must allow holders of land rights and other interested parties to express any concerns they may have regarding the use of the land for the performance of the petroleum operations or the calendar relating to that use.
10. The licensee or National Concessionaire acting in good faith must attempt to settle as soon as possible any conflicts between the intended use of the land and other uses of the land.
11. If any incompatibility with other intended uses of the land should come to light during the performance of the petroleum operations the licensee or National Concessionaire must notify the Ministry of Petroleum of that incompatibility and also of the extent and duration of the incompatible uses.
12. Following receipt of the notice from the licensee or National Concessionaire the Ministry of Petroleum must make an assessment to determine the degree and duration of the incompatibility and this must be completed within 20 days following receipt of the notice.
13. Save as provided in the following item if the Ministry should conclude that an incompatibility of rights exists which cannot be resolved by mutual agreement between the National Concessionaire and the holders of the rights and the other interested parties or by mediation according to the terms provided in this decree it may set in motion the procedure of expropriation on the ground of public utility in accordance with Article 27 of this decree.
14. The provisions of the previous item do not apply in the case where petroleum operations are performed on the basis of a prospecting licence or during the exploration period according to the terms of a concession statute in which case an administrative servitude must be constituted in accordance with Article 17.6 of this decree.
15. The provisions of the previous items do not apply where the conflict relates to holders of customary rights which is governed by Article 18 of this decree.

CHAPTER IV

Procedures for granting Land Rights for Petroleum Operations

ARTICLE 16

(Land in public ownership of the State)

1. The licensee and National Concessionaire have the right of access to land in public ownership of the State throughout the effective period of the prospecting licence or petroleum concession.

2. The access referred to in the previous item will be exercised in accordance with the legislation relating to the use of public property by private persons.

ARTICLE 17

(Land in private ownership of the State)

1. With respect to land in private ownership of the State in respect of which no land rights have been granted to third parties and on which it is intended to perform petroleum operations of prospecting and exploration the rights of the licensee or National Concessionaire must match the period of duration of the prospecting licence or with respect to the provisions of item 3 the exploration period.

2. Access to land in private ownership of the State will be exercised according to the land legislation in force in particular the Land Law and its regulations.

3. In relation to land in the private ownership of the State in respect of which no land rights have been granted to third parties and on which the National Concessionaire intends to perform petroleum operations of development and production civil usufruct may be granted to it with an effective period equal to the production period in development areas to be approved by the Ministry of Petroleum in accordance with Article 63 of the Petroleum Activities Law.

4. Any land rights that may be awarded to third parties in areas already covered by a prospecting licence or concession statute will be subject to the right of free access by the licensee or National Concessionaire.

5. Without prejudice to the provisions of the previous items the classification of land for industrial and petroleum facilities will be made in accordance with the Land Law.

6. In respect of land in private ownership of the State on which rights have been granted to third parties prior to the issue of a prospecting licence or concession statute the licensee or National Concessionaire must negotiate lease agreements with the holders thereof for access to and use of land for the duration of the prospecting licence or the exploration period without prejudice to the fact that if no agreement is reached between the interested parties an administrative servitude may be constituted.

7. In respect of land in private ownership of the State on which rights have been granted to third parties prior to the approval of the development and production plan by the Ministry of Petroleum in accordance with Article 63 of the Petroleum Activities Law the National Concessionaire must negotiate an agreement with the holders of the land rights for the use of the land for a period equal to the duration of the production period where it considers this to be necessary.

ARTICLE 18

(Land in customary usufruct)

1. Access by the licensee or National Concessionaire to land in customary usufruct in the case of prospecting licences or during the exploration period of petroleum concessions may only take place if there is mutual agreement with the competent traditional institutions and if no such agreement is reached the licensee or National Concessionaire may not submit the dispute to mediation or request an administrative servitude or the expropriation procedure.

