Angola signals a new era for foreign investors

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For the vast majority of the 21st century Angola has registered a continuous growth in its per capita GDP, so much so that it is one of the African economies that has experienced the largest increase in per capita GDP.

The World Bank's *Global Economic Prospects – The Turning of the Tide* report, published in June 2018, forecast a growth of between 2.2% and 2.4% for the Angolan economy over the next two years, which is currently below the average economic growth of sub-Saharan African countries. This sub-average growth is explained partly by the abrupt decline in oil prices between the end of 2014 and the beginning of 2015, which substantially impacted the Angolan economy.

Angola is heavily dependent on the international trade of oil and as the price dropped the income obtained from oil exports was drastically reduced. The Angolan government was forced to review its general budget to incorporate a massive reduction in public investment.

Despite the vulnerability caused by the fluctuations in the oil price and its impact on Angola's economy, in January 2015 Moody's stressed that the "political response to the budgetary problems arising from the oil-price shock shows that the Angolan government is willing to take the necessary and quick measures to ensure that the budgetary targets are met in accordance with a more realistic macroeconomic assumptions".

According to the World Bank report, "[G]rowth is expected to firm to an average of 3.6 percent in 2019-20, as the recovery strengthens in Angola, Nigeria, and South Africa— the region's largest economies. However, growth will remain below its long-term average and insufficient to substantially reduce poverty. Public debt levels are high and rising, and debt servicing costs will absorb a large share of government revenue in some countries".

Another issue that Angola has been facing pertains to the low level of foreign currency in the country's reserves and to the consequent difficulties in securing cross-border cashflows in an already highly regulated foreign exchange framework. This has proven to be a major factor for investors.

These issues are illustrative of Angola's need to boost the number of foreign investors and diversify the sectors where the investments are made.

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We shall outline below the main features of the ongoing reform to the private investment legal framework (after a somewhat failed and short-lived reform in 2015) but first it is worth noting that Angola is also undertaking a major change in political power, whose socio-economic impact is yet to be fully ascertained.

THE NEW POLITICS

José Eduardo dos Santos was both the leader of the governing party in Angola – MPLA (Movimento Popular de Libertação de Angola) – and the President of the Republic of Angola between 1979 and 2017. After confirming that he would not seek re-election, a new president from the same party was elected in 2017.

President João Lourenço has, during the first year of his tenure and in a consistent and perhaps increasingly rigorous manner, been undertaking efforts to tackle corruption in various layers of public administration. Even if it is too soon to draw conclusions on the effectiveness of these efforts, they send a positive signal to foreign investors.

Over the last few years Angola has also been implementing anti-money laundering (AML) and combating the financing of terrorism (CFT) legislation, as well as making efforts to ensure strict compliance with already approved procedures pertaining to AML and CFT. These constitute another potential boost to foreign investors with an eye on Angola.

It is worth noting that the Financial Action Task Force (FATF), which is responsible for supervising compliance with AML and CFT rules in several jurisdictions, confirms these efforts are significant. In 2016, the FATF included Angola in the *Jurisdictions no Longer Subject* *to the FATF's On-Going Global AML/CFT Compliance Process* list. In its words: "The FATF welcomes Angola's significant progress in improving its AML/CFT regime and notes that Angola has established the legal and regulatory framework to meet its commitments in its action plan regarding the strategic deficiencies that the FATF had identified in June 2010 and February 2013. Angola is therefore no longer subject to the FATF's monitoring process under its on-going global AML/CFT compliance process. Angola will work with ESAAMLG [the Eastern and Southern African Anti-Money Laundering Group] as it continues to address the full range of AML/CFT issued identified in its mutual evaluation report".

To the present date, Angola remains out of the "High-risk and other monitored jurisdictions" list.

The aforementioned World Bank report also states that "renewed government commitment to critical macroeconomic and governance reforms in Angola, South Africa, and Zimbabwe has boosted investor confidence".

MORE INVESTMENT, MORE SECTORS

The New Private Investment Law (the Law) was approved and implemented by Law no. 10/18 of June 26 2018, which revoked the previous Private Investment Law, enacted by Law no. 14/15 of August 11 2015.

