

Solving the global puzzle



This year continues to be a hard one, and the quest for internationalisation is stronger than ever. Africa, Asia-Pacific, Latin America and the Middle East are prime targets, and clients and their law firms are expanding operations as part of very calculated international strategies. Globalisation is a complicated puzzle, but many are close to solving it.

The Eurozone is not what it once was – not by a long shot. Still in the midst of a seemingly never-ending crisis, its Member States are recovering at different speeds. And bringing up the rear is the Iberian Peninsula, held up as a poster child for austerity gone wrong, and, lawyers say, shouldering much of the blame for dragging the Eurozone further into crisis. The IMF recently admitted that the Greek bailout was not the most adequate, and many speculate that the same will soon be said about Portugal.

As always, however, the bad doesn't fully outweigh the good. From a global perspective, a recessionary Eurozone equals a 'cheap' market, and Portugal and Spain are high on foreign investor's agendas, which in turn is bringing much needed stimulus to the market.

But despite this hint of optimism, Iberian investors and their law firms continue on their quest to get to grips with the global business puzzle. Slowly but surely they are bringing the pieces together – and a few are close to completing it. Some pieces are easier to find than others, and some still remain elusive. But despite the challenges they may face, the desire to 'go global' burns brighter than ever.

Domestic difficulties

In Spain, practice areas such as labour and employment and financial restructuring show continued growth, while others, such as M&A, remain at a low ebb. "There have been signs of improvement in the M&A and private equity market in the second quarter of 2013," says Fernando Vives, Managing

Partner of Garrigues, "although it remains to be seen if this trend will be consolidated".

But the Spanish Government's austerity measures and significant reforms are, say lawyers, starting to show some tangible results. Spain's market stands better than in 2012, according to Juan Jiménez-Laiglesia, Co-Managing Partner of DLA Piper Spain. And while reforms are currently pending, political commitment is now much clearer about actually facing real issues.

"I think we are currently a very attractive investment opportunity," says Jaime Folguera, a Partner at Uría Menéndez. "Asset prices have dropped, the economy is giving signs of recovery and there are large privatisations in the pipeline, so we are expecting M&A activity to increase in the next 12 months."

Foreign investors have been busy making deals and investing, especially those from Germany, the UK and US. In fact, these three countries accounted for the majority of investments in Spain in 2012, according to Juan José García, Managing Partner at Adarve Abogados, particularly in the finance, services and software sectors. For inbound distressed asset investors Spain seems to be one of the places to be now, adds Fernando Quicios, a Corporate Partner at Pérez-Llorca.

But while this is good news, the economic situation is still very difficult. On a macro level, things are improving, say lawyers, but the same cannot be said at micro level. Unemployment is the highest in the Eurozone, says Diego Lozano, Partner responsible for international issues at Ramón y Cajal Abogados, and credit is still very scarce, with countless companies going into bankruptcy. This means that there are still no IPOs and very few big deals – if any at all, says Julio Veloso, Corporate Partner in charge of international relations at Broseta. "And the number of transactions is still very low, as is the average price, implying fierce and I would say unfair competition among law firms."

Internal issues

In Portugal, economic activity is stagnant, with no real signs of recovery in the short to medium term. It is not in a good state – financially, politically and socially – and the austerity measures have significantly

Los inversores y los despachos ibéricos continúan intentando descifrar el rompecabezas de los negocios internacionales. Todos han hecho sus deberes y están demostrando su capacidad de innovar, mejorar su productividad y enfrentarse a los retos de la internacionalización. Poco a poco están uniendo las piezas clave, y algunos parecen estar a punto de completarlo. Obviamente algunas piezas son más difíciles de encajar que otras, pero el deseo de internacionalizarse está más vivo que nunca.



