Special report

Angola/Mozambique

Power lions

There's plenty of work in resources-rich Angola and Mozambique but non-domestic lawyers and investors find it hard to get a piece of the action

Christian Metcalfe

As two of the world's fastest growing economies and driven by a wealth of natural resources, both Angola and Mozambique are booming, but not everyone is invited to the party. In a bid to protect the local players, foreign investors and lawyers face restrictions.

Angola has been a player in the global energy market since the 1970s. It is on track to produce 2 million barrels of oil a day by 2015 and in August it sent its third shipment of liquefied natural gas (LNG) to South East Asia after the first two went to Brazil and China.

Fellow Lusophone country Mozambique has come later to its resources, having discovered a major offshore gas field in the Rovuma basin in 2011 to add to one of the world's largest unexploited inland coal fields.

The gas is thought to be worth $350bn (£233bn), while projections are that from 2015 the country could produce 100 million tonnes of coal a year, putting it just outside the world's top 10.

International interests

Clearly, the main source of work for lawyers, both local and foreign, is energy and natural resources, and the huge amount of infrastructure work needed to support their exploitation and transportation.

However, infrastructure work is not confined to these sectors. In Mozambique an international airport is being built, mainly funded by an $80m loan from the Brazilian development bank – part of a $300m credit line from the Brazilian government.

China Road and Bridge Corporation is building a ring road around the capital Maputo that will link the country's main north-south highway to the Maputo-South Africa motorway. The Chinese government has been pledged $300m and is also funding a bridge spanning the bay at Maputo at a cost of $725m.

"Norway is working with Mozambique to share expertise on creating funds to generate stable growth"
Miguel Spínola

India is also taking financial positions in the resources sector, with oil explorer Oil and Natural Gas Corporation agreeing last month a deal to pay Anadarko Petroleum $2.6bn for a 10 per cent stake in an offshore gas field, and investing heavily in rail, road, housing and water supply projects.

Apart from these projects being financed by foreign governments, many infrastructure projects are going ahead as a result of concessions required from those exploiting natural resources.

"There are a lot of obligations on investors to build hospitals, schools and roads, particularly under mining contracts," says SCAN Advogados & Consultores founding partner Francisco Avillez.

Another issue is how to ensure Mozambique faces a future more like Norway than Nigeria. Both countries made major oil finds in the 1960s. Today, Norway exports six times more energy than it consumes, has a sovereign wealth fund worth 40 per cent more than its entire economy and, per capita, is one of the richest countries in the world.

Nigeria, by contrast, still imports energy and at least $400bn of oil revenue is thought to have been stolen or misspent since independence in 1960. Many inhabitants live on less than $1 a day.

"Norway is co-operating with the Mozambique government to share expertise on how it can create funds to generate stable growth," says Miguel Spínola, a senior associate at Portuguese firm PLMJ, which has an association with Gabinete Legale Moçambique.

Rules of the game

In Angola, where there have been similar moves to ensure such obligations are met, Miranda Correia Amendoeira & Associados managing partner Rui Amendoeira says requirements of sub-contractors in the oil industry have become "more complex as there are more legal obligations for them to comply with. Our work for them has increased enormously".

Beyond energy and natural resources in Mozambique there are many sectors showing growth.

"Agriculture and agro-industry, hotels and tourism, fisheries and aquaculture, transport and communications, banking and insurance, public works and construction, services and power generation – these are the most thriving economic sectors," enthuse Fabrícia de Almeida Henriques and Paula Duarte Rocha of Mozambique Legal Circle Advogados (MLC Advogados).

In brief

Angola and Mozambique are riding high on energy and natural resources, but legislative changes in the countries can be clunky and cumbersome.

"Agriculture and banking are among the most thriving economic sectors"
Paula Duarte Rocha


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"Mining is certainly dragging up the other sectors," agrees Couto Graça and Associates partner Telmo Ferreira.

The reliance on foreign investment is clear.

"At least 80 per cent of investments in this country originate from foreign inflows of funds," says Pedro Pais de Almeida, partner and co-head of Abreu Advogados' Mozambique desk.

While Angola has a less developed economy outside the resources sector, there have been recent developments.

"In 2004, 90 per cent of our work was related to oil and gas, but nowadays it's completely different," says PLMJ senior associate Bruno Xavier de Pina, who works on the firm's Africa desk. "There are lots of other sectors of activity growing up and a lot of companies are being attracted to these sectors to service the needs of the population."

