

LANDS OF OPPORTUNITY

While many western markets continue to suffer in the difficult economic climate, Africa is emerging as an attractive prospect for investors. Lucy Fisher talks to lawyers working in the continent about the opportunities and obstacles that lie in the region

With much of the world economy in the doldrums, Africa is an increasingly attractive prospect for investment. And while it's risky to generalise about 54 countries, there is a theme of increased sophistication when it comes to the deployment of legal services across the continent.

Nuno Antunes, director at Miranda, a practice that has a long-standing alliance in Africa, describes the situation as something of an 'economic conundrum', given the rate at which Africa is growing compared to the rest of the world. He also notes an increasingly long-term approach to investment in the continent. "Short-term gains are not easy, if they ever were, in the current volatile economy," he says.

According to Roddy McKean, head of the African practice at South African stalwart Webber Wentzel, the development of regional hubs in the north, east and west of the

continent means that South Africa is no longer necessarily the first port of call when it comes to accessing the continent. The next big story, he says, will be a growing middle class, given that many African countries are forecast double-digit GDP, as opposed to South Africa, which is "languishing at 2% or 3%".

It is clear many markets in Africa are ripe for investment; underdeveloped, rich in natural resources and in an optimal time zone – many of these economies represent the final frontiers in a highly urbanised world. Yet investor appetite, unsurprisingly, depends on levels of risk that are deemed acceptable as well as the availability of expertise on the ground.

Nigeria is one jurisdiction that is emerging strongly as a key base in the west of the continent, although it is not without difficulties for foreign investors. "Nigeria is an obvious hub, with a large population, but it remains

a challenging place for foreign entrants. Politically, Nigeria is not a single unit, it's a federal republic and there are distinct political, cultural and business issues to tackle in different states," warns Julian Jackson, head of the Africa group at Norton Rose South Africa.

Jackson notes that across Africa deal sizes are getting bigger: "We're seeing acquisition values growing, from typically \$5m to \$15m (\$3.4m to £10.1m) a few years ago, to tens of millions of dollars nowadays, occasionally going into hundreds of millions." He is currently acting as lead partner on a transaction in Mozambique, where he is advising a global logistics service supplier on the expansion project of the Matola Coal Terminal in Maputo, estimated at \$800m (\$537.8m).

Local resentment

Kenya is the largest economy in the east of the continent, but Nigel Shaw, partner at Nairobi-based

firm Kaplan & Stratton, believes local lawyers can feel overlooked as the international players move in. "I spoke to the secretary of the Law Society of Kenya at the end of last year and he was particularly rankled that the majority of the work is done out of the country by magic circle firms," he says. The argument, he says, is that expertise is not available in Kenya for many of the sizable deals, except for perhaps "a handful of lawyers".

It is sometimes argued that the benefits of investment would be more evident to the local population if attempts at greater intra-African co-operation were successful. But Shaw says attempts at union in East Africa are being hampered by an excess of red tape. "There is now a Customs and Excise Act that operates throughout the region," he says. "Freedom of trade and movement of workers is being eased but it is still difficult."

In the north of the continent, Morocco is benefitting because of its political stability, in contrast to many of its neighbouring jurisdictions, although experts predict Cairo will emerge strongly again. According to Fares el Heni, who heads up Chassany Watrelot & Associes (CWA) in Tunisia: "In terms of a hotspot in the north it's clearly Morocco. It is a large and stable country."

Mehdi Bennani, founder of Bennani & Associes in Casablanca, says local players are benefitting from international investment given that, "in every major jurisdiction you need a solid local player who knows the law and local practice". Having graduated from Harvard and worked in New York for many years, he says he set out to structure his firm in the model of an international firm and wanted to be a trailblazer, "to show that, even if you're not international, you can still make it".

Meanwhile, in the flurry of activity around natural resources and the development of infrastructure in the continent, it is easy to overlook the burgeoning development of a service economy.

"In broad terms, people don't look at the development of market economies – the move out of subsistence into the middle class – when people have mobile phones, buy hamburgers, and then look for insurance, cars or handbags. This will be interesting," says Jonathan

Lang, head of Bowman GIBLLAN's Africa group, who admits that his firm will be watching the alliance between competitor Webber Wentzel and global elite firm Linklaters very closely.

Establishing relationships

One business model that looks likely to emerge in the coming months or years is the regional boutique. Chris Ewing, chairman of DLA Cliffe Dekker Hofmeyr, notes a trend towards closer ties as opposed to looser associations or best-friend networks. "A simple referral network with a once-a-year party is the wrong way to go – it's too casual," he warns.

"Relationships are getting more established," notes Eversheds partner Howard Barrie. "And in terms of any resentment from local law firms against international players, some law firms are better at making it a genuine joint venture. Others are more colonial in outlook. I'm sure some try to maximise profits and try to get locals to do as little as possible."

But Steven De Backer, director in Webber Wentzel's Africa group, says many jurisdictions suffer something of a brain drain and that, if older lawyers were able to devote more time to training the younger generations, with the route to partnership more accessible, the local market would benefit. "But

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UK FIRMS IN AFRICA – A BURGEONING INTEREST

Last month Linklaters' tie-up with South African firm Webber Wentzel went live, highlighting how UK firms are increasingly looking to boost their coverage in Africa.

The agreement, which came into force on 1 February, has seen Linklaters and Webber Wentzel put together a committee of partner representatives managing key clients and communication between the firms' relevant industry groups, including energy, mining and infrastructure.

