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BREXIT – A VIEW FROM THE LAWYERS

Following the UK's momentous referendum decision to leave the EU, there has been the full gamut of reactions from public and experts alike, with the cocktail of optimistic and doom-laden views reflected in the lurches of the pound and FTSE indexes. This month, we feature Songhai Advisory's piece on the reaction to Brexit of various African business leaders and commentators. But what is the feeling of the lawyers working on the major deals and issues across West Africa? We grabbed the opportunity to ask a selection of lawyers and colleagues for their views on the meaning of Brexit for business and investment on the continent.

A pattern of cautious optimism emerges from the lawyers we have spoken to. The message appears to be that there is cause for concern, but those prepared to seize an opportunity could meet with success amidst the fallout of last week's decision.

Seth Asante, Head of Financial Institutions and Capital Markets at Ghanaian law firm Bentsi-Enchill, Letsa & Ankomah, sums up the mood of trepidation. "The current instability of the U.K. economy is likely to lead to greater caution by investors and lenders," he says. "This may result in a reduction in foreign investment activity in markets like Ghana". That view is shared by a number of corporate lawyers attending the International Bar Association 'Investing in Africa' conference last week in London. Many report that the 'deal floor' is quiet, while investors buy time to see how Brexit is going to play out. One says: "It is difficult to say in these early days precisely how investment will be affected. Those funds with government backing may consider their budgets to be safe, but if there is a general election, those funds may be at risk. In the meantime it is fair to say we have already seen some deals held up."

Seth nevertheless sees a silver lining: "Countries like Ghana may see the opportunity to negotiate directly with the U.K. to maximise bilateral trade benefits. This may lead to a growth in exports both ways." This is significant, because Ghana is a major sub-Saharan trade partner with the U.K. UKTI states that Ghana was the UK's fifth largest export market in sub-Saharan Africa in 2014, with bilateral trade in goods and services totaling £1.05 billion. Ghana's Minister of Foreign Affairs, Hannah Tetteh, was quoted on Ghanaian radio last week as saying "Ghana will immediately start talks with the UK on a bilateral trade agreement".

This may well be the thinking of many African nations, in the context of a history of difficult relations with Brussels over trade agreements. Habo Gerdes of Engling Stritter & Partners in Namibia, for example, points out that not all African countries enjoy significant trade with the U.K. "In Namibia, trade with the UK has reduced significantly and is mainly with EU trading partners. He adds, however: "We foresee a likelihood that trade agreements with the UK could be established which could be of mutual benefit."

Professor Tunde Fagbohunlu, Head of Dispute Resolution at Nigerian firm Aluko & Oyebode, recognises the same opportunity: "Without doubt Brexit will impact the economies and the landscape for legal practice in many African countries, including Nigeria. Many trade agreements entered into with Britain are within the framework of its membership of the European Union, and may need to be renegotiated." The opportunity comes with a warning, however. "Any deleterious impact of Brexit on European economies might affect demand for Nigerian exports, as a number of EU members are Nigeria's trade partners."

Ayuli Jemide, Senior Partner at Detail Solicitors, also recognises the good and the less good effects for Nigeria, but prefers to focus on two positives. "One bright side is that the British pound may dip in value for a period as demand for the pound as an exchange currency goes down on the back of reduced purchases of British goods from the EU zone. If this happens the purchasing power of the Naira for UK goods and services would improve greatly." The potential impact on exchange rates is crucial for Nigeria, which recently unpegged the Naira from the US Dollar, resulting in a swift 27% devaluation in the currency.

Ayuli, however, sees another positive. "The second possible bright side may come on the back of the British companies losing market share in the EU zone. If this happens, those companies may get more bullish about alternative or emerging markets like Nigeria, which may lead to increased UK investment."

Simon Courie, a partner with Addleshaw Goddard's Infrastructure, Projects and Energy team based in London, has a particular interest in major West African infrastructure and renewables projects. Simon agrees that opportunity abounds for British companies to make a greater investment in power projects across the continent. "The markets will hopefully settle down once there is clearer direction over how Brexit will take shape. When they do, the greater flexibility that Brexit may bring in negotiating individual trade agreements with specific countries should lead to more investors taking part in bridging the massive power and infrastructure deficit across the continent."

A number of major power projects are seeking approval in both Ghana and Nigeria, with investors from across the globe having tabled proposals for solar, LNG, coal and various other power solutions. It has also been widely reported that Ghana is considering options for the privatisation its main electricity off-taker, the Electricity Company of Ghana, which will of course lead to more investor participation.

There are clearly many uncertainties around Brexit, but as always with investment on the African continent, the brave investor may be able to capitalise on the opportunities which clearly abound, despite the nervousness and flux in the markets.

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