2. If a development plan for the performance of petroleum operations of development and production on land in customary usufruct should be approved under a concession statute the National Concessionaire may negotiate the following with the competent traditional institutions:

- a) release of the community lands under Article 37 of the Land Law;
- b) voluntary vacation of land with the obligation to grant other land to the holders of the customary usufruct by entering into a barter agreement;
- c) where only indemnification is appropriate instead of barter of land the payment of adequate compensation proportional to the damages assessed by a committee consisting of representatives of the institutions of traditional power the local administrative authority and the National Concessionaire.

3. Failure to reach an agreement with the competent traditional institutions on access to land in customary usufruct for the performance of petroleum operations of development and production in accordance with the previous item does not grant the National Concessionaire the right to submit the dispute to mediation or to request an administrative servitude or the expropriation procedure.

4. Exceptionally in accordance with Article 37.5 of the Land Law the National Concessionaire may in the case of the performance of petroleum operations of development and production apply to the Government for release of these lands in the public interest and permission to implement the development plans offering the holders of the customary usufruct other lands in exchange.

5. Whenever any of the situations referred to in items 2 and 4 of this article arises the National Concessionaire may request a civil usufruct on the area in question for a period equal to the duration of the production period.

ARTICLE 19

(Hearing of interested parties)

1. With respect to the areas in which petroleum operations will be performed the licensee or National Concessionaire must before holding negotiations with the holders of land rights or where there are none before requesting that land rights be allocated to the competent entities submit an application to the Ministry of Petroleum requesting that the interested parties be heard at the location of the areas of the prospecting licence or the concession where the petroleum operations will be performed.

2. For the purposes of the previous item the following are deemed to be interested parties:

- a) the Ministry of Petroleum;
- b) the licensee or National Concessionaire;
- c) the petroleum concession operator;
- d) holders of the rights identified in Article 15 of this decree or their duly appointed representatives where these exist;
- e) the Provincial Government or Provincial Governments with jurisdiction over the areas in which the petroleum operations are performed;
- f) the municipal and communal administrative authorities with administrative powers over the areas where the petroleum operations will be performed;
- g) any entities of the Central Government with supervisory powers over territorial administration the environment agriculture and aquatic bioresources natural resources defence and security;
- h) local communities.

3. The purpose of hearing the interested parties is to:

- a) inform them about the petroleum operations to be performed in the respective territorial area;
- b) supply information about the potential socio-economic impact and also about potential benefits to local communities;
- c) listen to the concerns of the various interested parties and inform them about the procedures relating to the acquisition of rights to land.

4. The hearing of interested parties will only take place when the licensee or National Concessionaire has submitted to the Ministry of Petroleum and to the government department with oversight of territorial management and the environment a prior assessment of the socio-economic impact as an essential component of the administrative procedure of prior environmental assessment in accordance with the legislation governing Environmental Impact Assessments.
5. The Ministry of Petroleum must give notice to the other interested parties referred to in item 2 of this article 20 calendar days prior to the date of the meeting stating its date time venue and purpose.
6. Notice must be served where possible by:
 - a) publication in the daily newspaper with the largest circulation;
 - b) registered post;
 - c) in person.

ARTICLE 20

(Performance of petroleum operations)

The Ministry of Petroleum will ensure liaison among the various agencies of the central and local public administration with jurisdiction over the areas in which petroleum operations will be performed.

ARTICLE 21

(Third party rights)

1. The granting of prospecting licences or petroleum concessions will be without prejudice as a rule to the rights of enjoyment use and fruition of the holders of land rights or other rights in respect of the areas of the prospecting licence or petroleum concession except in respect of the part of the areas where the petroleum operations are performed.
2. Any litigation in progress between third parties relating to rights to the land where the petroleum operations are performed or their delimitation will not affect:
 - a) immediate access to the land;
 - b) the right of the licensee or National Concessionaire to be eligible for land rights;
 - c) the validity of the contract for acquisition of the right of use of land entered into in accordance with this decree.

ARTICLE 22

(Negotiation and content of the contract)

1. The licensee the National Concessionaire and holders of land rights and also the holders of other mineral rights must negotiate in good faith access to the land necessary for the performance of the petroleum operations.

