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Four years after the pre-salt discoveries, and one year after a flurry of hires in the market for oil and gas lawyers in Brazil, why are clients still struggling to find enough quality advice? Clare Bolton reports For a while, Rio de Janeiro seemed to be locked into a downward spiral. Held back by an at-best unimaginative local government, Brazil's former capital remained a must-go gringo destination, but seemed doomed to fade into commercial irrelevance as first the banks and later many companies defected to its roaring monster of a city-cousin, São Paulo. Then, Rio struck gold.Many factors have contributed to Rio's renaissance and impressive growth rates, but the pre-salt oil discoveries off the state's coastline in 2007 have been pre-eminent among them. Billions of barrels of oil lie under miles of salt deep underwater, thus posing sufficient technical challenges to require huge investment: Petrobras, the state-owned oil behemoth, is now mid-way through a US$174 billion investment programme. And as the discoveries were made as oil prices climbed ever more sky-high amid continuing peak oil warnings, to say the situation looked promising was something of an understatement.And indeed, business is good. Brazil has some of the heaviest oil rig traffic in the world, with a 30 per cent year-on-year increase. OGX, created just after the Tupi field was discovered and now the largest independent oil company in Brazil, floated with a then-record-breaking US$4.1 billion IPO and is still able to raise billions on the capital markets, despite having zero proven reserves. Statoil did around US$20 billion of business in Brazil last year and thinks next year will be much busier. Investment banks now have dedicated oil and gas teams; more and more global private equity funds are keen to invest; and independent oil companies (IOCs) and service providers from Korea, China, Norway, the US, Canada and just about everywhere else have either already set up in Brazil, or are keen to do so.All of which threw the previously cosy market for oil and gas lawyers in Brazil into a headspin. E&P began in Brazil as the market opened in 1997, with the first licensed activities in 2000 - meaning that for all firms the practice is relatively new and that no-one has had the opportunity to develop the levels of experience common elsewhere in the world. Moreover, for many years there was one company doing oil and gas work in Brazil, which meant that as a lawyer you either worked for Petrobras or you did not do oil and gas work. Thus, for years expertise was concentrated in small boutiques, led by one or a handful of lawyers with significant experience in regulatory and other sector-specific work; other traditional Rio-based full-service firms were also prominent, but the large São Paulo firms, with one or two exceptions, seemed to consider the work rather beneath them. Then multi-billion dollar deals began to happen and everything started to change.In 2010, senior practice members left or joined four of Brazil's leading firms, with practices being launched at Machado, Meyer, Sendacz e Opice Advogados and Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados, as well as at Campos Mello Advogados and Vieira, Rezende, Barbosa e Guerreiro Advogados. TozziniFreire Advogados has a whole new team and former stalwart in the field Villemor Amaral Associados Advogados suffered a serious dent in its practice after OGX hired its new general counsel from the firm. Moreover, a sprawl of new boutiques have been set up, each claiming expertise in the field and competing fiercely for attention: as Pinheiro Neto Advogados' Ricardo Coelho says, "It is unbelievable how many lawyers in the marketplace now seem to specialise in oil and gas, compared to just a few years ago."In the international sphere, the lateral hiring trend has been just as pronounced. Mayer Brown LLP's practice has grown significantly since the end of 2009 when Brazilian alliance firm Tauil & Chequer Advogados chose it over then-partner Thompson & Knight LLP; four T&K partners, mostly Houston-based, followed the path set by the Brazilian firm in a slow but consistent trickle of bad news for their alma mater. Morgan Lewis & Bockius LLP, hardly a traditional contender in the oil and gas space, has similarly amassed a very high-profile and experienced team recently: the former global head for oil and gas at Baker Botts and global star in the industry, David Asmus, moved over in 2009 and was joined in early 2011 by Brian Bradshaw from Fulbright & Jaworski LLP. Thompson & Knight has picked up another of the Fulbright team members, while other less-prominent moves have also been seen since 2009.However, irrespective of all the jostling for space, clients can still easily see the fault lines in the service on offer. For one thing, they are very clear that a spate of lateral hires does not necessarily widen the choice - those with long-standing and strong reputations remain in high regard irrespective of what their business cards say, and baseless claims from unheard-of newcomers in the market are viewed with healthy suspicion. Quantity is not the same as quality. "There are lots of people trying to enter the market, but there is not enough training - and so [there are] more people wanting to do it than there is capacity to create [them]," says Thales de Miranda, international legal coordinator of Petrobras. He thinks the real gap in the market is advice offered to small or medium-sized IOCs - because as lawyers with even medium-level experience have long since been snapped up by the big law firms or oil companies to work in-house, those IOCs trying to enter the Brazilian marketplace are really struggling to find quality, affordable advice. "I get these guys ringing me and asking for help on particular questions - that's a clear sign," he adds.The legal counsel of Statoil, Ludmilla Corkey, also admitted to seeing limitations in the marketplace. She has a team of just three in-house lawyers, meaning she relies upon around 10 external firms: including Veirano Advogados for corporate and labour issues; Schmidt, Valois, Miranda, Ferreira & Agel Advogados for regulatory work; and, more recently, Mattos Filho for M&A deals. However, she thinks that "there is room for improvement in the marketplace - we still use international firms [on Brazilian deals] because they have a longer, more involved experience in the field." Humberto Quintas, now local GC of BP since it acquired the Brazilian assets of Devon, where he was legal manager, says that the market is

