

SPECIAL FOCUS: AFRICA 2017: SEEKING NEW MARKETS

Posted on 17/05/2017



Category: [Uncategorized](#)



Though their main focus has traditionally been on oil-related work in lusophone Africa, Portuguese law firms are beginning to strengthen their African corporate restructuring and litigation practices – opportunities are also emerging in francophone Africa, but these may be short-lived

While Angola and Mozambique have suffered downturns in their economies due to falling oil prices, alternative sources of revenue have emerged for law firms. Portuguese lawyers with expertise in African markets highlight, for example, a rise in corporate restructuring work as well as an increase in contentious matters. Throw in the return of some significant infrastructure work – particularly in the energy sector – and the picture is not looking quite as bleak for law firms operating in Africa as some may have thought. In addition, lawyers also cite new opportunities in countries such as Gabon, Congo, the DRC, Cameroon and Ivory Coast as reasons for further optimism. However, some lawyers

warn that any success Portuguese law firms experience in the Francophone/Central Africa region will be short-lived.

Opportunities for Portuguese law firms have been bolstered by the fact that oil-rich Angola is now making significant investments in Portugal, creating an in-bound flow of capital to the former colonial power – a scenario that proved to be particularly beneficial to Portugal during a period in which it was mired in, and then emerged from, the euro-debt crisis.

Angola is the only African country in which outbound investment surpasses the amount of inbound capital – the country's investment in Portugal alone totalled €1.5 billion in 2014, according to figures from the Bank of Portugal. And the two countries' relationship is symbiotic, with affluent Angolans travelling to Portugal for tourism and shopping, while Portuguese workers, keen to escape the unemployment and austerity back home, head for Angola to take advantage of job opportunities as the southern African nation invests in infrastructure projects.

“ Foreign exchange policies aimed at reducing the use of dollars in the economy have had a huge impact. ”
Bruno Xavier de Pina
PLMJ



The level of Portuguese investment in Angola remains significant, while in addition, it is Portugal's fourth-largest export market, with sales of around €3 billion per year.

According to Francisco Ferraz de Carvalho, partner and head of banking and projects at Linklaters in Lisbon, and a member of the firm's Africa desk and global infrastructure and energy

group, there have been significant differences in the way individual markets in Africa have behaved during the past year. However, he adds that there are still notable opportunities for Portuguese law firms in the Lusophone markets. Taking Mozambique as an example, he says that the political and economic outlook is now better than it was six months ago.

Avoiding duplication

Ferraz de Carvalho says that among the challenges facing law firms active in Angola and Mozambique, for example, is the need to have a detailed understanding of the markets their clients seek to invest in. By way of example, Ferraz de Carvalho argues that, the fact that a company has a presence in one African country does not mean they will have the necessary understanding of the dynamics of another country, even a neighbouring one. With regard to the input of Portuguese law firms in such markets, he argues that, given the sophistication of the Portuguese legal market, Lisbon law firms are able to add significant value to transactions in countries in Lusophone Africa. “The challenge for Portuguese firms is to find the right model, that is, how to combine their offering with international and local firms, and without creating inefficiencies and duplication,” Ferraz de Carvalho says. “It is not easy, and clients are not always keen on having a multitude of law firms advising them.” However, Ferraz de Carvalho says he expects African markets to continue to grow. “There will be more intra-African trade and investment, and more African consumer-related transactions in the future,” he adds.

Despite the economic downturn affecting Angola and Mozambique – due to the decline in oil and commodities prices – law firms have largely managed to maintain a regular and stable flow of business. Rui Amendoeira, partner at VdA Vieira de Almeida in Lisbon, claims his firm's Africa practice recorded its strongest-ever growth rate in 2016. He adds that corporate restructuring and litigation-related work is expected to remain a major focus for the foreseeable future, while a rebound of activity in connection with infrastructure projects – especially in power generation and electrification – is also anticipated. With particular reference to Angola, oil firms and their subcontractors are expected to remain major purchasers of legal services in the coming years as they embark on new development projects.



