



Special focus II

AFRICA





LAWYERS

WHO DEAL WITH COMPLEX SITUATIONS

The second meeting of the Special Focus Africa, an encounter between lawyers who have an in-depth knowledge of the situation in the continent and the general counsels of several companies which make business in Africa, organised by Iberian Lawyer, took place last October 21. After the first meeting from the previous month, this time the conversation turned around more precise topics, following the idea that been the more accurate as possible to deepen into this promising market.



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JOSÉ LUIS MOREIRA DA SILVA



José Luis Moreira da Silva emphasised the fact that there is liquidity in the market waiting to find the projects to fund. And also that is important to remember all the players who want to participate in investments in Africa shall be aware that the pace is not the same than in Europe and North America. Moreira da Silva used the idea of an African time, that seems very suggestive and productive as a tool to understand and talking on the topic. “You seem to have several years in expectation. I have outstanding experiences in recent years when the projects are not government-supported, for instance, in the case of ports. We are talking on governments with meagre qualification rates which prevent the funders from putting money into these projects, or if we are talking from other institutions who avoid putting their assets in those investments. So, unless the institutions that have the liquidity and could be eager for that long-term projects are involved there is little beside them. So, what we see now is that a long-term project without the support of international institutions does not go ahead. So unless you have a particular investor, one with the economic power to push it, these projects rarely go ahead. Lately, we are moving forward because we had them. Let’s speak about some successes. It is important to stress the positive side.”

And that is another big issue for the developing of business in Africa. Very often, the projects demand a lapse of time longer than the during of one administration, and this weakens the feasibility of the investment. They move in different circles, except as Cabeçadas remarked, sometimes the politicians in power might be the same for more years than the cycle needed by a project. He pointed out that the number of prepared people is very few, and they are almost always related to the projects which go ahead, and there is a limit for their capability of being in charge of all of them. And Empis Falcão also accentuated the fact that those successes that Moreira da Silva pointed are good news not just for the companies related to them, but for the market in general as models that might boost the rest of the pending ones.



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INFRASTRUCTURE & ENERGY: A WORLD OF OPPORTUNITIES AND DEFIANCE'S IN LUSOPHONE AFRICA

By José Luis Moreira da Silva
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With over 30 years of experience, José Luis advises the major Portuguese port authorities and several infrastructure high level projects.

When we think about Africa, namely Lusophone countries, we normally think about all the existent potential in natural resources, namely oil

& gas and mineral resources, but we also think about the huge lack of infrastructures that are needed for their exploitation in order to boost their own development. We are used to work in Lusophone Africa, namely in

Mozambique, Angola, Cape Vert and São Tomé & Príncipe, and in all those great countries we find fantastic resources and a strong political will to exploit them sustainably and to obtain the necessary investments in order to capacitate the human force

and economically develop the country. But we still encounter problems when we get out of the Capital or from one of the Provincial main cities, where the lack of roads, railways, airports or maritime transport create bottlenecks for the investment necessary for those projects. Foreign investors are eager to participate in the exploitation of all this huge natural resources but they struggle to find solutions to get to the places where they are found, normally far away from the main cities or deep in the offshore seabed. Infrastructure and transport problems increase the risk for all major projects and makes investment more expensive. It's not only exchange currency, inflation or political turmoil that drives up the price of financing a project in Africa but also the lack of infrastructure. A major infrastructure or energy project, like the construction of a new deep sea port, a railway link or a power plant requires normally the support of a national development agency and/or a DFI, without which it is very difficult or even impossible to arrange the necessary financing, despite the fantastic opportunity and the huge potential of the project. Every African country has below investment sovereign ratings and can only proceed with its development plans with the support of those agencies, namely from China, Japan, USA and some European countries, and DFI, like the AfDB or IFC. The involvement of these DFI gives assurance to investors that the project

is well constructed and can be bankable and has some anticorruption safeties. But this involvement is not easy. It demands a sound Legal and Technical Due Diligence and an open and transparent procurement, something that puts away some of the projects. Another important aspect that has to be considered is the funding of capacitation of human resources from the Government and social society. We are seeing with satisfaction ever more funds being allocated by ALSF (from the AfDB), from the IFC / World Bank and from national agencies to projects towards the capacitation of government officials and this is absolutely fundamental in order to create the local strength to negotiate with foreign investors and their consultants in an equal basis. AfDB recently funded the hiring of an international well reputed law firm to advise the Government of Somalia in the negotiations towards a new major port contract and this is the way to proceed. African governments have to be in the same condition in parallel with international investors in terms of counselling if they want to obtain the best contracts and financial conditions to their countries. Another important aspect to take in consideration when thinking of investing in Africa is the need to add social support to local communities within the project. We have seen this with great success in Mozambique, in the Navigator project. The local communities have to be integrated within the project, so that they embrace it and acquire direct gains from it, like new schools and education,

water and sanitation, alongside new roads, houses and jobs. Without this social concern we may have to continue to see a wide spread of insurgency movements, like the ones in Cabo Delgado in the North of Mozambique. Investing in infrastructures, capacitating the human resources and integrating local communities are just some of the main aspects that have to be considered when investing in Africa. And the opportunities are huge. All the major international investors that are seeking long term investments with fixed yields, capable of accepting a percentage of risk, can look into Africa Infrastructure and Energy projects. In no other place in the world you can still find a huge mineral ground full with fantastic resources, a fantastic river for a hydro project, a coal mining facility or huge oil or gas reserves that can be exploited with relatively low costs and high returns. Only in Africa you can still see a lack of roads, railways, ports and airport infrastructures waiting for an international investor to develop. Africa is a world of opportunities and great defiance's ready to be perceived by international investors with the right advisors with large experience in Lusophone Africa, like the Portuguese companies, lawyers and consultants. Only we have the right language, the right law, the right experience and comprehension of the *local way to do business* that opens doors and easy the rocky road, so much appreciated in large investments like the ones we are talking about.