

# BRAZIL

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BRAZIL

# CARNIVAL

Brazil's economic growth and status in the global economy has helped create one of the most sophisticated legal communities among the emerging markets

**CHRIS CROWE**



# TIME

The legality of foreign law firms having local associated practices may grab some of the headlines, but Brazil's relentless economic expansion and the growth of international deals in the market has been getting the top billing. The boom has not only attracted a slew of foreign firms but also driven the development of an increasingly sophisticated domestic legal market.

The leading domestic firms have grown their ranks to some 350 lawyers, while international players are going through the long and arduous regulatory process of establishing offices in Brazil's commercial and financial centre, São Paulo.

Skadden, Arps, Slate, Meagher & Flom is one firm that ran the regulatory gauntlet in 2008 to launch a São Paulo office and then hired Shearman & Sterling's São Paulo head Richard Aldrich in 2009. Skadden's New York-based head of its Latin America practice Paul Schnell says: 'Many of the bankers and other financial and business providers have been relocating to Brazil over the last five years. There has been a meaningful shift in operations towards São Paulo, so much so that qualified personnel are in tremendous demand and it is extremely difficult to find office space in São Paulo despite an office building boom. Today São Paulo is recognised as one of the world's key financial centres.'

For the international firms the traditional focus has always been on capital markets. And as many of these transactions involved listings on the New York Stock Exchange, Wall Street's leading firms in particular have historically based their Brazil practices in New York.

Now with the rise of São Paulo as a genuinely powerful financial centre in its own right, firms are changing tack. Cleary ►

► Gottlieb Steen & Hamilton and Davis Polk & Wardwell, for instance, are in the process of launching their own São Paulo branches.

Davis Polk, which hopes to launch its office in the second quarter of 2011, is due to transfer New York partners Manuel Garciadiaz and Maurice Blanco to the new office, along with six to eight associates. The firm already has an impressive track record in the country. In 2009 it advised Banco Santander (Brasil) on its US\$7.04bn IPO in New York and São Paulo, the largest ever listing in Latin America and the biggest in the US for 18 months. 'From a client's perspective, it is better to have lawyers on the ground than fly in every week,' Garciadiaz explains.

Davis Polk's Wall Street rival Cleary Gottlieb also announced in November 2010 that it intends to launch a São Paulo office, subject to regulatory approval. The announcement followed the firm's role advising Brazilian oil and gas giant Petrobras on its immense US\$67bn global equity offering. Petrobras is the world's second largest oil and gas company by market capitalisation, after Exxon

Mobil. It is just one example of the financial firepower of Brazil's leading corporates which also includes the likes of steel manufacturer Companhia Siderúrgica Nacional (CSN), mining major Vale, and brewing company Ambev.

For domestic and international firms, the draw of representing such powerful global players is hard to resist. Cleary Gottlieb is one firm that is convinced that Brazil will be a vital business generator in a global economy that is becoming ever more reliant on the growth of emerging markets. New York partner Juan Giraldez, who will relocate to São Paulo once the firm has gained regulatory approval says: 'Professional services in Brazil are becoming increasingly localised. International banks are devoting a lot of resources to the region, whereas ten years ago, this work was mainly done out of New York. It is the same for lawyers. Clients increasingly want to have their lawyers on hand.'

For Pedro Amaral Dinkhuysen, head of recruiter Laurence Simons' Brazil office, the message for international firms is very clear. 'To

compete in Brazil, you have to come to Brazil,' he says. 'That is the biggest change.'

#### LOCAL POWER AND INFLUENCE

Aside from international banks migrating resources to São Paulo, firms are also discovering that domestic financial institutions are considerably more powerful than in other jurisdictions. Leading domestic investment banks include Banco BTG Pactual, Banco Santander (Brasil) and Banco do Brasil (BdB), which compete against major global investment banks such as Credit Suisse, Morgan Stanley, Merrill Lynch, Citi and Goldman Sachs. Cleary Gottlieb New York partner Francesca Odell says: 'Brazil is unique in that local investment banks and international banks are on a par.'

