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East Africa: Triumvirate of power

23 June 2014 | By Joanne Harris

East Africa is a buoyant and increasingly integrated region, with oil and gas driving its future. Meanwhile, a liberalised legal market is emerging.

There are many synergies between East Africa's three largest economies – Kenya, Tanzania and Uganda – not least their strong independent law firms.

While each has its own geopolitical issues to grapple with, the potential for growth is enormous, particularly in the energy sector. Tullow Oil and Africa Oil recently announced the discovery of 600 million barrels of oil in Kenya's South Lokichar Basin. Uganda discovered 3.5 billion eight years ago, and is planning to award oil exploration licences next year.

In Tanzania, a natural gas bill is due to be put to parliament in November to unlock the potential of the 45 trillion cubic feet of gas discovered off the East African coast.

Although the three countries share a common colonial history and resulting legal framework, enhanced in recent years by the slow integration of the East Africa Community (EAC), regulations prohibit firms practising across the region and each is experiencing its own issues.

KENYA

For Kenya, the most developed of the jurisdictions in this region, political instability has been a key feature of the past year. From the September 2013 terrorist strike on the Westgate shopping centre in Nairobi to bombs in the centre of the capital in mid-May 2014 and the more recent attacks near the Lamu resort, incidents of terrorism have risen in recent months and the government is fighting a reputational battle to stem a fall-off in tourism.

Tourism accounts for some 12 per cent of Kenya's GDP, but president Uhuru Kenyatta wants to increase this. Commentators have noted that security concerns might not only have a short-term effect on the numbers of visitors to the country, but also on domestic confidence.

Lawyers say while some short-term projects have been put on hold, longer term investment in areas such as infrastructure are continuing.

"If there's another major attack it's going to have a significant impact on the country," cautions Kaplan & Stratton (URL=http://www.thelawyer.com/kaplan-and-stratton/415480.supplier) partner Nigel Shaw.

The bombs caused the Kenyan shilling to drop and bond yields rose, although Kenyan debt has performed well against the debt issued by other African economies.

The country is keen to hit its projected growth target of 5.6 per cent in the 2014/15 financial year. It is preparing a maiden $1.5bn (£880m) Eurobond issuance, which the Central Bank hopes will ease pressure on the shilling.

The issuance has been delayed already, having been planned to launch in early 2014, but high yields could still tempt plenty of investors on board.

Meanwhile, Kenya's foray into oil is looking positive. Tullow wants to submit development plans for its discoveries to the Kenyan government next year, according to a Reuters report from the end of April.

Kenya imports oil and gas from other countries, including Nigeria, so the sooner it can begin developing its own supply, the better.
Iseme Kamau & Maema Advocates managing partner James Kamau says oil has “tremendously changed the market” and is bringing with it more emphasis on infrastructure and PPP projects. Kamau adds that when the Eurobond issuance takes place, some of the funds will be funnelled back into these.

TANZANIA

Tanzania’s headlines have been more positive than those of its neighbours in recent months. The country relies heavily on natural resources – it is Africa’s fourth-largest gold producer, for example – and earlier this month the government announced it is reviewing mining contracts to ensure it gets a larger share of revenues.

But the country is also entering the world of energy. Over 45 trillion cubic feet of gas has been discovered, mostly in deep-water offshore blocks. To prepare for their exploitation, the government is putting the necessary legal framework in place, and this is due to go before parliament in November.

Ishengoma Karume Masha & Magai Advocates managing partner Lau Masha says the emphasis on energy is already making a “huge difference” to Tanzania, causing firms to diversify.

“When you look at the market here and at who’s available in terms of clientele, many law firms in Europe would die to have the clientele we have,” says Masha.

Tanzania’s industrial sector also appears to be doing well. According to preliminary figures released at the end of May, it recorded a positive balance of trade with other East African states last year, exporting goods such as electrical items, machinery, cereal and paper.

Business reform is seen as key in Tanzania, which sits below Kenya and Uganda in international rankings such as the IMF and World Bank’s Doing Business report.

UGANDA

Uganda, perhaps more than the other East African states, suffers from a negative perception outside Africa due to several political issues, particularly with regard to its strict laws against homosexuality.