better today than it was eight years ago, but that still "there are four or maybe five firms I would use, from a field of 15 to 20, which call themselves experts."Three-year lullPart of the problem has been a limited opportunity for seconds-in-command and other more junior lawyers to build their experience over the last three years, which have seen no bidding rounds whatsoever in Brazil. Since the pre-salt discoveries were announced, the Lula administration and the succeeding government headed by Dilma Rousseff have put in place a new regulatory and legal framework that they claim will ensure the discoveries benefit Brazil, not foreign oil companies. Concession agreements have been replaced by production-sharing contracts (PSCs) and Petrobras's role has grown significantly, while another newly-created state-owned company, Petrosal, further enhances the government role. States are still squabbling over who takes what of the profits, meaning that real E&P movement in the oil industry is still not expected until next year. Similarly, a new and long-awaited gas law has just been enacted, meaning that a real gas E&P business, mothballed for more than five years, can only now start to be built.The new oil laws certainly have their critics in Brazil, but even if most lawyers still occasionally lament that the concession model worked perfectly well and they don't see why it needed fixing, they are long since resigned to making it work for their clients - when they are able to do so. Luiz Antonio Lemos is the new head of oil and gas at Campos Mello Advogados, having brought his team over from TozziniFreire. He acknowledges the move has been a tougher one than he anticipated, in part because learning how to make the most of his new firm's alliance with DLA Piper was a more complicated process than it first appeared. However, one of the issues with the referral flow has been external: "everything is stuck waiting for the PSCs, so there have been no bid rounds in three years," he says. "Things are warming up though and there are expectations that the situation will be much better next year."Lemos enunciates an idea common across Rio: that this year has been slower than expected; that the predicted upturn is yet to arrive. Luis Pacheco of Veirano Advogados, one of the elite of the industry cited by just about everyone as core competition, has found time recently for deals in his sport and entertainment practice (which he does because he enjoys it, but which doesn't by itself pay the bills), while he waits for the oil regulatory package to be fully enacted so that work can properly start. Similarly, Paulo Valois of Schmidt, Valois, commonly regarded as the best of the boutique Rio firms in the field, also points to a market-wide slowdown in pure E&P work: bid rounds are the engine that keeps the Brazilian industry wheels turning, and without them, everything slowly grinds to a halt.The slowness of the market has also been difficult for others, like Lemos, in a position of building business. TozziniFreire Advogados' new head of oil and gas, Luiz Quintans, joined the firm last year from Eni, where he was GC for many years; his partner, Pedro Seraphim, is honest about the challenges the firm has faced in seeing a complete change in team. "It is harder to re-establish a practice in a slow moment [in the market] and we would have had a stronger comeback if the market were hotter," he acknowledges. "But I am glad to have the opportunity to build a team which is in the Tozzini spirit, and from inside the firm there's no concern or fear, simply a process of cultural adaptation and consolidation."Seraphim, like the majority of the market, expects an upturn next year, and then continuing growth as the E&P market develops. Such optimism seems justified simply by the amount of oil in the ground, but the market effect of this hiatus is that the "club" of oil and gas lawyers - or, more charitably, the group of people who have the experience to truly be seen as experts - has remained largely unchanged and the next generation has yet to arrive.Within law firms, that is - one remarkable change over recent years in Brazil has been the emergence of a remarkably strong in-house oil and gas bar. The leading authorities on energy regulation in Brazil today are just as likely to be Alejandro Segura at BG, Jose Faveret of OGX, Quintas at BP, Pablo Gay-Ger of Repsol, Corkey of Statoil or others in similar positions, as they are to be the heads of energy boutiques or practices of major law firms. Many of these GCs head large, experienced teams perfectly able to do the day-to-day work and to build excellent relationships with the ANP and other regulators. Equally, a multinational IOC can offer significantly better sector-specific training to its lawyers than a Brazilian law firm, as well as access to experienced colleagues elsewhere which helps the Brazilian team be better prepared for their roles. Work sent out to law firms is thus changing; few legal departments have the capacity for the big deals, but more and more work is staying right where the GC can see it.According to Giovani Loss of Mattos Filho, this is one reason behind a shift in the legal marketplace in favour of the big corporate law firms. He thinks the scale of the industry and the strength of in-house teams is creating more large M&A and capital markets work as IOCs prepare themselves for the upswing - work which firms like his are well suited for. "When there are big deals with a sophisticated tax structure, for example, you need a heavier firm," he says. "My clients have everyday oil and gas expertise - they know the regulations - so I think the market was looking for a strong corporate firm that also has oil and gas expertise. Clients want both those things in one place." Moreover, the big transactions pull in more immediately impressive fees than day-to-day regulatory advice, ensuring the big corporate firms will continue to be focused on building business in the sector.Loss is credited in Rio as being one of the very few new players with a genuine oil and gas background - he was at Fulbright & Jaworski in Houston for a number of years and moved back to Brazil in 2010 to open the oil and gas practice at Mattos Filho. He has had a very good first year, in just the last few months closing BP/Devon and a US$2.4 billion capital raising issue for OGX, and planning an IPO for Perenco and more. Internally, over the last year, he and established projects partner Pablo Sorj have added seven lawyers to their team - so they now have eight - and continue to hire where they can. In response to market criticism that he can only offer the corporate work to clients, Loss insists he is also doing day-to-day E&P work for a number of IOCs (and BP is one company that confirms he is their main external provider). However, he shouldn't take such criticism too much to heart - there is probably no greater compliment than this, offered by a stalwart of the Rio oil and gas market during a lunchtime contemplative moment: "Yes, I suppose he rather is part of the club now."Unsurprisingly, lawyers from Pinheiro Neto and Machado Meyer support Loss's theory that the market is changing in favour of big corporate law firms: reportedly, BG's new Brazil panel only includes the large corporate firms, although BG itself was unable to confirm that. Meanwhile, those from boutiques or smaller firms point out both that down-to-earth industry types don't respond well to fancy São Paulo ways and that Houston firms seem to be holding their own against New Yorkers when it comes to niche, profitable oil and gas work, and so the pattern should hold in Brazil. Leonardo Miranda, who joined Machado Meyer as oil and gas partner from Pinheiro Neto in November, agrees that the industry has its individualities, but emphasises that corporate expertise on its own does not win industry clients: "We win only when we can prove we have significant oil and gas expertise - the difference is having regulatory oil and gas knowledge and the corporate side," he says. "The energy industry has a particular character, which I don't think you see in supermarkets, for example, and you need to be able to appeal to it."It is certainly true that more deals are seeing smaller, boutique firms work alongside São Paulo corporate heft: Iberdrola hired both Schmidt, Valois and Machado Meyer's M&A