For the international legal market, this realisation that Brazilian companies are no longer obliged to look abroad to raise capital or gain financial advice, is one of the primary reasons for São Paulo's success. 'Up until five years ago, financings for Brazilian companies were more focused on overseas investors,' Skadden's Schnell says. Deals were done in English, with the offering document translated into Portuguese only after it had been completed. That is now the exception to the rule. The vast majority of financings are now done with a listing on the Brazilian stock exchange rather than a US exchange, with the regulatory review done by the CVM (the Brazilian SEC). Everything is now done in Portuguese and then at the end of the deal, the offering document is translated into English.'

That scenario has obviously created an even greater demand for domestic legal advice from Brazil's local law firms. Valdo Cestari de Rizzo, founding partner of mid-sized firm Lobo & ►



**'There has been a meaningful shift towards São Paulo. Today it is recognised as one of the world's key financial centres.'**

Paul Schnell, Skadden



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## LOCAL POWER

Of the BRIC nations, Brazil certainly has the most sophisticated and developed cohort of domestic law firms. China has only really had private practice law firms operating for a little over 20 years. Previously, lawyers worked for state-run legal services entities. In India, the corporate lawyer is a relatively new breed, only really coming into existence when India opened up to foreign investment and trade in the 1990s. It too has restricted the growth of domestic law firms, by putting limitations on the size of partnerships. In the case of Russia, the market is almost entirely dominated by foreign international law firms.

Brazil is certainly the exception. It has an established echelon of leading firms which includes, among others: Barbosa, Müssnich & Aragão Advogados; Machado Meyer Sendacz Opice Advogados; Mattos Filho, Veiga Filho, Marrey Jr. e Quiroga Advogados; Pinheiro Neto Advogados; Souza, Cescon, Barriue e Flesch Advogados; and TozziniFreire Advogados. These firms are large by international standards – Machado Meyer has over 320 lawyers – and many leading Brazilian firms have had significant exposure to challenging transactions.

Valdo Cestari de Rizzo, a founding partner of leading mid-tier firm Lobo & de Rizzo Advogados says: ‘Brazil has much stronger institutions than other BRIC markets. We have had an open economy and a capitalist economy for many years and we have had foreign investment for many years. As a result, we have a very sophisticated legal market.’

► de Rizzo Advogados, says: ‘Our practice is totally different to what it was. The securities market rules are much more sophisticated than they were ten years ago. Ten years ago large transactions were funded outside of the country, but now it is the opposite. There are many more funds available in Brazil and the economy is considerably larger.’

This trend is having a profound effect on the local Bar. Top firm Mattos Filho, Veiga Filho, Marrey Jr. e Quiroga Advogados hired five lateral partners in 2010 and has a number of initiatives to ensure that it is well placed to handle a growing diet of international instructions. Every year it now pays for around ten associates to join LLM or MBA programmes in the US or Europe. Mattos Filho partner José Eduardo Carneiro Queiroz says: ‘We need professionals that can accommodate and deal with international clients. One important element is that the Brazilian economy has become much more sophisticated in the last ten to 15 years, and we need to have that experience to deal with Brazilian and foreign clients, as well as complex corporate finance structures.’

## CONVINCING STATISTICS

Brazil’s relatively steady annual GDP growth of 5% provides some assurance to both local and international firms. There is little talk of the economic bubble bursting. The 2014 FIFA World Cup and the Olympic Games in 2016, which will both be held in Brazil, are providing further impetus to its economic development thanks in part to a massive investment in domestic infrastructure. Both local and international

firms expect an influx of instructions as the traditional financier of major infrastructure projects, the state-owned Brazilian Development Bank (BNDES), does not have the capacity to fund all of Brazil’s ambitious plans.

Thomas Benes Felsberg, name partner of Felsberg e Associados says that private and foreign players will have to come into the market and acknowledges that project sponsors are already searching for new private financiers and multilateral agencies. With more sophisticated and complex financing structures in place, it raises the demand for multiple legal advisers.