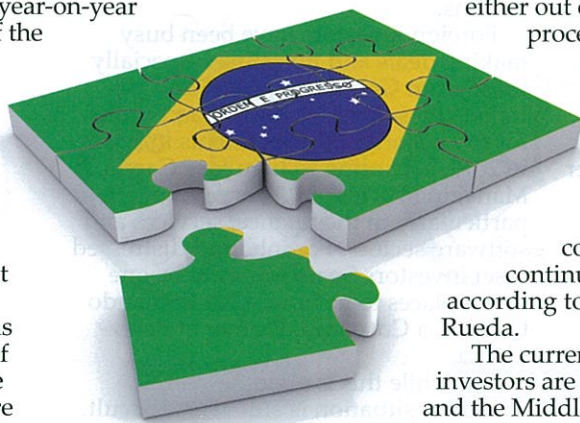
“ Domestic companies in general are looking for fast growing markets, with increasing economic activity and consumer pressure, to which they can export goods and products. ”

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Head of International Relations,
Vieira de Almeida

hampered investment and growth, which has impacted on business, says Pedro Guimarães, a Partner at F. Castelo Branco & Associados. Recent political events have also dramatically affected the chances of recovery in the short-term. “This creates a very frustrating environment for all members of society, with lawyers suffering too,” he adds.

After five years in crisis, the outlook is still very negative and will remain so for the foreseeable future. The austerity program imposed as part of the country’s bailout agreement is clearly not achieving its objectives, explains Rui Amendoeira, Managing Partner of Miranda, Correia, Amendoeira & Associados. “The Eurozone economy will not grow unless the austerity policies are replaced by a Europe-wide strategy to stimulate the economy and promote employment.”

Portugal’s internal market activity has been dramatically decreasing year-on-year and 2013 has been one of the worst years since 2008, say lawyers. The deficit has been reduced and the country now runs a small trade surplus, but at the cost of a massive contraction in investment and consumption. Meanwhile, very little has been achieved in terms of a structural reform of the State and expectations are running low as the 2015 general election approaches, says Ricardo Oliveira, an EU and Competition Partner at PLMJ. “Ideally the increasing consensus around the failure of the policies implemented



should in due course lead to open discussions on the restructuring of the country’s debt, which in our view is unavoidable.”

The Government has thankfully taken steps to promote investment in Portugal and domestic investment abroad, as a way of generating tax revenue, but also, and more importantly, as a way

of creating jobs and revitalising the economy. “We have seen new legislation providing for extraordinary tax credits and exemptions applicable to qualifying investments aimed at creating a more attractive environment for investors in Portugal,” explains Rogério M. Fernandes Ferreira, Founding Partner of tax boutique RFF & Associados. While not a standalone solution, if applied and managed correctly, it could prove to be a great help to the economy.

And while Portugal’s aggressive adjustment programme has had a tremendous impact on the legal market, it has in fact created important opportunities for legal firms, with a significant surge in volume of counter-cyclical work, says António Payan Martins, a Partner at CMS Rui Pena & Arnaut. “Privatisations, restructurings, either out of court or by way of insolvency proceedings, are just some examples of this.”

And the hope among lawyers is that this is only the beginning.

International attractions

With the crisis at home, ‘internationalisation’ is the only way to go, with the ‘hot’ regions for company investments and opportunities continuing to be “everywhere but Europe”, according to Clifford Hendel, a Partner at Araoz y Rueda.

The current preferred destinations for Spanish investors are Asia-Pacific, Africa, Latin America and the Middle East. All these include countries that expect high to moderate growth, an abundance of natural resources, and national and public projects to be developed, says Ignacio Paz, a Partner at Herbert Smith Freehills Spain. “Accordingly, the most active sectors are infrastructure, energy and mining. ”

A LatAm segment

Five years of crisis have created a new generation of exporters, agree lawyers.

And a recent study by the IE Business School shows that by 2015, Spanish companies with operations in Latin America will generate most of their revenues in the region, instead of the Spanish market. Therefore, it’s unsurprising that most companies are rushing to capitalise on the opportunities and infrastructure projects that the region has to offer

(see our *Latin America Special Focus* on page 39).

Latin America has proven to be an expanding market eager to welcome new actors in order to vitalise their economies, says Jesús Vélez Martínez, Managing Partner of Kennedys in Spain. And, apart from Mexico and Brazil – the big players – there is increasing interest and activity in countries such as Peru, Colombia, Chile and Ecuador, adds Ivo Portabales, a Partner at Dutilh Abogados.

The growth rates and potential in these countries makes them particularly

attractive to Iberian investors.

However, the perception of political and expropriation risk continues to hold up investors, say lawyers.

For Spanish law firms (both domestic and international), Latin American is a clear target for expansion, says Íñigo Gómez-Jordana, Managing Partner of Allen & Overy in Spain.