"Recently graduated lawyers lack the skills to meet the Mozambican market's demands"
Fabrícia de Almeida Henriques

"Sectors that signal an increase in the quality of life are rising; consumer goods, healthcare, pharmaceutical, technology, telecommunications, for example," says Raposo Bernardo partner Sofia Ferreira Enriquez, who has also seen an increase in the number of M&A transactions around these sectors. "If larger companies were previously virtually all state-controlled, currently we can see private companies with the necessary size and capacity to awaken the interest of international operators. They're being targeted for acquisition."

Split decision

However, while the Angolan government sees diversification of the economy as a priority it also faces a challenge.

"It is deeply concerned about the competition between foreigners and domestic entrepreneurs," adds de Pina. "On the one hand it's trying to attract foreign investment and on the other it's trying to create legislation to protect local entrepreneurs in a movement they call 'Angolanisation'."

This process is reflected, for example, in labour laws requiring foreign companies established in Angola to have 70 per cent of their workforce from Angola.

The importance of local representation in projects cannot be underestimated, as can be seen in the amount of joint venture work – "a source of business for us over the past three or four years", says Amendoeira.

He adds that there is "enormous pressure" on foreign clients.

"Years ago foreign clients could exist in a bubble isolated from the rest of the economy," Amendoeira says. "That's increasingly difficult. They have to set up offices in Luanda, find Angolan employees and have Angolan partners. As a result there have been marriages, divorces and remarriages in business partnerships. We have clients on partners number three, four or five because the mortality rate of some of these joint ventures is high."

But when they break down there is seldom recourse to litigation.

"It would be a worse nightmare for a foreign company to litigate in an Angolan court – better just to write a cheque, turn a page and move on," adds Amendoeira.

And even in situations where finding a local partner is not mandatory investors still look for one.

"It isn't easy to find a suitable local partner, but when one is found it can be useful and effective in a tough market like Angola," advises Amendoeira. "If you can find a suitable one it's a good asset."

Local difficulties

Finding a good local partner is a policy that has been successfully pursued by Portuguese law firms entering the Angola and Mozambique markets – markets that are still tiny by international standards, and present many challenges.

As with restrictions on foreigners operating in key economic sectors there are restrictions on foreign lawyers operating in the countries. But in all sectors there is a lack of suitably qualified local employees.

"It's not only lawyers needed in Mozambique but also technicians, accountants, engineers – everything," says Ferreira Enriquez.

Discussing the reasoning behind the founding of MLC Advogados in 2012 Henriques and Rocha explain: "Needs that have arisen in the

"Private companies are being targeted for acquisition"
Sofia Ferreira Enriquez

"80 per cent of investment is originated from foreign inflows of funds"
Pedro Pais de Almeida

Mozambican market demand synergies between a deep knowledge of the specifics of the market that only Mozambican lawyers can provide and a level of expertise and specialisation still not common in Mozambican legal practice."

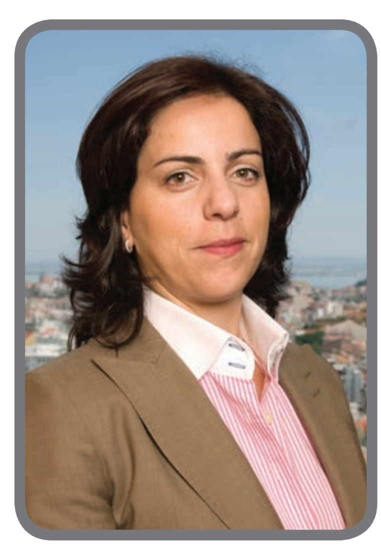
One lawyer describes the local recruitment market as "a scramble for talent. The local bar associations are more focused on restricting than improving capacity – there are only a limited number of lawyers and an even more limited number who can advise at an international level".

"Firms can't work without two junior lawyers for two months – there is too much work," says Avillez, discussing the difficulty of sending lawyers to international firms to receive training.

While there are now five universities in Mozambique producing 100 law graduates each year it is difficult for local firms to compete for talent, and as Henriques and Rocha note, "recently graduated lawyers and consultants lack the skills and expertise to meet the Mozambican market's demands".