team in buying AEI assets for US$2.4 billion in May. Tauil & Chequer Advogados, once very much an oil and gas boutique, now has a São Paulo office with a recently-assembled capital markets team. Ivan Tauil says that the expansion had more to do initially with the then-new association with Mayer Brown LLP, in which both sides wanted a broader team and an office in São Paulo (they hired laterally, he says, because they knew that sending a group of Cariocas to open in São Paulo would not work). However, he agrees that there are definite opportunities in combining the two offices' skills in pitching for oil and gas work: "the industry is changing and we have to change with it." Daniela Ribeiro is another example - once at the head of a highly-regarded but small regulatory boutique, she decided in 2009 to join Vieira, Rezende, Barbosa e Guerreiro Advogados, which packs a corporate punch in São Paulo which is heavier than its mid-size would suggest.If these lawyers are right, the legal marketplace will continue to be in flux as firms react to clients' changing needs and as work picks up in the long term. Brian Bradshaw of Morgan Lewis & Bockius predicts that the industry in Brazil has room for three or four OGXs, but acknowledges that "already there is more demand than supply" for quality lawyers in the marketplace. More lateral hires are likely; even Pinheiro Neto, famously averse to the idea, is considering "surgical lateral hires in the oil and gas practice". But as everyone is hiring, talent is in very short supply - meaning deeper structural changes could soon be seen.The bright spotsNonetheless, law firms are certainly busy, even beyond high-profile M&As and equity issues, and even if core E&P work is on hold for now. One large and profitable yet nonetheless limited niche is working for the ever-present Petrobras. The state-owned company occupies a dominant but still complex place in the legal marketplace; the company has a huge in-house team, around 800 lawyers and as such tries to keep as much work in-house as it can - and, as Thales de Miranda confirms, has a policy to try to do more of the Brazilian work in-house. However, like all government agencies in Brazil, it can only hire lawyers through arcane public competitions, which see young applicants passing complex exams to be admitted to the world of government work - and in Petrobras's case, sometimes moving on again relatively rapidly to higher-paid positions as public attorneys or to other agencies that are perceived as less demanding, such as BNDES. Even when the lawyers stay, the competitions have prioritised recruiting for junior level positions - meaning the team, although large, nonetheless often needs external counsel to supply the expertise in complex projects.Millions of reais are thus spent with external firms - a proportion of it on Trench, Rossi e Watanabe Advogados in Brazil. The firm has done very well in capitalising on the experience its international affiliate, Baker & McKenzie, has with NOCs worldwide, and Petrobras work takes up about 30 per cent of the team's time, according to partner Danielle Valois - for example, advising on the various bids for the pre-salt rigs and units, structuring the development of the Tupi and Guara fields, arbitrations, downstream work and advising Petrobras Biocombustíveis. Of course, the problem in any industry with a dominant player is that conflicts with other companies become a more complex issue for their lawyers - although Valois insists that the structure of the Brazilian upstream industry means she is perfectly able to work for other companies within it, just as much as other firms can and do work for Petrobras. "Although we do a lot of work for NOCs, the industry has many players, so we do substantial work for IOCs and service providers too."Indeed, one very bright spot in the industry is work for services providers. While the laws governing E&P are perceived as retrograde by many in Brazil's business community, the local content rules - which heavily favour and prioritise service providers who make their products in Brazil in awarding contracts - are compelling an investment wave that might well create a local industry of global renown: exactly what the regulations are designed to do, of course. Pinheiro Neto's Marcelo Moura says that "many clients have set up here in order to meet the local content rules - thus the rules are successful in meeting their goal. But expansion brings its own problems." His partner, Ricardo Coelho, agrees: "The principle is good, but the devil is in the detail - the industry needs more flexibility in order to be able to react quickly enough."Everyone of course wants Brazil to be like Norway, whose own local content rules played a major part in ensuring its industry has the global status it does today. But caution is needed, warn many, including Campos Mello's Lemos and team, who researched the concept in depth for BNDES. Lemos himself points to the experience of the computer industry in Brazil when saying "our history shows that closed markets don't work - we lose the chance to develop." A senior associate in the team, Luis Menezies da Silva, says, "The concept is great, but it won't come by itself - we need government support in tax and education, as well as incentives for Brazilian companies to go abroad, or we will lose our competitiveness. The rules also need to stop at the time the Brazilian industry is strong enough not to need them."Future worries aside, all the firms interviewed for this article cite service provider work as big business - Daniela Ribeiro of Vieira Rezende says the rules are "an opportunity, not an obligation". Furthermore, some lawyers are developing interesting niches: Heller Barroso, who runs his own boutique, engages with potential clients by offering CRCC certification, which registers service providers with Petrobras as possible vendors - work which is normally done by consultants. "We've had enquiries from Germans, Norwegians and in fact mainly Chinese companies, and done a good number," he says. "It is perfect - once you have done the first step for them, they tend to stay with you."Barroso is also branching out into broader infrastructure work - in part, he says, because of the downturn in E&P work. He's not alone, as many firms are looking elsewhere for opportunities while the market is in flux. Daniela Ribeiro of Vieira Rezende, for example, has passed on much of her oil and gas work to her partner, Andrea Falcão, while she focuses on building a practice in shipping - a practice area few firms claim to be experts in. The firm has signed an agreement with a Norwegian law firm with offices around the world, Wikborg Rein, to learn the complex interplay between risk assessment, insurance, maritime and contracts law, which is, says Ribeiro, an important but under-provided skill in Brazil. This blue-sea approach is also favoured by Barbosa Müssnich & Aragão Advogados, which most certainly does corporate oil and gas work (the firm was on the other side of BP/Devon, for example), and is currently planning an expansion into oil and gas tax work - less populated, more specialist and thus more profitable.The Houstonian harvestersSuch lateral business thinking is less needed from those international lawyers who are renowned in oil and gas work in Brazil, of course - no-one in the elite focuses on only one country, so African or Middle Eastern work can easily distract from a Brazilian hiatus. "My practice is very much like the work of migrant workers - I go where crops are in need of harvest," says Thompson & Knight's Andrew Derman. He says he is working with a number of clients in preparation mode for the pre-salt tenders and foresees an upturn once the rules have had time to "coalesce". And internally, he too is preparing - after a number of departures, he is "actively looking to hire people who make a difference" at both senior and junior levels.Unfortunately, so is everyone, and so while the international firms can have a global balance, the market remains deeply competitive, both for talent and for clients: much like inside Brazil, the club is very limited. "There's a relatively small number of experienced lawyers and that makes it quite competitive," adds Derman. "If you are doing general corporate work, it is quite easy to transition to doing general corporate work

