

INFRASTRUCTURE & PROJECT FINANCE

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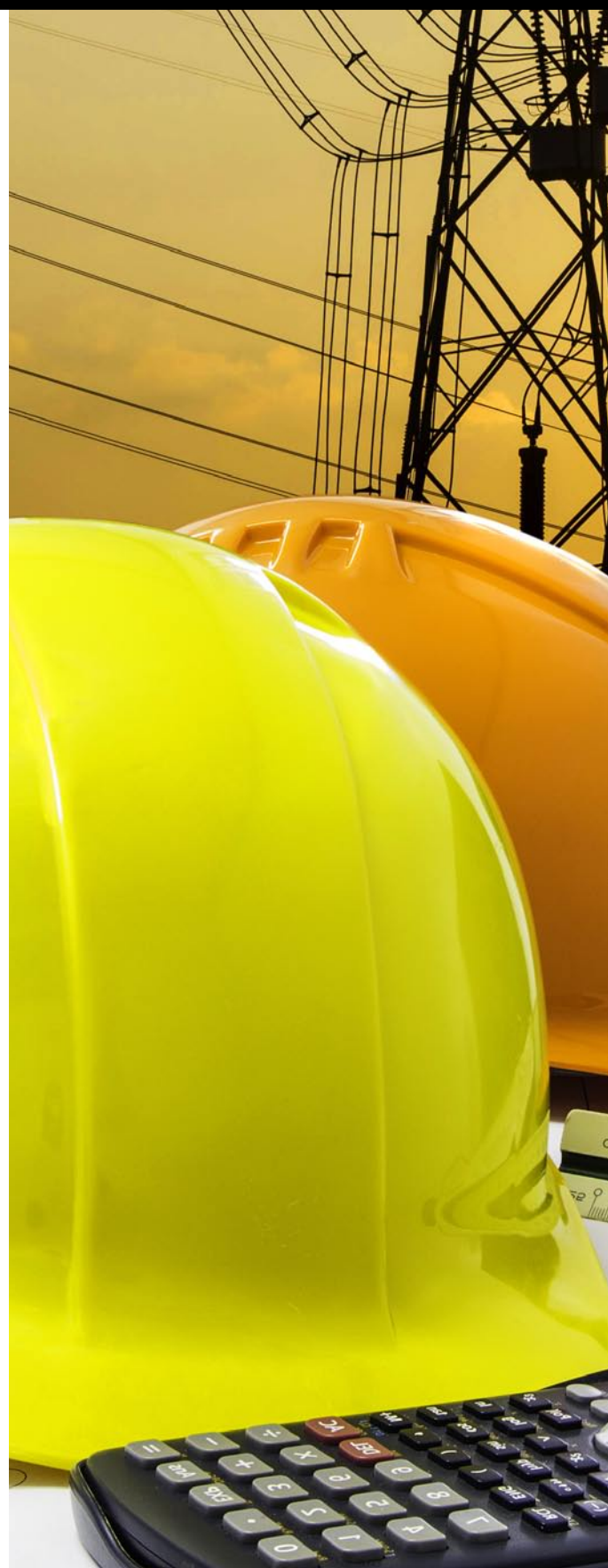
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INFRASTRUCTURE & PROJECT FINANCE

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Financier Worldwide canvasses the opinions of leading professionals around the world on the latest trends in infrastructure & project finance.

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INTRODUCTION

Though infrastructure development is often a boon for regional and national economies, in recent decades there has been a surprising lack of it among some of the world's largest economies.

Despite their status as economic powers, countries such as Germany and the US have neglected their infrastructure needs, much to their detriment. Accordingly, workers and goods alike have been forced to traverse crumbling, antiquated transport networks for years. Thankfully, however, in certain jurisdictions there is political will – as well as economic need – to improve networks and drive investment.

Public-private partnerships (PPPs) have a vital role to play in the ongoing infrastructure renaissance. In many jurisdictions, diversifying funding sources to include PPPs has proven popular, kick-starting activity. However there is much more to be done, both in terms of new projects and rehabilitating existing infrastructure. Transport networks, high speed internet connectivity, schools and public building projects are just a few examples of the types of projects in desperate need of funding. And many of these projects cannot be financed through public sources alone – there is an urgent need for private finance, and PPPs have a key role to play.