For the Portuguese, Brazil is the most promising market of all, says António de Macedo Vitorino, a Founding Partner of Macedo Vitorino & Associados, but regulatory issues still block foreign players from competing with local.

Engineering, and the construction of transport and energy infrastructures, as well as the development of renewable energies, are hugely important for these emerging countries, and Spanish companies are very well regarded, adds Gerard Pérez Olmo, a Partner at GOLD Abogados, as they possess important know-how and expertise in these areas.

“Our clients are still very active in seeking business opportunities in Latin America, where the infrastructure sector is king,” says Javier Villasante, Head of International Practice at Cuatrecasas, Gonçalves Pereira. “However, there are also big Spanish multinationals that are more interested in investing in different OECD countries, particularly in Europe, the US and Canada, where the concession-related type of business offer attractive investment opportunities.”

With a two-digit 2013 growth forecast in construction projects for the residential, retail and commercial sectors, says Hugo Écija, Managing Partner at Ecija, the Middle East countries are still a thriving market for clients specialising in these areas. And although very hard markets for law firms, according to Tomás Dagá, Managing Partner of Osborne Clarke in Spain, and with many obstacles for foreign Law firms, one cannot ignore the growing legal market for inbound and outbound work in the BRICS.

Australia has also become a ‘hot’ market, and is seen as a gateway to the Asia-Pacific market. “Four of the top six Australian firms have linked with international firms and more activity is expected,” says Javier Fernández-Samaniego, Managing Partner of Bird & Bird (Spain). “And Singapore is conducting a second round of foreign law firm licences, and positioning itself as the ASEAN (Association of Southeast Asian Nations) hub and as a route into India.”

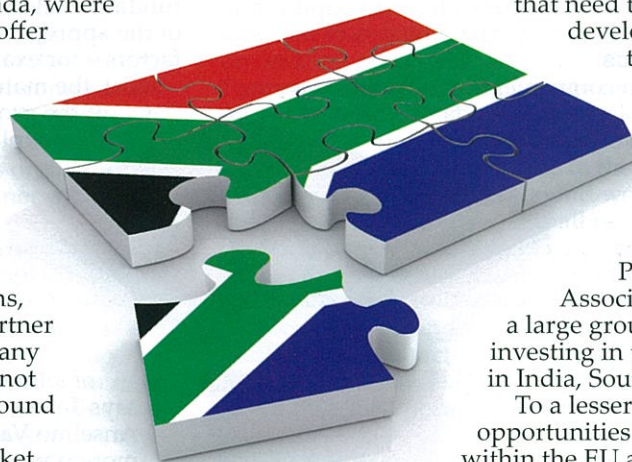
For the Portuguese, the majority of clients still flock to Portuguese-speaking markets, namely Angola, Brazil and Mozambique. Domestic companies in general are looking for fast growing markets, with increasing economic activity and consumer pressure,

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to which they can export goods and products, says Nuno Castelão, Head of International Relations at Vieira de Almeida. Also, companies with technological experience or those that can provide high-level services are targeting countries that need to create and develop infrastructure or that lack a skilled workforce.



In addition, says Pedro Raposo, Managing Partner at

Pedro Raposo & Associados, they have a large group of clients investing in the energy market in India, South Africa and US.

To a lesser degree, opportunities appear within the EU and the US as Portuguese companies gradually internationalise, says Pedro

Rebelo de Sousa, Managing Partner of SRS Advogados. And domestic businesses are also looking for investment opportunities in countries such as Turkey and Mexico and in regions like Eastern Europe, adds Victor de Castro Nunes, Managing Partner of Baião Castro & Associados. “Basically, they are quite understandably looking for higher growth rates and expectations.”

A huge effort is being made by Portuguese companies to find new markets, say lawyers, and at present, emerging economies are the preferred targets. “And due to the internal downturn, we believe

A piece of Africa

Emerging Lusophone countries such as Angola, Cape Verde, Mozambique, São Tomé and Príncipe have been the ballyhoo for investment in recent years, says Vicente Marques at AVM Advogados. And while investment was originally focused on the energy and natural resources markets, the retail and consumer markets, telecoms, infrastructure and agriculture are now becoming the new core investment sectors, with emerging countries creating ideal conditions to welcome foreign investment.