for an oil and gas company. But when we are talking about truly sophisticated oil and gas lawyers - that's a much harder thing to become. It's a small universe."Core members of that universe are Baker & Botts, even post departure, as it remains key international counsel for Petrobras as well as IOCs such as Sinochem; and Vinson & Elkins LLP, which is seemingly at the top of its game in Brazil. In recent months it advised Sinopec in buying US$7.1 billion of assets from Repsol; Statoil in buying a US$3 billion stake in the Peregrino oil field; and advised Devon on its BP deal. Partner John Connally diffidently agrees they have "been fortunate in representing a variety of companies in oil and gas in Brazil" and that work is not only increasing, but that there is an "increased uptick" - particularly as clients gear up for the next bid rounds in Brazil.This is obviously the universe that Morgan Lewis & Bockius aimed to join with its recent hiring spree - it has long had a fair projects practice, but by bringing David Asmus and more recently Brian Bradshaw on board, it clearly wants to be part of the oil and gas club. Bradshaw agrees that the market is segmented into two: pure oil and gas work, in which there are very few core players, and thus it is hard to break into the group; and then broader projects work, in which market access is easier, but equally there are many more people pitching for work and prices are correspondingly tougher. Different types of competition, but neither of them particularly easy.Of course, Bradshaw thinks that by hiring Asmus, Morgan Lewis broke into the club easily - "the simple reality is that he is the star: he is one of the top two, both in the US and internationally" - but in fact the ever-conservative market is beginning to agree. For example, Asmus counselled Maersk on is US$2.4 billion acquisition of SK Group's Brazilian assets this year and competitors grudgingly acknowledge their existence in a way that would have been unthinkable three years ago.However, conservatism is generally the name of the game and that compels many in the market to take the long view. "Fulbright has given birth to a number of firms around Texas... [because] as these firms have come in, everyone is trying to compete for a very limited pool of talent," says William Wood of Fulbright & Jaworski. "We're always looking for talent, but we are very careful, particularly as we are watching the industry fragment. Some firms are laying out the red carpet [for new talent], but while we foresee fragmentation, consolidation and other pressure, we are focusing on growing internally."This conservatism is widely cited as one reason why very few of the Houston firms have yet joined their New York counterparts in opening an office in Brazil. More than one Brazilian client indicated to Latin Lawyer that they would find it useful and the only oil and gas firm with an office in Brazil, Mayer Brown LLP, confirmed it is good business: "we're seeing very good referrals out of Brazil," says Dallas Parker, who worked with Tauil & Chequer Advogados when he was a member of Thompson & Knight before moving over. "That may seem counter-intuitive to many guys in the US - and it has also helped us build relationships and thus work in West Africa."Everyone else seems to be considering it, but are yet to make the decision. Part of the issue is that some local law capacity would seem to make commercial sense, but the clear signals coming out of the bar association, particularly in São Paulo, are that more international firms, particularly anyone considering offering Brazilian law, would really not be welcomed (even though the tone of the state bar in Rio de Janeiro is quite different). Also, in part because of the mobile approach to alliances seen by the one Rio oil and gas firm to sign one, and in part because of ever-present issues in persuading partners with families to move to Brazil, no-one else is quite convinced how they could make it work - so they are playing a waiting game, for now at least. Should one make the first move off the blocks, it might well prompt a rush - but that hardly seems to be imminent.And perhaps they don't need to. The market is doubtless competitive, but the limited talent pool inside Brazil is one reason why the big, international oil companies will continue to hire US and UK firms for their work in Brazil. Equally, once pre-salt work finally does get off the ground, everyone should see an upturn in their practice irrespective of the address on their business cards. Brazil will soon be a top-ten global oil producer, but in the legal market, that means demand should soon catch up with supply, even at the top levels, and probably overtake it. Until supply of legal expertise catches up with demand - and experience is difficult to acquire quickly - clients might yet need to keep their options open. (Latin Lawyer 12.07.2011) (Notícia na Íntegra)

