

It's all about growth and presence in Africa, say In-House Counsel

Africa has had five percent growth in recent years, and by 2050, it is predicted to surpass Asia in terms of growth. While challenges exist, they are far outweighed by opportunities

Recent years have seen Africa emerge as a leading source of natural resources, with countries across the world utilising its raw materials to power their economies. Fiercest competition at the moment is in hydrocarbons, but here has also been a surge in growth in domestic consumer markets.

These opportunities were the focus of Iberian Lawyer's Annual Agenda Africa Forum 2013 recently held at Chatham House, London, sponsored by AVM Advogados, Cuatrecasas Gonçalves Pereira, F Castelo Branco & Associados, Miranda and Vieira de Almeida.

Local law firms are benefitting enormously from these economic developments, said participants, with law firms experiencing unparalleled speeds of growth. "This is also attracting huge interest from global law firms keen to partner with them," says Steve Blundell, a Principal at KermaPartners, global law firm consultants, "but for local firms there is the worry that their high value work will subsequently be repatriated to London or New York."

Unfortunately, local law firms don't yet have the ability to provide In-House Counsel with the right solutions in West Africa, according to Juan A de Rueda Gamboa, Legal & Compliance Director at the Equatorial Coca-Cola Bottling Company. "We are finding a lack of high level legal skills and difficulties in finding law firms that can provide overall support through the continent."

Participants agreed that global firms are demonstrating a willingness to offer expertise knowledge and capabilities to local firms, but are surprised they are not, as yet, taking advantage. "Prominent law firms in Africa would do well to look at other parts of the world to see what's happened when markets liberalise – the main beneficiaries are members of the domestic legal profession," says Stephen Denyer, Global Markets Partner at Allen & Overy. And the feeling among participants was that local law firms would benefit a lot by learning from the experience of global law firms when it comes to assisting international clients.

Open for business?

New legislation, such as the Foreign Exchange Law and the Private Investment Law, is serving to elevate Angola into the modern world and encouraging inbound investment, in particular in the oil, gas and petroleum sectors.

Reforms have given businesses a greater ability to compete within their own domestic market, says Pedro Guimarães, F Castelo Branco. "And the law specifically targets an increase of investment in Angola as a result of more funding having to be made through the country itself."

However, there is a tendency among law firms to focus solely on such inbound investment, says Jeremy Connick, a Partner at Clifford Chance in London and Co-Head of the firm's Africa focus group. "But we are now seeing an increasing number of opportunities to represent clients on outward investment, which demonstrates the strength of the economy and its domestic companies."

There is also huge effort by the Government to increase the overall industrial potential of the country,

and consequently a unique opportunity for law firms to help their clients structure entities to deal with increasing foreign investments. Some question whether the Angolan banking system can cope with this. Most of the banks adapting and adjusting to it, says António Vicente Marques, Founding Partner of AVM Advogados, and are creating systems and teams to respond, and the Angola Central Bank has been working closely with local banks to ensure they are fully prepared.

The quiet success story

In Mozambique, an interesting recent development has been the 'Mega Project' legislation, Nuno Cabeçadas, a Partner at Miranda. "For many years the perception has been that big projects created no real local benefits, but this new framework has created the conditions for mandatory local participation in new projects and seeks to maximise and enhance the country's benefits from the exploration of its natural resources, as well as from the development of large scale industrial and infrastructure projects."

In terms of projects and infrastructure, there is huge potential for the next decade, due namely to the sustained demand for coal from, for example, India, China and Brazil, and the recent discoveries of natural gas and potential oil discoveries in the same region, explains Tiago Ferreira de Matos, Legal Counsel at Odebrecht. The Government has also embarked on an ambitious investment programme for infrastructure including transport, in particular the roads, railways and ports. Such investments are a key part of the solution for the country's infrastructure bottlenecks affecting Mozambique's current export capacity.

The big issue is how all of this is going to be financed. Until recently this lay with conventional sources, such as development aid for capital investments and the private sector (sponsors). But current sources of funding are either insufficient or overly restrictive to close the infrastructure gap, says Paulo de Barros Baptista, an Infrastructures Partner at Vieira de Almeida. But there is no need to invent new or exotic mechanisms or contractual structures to attract financiers, he says, rather look worldwide at already tested methods, like project finance and ring-fencing technology, which may be replicated and accepted under Mozambique law. "From the financier's perspective, the legal and contractual risk, in terms of potential unsuitability of standardised and previously tested contractual structures, can virtually be neglected."

Human capital

One of the main obstacles to growth in Angola and Mozambique, participants concluded, is the lack of skilled and qualified lawyers. Many Portuguese law firms with offices in Angola, for example, send their Angolan lawyers to Portugal to train. Others say that they cannot match the competitive packages that big multinational companies offer the best so they are losing out on talent.

There is 'quantity' when it comes to Universities, but not the 'quality', they say. As the local legal markets are tightening up to the entrance of foreign lawyers, law firms



A.M. Moura

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own litigation and arbitration boutique. An expanding arbitration practice, however, as both an arbitrator and as counsel has presented increasing conflicts and too many missed opportunities, he says.

The changed economic environment, therefore, is presenting a unique opportunity for a new firm model, believes Almoguera – one that is more flexible and personal, and offers the chance to develop a more creative practice which, he says, is increasingly difficult to achieve in a larger firm.

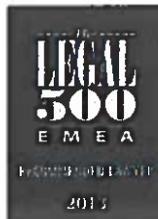
"I see a growing demand from certain clients (some quite big and sophisticated) for external counsel to better understand their specific business need and to respond in a very clear way. A smaller structure offers me the chance to do that, to be less fixated on billing and collections, to be more flexible and actually to be a lawyer rather than a businessman or a manager."

For some this reflects the way in which UK firms are currently reviewing their strategies and making some difficult decisions.

As difficult market conditions continue, where the next departures will come from nobody knows, but there is no doubt, say lawyers, that we will see more in the coming months. The question, however, is whether they will be voluntary or obligatory.

Adelaide Moura leads the tax practice at A.M. Moura Advogados, RL, and advises on compliance, tax planning and restructuring.

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will need to have more and more local lawyers in place, says Rui Mayer, former General Counsel at Galp Energia and who has recently joined Cuatrecasas, Gonçalves Pereira as a Partner. "African universities will therefore need to improve to ensure that human capital requirements develop alongside the level of growth in the markets."

The way forward

Participants heard that the energy sector has huge potential for sources of work and wealth creation across Africa. And the tightening up of the markets to ensure that both Angola and Mozambique benefit from the exploration of their natural resources should be seen as a huge step forwards in

the development of their economies.

The respective Governments are working on development strategies at full speed, and while it presents challenges for law firms and clients alike, participants agree that this is no bad thing.

The parting message, however, is that law firms and their clients can no longer view Africa as somewhere to which they can fly in, do the deal and fly out again. You now need to invest into the countries themselves rather than just on a deal-by-deal basis, and have big pockets and bags of patience, as the pace of development is much slower. Times have changed, and it's all about on the ground, and in-country presence.



Left to right: Nguzi Azu and Juan Carlos Machuca Sigüero



Left to right: Pedro Guimarães, Cláudia Santos Cruz and André de Sousa Vieira



Paulo de Barros Baptista



Jeremy Connick



Francisco Simão



Left to right: Rui Mayer, Keith Hughes, António Vicente Marques and Nuno Antunes

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