Angola and Mozambique are the

front runners, with incentives and business opportunities in agriculture, infrastructures, transport, telecoms, IT, fishing, energy, water, health, education and tourism. Mozambique, in particular, has huge potential in its energy resources and other extraction industries, with mineral resources such as tantalite and other ores. “And we believe that Mozambique offers better perspectives in the long run,” says João Espanha, Founding Partner of Espanha & Associados. “Angola seems more like a gold rush to us.”

Lawyers have recently seen financial services, retail, real estate and other companies expanding their business to Africa. Also, several clients are investing

huge amounts in the banking/insurance sector, according to Tiago Caiado Guerreiro, Head of Tax at Caiado Guerreiro.

And there is a significant demand for highly qualified resources in Africa, says Miguel Castro Pereira, Managing Partner of Abreu Advogados, and international law firms must find the appropriate balance between overcoming local constraints – social, logistical and political – and respond in accordance with international standards. “Finding local lawyers that share the same approach to client’s needs and are willing to become part of international structures is essential to the success of its ‘African’ projects.”



“ So for the coming year, Asia-Pacific still offers the best investment opportunities. ”

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Managing Partner,
Clifford Chance

that there isn't a single sector that is not looking for opportunities abroad," says Manuel Esteves de Albuquerque, Senior Associate at Raposo Bernardo. From IT to agriculture and from larger companies to SMEs – everyone wanting to survive is actively looking abroad.

Methods and tactics

Exactly how Iberian companies are making these global moves largely depends on the countries involved and their relative experience, say lawyers. The mechanisms used by our clients to expand abroad depend on the size of the investment to be made, as well as the sector of investment or undertaking and also of the tax frame applicable, explains Vítor Marques da Cruz, Founding Partner of Marques da Cruz e Associados (MC&A). And these involve the entire range of investment instruments, from foreign direct investment, joint venture, concession or licensing agreement to M&A, adds Alberto Echarri, Managing Partner at EY Abogados.



Companies are increasingly seeking strategic alliances with local clients, helping them to understand the peculiarities of the target country and facilitating their start-up, with a view to achieving greater assurances in the process, says Luis Fernando Guerra, Managing Partner at Deloitte Abogados. "In addition to enhancing efficiency, agreements with local partners seek to leverage their knowledge and experience in the target market. At other times, in certain sectors, investments are considered by local companies as a means of gaining the experience required to subsequently operate directly in the target country."

But one cannot easily define a pattern as there is no fundamental model that is carved in stone. The choice of the appropriate format will depend on a series of factors – for example, the strength of the client's balance sheet, the maturity of the target market, the features of the products and/or services to be marketed, explains to Tomás Pessanha, a Partner at PLMJ. "The perfect solution in one case may simply be totally inadequate in another."

For telecommunications, for example, it depends on the strategic development of the target country. In more developed countries, the trend is for joint ventures or other forms of joint development of common projects, says Teresa Anselmo Vaz, Managing Partner of Anselmo Vaz, Afra & Associados. In other cases, more typical in African countries, states may impose a partnership including the local national telecommunication companies.

But it really depends on each individual market and most of all on the legal barriers to enter such markets, says Bernardo Reynolds de Carvalho, a Partner at CCA Advogados Ontier. "In China it is always advisable to reach some kind of an arrangement with a local partner." And most African countries have adopted

Asia-Pacific portion

The Asia-Pacific region is becoming much more of a focus for the Iberian market, say lawyers.

Many clients are setting their sights on Asia because of its spectacular growth rates and the enormous size of its markets, says Manuel Martín, Managing Partner at Gómez-Acebo & Pombo. "Spanish corporates are looking at the region particularly for infrastructure and energy deals," adds Eduardo Gracia, Managing Partner of Ashurst in Spain.

The international law firms are demonstrating a very clear Asia Pacific strategy. Herbert Smith completed its merger with Freehills at the end of last year, SJ Berwin recently announced its merger later this year with King & Wood Mallesons (the global firm headquartered in Asia), Bird & Bird

have recently signed a Cooperation Agreement with Australian firm Truman Hoyle, and Linklaters have set up an integrated alliance with Allens, the Asia-Pacific firm. And in 2014, Ashurst's merger with Ashurst Australia (formerly Blake Dawson) will be complete.