Four years after the pre-salt discoveries, and one year after a flurry of hires in the market for oil and gas lawyers in Brazil, why are clients still struggling to find enough quality advice? Clare Bolton reports

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Many factors have contributed to Rio's renaissance and impressive growth rates, but the pre-salt oil discoveries off the state's coastline in 2007 have been pre-eminent among them. Billions of barrels of oil lie under miles of salt deep underwater, thus posing sufficient technical challenges to require huge investment: Petrobras, the state-owned oil behemoth, is now mid-way through a US$174 billion investment programme. And as the discoveries were made as oil prices climbed ever more sky-high amid continuing peak oil warnings, to say the situation looked promising was something of an understatement.

And indeed, business is good. Brazil has some of the heaviest oil rig traffic in the world, with a 30 per cent year-on-year increase. OGX, created just after the Tupi field was discovered and now the largest independent oil company in Brazil, floated with a then-record-breaking US$4.1 billion IPO and is still able to raise billions on the capital markets, despite having zero proven reserves. Statoil did around US$20 billion of business in Brazil last year and thinks next year will be much busier. Investment banks now have dedicated oil and gas teams; more and more global private equity funds are keen to invest; and independent oil companies (IOCs) and service providers from Korea, China, Norway, the US, Canada and just about everywhere else have either already set up in Brazil, or are keen to do so.

All of which threw the previously cosy market for oil and gas lawyers in Brazil into a headspin. E&P began in Brazil as the market opened in 1997, with the first licensed activities in 2000 - meaning that for all firms the practice is relatively new and that no-one has had the opportunity to develop the levels of experience common elsewhere in the world. Moreover, for many years there was one company doing oil and gas work in Brazil, which meant that as a lawyer you either worked for Petrobras or you did not do oil and gas work. Thus, for years expertise was concentrated in small boutiques, led by one or a handful of lawyers with significant experience in regulatory and other sector-specific work; other traditional Rio-based full-service firms were also prominent, but the large São Paulo firms, with one or two exceptions, seemed to consider the work rather beneath them. Then multi-billion

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In the international sphere, the lateral hiring trend has been just as pronounced. Mayer Brown LLP's practice has grown significantly since the end of 2009 when Brazilian alliance firm Tauil & Chequer Advogados chose it over then-partner Thompson & Knight LLP; four T&K partners, mostly Houston-based, followed the path set by the Brazilian firm in a slow but consistent trickle of bad news for their alma mater. Morgan Lewis & Bockius LLP, hardly a traditional contender in the oil and gas space, has similarly amassed a very high-profile and experienced team recently: the former global head for oil and gas at Baker Botts and global star in the industry, David Asmus, moved over in 2009 and was joined in early 2011 by Brian Bradshaw from Fulbright & Jaworski LLP. Thompson & Knight has picked up another of the Fulbright team members, while other less-prominent moves have also been seen since 2009.

However, irrespective of all the jostling for space, clients can still easily see the fault lines in the service on offer. For one thing, they are very clear that a spate of lateral hires does not necessarily widen the choice - those with long-standing and strong reputations remain in high regard irrespective of what their business cards say, and baseless claims from unheard-of newcomers in the market are viewed with healthy suspicion. Quantity is not the same as quality. "There are lots of people trying to enter the market, but there is not enough training - and so [there are] more people wanting to do it than there is capacity to create [them]," says Thales de Miranda, international legal coordinator of Petrobras. He thinks the real gap in the market is advice offered to small or medium-sized IOCs - because as lawyers with even medium-level experience have long since been snapped up by the big law firms or oil companies to work in-house, those IOCs trying to enter the Brazilian marketplace are really struggling to find quality, affordable advice. "I get these guys ringing me and asking for help on particular questions - that's a clear sign," he adds.

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Three-year lull

Part of the problem has been a limited opportunity for seconds-in-command and other more junior lawyers to build their experience over the last three years, which have seen no bidding rounds whatsoever in Brazil. Since the pre-salt discoveries were announced, the Lula administration and the succeeding government headed by Dilma Rousseff have put in place a new regulatory and legal framework that they claim will ensure the discoveries benefit Brazil, not foreign oil companies. Concession agreements have been replaced by production-sharing contracts (PSCs) and Petrobras's role has grown significantly, while another newly-created state-owned company, Petrosal, further enhances the government role. States are still squabbling over who takes what of the profits, meaning that real E&P movement in the oil industry is still not expected until next year. Similarly, a new and long-awaited gas law has just been enacted, meaning that a real gas E&P business, mothballed for more than five years, can only now start to be built.