But, like its neighbours, the country’s economy is growing strongly – GDP was up 5.7 per cent last year – and it is also preparing to exploit its natural resources sector. Vast quantities of oil were discovered in Uganda in 2007, but a ban was put on oil licensing to give the government time to set up the regulatory framework.

In his ‘state of the union’ address in early June, president Yoweri Museveni told parliament that negotiations with oil companies had been slow due to “contentious clauses”, but with these issues resolved, licensing could begin.

Museveni also spoke about Uganda’s other natural resources such as minerals and precious metal, but said he was determined the country should develop these itself rather than exporting unprocessed resources to other countries. He acknowledged that industrialisation on this scale requires power, and suggested that options included nuclear and renewable energy.

The president said there were four key sectors for Uganda’s growth: agriculture, industry, services, and telecommunications.

Sebalu & Lule Advocates managing partner Barnabas Tumusingize agrees power is a key focus for Uganda, but adds that other infrastructure work is attracting investment from countries such as China.

Running a law firm in the region

The three major East African economies have varying approaches to their bar rules, with Kenya the strictest and Tanzania the easiest to navigate for a foreign firm.

There are no mechanisms under law for foreign firms to set up in Kenya, meaning associations with local independents are the only way to go. This may well change, however. A committee convened by the Kenya Law Reform Commission has been established to review the Advocates Act, and the Law Society of Kenya (LSK) is asking for views.

“I’ve been telling the LSK we can’t keep this legal market closed forever;” attorney-general Githu Muigai told a meeting in Nairobi earlier this year, according to Kenyan website Standard Digital. “We must and will open it up for competition. And our members must be ready for that.”

A recent court judgment also removed a ban on advertising, with judges ruling the profession had developed to such a state that banning advertising was pointless. This is set to be codified into law later this year, although advertising will remain limited.

Meanwhile, Kenya has just gazetted an amendment to its Advocates Remuneration Order, which sets minimum fee levels for a wide range of legal work. While minimum fees may seem like a good idea, some argue that it can make the cost of work prohibitively expensive and clients have been known to look elsewhere.


Dentons (URL=www.thelawyer.com/dentons/415109.supplier) and DLA Piper (URL=http://www.thelawyer.com/dla-piper/414865.supplier) ’s Africa networks both have Kenyan, Ugandan and Tanzanian members, as does ENS’s main African rival, Bowman Gilfillan (URL=http://www.thelawyer.com/bowman-gilfillan/414835.supplier), through its Africa Group.

Possibly the largest and most successful network with roots in East Africa is the Africa Legal Network (ALN), which began its life when Kenya’s Anjarwalla & Khanna (URL=http://www.thelawyer.com/anjarwalla-and-khanna/415477.supplier), Uganda’s MMAKS (URL=http://www.thelawyer.com/mmak-advisors/415511.supplier) and Tanzania’s Adept Chambers (URL=http://www.thelawyer.com/adept-chambers/415506.supplier) (now ATZ Law Chambers) teamed up. ALN now has 12 members and one associate member across Africa, with a particular strength in the wider East Africa region.
Kenya firms, by partner numbers

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<th>Firm</th>
<th>Partners</th>
<th>Other lawyers</th>
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<tbody>
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<td>Kaplan &amp; Stratton</td>
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<td>Anjarwalla &amp; Khanna</td>
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<td>47</td>
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<td>Hamilton Harrison &amp; Matthews</td>
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<td>Walker Kontos</td>
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Source: The Lawyer Africa Elite 2014

Tanzania firms, by partner numbers

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<td>FB Attorneys</td>
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<td>ATZ Law Chambers</td>
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Source: The Lawyer Africa Elite 2014

Uganda firms, by partner numbers

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<td>Katende Ssempebwa &amp; Co</td>
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<tr>
<td>AF Mpanga &amp; Co</td>
<td>5</td>
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Source: The Lawyer Africa Elite 2014

Key figures: Kenya
GDP: $41bn
GDP growth, 2013: 4.7%
Inflation: 7.3%
Population: 43m
Life expectancy at birth: 61

Key figures: Tanzania
GDP: $28bn
GDP growth, 2013: 6.5%
Inflation: 6.3%
Population: 48m
Life expectancy at birth: 61

Key figures: Uganda
GDP: $20bn
GDP growth, 2013: 5.7%
Inflation: 5.4%
Population: 38m
Life expectancy at birth: 59