For those parties undertaking infrastructure deals, the importance of due diligence cannot be overstated. Given the risks and regulatory challenges inherent in infrastructure transactions, due diligence is vital to successful deal execution. There are myriad legal, commercial and technical issues which parties must be prepared for, and due diligence is the key to overcoming them.



ANGOLA

CATARINA LEVY OSÓRIO
ALC ADVOGADOS



Q HOW HAS THE INFRASTRUCTURE SECTOR FARED IN ANGOLA OVER THE LAST 12-18 MONTHS? WHAT FACTORS ARE AFFECTING INVESTMENT AND DEVELOPMENT?

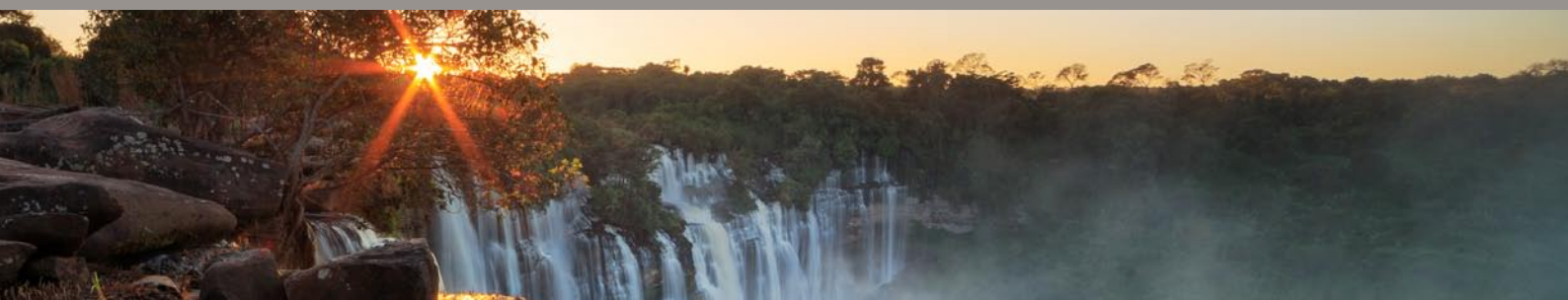
OSÓRIO: We have witnessed a minor yet consistent increase in infrastructure projects in Angola. The success of recent governmental efforts to finance infrastructure abroad has contributed to this overall improvement. For instance, the Angolan minister of finance recently announced an agreement with the Chinese government for a loan of \$7.8bn which will be channelled to the promotion of nearly 40 projects of public works. On a similar note, the 'bonds project' has recently been founded between the Angolan Capital Markets Commission and three financial institutions. The project is meant to finance the construction of basic infrastructure around the country in energy, water, sewage and transportation. With this objective in mind, bonds issued will be available for purchase by national and foreign investors.

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Q WHAT TYPES OF INFRASTRUCTURE PROJECTS ARE PROVING POPULAR AT PRESENT?

OSÓRIO: The energy sector has always been very popular in Angola. As well as the traditional petroleum sector, the country is now expanding to new areas of energy production, particularly the renewable sector. Angola is believed to have enormous potential for energy production from renewable sources, and both national and foreign investors have been looking into projects in these areas. The country has also established ambitious targets for renewable energy production, as well as for the increase of the electrification index. The combination of these and other factors have made the Angolan energy sector extremely attractive to investors. A joint venture of American, European and Asian investors has recently announced an investment of \$10bn in energy infrastructure in Luanda. The construction of the Laúca Dam is also worth noting. It will be capable of generating 2070 megawatts of energy and will serve nearly 8 million people.

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Q TO WHAT EXTENT IS THE GOVERNMENT INTRODUCING POLICIES AND INCENTIVES TO ATTRACT PRIVATE INVESTMENT TO FUND INFRASTRUCTURE DEVELOPMENT? HAS THERE BEEN AN INCREASED APPETITE FOR PUBLIC-PRIVATE PARTNERSHIPS (PPPS) AND PRIVATE FINANCE INITIATIVES (PFI), FOR EXAMPLE?

OSÓRIO: PPPs continue to be a scarcely implemented model in Angola. Besides the construction of a biofuel production plant and the construction of a deep water port in Cabinda, other PPPs are yet to emerge. Nonetheless, developments are expected in this regard. The government appears to remain focused on promoting better management and the recovery of infrastructure investment, and has created a public company with that objective in mind – the *Empresa Gestora de Terrenos Infraestruturados*. Further, the IMF has, in its policy recommendations to Angola, highlighted economic diversification and the enforcement of the role of the private sector in infrastructure projects. The PPP Guarantee Fund was also created at the start of the year, despite being initially provided for in the PPP Law of 2011. The Fund is designed to guarantee public financial obligations arising out of PPPs when the public resources allocated to a particular PPP prove to be insufficient to their implementation.