The Law applies to all private investment projects regardless of their size, unlike previous frameworks which required a minimum threshold for internal and external investment. This is a sign that Angola is embracing a policy to attract a greater number of investments at potentially lower values, as opposed to fewer investments at high values investments. This also appears to show that Angola is now interested in a wider and potentially more heterogeneous fabric of investors.

There is no obligation for investors to seek and put in place Angolan partnerships for any type of investment project, although it is worth noting that there are some sectors where specific legislation, especially governing licensing, foresees mandatory local content rules pertaining to share capital.

The Law establishes a framework for the granting of incentives (whether fiscal or of another nature) depending on the business sector which the investment is targeting and on the geographically designated Development Area (explained below) of the investment.

Investors should be aware that there is a list of priority trade sectors identified as those sectors of the market with the potential to replace imports or boost and diversify the economy, including exports. These chosen sectors, which are listed in the Law, include among others: agriculture, food and agroindustry; specialised health units and services; hotel business, tourism and leisure; construction, public works, telecommunications and IT; and airport and railway infrastructure. Although it is not the first time that the Angolan government has promoted specific sectors, it is the first time that a list of comprehensive and important economic sectors has been expressly identified in a private investment law.

This is important because, as the World Bank report notes, "progress in boosting non-oil revenue remains limited". Angola is trying to address this.

The Development Areas provision refers to a geographical division of the country. The objective of the Law in carrying out such a division is to attract more investment to rural and less developed areas. Investors may have access to more incentives if they opt to make their investments in such areas.

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Considering that Angola is extremely rich in natural resources and that, for example, the potential for investing in agriculture is extremely high, this may be an compelling factor for investors.

The Agency for Private Investment and Promotion of Exports (Agência de Investimento Privado e Promoção das Exportações – AIPEX), is the regulatory authority responsible for approving and supervising private investment projects. There has been some uncertainty since the start of the year when AIPEX was created on how the law will be regulated. We are waiting for further details and for the new investment framework to become fully operational.

Finally, and notwithstanding the crisis in the oil & gas sector, it is worth noting that recently, according to some local Angolan sources, the national oil company Sonangol EP is considering and/or preparing to either totally or partially divest its participation in a number of Angolan blocks. This sale of participating interests would be part of an ongoing reform of its operations and activities. The sector eagerly awaits further official news on any divestments.