The new oil laws certainly have their critics in Brazil, but even if most lawyers still occasionally lament that the concession model worked perfectly well and they don't see why it needed fixing, they are long since resigned to making it work for their clients - when they are able to do so. Luiz Antonio Lemos is the new head of oil and gas at Campos Mello Advogados, having brought his team over from TozziniFreire. He acknowledges the move has been a tougher one than he anticipated, in part because learning how to make the most of his new firm's alliance with DLA Piper was a more complicated process than it first appeared. However, one of the issues with the referral flow has been external: "everything is stuck waiting for the PSCs, so there have been no bid rounds in three years," he says. "Things are warming up though and there are expectations that the situation will be much better next year."

Lemos enunciates an idea common across Rio: that this year has been slower than expected; that the predicted upturn is yet to arrive. Luis Pacheco of Veirano Advogados, one of the elite of the industry cited by just about everyone as core competition, has found time recently for deals in his sport and entertainment practice (which he does because he enjoys it, but which doesn't by itself pay the bills), while he waits for the oil regulatory package to be fully enacted so that work can properly start. Similarly, Paulo Valois of Schmidt, Valois, commonly regarded as the best of the boutique Rio firms in the field, also points to a market-wide slowdown in pure E&P work: bid rounds are the engine that keeps the Brazilian industry wheels turning, and without them, everything slowly grinds to a halt.

The slowness of the market has also been difficult for others, like Lemos, in a position of building business. TozziniFreire Advogados' new head of oil and gas, Luiz Quintans, joined the firm last year from Eni, where he was GC for many years; his partner, Pedro Seraphim, is honest about the challenges the firm has faced in seeing a complete change in team. "It is harder to re-establish a practice in a slow moment [in the market] and we would have had a stronger comeback if the market were hotter," he acknowledges. "But I am glad to have the

opportunity to build a team which is in the Tozzini spirit, and from inside the firm there's no concern or fear, simply a process of cultural adaptation and consolidation."

Seraphim, like the majority of the market, expects an upturn next year, and then continuing growth as the E&P market develops. Such optimism seems justified simply by the amount of oil in the ground, but the market effect of this hiatus is that the "club" of oil and gas lawyers - or, more charitably, the group of people who have the experience to truly be seen as experts - has remained largely unchanged and the next generation has yet to arrive.

Within law firms, that is - one remarkable change over recent years in Brazil has been the emergence of a remarkably strong in-house oil and gas bar. The leading authorities on energy regulation in Brazil today are just as likely to be Alejandro Segura at BG, Jose Faveret of OGX, Quintas at BP, Pablo Gay-Ger of Repsol, Corkey of Statoil or others in similar positions, as they are to be the heads of energy boutiques or practices of major law firms. Many of these GCs head large, experienced teams perfectly able to do the day-to-day work and to build excellent relationships with the ANP and other regulators. Equally, a multinational IOC can offer significantly better sector-specific training to its lawyers than a Brazilian law firm, as well as access to experienced colleagues elsewhere which helps the Brazilian team be better prepared for their roles. Work sent out to law firms is thus changing; few legal departments have the capacity for the big deals, but more and more work is staying right where the GC can see it.

According to Giovani Loss of Mattos Filho, this is one reason behind a shift in the legal marketplace in favour of the big corporate law firms. He thinks the scale of the industry and the strength of in-house teams is creating more large M&A and capital markets work as IOCs prepare themselves for the upswing - work which firms like his are well suited for. "When there are big deals with a sophisticated tax structure, for example, you need a heavier firm," he says. "My clients have everyday oil and gas expertise - they know the regulations - so I think the market was looking for a strong corporate firm that also has oil and gas expertise. Clients want both those things in one place." Moreover, the big transactions pull in more immediately impressive fees than day-to-day regulatory advice, ensuring the big corporate firms will continue to be focused on building business in the sector.

Loss is credited in Rio as being one of the very few new players with a genuine oil and gas background - he was at Fulbright & Jaworski in Houston for a number of years and moved back to Brazil in 2010 to open the oil and gas practice at Mattos Filho. He has had a very good first year, in just the last few months closing BP/Devon and a US$2.4 billion capital raising issue for OGX, and planning an IPO for Perenco and more. Internally, over the last year, he and established projects partner Pablo Sorj have added seven lawyers to their team - so they now have eight - and continue to hire where they can. In response to market criticism that he can only offer the corporate work to clients, Loss insists he is also doing day-to-day E&P work for a number of IOCs (and BP is one company that confirms he is their main external provider). However, he shouldn't take such criticism too much to heart - there is probably no greater compliment than this, offered by a stalwart of the Rio oil and gas market during a lunchtime contemplative moment: "Yes, I suppose he rather is part of the club now."

Unsurprisingly, lawyers from Pinheiro Neto and **Machado Meyer** support Loss's theory that the market is changing in favour of big corporate law firms: reportedly, BG's new Brazil panel only includes the large corporate firms, although BG itself was unable to confirm that. Meanwhile, those from boutiques or smaller firms point out both that down-to-earth industry types don't respond well to fancy São Paulo ways and that Houston firms seem to be holding their own against New Yorkers when it comes to niche, profitable oil and gas work, and so the pattern should hold in Brazil. Leonardo Miranda, who joined Machado Meyer as oil and gas partner from Pinheiro Neto in November, agrees that the industry has its individualities, but emphasises that corporate expertise on its own does not win industry clients: "We win only when we can prove we have significant oil and gas expertise - the difference is having regulatory oil and gas knowledge and the corporate side," he says. "The energy industry has a particular character, which I don't think you see in supermarkets, for example, and you need to be able to appeal to it."