2. The contract to be entered into between the licensee or the National Concessionaire and the holders of land rights and also holders of other rights must relate to the following matters among others:

- a) subject-matter of the contract;
- b) rights and duties of the parties;
- c) obligation of the licensee or National Concessionaire to give notice prior to entering the land or commencing the petroleum operations;
- d) obligations of the licensee or National Concessionaire in respect of the situation of the land and the maintenance of its qualities;
- e) obligation of the National Concessionaire to make arrangements for the removal of any structures or equipment it has installed on the land in the case of termination of the contract or to hand them over to the holder of the land rights;
- f) obligations relating to the maintenance of any camping sites or other installations on the land;
- g) restrictions on the hours during which work may be carried out and the type location and methods of work;
- h) obligations relating to the safety of the land and the fencing of areas not used by the licensee or National Concessionaire;
- i) any compensation receivable from the National Concessionaire;
- j) third party rights to the land that is the subject-matter of the contract;
- k) requirements relating to the storage and disposal of chemical or toxic substances and petroleum;
- l) requirements relating to the protection of the habitat of animal and marine life and sites of recreational scenic and ecological value;
- m) guarantees to be provided by the National Concessionaire in particular their type amount and the procedure for their provision;
- n) possibility of the assignment of rights and obligations under the contract by both the licensee or National Concessionaire and the holder of the land rights;
- o) penalties applicable in the case of breach of contractual obligations;

- p) amount of compensation due for the access right;
- q) effects of the contract when fulfilment of the obligations becomes impossible;
- r) grounds for the annulment and termination of the contract.

3. The licensee or National Concessionaire and the holder of land rights and also the holders of other mineral rights must reach an agreement within 90 days from the date of the notice given by the licensee or National Concessionaire for this purpose with which a draft contract must be sent.

4. If the parties do not reach an agreement within the time laid down in the previous item they must resort to mediation in accordance with this statute for the purpose of achieving a negotiated solution.

5. In the case of land in customary usufruct where there is an agreement with the competent traditional institutions the provisions of Article 18 of this decree shall apply.

CHAPTER V

Guarantees of Holders of Land Rights

ARTICLE 23

(Compensation)

1. In the case of land necessary for the performance of the petroleum operations holders of land rights or other real rights and also of legally protected interests constituted before the allocation of the prospecting licence or petroleum concession must receive from the licensee or National Concessionaire compensation for the constitution of the right of access or for the imposition of other restrictions on the land.

2. The compensation referred to in the previous item must be calculated on the basis of the following factors:

- a) the market value of the land to be occupied and where the payment of that amount does not consist of a single instalment the value of the following instalments and their adjustment for any increase or reduction in the market value of the land;
- b) adverse effects caused to adjacent land or land situated in the proximity of the land where the petroleum operations will be performed;
- c) damage caused by noise from the petroleum operations;
- d) possible reduction in the aesthetic value of the land;
- e) harm caused to plants fish and animals;

- f) damage to rights of way and servitudes;
- g) any difficulty with rehousing;
- h) any other damage resulting from the use or occupation of the land by the licensee or National Concessionaire.

3. In no case will the payment of any compensation be due on the basis of the petroleum or any other mineral existing in or extracted from the subsoil.

4. The Ministry of Petroleum must issue guidelines on the methods of calculating compensation related with the various activities comprised in the petroleum operations.

ARTICLE 24

(Indemnification)

1. Without prejudice to the payment of indemnification for any consequential damages that may be caused by the performance of the petroleum operations holders of land rights or other real rights and also of legally protected interests who constituted those rights and interests subsequent to the grant of a prospecting licence or petroleum concession will not be entitled to the compensation referred to in section 1(a) of the previous article.

2. In the case of the award of the right of access to land for the performance of petroleum operations of development and production holders of land rights and also the holders of other mineral rights that are in the situation referred to in the previous item will be entitled to be indemnified for the amount corresponding to the charges due to the State.

ARTICLE 25

(Assistance with resettlement)

If the allocation of other land to the holder of land rights or other real rights and also of legally protected interests where these were acquired prior to the grant of the prospecting licence or petroleum concession is agreed the National Concessionaire must provide support and assistance with resettlement under the terms of the barter agreement.

