Southern values

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BRAZIL BLOG: Brazilian companies are spreading ever more across the African continent, taking their law firms with them. Clare Bolton takes a look at what some firms are doing to take advantage

South African winemakers see Brazil as a huge opportunity *(Credit: flickr/JRParkes)*

The appearance of more South African wines in Brazilian supermarkets, and guaraná-based drinks in shops in Mozambique, is one sign of the growing trade between Brazil and the emerging markets of the African continent. Mega-projects by Brazil's multilatinas have been going on for years – in 2009, for example, Vale, Odebrecht and Camargo Corrêa began construction of a US$1.3 billion coal mining project in northern Mozambique, and all three companies have investments worth billions, subsidiaries and indeed in-house teams throughout Africa.

However, according to figures published by the Brazilian ministry of industry and commerce (MDIC), trade between Brazil and Africa is a paltry US$27.7 billion this year. Figures by UNCTAD show that direct investment by Brazil in Africa in 2008 (the latest year available) was a measly US$82 million. That is quite some gap between the official figures and the seeming reality.

The gap may be hard to measure but is easily explained, says Luis Salles of Barretto Ferreira, Kujawski e Brancher Advogados, who notes that while "a lack of international accords is one of Brazil's traits," that has not stopped Brazil's companies taking full advantage of the international BIT system. "[Our lack of BITs] doesn't automatically affect the legal security of investments, as Brazilian companies structure their business through countries which do have these accords," he says. Petrobras's investments in Africa are structured through Holland; Vale's, through Geneva – where the Brazilian community is thriving and recruitment agents report a significant demand for Brazilian lawyers.

BKBG is one law firm which has friendships with Angolan, Mozambican and South African law firms, betting on the future growth of the south-south business relationship. Says senior partner Ricardo Barretto: "Our investment in the relationship with African firms is aimed at increasing and developing business opportunities between the two, since the market will grow and we need to be prepared to offer our clients legal work on both sides of the Atlantic." Of course, they are not alone: Vieira, Rezende, Barbosa e Guerreiro Advogados also has an alliance with an Angolan firm, and Siqueira Castro Advogados has an outpost in Luanda (alongside many other examples in the marketplace).

It is excellent business, says Alex Chequer of Tauil & Chequer - affiliated with Mayer Brown LLP, who works extensively for Angolan state oil company Sonangol, as well as for BP, Maersk and others in the country, alongside other client work in Mozambique, Nigeria and elsewhere. "Given the state of development in Africa, there are a lot of opportunities – there will be a lot of privatisation, of creation of new markets, of infrastructure projects."

On their side, African firms are heavily promoting both themselves and their countries, judging that Brazil will only be a growing source of business. Of course, to talk sweepingly about the African continent is as faulty as assuming that Mexico and Argentina are more or less the same – and while some African countries are seeing a resources boom, in others, Brazilian clients are being seen as the antidote to a global economic crisis which is having severe local effects. Emile Myburgh has his own firm in South Africa, and says that since the start of his country's recession in 2008, the country has lost one million jobs. "Our future depends on business with the South – and Brazil has a fundamental role to play in that," he says. South Arica's common law system and liberal regulation, he adds, make it a good base for foreign companies wishing to explore Africa, pointing to Brazilian examples like Marcopolo and Brasil Foods.

The growth in trade is equally excellent news for the crisis-hit Iberian firms, says João Mattamouros, a Portuguese partner of Cuatrecasas, Gonçalves Pereira based in São Paulo. He jokes that his European partners who visit Brazil are welcomed, but when his partners from the Angola and Mozambique offices visit, the red carpet is really rolled out by the local legal community. Clearly the legal and linguistic links between Portugal and its ex-colonies are now proving of use to a former ruler facing troubled times, and Portuguese firms are well placed to assist in the growth seen in former colonies on both sides of the Atlantic. "Private investment has a fundamental role to play in the development of Angola, and so it has established a regime which promotes and incentivises that investment, to achieve sustained and sustainable growth over the next few years," he says.

Mozambique has too, notes Taciana Deão Lopes of Conto, Graça e Associados in Maputo. "There are tax benefits given, as the government wants private investment, both for natural resources and in sectors like infrastructure, tourism, real estate and more," she says. "For example, there are significant agribusiness opportunities – we have 36 million hectares, only five million of which are actually exploited."

Indeed, moving beyond natural resources and infrastructure is the next frontier for Brazilian companies, notes BKBG's Salles. "There are certainly fewer Brazilian companies in the consumer services industries in Africa (although Weg and Marcopolo are there, for example), but there is huge consumer potential," he notes. "It is definitely more risky, but the opportunities are significant."

In taking advantage of these opportunities, Brazilian firms are in stronger position that their US and UK rivals bidding for the same work, thinks Alex Chequer: "Our experience in dealing with bureaucracy gives us an advantage over our US and UK competitors," he notes. "Brazil is a good school for African work."

Indeed, Brazilian firms have so far shown themselves uninterested in reaching out across their own continent to provide a more internationalised service – while bar rules are of course quite the hindrance here, many managing partners of Brazilian firms say they are busy enough on home turf not to want or need offices in neighbouring countries. However, their competitive advantage, and the lower quality of domestic legal advice, in Africa could open up a new field of opportunity, particularly as Brazil's growth slows. Similarly, with very strong links between the Portuguese bar and the Brazilian one, perhaps Brazilian law firms could follow the example set by their BIT-seeking clients, and route their business through another jurisdiction. It could be an excellent value proposition.

Comments

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