Pedro Seraphim, a partner at TozziniFreire Advogados and head of its energy group says that BNDES is bigger than the World Bank in terms of lending volume, but still cannot meet Brazil’s insatiable demand for infrastructure improvements. He explains: ‘I think that with the amount of projects that are coming up and with a more diverse range of financings, we will have many more players in the market and they will need different lawyers to represent them.’ It partially explains why the influx of foreign law firms into Brazil has quickened so much over the past three years.

Last year was particularly striking in that foreign firms really began to intensify their efforts in Brazil. For example, DLA Piper entered into a co-operation with local firm Campos Mello Advogados in March 2010 and then went on a hiring spree, which included acquiring a 14-strong team from TozziniFreire.

Linklaters’ Brazilian ally Lefosse Advogados caused a stir in August 2010 when it recruited Mattos Filho’s star capital markets

partner Carlos Mello and a team of 15. It has brought Lefosse much needed resources after a series of departures. Mayer Brown is another international firm that has made considerable headway in Brazil by entering into an association with Tauil & Chequer in December 2009, a firm that was previously allied to Dallas-based Thompson & Knight. As well as having a local associated practice, Mayer Brown established its own international practice in São Paulo in 2007 by hiring Stephen Hood from Clifford Chance.

For international firms, Brazil has clearly become a core part of global strategy. In 2010, Herbert Smith appointed Steve Lewis to undertake a six-month review of the Latin American market with a view to potentially launching a São Paulo office. Lewis previously launched the firm’s Tokyo office, helping to make Herbert Smith one of the most successful international firms in Japan. Other major international players such as Hogan Lovells, Norton Rose and SNR Denton are believed to be steering a similar course towards Brazil.

Clifford Chance has one of the largest practices of the international firms in Brazil with 17 lawyers. It is purely an international law operation and has avoided having a local association. Even so, its presence on the ground has enabled it to advise on an impressive list of landmark deals. In 2008, it advised mining giant Vale on its US\$90bn bid to acquire Switzerland’s Xstrata which was ultimately shelved.

In February 2010, it represented Shell on its US\$12bn joint venture with Brazilian conglomerate Cosan. Also in 2010, it acted for Brazilian airline TAM Linhas Aéreas on its merger with Chile’s LAN Airlines. ‘Being on the ground has enabled us to demonstrate a commitment to the country as well as to

**‘The securities market rules are much more sophisticated than they were ten years ago.’**

Valdo Cestari de Rizzo,  
Lobo & de Rizzo



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Pedro Amaral-Dinkhuysen  
Managing Partner  
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If you are interested in finding out more about Brazil, its economic outlook, opportunities for business growth or indeed new roles available through us, please do get in touch – we are always available for a chat. Also, don't forget to join our LinkedIn group, it's the biggest networking group of its kind, as you might expect from the most established international legal recruiter.



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► develop deep relationships with world-class companies,' Clifford Chance's São Paulo head Anthony Oldfield says. 'I expect this trend will continue and corporates will look to grow internationally. It will just provide greater opportunities for a firm like ours.'

#### EMERGING MARKET NEXUS

What the TAM-LAN merger illustrates is that investment and transactional flows are increasingly between emerging markets, instead of coming from more mature economies. China is now Brazil's largest trading partner, having overtaken the US. One example of the increasing nexus between Asia and Brazil, was when Banco BTG Pactual sold a US\$1.8bn stake to a group of investors led by China Investment Corporation (CIC) and the Government of Singapore Investment Corporation (GIC). The banking industry has received a significant flow of investment from emerging economies. In October 2010, Qatar Holding acquired a 5% stake in Banco Santander (Brasil). Iberian firm Cuatrecasas, Gonçalves Pereira and White & Case advised Qatar Holding.

Claudia Farkouh Prado, the managing partner of Baker & McKenzie's Brazilian affiliate Trench, Rossi e Watanabe Advogados, says that firms can no longer rely on being headquartered in the world's principal financial centres such as London and New York. 'Ten years ago, our focus was on foreign investors coming into Brazil. This was primarily investors coming from traditional markets like the US and Europe,' she says. 'About five years ago there was already a change because Brazil had become more stable and the deals were becoming larger and more sophisticated. In the last two years, there has been an even larger change with investments coming from emerging markets, because of the economic downturn in Europe and the US. We have experienced a shift in the type of clients to Asian clients and those from other emerging countries.' In 2010, State Grid Corporation of China announced a US\$989m investment in seven

Brazilian power transmission groups, in yet another illustration of the interest from other emerging markets in Brazil's alluring economy.