The tie-up underlines how UK firms are sensing growing opportunities in Africa as the European market remains sluggish. Interest is not limited to Anglophone Africa, either – while UK firms have historically focused on investing in South African locations, activity has spread across the continent over the past two years.

Since early 2010 a host of the 20 largest UK firms have poured into North and Francophone Africa, with Allen & Overy (A&O), Clifford Chance (CC) and Norton Rose launching bases in Casablanca, and Bird & Bird setting up an exclusive alliance in Tunisia. Clyde & Co formed a best-friend relationship based in Zimbabwe in 2011 – the same year Norton Rose merged with South Africa's Deneys Reitz.

Both CC and A&O have been linked to considering further on-the-ground office launches in Africa.

Norton Rose, which merged with Deneys Reitz in 2011, launched in Tanzania in October, replacing a previous association with local firm CRB Legal, which was dissolved in June 2012. The launch means the firm now has a presence in three countries in the continent, adding to existing hubs in South Africa and Morocco.

Norton Rose South Africa managing director Rob Otty said: "More global players seem to realise now that Africa isn't just one jurisdiction, which is the right approach to take as local laws have their own nuances, and deals need to be structured according to local environments. As a result it is getting harder for some independent players to establish a firm footprint in the market in the face of increasing competition from foreign firms."

Meanwhile, Herbert Smith Freehills is set to formally open an office in Guinea this year, marking the firm's first foray into the African legal market, with the firm citing increasing interest in the West African jurisdiction from its energy and infrastructure clients. The base will mainly focus on corporate and projects work.

Among other firms scoping out the market is Slaughter and May, Ashurst and DLA Piper. Slaughters teamed up with European best friends Bonelli Erede Pappalardo, Bredin Prat, De Brauw Blackstone Westbroek, Hengeler Mueller and Uria Menendez in October to host a conference in Botswana, attended by 27 law firms from 16 African countries, to build firm relationships.

In November it emerged that Ashurst was making a bid to expand its African presence by sending a London-based lawyer on a secondment programme at an African firm for the first time, as part of a joint agreement between the firm and the Africa Legal Network (ALN).

DLA Piper also ramped up its African presence around the same time by adding a quintet of independent firms to its Africa Group alliance during 2012, bringing the total number of firms in the group to 11.

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slowly African firms are joining forces. I see more teaming up between jurisdictions," he adds.

Barrie also notes that China's influence over Africa projects increases year on year (see box, right), although interest in Africa is coming from all corners of the globe. "China is mainly concerned with mining projects but also power and infrastructure and the Chinese often prefer to deal local rather than international," he adds. "Given the amount of Chinese investment, you'd expect more international involvement than you see."

Fasken Martineau managing partner David Corbett says his firm is considering where to go next, having recently completed its merger with South African firm Bell Dewar. But he admits the answer to that question is not immediately apparent right now. One thing he

feels sure of is that the decision to roll out Fasken-branded offices is the way to go. "An alliance doesn't always meet client needs. Any time you refer work your reputation is on the line," he says.

When asked whether Fasken Martineau's and Norton Rose's recent mergers with South African firms represent part of a wider and ongoing trend for international and local tie-ups on the continent, Corbett says that, although there are some very good firms in Africa, "there aren't very many of them". With choice limited, and the need to find the right fit, he thinks consolidation among African firms is more likely to emerge as a pattern in the future.

An accelerator behind this would be the facilitation of intra-trade agreements among African countries. Boris Martor, a partner at Eversheds, says he

CHINESE INTEREST IN AFRICA

The Chinese are dwarfing many of the international players in terms of their objectives in the region, according to Gregory Nott, a director at Werksmans: "As the world's biggest consumer of base metals, its hunger for resources goes on unabated."

Nott notes that his firm is seeing "non-stop" interest from Chinese clients in the mining and energy space as well as activity in renewables. Werksmans represented Hebei Iron and Steel Group of China, for instance, in a deal worth 4bn rand (£294,000).

"Gas and oil are major game changers," he adds. "One cannot but sit up and take notice of what is happening in Mozambique and Tanzania in regard to the huge gas finds."

► Pedro Metello de Napolis, a partner at PLMJ, which works in partnership with Gabinete Legal Angola (GLA), notes that China has been "massively" investing in Angola in recent years, with Chinese corporations involved in major infrastructure programmes. Angola is swiftly becoming more sophisticated as a legal market, he adds, as is Mozambique, which benefits from a strategic location as a gateway to the Southern African Development Community.

has been engaged with various African jurisdictions in drafting agreements in the OHADA group of countries, and that he has also been working with East African jurisdictions to see if they can develop something similar.

But even OHADA, which Martor describes as "definitely the most advanced or sophisticated example of a framework to facilitate cross-border trade within Africa", isn't sufficient on its own. "There needs to be economic or monetary integration too," he points out.

Rob Otty, managing director of Norton Rose South Africa, suggests that smaller firms will start to see more benefits of investment when current attempts at increased intra-African co-operation come to fruition, and that this may also lead to mergers with mid-tier firms to create regional boutiques.

"This is becoming increasingly topical, but I don't think it'll happen within the next two years," he says.

When it does, Africans will no doubt rejoice.

'In every major jurisdiction you need a solid local player who knows the law and local practice'

Mehdi Bennani, Bennani & Associates



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