“ There will be more intra-African trade and investment, and more African consumer-related transactions in the future. ”
Francisco Ferraz de Carvalho
Linklaters

Sharing risk

Amendoeira says he observes a trend for clients to demand alternative billing arrangements in which law firms are asked to “share some of client’s risk of operating in these markets”. He adds that this “forces firms to pay more attention to their fixed cost structure and to manage projects more efficiently”.

While the lusophone countries are the main focus for Portuguese firms operating in Africa, a number of countries in the francophone/Central Africa region are emerging as interesting market opportunities for Portuguese firms, namely Gabon, Congo, the DRC, Cameroon and Ivory Coast. However, Amendoeira identifies two main challenges for clients operating in African markets: a lack of sufficiently skilled human resources, and a limited pool of reliable local partners. Some lawyers say that, when it comes to doing business in African markets, having a local partner is advisable, and even mandatory, in some circumstances and that the lack of such a partner is a key reason why many foreign investments in such markets fail.



“Competition is noticeable in many aspects besides price – it is also noticeable in communication, cross-selling, local resources, and IT capacity.”

Nelson Raposo Bernardo
Raposo Bernardo

World leader in energy?

Many multinationals see Mozambique, in particular, as a land of opportunity given its mineral resources and associated activities. Miguel Spínola, partner at PLMJ and head of the firm’s Mozambique desk says the country is “making huge strides towards becoming one of the world’s principal energy suppliers”. He adds

that, meanwhile, the country’s agriculture, construction and public works, transport, communication and tourism sectors continue to grow.

Meanwhile, with regard to the Angolan market, law firms are reporting an increase in M&A activity related to restructuring projects, which is creating opportunities to advise the entities providing finance – similarly law firms are advising institutions financing infrastructure and agriculture projects in the country.

Spinola also sees Ghana as a market offering potential for law firms, given its political stability as well as the fact it is attracting investors operating in sectors that Portuguese law firms know well, such as construction and tourism. Meanwhile, Guinea-Bissau and São Tomé and Príncipe are also markets that are becoming more attractive to foreign investors, lawyers say.

Lack of labour

A shortage of human resources is a major challenge in some African countries for law firms and their clients, according to Spínola. He explains that this is due to immigration rules that place limits on foreign workers. Meanwhile, investors also have to deal with infrastructure-related problems that impact on both power and the supply chain, as well as an abundance of ‘red tape’. “An accurate assessment of the country risk is definitely one of the challenges,” Spínola argues. “Clients need to allocate additional resources to the planning of the most critical items of an investment in Africa, such as the foreign exchange environment, as well as the well-known written and non-written local content rules.”

The judicial systems in African countries also represent a significant obstacle for clients, according to Spínola. He says: “One of the biggest challenges for international law firms is to ensure they provide their international clients with effective support on the ground and with in-depth local knowledge of local law and local practices and customs.”

The competition among law firms in African jurisdictions is intensifying, according to Nelson Raposo Bernardo, managing partner at Raposo Bernardo. He adds that this competition takes place in relation to many aspects of legal services, not just fees. “Competition is becoming noticeable in many aspects besides price – it is also noticeable in communication, cross-selling, local resources, IT capacity and the ability to offer new fee models of fees involving risk-sharing with clients,”

Bernardo explains.

“Mozambique is making huge strides towards becoming one of the world’s principal energy suppliers”
Miguel Spínola
PLMJ



Time limit

What may be of concern is Bernardo's prediction that any success Portuguese law firms have in francophone, or even anglophone, markets will be short-lived. “Any presence in other francophone or anglophone African countries can be related to medium-term projects, usually supported by some large oil and gas customers, but I do not think of them as projects that can survive in the long term, especially when we begin to feel the competition of law firms that have the same culture or a historical link,” he says. “It is easy to understand that a large French law firm will be much more successful in a francophone African country than a Portuguese law firm – and the same in African countries with an anglophone or even Spanish influence – it will be a matter of time until the historical past, the connections of dozens of years in business, and often family connections, will eventually prevail.”