And it's not just the largest US and UK firms that have shown an interest. France's largest firm Fidal has just signed an alliance with Brazil's biggest firm Siqueira Castro - Advogados and while this seeks to exploit the increasing deal flow between Brazil and France, it is also about Brazil's desire to invest in Africa, most notably in French-speaking African nations. Fidal partner Jean-Pierre Armogos comments: 'For Brazilian companies, France is a bridge into Europe and also a bridge into Africa, because they are interested in the French-speaking countries in Africa. Many of them are competing with Chinese companies to invest in the French-speaking African countries.'

A number of Portuguese firms report a growing interest from Brazilian companies in Africa, especially the Portuguese-speaking nations of Angola and Mozambique. João Caiado Guerreiro, the founding partner of Lisbon's Franco Caiado Guerreiro & Associados, says: 'In Portugal, we don't expect our legal market to grow in the next few years so we will grow in relation to Africa and Brazil.' Guerreiro estimates that some 15 to 20% of the firm's work already relates to Brazilian law.

Portuguese firm Raposo Bernardo has also got a keen eye on the Brazil-Africa link. Partner Joana Andrade Correia comments: 'Brazilian companies are looking to invest in Angola and

Portuguese-speaking countries in Africa. We are looking to assist them.'

'What makes sense now is that not only is there a special relationship with Brazil but also this triangle with Brazil and Africa,' says Paulo de Barros Baptista of Vieira de Almeida & Associados. 'There is a lot of knowhow that Portuguese firms can export to Angola and Mozambique where we are already present, with Brazilian investors going to Africa and Angolan investors that are coming to Portugal and Brazil.'

Brazil's impact on international legal services doesn't stop there, with offshore firms now recognising São Paulo as a genuinely powerful financial centre. Conyers Dill & Pearman established a São Paulo office in 2009, and although it launched in the midst of the global financial crisis, the firm has not been disappointed. São Paulo head Alan Dickson says: 'Traditionally, this wasn't an important market, but now we can see what can happen when a market emerges and goes international.'

Offshore firm Harneys has also recently established a São Paulo office and the head of its Latin America practice Marco Martins says that Brazil is becoming increasingly integral to its global practice. 'Take the hedge fund market,' he explains. 'Brazil accounts for over 85% of all assets under management in Latin America; the next closest is Mexico. So for the funds industry, Brazil is by miles the biggest market and a market that has been around for a long time.'

Beyond this, firms are also recognising that Brazil can be a healthy source of dispute resolution instructions. Despite Brazil's arbitration legislation only being 15 years old, most commercial contracts involving Brazilian parties now have arbitration clauses. The country's somewhat archaic court system is severely congested. It is estimated that some 70 million cases are pending before Brazil's multi-layered court system and cases can often take ten years before they are decided. Unsurprisingly there is a real impetus behind the growth of arbitration and International Chamber of Commerce statistics indicate that Brazilian companies accounted for 86 arbitration cases in 2009, making Brazil fourth by volume of cases.

Brazil only adopted the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 2002, but the Brazilian courts have already demonstrated a good record in ratifying







**‘We have experienced a shift in the type of clients to Asian clients and those from other emerging countries.’**

Claudia Farkouh Prado,  
Trench, Rossi e Watanabe

arbitral decisions. Antonio Corrêa Meyer, founding partner of leading Brazilian firm Machado Meyer Sendacz Opice says: ‘If you go through the judicial system, you must be prepared to wait about ten years for a final decision. That is why there are proposals being discussed at a federal level to radically change the judicial system. As a result, we are very much in favour of arbitration.’