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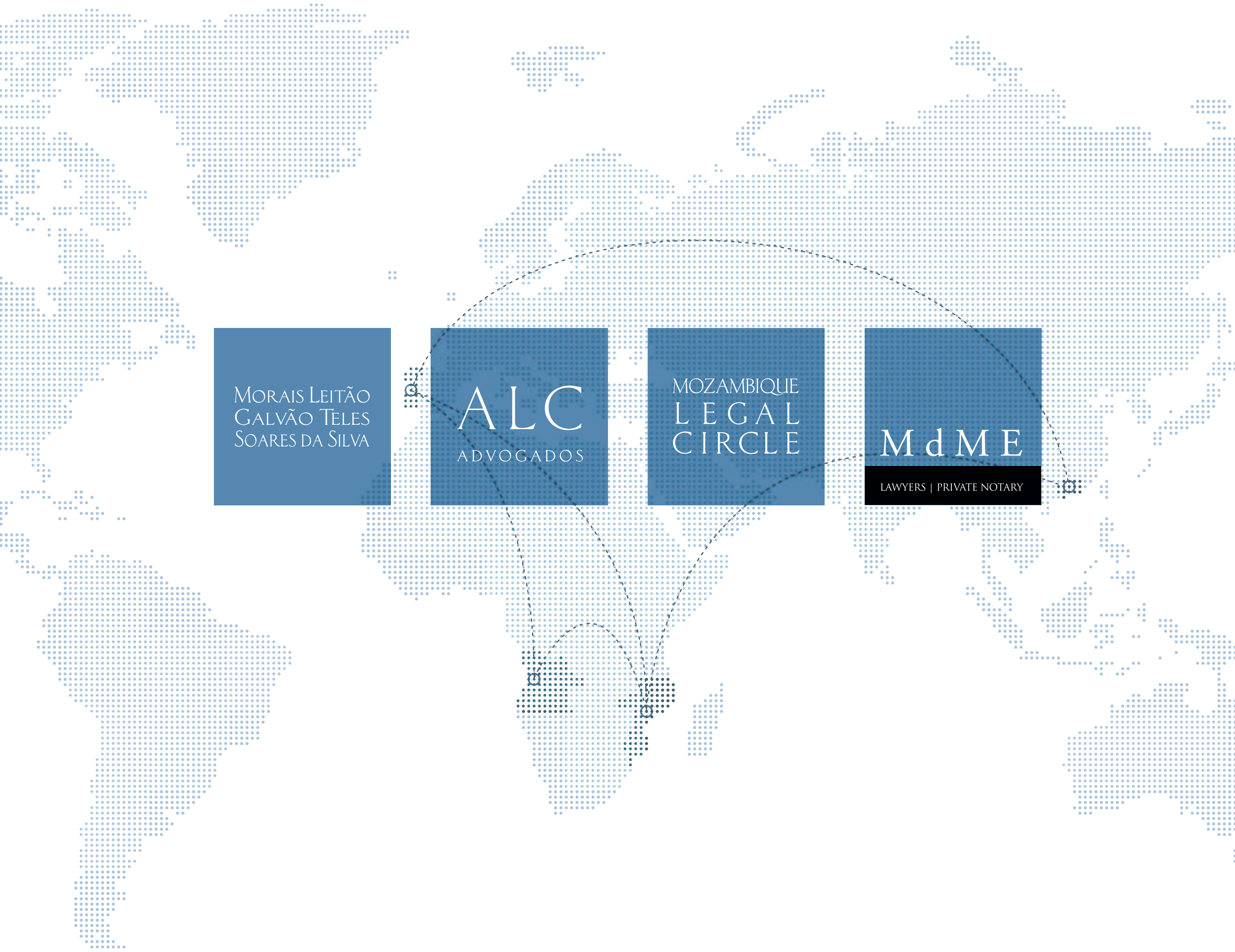

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Claudia Santos Cruz joined the firm as a consultant in 2015 assisting clients on the international and cross-border aspects of their investments in Portugal, Angola and Mozambique. She focuses on banking & finance, corporate & commercial, capital markets, energy and natural resources, oil & gas, shipping and the international aspects of foreign investment into Angola and Mozambique.

Claudia has close ties to both Africa and England. She was born in Mozambique; grew up in South Africa and holds dual Portuguese and Mozambican nationality.

She trained and practiced as an English solicitor from 1994 to 2005 at DLA Piper and Watson Farley & Williams in the City of London. From 2005 to date Claudia has been based in Lisbon and is registered with the Portuguese Bar Association. Before joining MLGTS she was a partner at Barrocas and AVM.

Claudia has written articles for international publications as well as participating as a speaker at international conferences in the areas of investment in emerging markets; oil & gas, corporate, banking & restructuring and shipping related matters.

She was the winner of the first "40 under Forty Award" organised by Iberian Lawyer, which distinguished the best 40 lawyers under the age of 40 in Iberia, and is ranked as a leading lawyer by the most prestigious international legal directories such as Chambers & Partners and IFLR.

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Luís Gagliardini Graça joined the firm in 2001 and became a partner in 2013. He is a member of the corporate and commercial team of MLGTS. He specialises in corporate and commercial and administrative and public procurement law (administrative litigation and arbitration).

He is a member of the coordinating team of the Africa Team, an internal structure that guarantees, on a permanent basis, and in close cooperation with the member firms of the MLGTS Legal Circle, personalised day-to-day assistance to clients on matters that involve or are related to the jurisdictions of the African Portuguese speaking countries. He is referred as "Key Portugal-based partner active in Lusophone Africa" in the 2013 edition of IFLR 1000 Energy & Infrastructure Sub-Saharan Africa Guide.

Luís has been very active in the area of concessions for public construction, providing start to finish legal advice from negotiation to contractual execution, as well as handling any litigation arising as a result of the construction activities. In 2003 and 2004 Luís acted in an advisory role to the entities responsible for the construction of several of the new football stadiums for Euro 2004 as well in the project and construction of motorways.

He has been involved in several M&A operations and the restructuring of companies, but he also has a strong background in litigation related to his practice areas.