ARTICLE 26

(Mediation)

1. If the licensee or National Concessionaire and the holders of the rights or interests referred to in Article 23.1 do not reach an agreement on the compensation payable they may apply to the Minister of Petroleum within a maximum time of 15

days following the end of the negotiation period requesting that the dispute be referred to the mediation and conciliation panel which must consist of two mediators appointed by the Ombudsman from among persons with no direct or personal interest and with recognised competence to determine the amount payable.

2. The mediation sessions will be held on the dates at the times and at the venues agreed between the licensee or National Concessionaire the interested parties and the mediator an agreement must be reached on the date time and venue of the initial mediation meeting within five days from the date of appointment of the mediator.

3. Where the parties do not reach an agreement within the time limit referred to in the previous item the mediator will determine the date time and venue for the initial meeting which must be held within five days from the date of notification of failure to reach an agreement and this will constitute a final decision.

4. In the case where the parties in dispute do not reach an agreement at the first mediation meeting a further two meetings may be held and these must take place within 20 days following the date of the initial meeting.

5. Except in the case where the petroleum operations are performed on the basis of a prospecting licence or during the exploration period in accordance with the concession statute if no agreement is reached between the parties in dispute within the time limit referred to in the previous item it will be considered that amicable means for the resolution of the conflicts of interest have been exhausted and the National Concessionaire may request the Ministry of Petroleum to set in motion the administrative procedure of expropriation on the ground of public utility.

6. Without prejudice to the provisions of last part of the previous item in the case where amicable means for the resolution of the conflict of interest are exhausted the licensee or National Concessionaire may request that an administrative servitude be constituted.

ARTICLE 27

(Expropriation)

1. In the case where the State expropriates areas for the performance of petroleum operations in the situations provided in Article 15.10 and Article 26.6 of the said statute the procedures laid down by law must be complied with.

2. Expropriation must always be preceded by a declaration of public interest by the Council of Ministers and in any case it must respect the principles of equity non-discrimination pursuit of the public interest the hearing of interested parties necessity and the payment of fair adequate and prompt indemnification the amount of which will be calculated according to the Expropriation Law.

3. Any disputes arising in connection with the calculation of the amount of the indemnification must be settled by the courts and in no case may they have a suspensive effect on the performance of the petroleum operations.

CHAPTER VI

Final and Transitory Provisions

ARTICLE 28

(Construction of oil and gas pipelines and other installations intended for petroleum production)

Except in respect of the mineral rights of the National Concessionaire the regime provided for the National Concessionaire in accordance with this decree will apply to companies interested in the construction and operation of oil and gas pipelines and other installations intended for petroleum production.

ARTICLE 29

(Duty of communication)

1. The National Concessionaire or licensee entering into a lease agreement for access to and use of land must notify the holder of the land right of the date of commencement of the performance of the petroleum operations.

2. A minimum of 10 days in advance of the commencement of the performance of the petroleum operations the licensee or National Concessionaire must inform the holders of land rights or other real rights and also of legally protected interests regarding the details of the petroleum operations they intend to carry out in particular:

- a) a detailed description of the proposed petroleum operations and their estimated impact on the land;
- b) a description of the type of machines to be used;
- c) the expected maximum duration of the petroleum operations;
- d) whether existing roads and paths are to be used or the proposed location and methods for the construction of new roads or paths and the proposed dates on which such road building must take place;
- e) the type of explosives to be used where these should prove necessary;
- f) the number and type of vehicles it is intended to use including any helicopters;

g) in the case of seismic work the timetable and a map indicating the general directions which the seismic lines will follow or any changes that may prove necessary.

ARTICLE 30

(Transitory provision)

The rules laid down in this decree shall apply to prospecting licences and petroleum concessions already granted on the date of its entry into force.

ARTICLE 31

(Entry into force)

This Decree shall come into force on its publication date.

Seen and approved by the Council of Ministers at Luanda on 22 December 2008.

The Prime Minister *António Paulo Kassoma*.

Promulgated on 12 December 2008.

Its publication is ordered.

The President of the Republic JOSÉ EDUARDO DOS SANTOS