The rapid take up of arbitration in Brazil is symptomatic of the pace of change in the local market; a pace that hasn’t abated since the downturn. TozziniFreire’s Seraphim says that Brazil’s status on the global stage has clearly been enhanced in the years after the global financial crisis. He expects the local legal market to develop accordingly: ‘After the crisis, the fog cleared and everybody could see that Brazil was standing in a different position. We have been given this BRIC acronym and I think we should use it, but I really think that compared to all the BRIC countries, Brazil is in a very special position.’ **LB**

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# A DIFFERENT BEAT

The Brazilian Bar is taking a stand against foreign firms that work alongside local associated practices. Few in the market are now prepared to bang the drum for local alliances

**CHRIS CROWE**

Hostility within the Brazilian legal market, especially São Paulo, could hardly be more intense. The Brazilian Bar Association, *Ordem dos Advogados do Brasil (OAB)*, recently reiterated its opposition to local lawyers forming alliances with the local offices of foreign law firms. It puts Linklaters, Mayer Brown, DLA Piper, Uría Menéndez and their local associated practices - Lefosse Advogados, Tauil & Chequer, Campos Mello Advogados and Dias Carneiro Advogados respectively - very much in the firing line.

A translation of a decision by the Appeal Chamber of the OAB on 11 January says that: 'Brazilian lawyers or law firms are prohibited from associating themselves with foreign law consultants.' Foreign firms in Brazil must be registered as foreign law consultants. The decision goes on to say that: 'A foreign law consultant (or a foreign law consultancy firm)

who associates himself/itself with Brazilian lawyers or law firms breaches Ordinance 01/2000 - this will lead to the cancellation of the authorisation granted to him to practise as a foreign law consultant in Brazil. In addition, he also commits a criminal offence.'

What sanctions the OAB might impose are yet to be made clear, but it has been suggested that foreign firms could have their foreign law consultant licences withdrawn (foreign lawyers must be registered with the OAB as foreign law consultants) and action could be taken against the local associate firms.

There is a very real possibility that these firms will be forced to disband their local associations and even withdraw from the market altogether. Not only that, they risk enraging pockets of the local profession and thus damaging any future referral relationships. ►



## **‘There is some antipathy towards the aggressive way some firms are coming into Brazil.’**

Antonio Corrêa Meyer,  
Machado Meyer  
Sendacz Opice

▶ Antonio Corrêa Meyer, founding partner of leading Brazilian firm Machado Meyer Sendacz Opice Advogados and one of the senior members of the local profession, believes that several foreign firms have exploited the OAB's decision some years ago to allow foreign lawyers to register as foreign law consultants and launch offices on the ground. He states that these firms have wrongly elected to provide a

full service of international and domestic law by creating an association with a local firm. ‘The Bar Association is simply applying the law,’ he says. ‘The Brazilian Bar opened the window for them to be registered as foreign law consultants, but not to practise local law.’

Meyer believes that having a local associated practice is a blatant attempt to circumvent the rules and what they were intended for. ‘The law firms here in Brazil that have registered as foreign law consultants and do not have an association with a local law firm, are perfectly in accordance with the law. The Bar has nothing against them,’ he says. Given the booming Brazilian economy the Brazilian Bar is one organisation that you want to keep on side.

### **WAR PATH**

Leading local firms have been described as being on the ‘war path’, having an ‘axe to grind’, and having too much influence within the OAB. Certainly the São Paulo arm of the OAB appears to have taken a more rigid stance, with its counterpart in Rio de Janeiro understood to be more relaxed about the activities of foreign law firms in Brazil. One general counsel at a major foreign bank in São

Paulo is reported to be dismayed at the situation, blaming it on a ‘Mafia’ segment within the local legal market.

Even so, José Eduardo Carneiro Queiroz, a partner at leading Brazilian firm Mattos Filho, Veiga Filho, Marrey Jr. e Quiroga Advogados, says that allegations of the leading domestic

firms having too much power within the OAB are wide of the mark. He explains: ‘The big law firms are not closely related to the Bar association. More than 90% of Brazilian law firms have less than five lawyers and it is this type of practice that has more influence within it.’ It is a situation that resembles the stance that the Bar Council of India is taking against foreign law firms in India, a state of affairs widely blamed on the concerns of a multitude of small local firms.