Q WHAT TRENDS HAVE YOU SEEN IN PROJECT FINANCE, IN TERMS OF PRICING, TERMS, WILLINGNESS TO LEND, AND SO ON?

OSÓRIO: Before the latest crisis around oil prices, project financing was flourishing in various sectors of the Angolan economy. Since the crisis began, however, project financing has undergone a sharp decline and is now slowly recovering again. Most of the financing has been obtained from abroad, albeit with local guarantees – this applies to both private and public initiatives. We have seen an increase in both. There is no noticeable unique trend to the Angolan market; the pricing and other terms of PPP and infrastructure investments follow the general market terms which dictate the bargaining power of each side. Currently, the bargaining power of private investors is higher than it used to be, motivated by the economic crisis, low oil prices, the need to diversify the economy and the political momentum toward the promotion of infrastructure development and PPPs.



**Q WHEN EXECUTING
INFRASTRUCTURE DEALS,
HOW IMPORTANT IS DUE
DILIGENCE TO MANAGE THE
RISKS AND REGULATORY
CHALLENGES?**

OSÓRIO: Due diligence on risks and regulatory challenges is, in our view, a *sine qua non* requirement before investing in Angola. Particularly in areas such as environmental regulation, licensing, land law issues, local content, tax and private investment issues. Angola is a highly regulated jurisdiction when it comes to infrastructure, PPPs and foreign investment in general. Due diligence will allow for the fine tuning of what is legally provided for with the local and national practice. We also believe that it is important to conduct due diligence processes to ensure a project achieves compliance in its early stages, which is a more cost efficient strategy than adjusting the project later. In this sense, the amount of time and resources spared in the initial stages of a project will, most of the time, be less significant than time and resources spent later in adjusting the project and making the necessary ratifications when the project is already under way.

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**Q IN YOUR EXPERIENCE, WHAT
ELEMENTS ARE ESSENTIAL
TO OPTIMISING EXISTING
PROJECTS, GENERATING
RETURNS AND CREATING
LONG-TERM VALUE
FROM INFRASTRUCTURE
INVESTMENTS?**

OSÓRIO: In this regard, it is fundamental to calculate risks and implement strategies to mitigate and, where possible, prevent such risks from crystallising. There are some legal instruments at the disposal of investors in order to mitigate investment risks; however, these legal instruments are not sufficient. Although Angola has been working on the stability of the economic, legal, political and social spheres, some projects are still permeable to external factors which require an extensive and detailed evaluation. Thus, besides putting all legal mechanisms in place for the stability of the project, it is also important to decrease costs, increase the lifetime of the infrastructure and reduce operation and maintenance costs. These objectives are sometimes hard to achieve by foreign investors due to lack of knowledge of the Angolan market, so it is usually advantageous to obtain assistance on the ground from a national entity or an experienced foreign one.

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“Angola is a highly regulated jurisdiction when it comes to infrastructure, PPPs and foreign investment in general.”

Q LOOKING AHEAD, WHAT KEY TRENDS DO YOU EXPECT TO SEE IN INFRASTRUCTURE AND PROJECT FINANCE IN ANGOLA OVER THE COMING MONTHS?

OSÓRIO: Despite the economic crisis which has affected the Angolan economy and the drop in oil prices the Angolan government has kept its objectives concerning public infrastructure, supported by the recognition that the Angolan economy needs to be restructured and diversified. Therefore, infrastructure and project finance initiatives will, in the next few months, probably undergo a minor increase. Long-term estimates cannot be made at this point as elections will take place in August 2017 and the implications the elections will have on policy and investment are unclear. At the moment, foreign investors are confident albeit watchful. In any event, the current government and political officials appear to have put in place sufficient mechanisms and safeguards to ensure a smooth political transition.



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Catarina Levy Osório is the managing partner of ALC Advogados. She has relevant experience on advising international and national clients on private investment, tax and labour law. She has also been involved in M&A transactions and on incorporating foreign companies in Angola. Catarina Levy Osório often participates as a speaker in seminars and conferences in her practice areas.



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