

## LegalNews

### SPECIAL ECONOMIC ZONES

#### GABON SPECIAL ECONOMIC ZONES REGULATED

**Law No. 010/2011, of 18 July 2011**, regulates Special Economic Zones (*Zones Economiques à Régime Privilégié*, or ZERPs), which are specific areas within Gabonese customs territory in which at least 75% of industrial, commercial, and service activities are meant for export. ZERPs are to be created by Decrees setting out the nature of the activities that may be carried out and of the companies that may be incorporated therein. Companies wishing to establish themselves in a particular ZERP must apply for a permit from the administrative entity charged with overseeing it.

A company granted authorisation to operate inside a ZERP will notably have the following privileges:

1 – Tax incentives: Exemption from income tax for the 10-year period following the first sale made by the company, followed by a flat 10% rate for the next five years. These companies are also given 25-year exemptions from paying (i) VAT on sales made inside the ZERP or for export; (ii) withholding taxes; (iii) tax on dividends; (iv) land taxes; and (v) conveyance and registration taxes and duties, as well as capital gains tax on certain transactions.

2 – Customs privileges: Exemption from any customs duty for a 25-year period, applicable to the import of equipment, material, tools, intermediate goods, raw materials, office equipment and supplies, consumable goods, and spare parts. The export of products manufactured in the ZERP to outside of national customs territory is subject to a tax of up to 10% of the FOB. Rates and terms of this tax are to be established by Decree.

3 – Labour/welfare privileges: The recruitment of employees is subject to the Labour Code. However, where foreign nationals are employed to work in the ZERP, the procedure for obtaining visas and work permits will be simplified.

### INVESTMENT

#### PRIVATE EQUITY BUSINESS

**Decree No. 955/PR/MECIT, of 1 August 2011**, sets forth the conditions for pursuing private equity activities (PEA). A PEA is defined as the habitual holding of interests in other companies, whether quoted or unquoted. Private Equity Companies (PECs) must take the form of joint-stock companies with a minimum share capital of XAF 500,000,000. They must have their share capital fully paid up on incorporation, and they must locate their head office in Gabon. The incorporation of a PEC is subject to authorization from the Minister responsible for the Economy.

### MINING

#### NATIONAL MINING COMPANY CREATED

**Decree No. 1018/PR/MMPH, of 24 August 2011**, creates a national mining company, *Société Equatoriale des Mines*, or SEM, a State-owned corporation under the supervision of the Minister for Mines. The new company is responsible for holding and managing interests in mining companies on behalf of the state, as well as undertaking all mining related activities either in Gabon or abroad, whether independently

or otherwise. It is responsible in particular for developing and exploiting mining titles, improving geological and mining knowledge in Gabon, developing small mining enterprises, the local transformation of mineral substances, and trading on precious minerals and metals.

## DATA PROTECTION

### DATA PROTECTION WITH NEW RULES

**Law No. 001/2011, of 25 September 2011**, establishes a legal framework for the protection of personal data in Gabon. This law aims at regulating the collection, use, transfer, storage, and other forms of processing information relating to private individuals in Gabon in order to avoid invasions of privacy. Among the new duties created for parties wishing to process this type of data, the use of personal information now requires a prior notification to be filed with the National Personal Data Protection Commission (*Commission Nationale de la Protection de Données à Caractère Personnel*, or CNPDCP). Certain types of data and processing, however, will require the express prior authorization of the CNPDCP. Failure to comply with the terms set forth in this new legal framework may entail criminal liability, as well as the application of administrative penalties.

## TELECOM AND POST

### CREATION OF A REGULATORY AGENCY FOR ELECTRONIC COMMUNICATIONS AND THE POSTAL SYSTEM

**Decree No. 01106/PR/MT, of 30 September 2011**, provides for the creation of the Regulatory Agency for Electronic Communications and the Postal System (*Agence de Régulation des Communications Electroniques et de Postes*, or ARCEP). ARCEP is an independent administrative entity that replaces the former Gabonese agencies in charge of these areas. In addition to the powers attributed to these former agencies, ARCEP notably has authority over:

- Preventing and penalizing anti-competitive practices;
- Protecting the interests of consumers;
- Ensuring that operators respect the rules regarding permits, authorizations, and duties, as well as enforcing penalties against offenders; and
- Issuing opinions on share transfers and sales between operators, and preventing hidden transfers of permits that may arise from these operations.