What has apparently vexed the local Brazilian Bar is the recent lateral hires by the local associated practices. Last year, Linklaters’ Brazilian ally Lefosse Advogados hired capital markets partner Carlos Mello and a team of 15 from Mattos Filho. Similarly Campos Mello Advogados, which formed an alliance with DLA Piper last year, recruited a team of 14, including two partners, from the Rio office of leading firm TozziniFreire Advogados.

This may be the natural course of action for international firms to build their local capabilities around the world, but the local Bar was clearly surprised by these moves. Meyer of Machado Meyer says: ‘There is some antipathy towards the aggressive way some firms are coming into Brazil.’ He welcomes the presence of international law firms that do not practise local law, but believes the local Bar must be protected from the financial firepower of Anglo-Saxon firms. Given the sensitivity, it is perhaps not surprising that DLA Piper, Linklaters and Mayer Brown all declined to comment for this piece. Uría Menéndez was also fairly tight lipped but did make the following statement regarding its Brazilian presence: ‘Uría Menéndez has been present in Brazil for more than ten years with an office in São Paulo where, in accordance with the regulatory framework, we offer our clients advice exclusively on Spanish and European Law on a broad range of matters.’

‘In regards to Brazilian law, we regularly co-operate with Dias Carneiro Advogados with which, as with other Latin American law firms, we have a preferred but independent rapport,’ the statement concluded.

What Meyer is particularly concerned about is that giving foreign firms unfettered access to the market would lead to an instantly unbalanced playing field. He explains: ‘It is true that we can come to London and open an office, but how easy is it for a Latin American firm to come to London and be one of the major players in the market? It is the same in New York, where the top firms have been

there for more than 100 years. It is not easy for a Brazilian, Uruguayan or Argentine firm to become a competitive player in the market.'

#### MOVING THE GOAL POSTS

Foreign firms operating in Brazil is not a new phenomenon. Although it is due to open a São Paulo office this year, Cleary Gottlieb Steen & Hamilton's first foray into the country was in the 1970s when now-retired partner Anthony Gooch was resident in Rio, taking office space with one of the firm's clients.

Furthermore, overseas firms have a history of forming local associations. Baker & McKenzie has had an association with Trench, Rossi e Watanabe Advogados since 1959, but crucially the international firm has no physical presence and does not practise international law in Brazil.

Even though Trench Rossi's partners are listed on Baker & McKenzie's website,

**'Once you open an office and practise local law in Latin America, you sever your contacts with the local law firms.'**

Michael Fitzgerald,  
Milbank Tweed

the two firms have been especially careful to demonstrate that there is no legal or financial connection between the two entities. Before becoming chairman of Baker & McKenzie last year, Eduardo Leite retired from Trench Rossi's partnership.

While the discord between the OAB and international firms that have local associated practices currently appears to be at its most intense, the matter is a long running one. In 2006, Linklaters and its Brazilian affiliate Lefosse Advogados were forced to separate their reception areas, as well as their business cards and letterheads. Linklaters' name was also removed from the building that they shared. A story of one receptionist running between the two receptions to answer two separate telephones may be apocryphal, but it does illustrate the lengths to which Linklaters and Lefosse were forced to go to, to at least gain a temporary reprieve from the ►



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**‘I think the market is pretty open. There are a number of US law firms and UK law firms with offices here.’**

José Eduardo Carneiro Queiroz, Mattos Filho

► OAB. Although the two firms now have separate addresses in São Paulo, Linklaters has no resident lawyers in Brazil according to its website. When asked to clarify this, the firm reiterated that it was not willing to comment.

Speaking to *LB* last year however, the Magic Circle firm’s regional managing partner for the Americas, John Turnbull, described the close ties between the two. ‘The Lefosse team is closely aligned with Linklaters’ global strategy,’ he said. ‘It has generated important relationships with large Brazilian multinationals that have become clients of Linklaters, generating work across a number of jurisdictions.’