It is certainly true that more deals are seeing smaller, boutique firms work alongside São Paulo corporate heft: Iberdrola hired both Schmidt, Valois and **Machado Meyer's** M&A team in buying AEI assets for US$2.4 billion in May. Tauil & Chequer Advogados, once very much an oil and gas boutique, now has a São Paulo office with a recently-assembled capital markets team. Ivan Tauil says that the expansion had more to do initially with the then-new association with Mayer Brown LLP, in which both sides wanted a broader team and an office in São Paulo (they hired laterally, he says, because they knew that sending a group of Cariocas to open in São Paulo would not work). However, he agrees that there are definite opportunities in combining the two offices' skills in pitching for oil and gas work: "the industry is changing and we have to change with it." Daniela Ribeiro is another example - once at the head of a highly-regarded but small regulatory boutique, she decided in 2009 to join Vieira, Rezende, Barbosa e Guerreiro Advogados, which packs a corporate punch in São Paulo which is heavier than its mid-size would suggest.

If these lawyers are right, the legal marketplace will continue to be in flux as firms react to clients' changing needs and as work picks up in the long term. Brian Bradshaw of Morgan Lewis & Bockius predicts that the industry in Brazil has room for three or four OGXs, but acknowledges that "already there is more demand than supply" for quality lawyers in the marketplace. More lateral hires are likely; even Pinheiro Neto, famously averse to the idea, is considering "surgical lateral hires in the oil and gas practice". But as everyone is hiring, talent is in very short supply - meaning deeper structural changes could soon be seen.

The bright spots

Nonetheless, law firms are certainly busy, even beyond high-profile M&As and equity issues, and even if core E&P work is on hold for now. One large and profitable yet nonetheless limited niche is working for the ever-present Petrobras. The state-owned company occupies a dominant but still complex place in the legal marketplace; the company has a huge in-house team, around 800 lawyers and as such tries to keep as much work in-house as it can - and, as Thales de Miranda confirms, has a policy to try to do more of the Brazilian work in-house. However, like all government agencies in Brazil, it can only hire lawyers through arcane public competitions, which see young

applicants passing complex exams to be admitted to the world of government work - and in Petrobras's case, sometimes moving on again relatively rapidly to higher-paid positions as public attorneys or to other agencies that are perceived as less demanding, such as BNDES. Even when the lawyers stay, the competitions have prioritised recruiting for junior level positions - meaning the team, although large, nonetheless often needs external counsel to supply the expertise in complex projects.

Millions of reais are thus spent with external firms - a proportion of it on Trench, Rossi e Watanabe Advogados in Brazil. The firm has done very well in capitalising on the experience its international affiliate, Baker & McKenzie, has with NOCs worldwide, and Petrobras work takes up about 30 per cent of the team's time, according to partner Danielle Valois - for example, advising on the various bids for the pre-salt rigs and units, structuring the development of the Tupi and Guara fields, arbitrations, downstream work and advising Petrobras Biocombustíveis. Of course, the problem in any industry with a dominant player is that conflicts with other companies become a more complex issue for their lawyers - although Valois insists that the structure of the Brazilian upstream industry means she is perfectly able to work for other companies within it, just as much as other firms can and do work for Petrobras. "Although we do a lot of work for NOCs, the industry has many players, so we do substantial work for IOCs and service providers too."

Indeed, one very bright spot in the industry is work for services providers. While the laws governing E&P are perceived as retrograde by many in Brazil's business community, the local content rules - which heavily favour and prioritise service providers who make their products in Brazil in awarding contracts - are compelling an investment wave that might well create a local industry of global renown: exactly what the regulations are designed to do, of course. Pinheiro Neto's Marcelo Moura says that "many clients have set up here in order to meet the local content rules - thus the rules are successful in meeting their goal. But expansion brings its own problems." His partner, Ricardo Coelho, agrees: "The principle is good, but the devil is in the detail - the industry needs more flexibility in order to be able to react quickly enough."

Everyone of course wants Brazil to be like Norway, whose own local content rules played a major part in ensuring its industry has the global status it does today. But caution is needed, warn many, including Campos Mello's Lemos and team, who researched the concept in depth for BNDES. Lemos himself points to the experience of the computer industry in Brazil when saying "our history shows that closed markets don't work - we lose the chance to develop." A senior associate in the team, Luis Menezies da Silva, says, "The concept is great, but it won't come by itself - we need government support in tax and education, as well as incentives for Brazilian companies to go abroad, or we will lose our competitiveness. The rules also need to stop at the time the Brazilian industry is strong enough not to need them."

Future worries aside, all the firms interviewed for this article cite service provider work as big business - Daniela Ribeiro of Vieira Rezende says the rules are "an opportunity, not an obligation". Furthermore, some lawyers are developing interesting niches: Heller Barroso, who runs his own boutique, engages with potential clients by offering CRCC certification, which registers service providers with Petrobras as possible vendors - work which is normally done by consultants. "We've had enquiries from Germans, Norwegians and in fact mainly Chinese companies, and done a good number," he says. "It is perfect - once you have done the first step for them, they tend to stay with you."