Macao is on law firm radars as a strategic position to bridge the gap between Asia and Portuguese-speaking countries, say lawyers, and it is seen as a gateway to China and vice versa. The Chinese market is a huge draw for investors, both for the opportunities it represents in the region and also to attract investment from there. Portuguese companies are exporting high quality products to China, says Adelaide Moura, Senior Managing Partner at A. M. Moura Advogados, and also allowing the Chinese to invest in

key industries in Portugal in order to facilitate the growth of the economy.

China Three Gorges's 2011 acquisition of a stake in EDP and State Grid Corporation's 2012 stake in Portugal's national power grid were only the start – just recently, Veolia Water sold its Portuguese subsidiary to China's Beijing Enterprises Water. "Chinese investments made sense as many European assets are undervalued," says Josep Herrero, Co-Managing Partner of the Asian Desk at Roca Junyent, "and we will see more Chinese investment to come and Spain should be no exception."

So for the coming year, while the crisis rages on, Asia-Pacific still offers the best investment opportunities, says Jaime Velázquez, Managing Partner of Clifford Chance, Spain.

local content policies that require foreign investors to form joint venture companies with local partners. "Finding a local partner and setting up a local company with such a partner is becoming a business requirement for foreign investors in most African jurisdictions," adds Amendoeira at Miranda.

Joint ventures are in fact widely used due to the advantages of having a local partner, and lawyers say that this continues to be an intelligent way to move into an unknown market. In Portugal, in particular, the Government, through its diplomatic and commercial bodies based abroad, has made a keen effort to establish these types of arrangements. "An interesting example is the 'dragging' effect by big companies that take smaller companies along," explains Lino Torgal, Managing Partner at **Sérvulo & Associados**. "One such success story is that of EDP, the electrical company, which is organising road shows for smaller Portuguese partner companies in key markets."

In general, emerging countries have over-regulated markets that impose strict rules on foreign investment, especially in key sectors, such as energy and natural resources and the transport and communications sectors, says António Vicente Marques, Founding Partner at AVM Advogados. National legislation may drastically limit the range of corporate structures that may be chosen by foreign investors to invest directly. "Notwithstanding this, and depending on the sector and investment timeframe, we have seen foreign investors opening plants and businesses, or as a result of M&A, acquiring local companies or engaging in joint ventures, as means to establish themselves in such countries."

And M&A hasn't totally disappeared off company radars. In Africa, Asia and Latin America, where international clients have less exposure to the credit crisis, they continue to use the M&A route to buy existing businesses, says António Soares, Head of Corporate Finance at Linklaters in Lisbon.

And many also prefer direct investment through the creation of subsidiaries or branches – a low-cost alternative that gives them full control of their investment.

So while there is no 'one-size-fits-all' model, what is essential is to tailor the investment strategy to the specificities of each market, summarises Vives at Garrigues.

Making your own puzzle

While some law firms are still establishing their own offices around the globe, the trend appears to be in favour of cementing current 'best friends' relationships and joining or forming strong international networks or alliances. A most recent example is Spain's Broseta,

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which is in the process of forming a LatAm alliance to further its presence in the region.

For many, opening their own offices is just not on their radar, largely due to financial constraints, but also because for some of the more domestic, independent or boutique firms, it would be less advantageous in the long run than being part of a network. "We do not plan on opening offices abroad," says Pedro Pinto, Senior Partner at pbbr, "but would rather act as a platform for multijurisdictional projects in cooperation with our 'best friends' and legal networks."

In certain jurisdictions, due to their sheer size and tradition as centres for outbound work (London and New York, for example), a small representative office does not conflict with local law firms, says Carlos Valls, IP and Dispute Resolution Partner at Iuris Valls Abogados. They do not see this physical presence as real competition and it can actually be helpful to keep and increase contact. "But as an independent firm, it makes little sense to open in a jurisdiction where work could flow from local correspondents or 'best friends' law firms."

The cost of starting up and maintaining an office can often outweighs the revenue it generates, and the whole process can prove an ordeal rather than an advantage.

"We believe in reliable networks," says Ignacio Legido, Managing Partner at BDO Abogados, "as by the time a law firm understands all the needs in a country, starting new offices abroad can be a nightmare."