For Lefosse, the 2006 separation was then followed by a series of departures at partner and associate level. This included the departure of José Orlando Lobo and Valdo Cestari de Rizzo to form Lobo & de Rizzo Advogados in 2007. Until Carlos Mello and a team of 15 joined from Mattos Filho last year, Lefosse was perceived to have been badly depleted by the departures.

The new team has clearly delivered some notable successes. It claims to have worked on 11 IPOs in the Brazilian market in 2010, including the listing of shopping centre developer Sonae Sierra. This year it has advised on IMC’s IPO, but notably on neither of these deals did it work alongside Linklaters.

What this heated episode demonstrates is that Brazil’s infamous bureaucracy and heavily regulated legal profession, must be taken extremely seriously. Gaining a licence to open an office as foreign law consultants is supposed to take six months, but in practice it normally takes between ten and 12.

Conyers Dill & Pearman’s São Paulo head Alan Dickson comments: ‘Bureaucracy

here is serious and needs to be respected.’

Even so, Dickson says that his dealings with the São Paulo OAB were an ‘extremely positive experience’ and that the process of obtaining a foreign law consultant licence happened exactly as he was told it would. He explains: ‘It was more about us educating them about what we do. There was no real reference point, as we were the first offshore law firm to go through that process.’

Foreign firms that have been awarded licences to operate as foreign law consultants and who have elected not to have a local association are rigidly committed to their approach. Skadden, Arps, Slate, Meagher & Flom partner and veteran of the Brazil market Richard Aldrich says: ‘In Brazil the local Bar is very experienced and sophisticated and has demonstrated that it can effect transactions in the international arena. One reason for this is the significant presence in Brazil of large multinational companies. Since World War II Brazil has gone through periods of economic boom interrupted by periods of economic crises. This economic environment has demanded agility and sophistication on the part of multinational companies. As a result, the Brazilian Bar has developed tremendous experience in business transactions for these companies.’

Milbank, Tweed, Hadley & McCloy’s New York-based head of Latin America Michael Fitzgerald says: ‘Once you open an office and practise local law in Latin America, you sever your contacts with the local law firms and you sever your relations with the US firms that are thinking about working with you in that jurisdiction. Practising local law is a lose-lose situation.’

**SLOW PROGRESS**

Despite all the angst surrounding the local allies of foreign firms, the OAB has not insulated itself from the rest of the world. On 15 March, the São Paulo Bar Association President Luiz Flávio Borges D’Urso and New York State Bar Association President Stephen Younger signed an ‘agreement to enhance professional ties between the two organisations’. According to Younger, Brazil has been thrust into the consciousness of the global legal market and should be given time to deal with and understand the consequences of this phenomenon. He explains: ‘Brazil is undergoing considerable change in a similar pattern to India. It has a traditional economy and legal system and now all these law firms from around the world are keen to move in and it needs to decide how to deal with them. We believe in free trade and the free mobility of lawyers around the world, but it is a big surprise for Brazil and these issues are evolving rapidly.’

A spokesperson for the American Bar Association also confirms that it is aware of the current situation in Brazil and that it is ‘monitoring the restrictions being placed on foreign lawyers practising there’.

Local Brazilian firms do not necessarily view the market as closed. In any case, comparisons with other BRIC nations cast Brazil in a relatively favourable light. International law firms are prohibited from advising on local law in China and are completely excluded from India. Only Russia has allowed foreign firms unfettered access and that has led to a market that is almost completely dominated by international players.

Mattos Filho’s José Eduardo Carneiro Queiroz says that the local Bar should not be accused of protectionism: ‘I think the market is pretty open. There are a number of US law firms and UK law firms with offices here. I think it is becoming more and more open despite all the current discussions.’

Valdo Cestari de Rizzo, founding partner of Lobo & de Rizzo, says that there needs to be more dialogue between the OAB and foreign law firms. ‘I feel that this could all be resolved,’ he says. ‘These are all intelligent people and perhaps with further discussions, then they could reach a solution. They should just sit and talk. The rules are there but if the rules are not clear maybe they should consult the Bar for clarification.’ The OAB has certainly been happy to speak its mind. **LB**

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