Barroso is also branching out into broader infrastructure work - in part, he says, because of the downturn in E&P work. He's not alone, as many firms are looking elsewhere for opportunities while the market is in flux. Daniela Ribeiro of Vieira Rezende, for example, has passed on much of her oil and gas work to her partner, Andrea Falcão, while she focuses on building a practice in shipping - a practice area few firms claim to be experts in. The firm has signed an agreement with a Norwegian law firm with offices around the world, Wikborg Rein, to learn the complex interplay between risk assessment, insurance, maritime and contracts law, which is, says Ribeiro, an important but under-provided skill in Brazil. This blue-sea approach is also favoured by Barbosa Müssnich & Aragão Advogados, which most certainly does corporate oil and gas work (the firm was on the other side of BP/Devon, for example), and is currently planning an expansion into oil and gas tax work - less populated, more specialist and thus more profitable.

The Houstonian harvesters

Such lateral business thinking is less needed from those international lawyers who are renowned in oil and gas work in Brazil, of course - no-one in the elite focuses on only one country, so African or Middle Eastern work can easily distract from a Brazilian hiatus. "My practice is very much like the work of migrant workers - I go where crops are in need of harvest," says Thompson & Knight's Andrew Derman. He says he is working with a number of clients in preparation mode for the pre-salt tenders and foresees an upturn once the rules have had time to "coalesce". And internally, he too is preparing - after a number of departures, he is "actively looking to hire people who make a difference" at both senior and junior levels.

Unfortunately, so is everyone, and so while the international firms can have a global balance, the market remains deeply competitive, both for talent and for clients: much like inside Brazil, the club is very limited. "There's a relatively small number of experienced lawyers and that makes it quite competitive," adds Derman. "If you are doing general corporate work, it is quite easy to transition to doing general corporate work for an oil and gas company. But when we are talking about truly sophisticated oil and gas lawyers - that's a much harder thing to become. It's a small universe."

Core members of that universe are Baker & Botts, even post departure, as it remains key international counsel for Petrobras as well as IOCs such as Sinochem; and Vinson & Elkins LLP, which is seemingly at the top of its game in Brazil. In recent months it advised Sinopec in buying US$7.1 billion of assets from Repsol; Statoil in buying a US$3 billion stake in the Peregrino oil field; and advised Devon on its BP deal. Partner John Connally diffidently agrees they have "been fortunate in representing a variety of companies in oil and gas in Brazil" and that work is not only increasing, but that there is an "increased uptick" - particularly as clients gear up for the next bid rounds in Brazil.

This is obviously the universe that Morgan Lewis & Bockius aimed to join with its recent hiring spree - it has long had a fair projects practice, but by bringing David Asmus and more recently Brian Bradshaw on board, it clearly wants to be part of the oil and gas club. Bradshaw agrees that the market is segmented into two: pure oil and gas work, in which there are very few core players, and thus it is hard to break into the group; and then broader projects work, in which market access is easier, but equally there are many more people pitching for work and prices are correspondingly tougher. Different types of competition, but neither of them particularly easy.

Of course, Bradshaw thinks that by hiring Asmus, Morgan Lewis broke into the club easily - "the simple reality is that he is the star: he is one of the top two, both in the US and internationally" - but in fact the ever-conservative market is beginning to agree. For example, Asmus counselled Maersk on is US$2.4 billion acquisition of SK Group's Brazilian assets this year and competitors grudgingly acknowledge their existence in a way that would have been unthinkable three years ago.

However, conservatism is generally the name of the game and that compels many in the market to take the long view. "Fulbright has given birth to a number of firms around Texas... [because] as these firms have come in, everyone is trying to compete for a very limited pool of talent," says William Wood of Fulbright & Jaworski. "We're always looking for talent, but we are very careful, particularly as we are watching the industry fragment. Some firms are laying out the red carpet [for new talent], but while we foresee fragmentation, consolidation and other pressure, we are focusing on growing internally."
This conservatism is widely cited as one reason why very few of the Houston firms have yet joined their New York counterparts in opening an office in Brazil. More than one Brazilian client indicated to Latin Lawyer that they would find it useful and the only oil and gas firm with an office in Brazil, Mayer Brown LLP, confirmed it is good business: "we're seeing very good referrals out of Brazil," says Dallas Parker, who worked with Tauil & Chequer Advogados when he was a member of Thompson & Knight before moving over. "That may seem counter-intuitive to many guys in the US - and it has also helped us build relationships and thus work in West Africa."

Everyone else seems to be considering it, but are yet to make the decision. Part of the issue is that some local law capacity would seem to make commercial sense, but the clear signals coming out of the bar association, particularly in São Paulo, are that more international firms, particularly anyone considering offering Brazilian law, would really not be welcomed (even though the tone of the state bar in Rio de Janeiro is quite different). Also, in part because of the mobile approach to alliances seen by the one Rio oil and gas firm to sign one, and in part because of ever-present issues in persuading partners with families to move to Brazil, no-one else is quite convinced how they could make it work - so they are playing a waiting game, for now at least. Should one make the first move off the blocks, it might well prompt a rush - but that hardly seems to be imminent.

And perhaps they don't need to. The market is doubtless competitive, but the limited talent pool inside Brazil is one reason why the big, international oil companies will continue to hire US and UK firms for their work in Brazil. Equally, once pre-salt work finally does get off the ground, everyone should see an upturn in their practice irrespective of the address on their business cards. Brazil will soon be a top-ten global oil producer, but in the legal market, that means demand should soon catch up with supply, even at the top levels, and probably overtake it. Until supply of legal expertise catches up with demand - and experience is difficult to acquire quickly - clients might yet need to keep their options open.

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