Also the risks involved in opening may be too substantial to even consider doing so, according to José Alves Pereira, Senior Partner at Alves Pereira & Teixeira de Sousa. "We are therefore working mostly on a 'best friends' and networking basis, occasionally establishing a written bilateral cooperation arrangement when ongoing projects require."

Law firms are therefore using networks, alliances and associations to achieve what they cannot do alone – pursue a worldwide strategy and tackle global markets without having to invest the substantial resources necessary to do so. Many have already picked this route: Consulegis, Euroadvocaten, Interlaw, Legal Network International, Legalink, Lex Mundi, Meritas, Multilaw, Ontier, TAGLaw and Terralex, to name but a few.

But that is not to say that law firms are forgoing the route of opening offices. Garrigues decision to leave its Affinitas Alliance earlier this year and open its own offices in Mexico, Peru and Colombia, is the most significant example of going against the 'network



trend'. And they are not alone.

Bird & Bird recently opened in Denmark, F. Castelo Branco & Associados in Mozambique, Gómez-Acebo y Pombo in New York office, Kennedy's in Belgium, Lisbon and Miami, and Linklaters in Seoul, Korea, while AVM Advogados is currently expanding its offices to Houston, US, and Macao, and Osborne Clarke is soon to open in Paris and New York.

The complete picture

While the short-term prospects for the Iberian Peninsula continue to be less than favourable, in the medium and long-term, lawyers are less pessimistic about the Eurozone. There is no doubt among lawyers that, from an economic standpoint, 2013 will continue to be a hard year. However, there are some indications that, at the end of this year, the European economy is going to show a small, but important, recovery, according to Roberto Pomares, a Partner at SJ Berwin in Spain.

"We're talking about mature and consolidated



economies that offer investors important advantages – good infrastructures, cutting-edge technology, access to broad high-end consumer demand, legal certainty – and good assets at fair prices," says Martín at Gómez-Acebo & Pombo.

"Many companies have been substantially restructured and have implemented efficient cost structures, and have become financially sound and more competitive."

When it comes to internationalisation, however, there are still many pieces left to complete the global puzzle. Companies and law firms alike have done their homework and continue to demonstrate their ability to innovate, improve their productivity and successfully address the challenge posed by internationalisation.

Law firms are also expanding their operations as part of very calculated international strategies, whether by their own offices, networks or alliances. The most important thing is to ensure that, at the very least and one way or another, you are a part of as many pieces of the global puzzle as possible.

The gain in Spain



Rubén Ferrer

Recent data makes worrying reading for the private equity sector in Spain, says Rubén Ferrer, an M&A expert and Resident Partner in the New York office of Spain's Gómez-Acebo & Pombo. In the first half of 2013, the volume of private equity investment was the lowest since the start of the crisis.

"However, it is noteworthy that international funds were responsible for around half of the amount invested," he says. The decrease has been attributed to a lack of liquidity from Spanish banks and, while that has caused some issues for domestic investors, for international firms it is a different matter.

"International investors, especially those in the US, are interested in Spain and have the edge when it comes to bidding for assets," explains Ferrer, who focuses his practice on advising US clients on their investments in Spain. He points to real estate, banking and infrastructure as three sectors of growing interest with plenty of opportunities for international investors.

However, it is not just distressed assets that are on the US agenda.

More traditional M&A activity is also making a comeback, with US investors in particular focusing on premium assets. Recent deals saw US-based Bain Capital buy local call centre company Atento for €1bn, while the US retail giant Costco Wholesale Corporation recently announced plans to start operations in Spain. Latin American investors are also becoming notable players, such as Brazilian BTG Pactual's recent transaction involving the Catalanian water utility Aigües Ter Llobregat.

"Both investment funds and strategic investors are scouting the market for possible acquisitions," Ferrer adds.

"The general view from the US is that this is a good time to invest at the right price". Spain is undergoing major structural reforms and is where productivity has increased the most in Europe in the past years.

La inversión extranjera en España durante el 2013 sigue siendo lenta, pero esto no significa que los inversores, sobre todo los fondos norteamericanos, no estén circulando, dice Rubén Ferrer de Gómez-Acebo & Pombo. La visión general de los EE.UU. es que éste es un buen momento para invertir a un buen precio.

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