Avillez adds: "It's like soccer – the other firms are Chelsea, so they buy the players while we train them, but here there's no transfer fee."

It is a problem for many firms

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operating in the markets. For PLMJ, through its association with Gabinete Legale Angola, providing a full-service offering is crucial.

"We have to be sure that the team will be there to assist clients on a daily basis and that's not easy to achieve," says de Pina. "We spend a lot of time recruiting but once we train them there's a huge risk of them being attracted by another institution – typically an oil or gas company, or a bank – that can supply fringe benefits."

Every year Miranda loses one or two lawyers in such a way, according to Amendoeira. He adds that recruiting and retaining staff is "our number one challenge".

It is a view echoed by Abreu Advogados partner and co-head of the Angola desk Fernando Veiga Gomes.

"There are not enough lawyers to cope with demand and recruitment is not organised at all," Gomes says. "It's not easy to find a good, experienced, available Angolan lawyer."

With the in-house departments of some companies approaching the size of a top 10 firm in Angola and a salary differential of around 1:4, "large companies can offer a lot of benefits in a country like Angola where day-to-day living conditions can be difficult, such as access to housing, house loans, cars and other things", according to Amendoeira.

"Recruitment is not organised. It's not easy to find a good, experienced, available Angolan lawyer"
Fernando Veiga Gomes

Key figures: Mozambique

GDP (2012)
$14.6bn

Annual inflation (Aug 2013)
4.6%

Population (2012)
25m

Life expectancy at birth
50

Unemployment rate (2012)
26%

Source: World Bank, Bank of Mozambique

Key figures: Angola

GDP (2012)
$114.2bn

Annual inflation (2012)
10.2%

Population (2012)
21m

Life expectancy at birth
51

Unemployment rate (2012)
26%

Source: World Bank

In Mozambique, claims Spínola, "the market is not as aggressive, but there's still a lot of competition from companies for capable lawyers."

Political economy

One of the challenges inherent in both markets is the legislative updating to systems inherited from colonial times. The motive of the Mozambican government is clear. SAL & Caldeira managing partner José Manuel Caldeira says the country is simplifying procedures and reducing bureaucracy.

"On the other hand, due to discoveries in gas and mining the government is trying to secure benefit for the country – there's a perception it has given too much incentive to these companies and is now trying to reduce tax benefits and increase local content," Caldeira adds.

Both Angola and Mozambique have been revamping their foreign exchange framework.

"This was a cumbersome process with complications," says Miranda's partner in charge of Mozambique, Diogo Xavier da Cunha.

"These are drastic obstacles to domestic and foreign investors," warns de Pina. He says that controls by Angola's central bank on the remittance of funds overseas have been "a nightmare" for Angolan companies looking to invest outside Angola and even worse for foreign investors now facing difficulty in accessing anticipated cashflow.

With the government clearly acting to stop payments to offshore or overseas bank accounts there have been a lot of restructurings, renegotiations and redrafting of contracts.

"There's concern from all the players," says de Pina, adding that the problems are "unlikely to be ongoing as they are not sustainable".

The potential effect on the oil and gas industry is huge as legislation now requires all oil operators to bring their hard currency funds into Angola, meaning all the funds associated with the oil industry in the country have to come through the Angolan banking system, "bringing billions of dollars into local banks. It's probably the most significant thing to happen to the oil industry in the past 30 years in Angola," explains Amendoeira.

Party times

The perceived risks of doing business in Angola and the lack of laws to underpin projects has meant that PPPs have gained little favour. However, in Mozambique recent legislation has seen PPPs gain ground.

One future development involves the listing of companies on Mozambique's stock exchange as a result of so-called 'mega-projects legislation' that applies to PPPs, business concessions and large investments, and calls for up to 20 per cent of the project company to be sold via the stock exchange to Mozambicans.

"This hasn't yet been enforced, but it's an area to keep an eye on," suggests da Cunha.

Despite the challenges and restrictions in Angola and Mozambique, the projected GDP growth of around 8 per cent for both countries in coming years means this party is one definitely worth getting into.

"It's an attractive market," concludes de Pina, "but it couldn't be an easy market, otherwise everyone would be there, which isn't something you'd want."

"The Angolan government is concerned about competition between foreigners and domestic entrepreneurs"
Bruno Xavier de Pina