

# ASIAN-MENA COUNSEL

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# M&A SPECIAL REPORT



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David Doran tells us what it takes to achieve in emerging markets



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OLIVER WEISS



## The thing about ...

# David Doran

Founding Partner of DFDL David Doran gives his approach to law, paying close attention to how he has managed to create strong relationships and practices in emerging markets. He reveals what in his view is the secret to getting client satisfaction and how this aspiration to please has been a key contributing factor to his success within the ASEAN region.

**ASIAN-MENA COUNSEL:** David, first of all, congratulations on your firm's 20th anniversary. Could you give us some insight into the beginning of the firm and its development over the past 20 years?

**David Doran:** Thank you. It has indeed been an enjoyable and fulfilling 20 years both personally and for DFDL. The firm was founded by four young lawyers who all shared a strong desire to make a meaningful contribution to the development of the Mekong region through the practice of law and the promotion of the rule of law. Three of us had deep historic ties to the region, and so were returning to participate in the pivotal changes taking place here during the early 1990s. I was born in Thailand and had exposure to Cambodia, the Lao PDR and Vietnam from a young age. One of our partners was a Lao-American woman whose father coordinated with various NGOs in the Lao PDR throughout the height of the Vietnam war, and our Vietnamese partner almost died on a refugee boat in the Gulf of Siam fleeing that conflict. In this respect, the resilience of the region as a whole contributed to our mutual belief that the Mekong countries were poised for strong growth, and we all wanted to return to participate in their development.

In September 1994, we descended upon Vientiane to devise a strategy to rapidly open offices in each country of the Mekong region (even including an office in Kunming that still has yet to materialise). Our multi-tiered development focus was to provide ethical and accurate, rule of law-based local legal advice to companies investing in the region, while participating heavily in legal reform measures. We believed this to be the most effective way we could provide a positive and long-lasting contribution. Much of the legal documentation we developed as first movers continues to be used as precedent today.

We also concentrated our efforts on growing the local legal community by giving our local lawyers a solid foundation in the ethical practice of law in a highly motivated and driven professional legal environment. Many of these lawyers have now gone out and set up their own thriving practices – something which gives me great pride.


**AMC:** Where do you hope the firm will be in 10 years' time?

**DD:** We have already evolved from being a Mekong Region firm to an ASEAN firm. But above all, we see ourselves as an international frontier markets firm – with certain key areas of expertise, such as tax, M&A and energy (hydropower and other electricity generation). Following this trajectory, we hope to expand into the frontier markets of adjacent regions over the next ten years, applying a similar, but evolved strategy, based on the lessons learned here in the ASEAN region.

**AMC:** DFDL was founded in the Lao PDR and expanded across Southeast Asia from there. What are the benefits of working in these emerging markets?

**DD:** I touched on this in my first response, but again I would say that the most fulfilling benefit is the personal and corporate satisfaction that comes from seeing the tangible positive impact of the firm's efforts on development. There is the satisfaction of watching your employees learn and grow alongside the development of the local legal community, and there is the satisfaction of seeing your team's efforts in the revision of laws and legal systems bear tangible fruit. But above all, there is the satisfaction of seeing your clients enjoy a long-term successful investment in the region, partially due to your efforts. From a long-term business perspective, emerging markets do become tigers and eventually graduate to the 'developed world', so there is a very big benefit in establishing a presence on the ground floor to ride the growth curve. However, this benefit involves considerable risk. Through our experience having weathered coups, riots and economic implosions, to name a few, we can attest that emerging markets are certainly more volatile than those in the 'developed' world. So it is necessary for one to have a tough constitution and good risk management systems in place to ride the roller coaster effectively.

**AMC:** What are the particular challenges DFDL faces in being continuously up-to-date with regard to innovations in international law and practice?

A man with long, wavy brown hair, smiling, wearing a dark blue suit jacket, a striped shirt, and a patterned tie. He is standing in front of a glass building with trees visible in the background.

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“We would never want to say that we are opening a new office in a new country to assist clients investing there, because for DFDL, this would mean we are five years too late! Our goal is to welcome our clients to a country, with local expertise and capacity, not fly in with or after them”

**DD:** Being up-to-date is not nearly as challenging as implementing up-to-date practices and standards in our frontier jurisdictions. We have many sources to draw upon in keeping up-to-date, such as our best friend relationships with a number of leading international law firms, through which we are provided information on such innovations. We frequently work with these firms as co-counsel on projects throughout the region and acquire knowledge through these relationships. And of course, there are the countless seminars and other third party sources. The real challenge is applying these innovations effectively in each country where we operate. There may be opposition to change from the counterparty, their legal counsel, and/or the government. The process takes time, cannot be rushed and requires updated education on behalf of all stakeholders and their representatives.

**AMC:** You have seen the firm grow from its grassroots to one that is present in 11 jurisdictions. How have you managed this growth? Is there a law firm out there that you took as your model?

**DD:** It has not been easy. We haven't really followed any existing model as far as I am aware. In fact, our strategy was the opposite of that pursued by many of our competitors in the region. Initially, we used a reverse Hub and Spoke strategy – as first movers, we captured relationships, top local legal talent and expertise before others entered into our 'spoke' markets. We were then able to leverage our knowledge base and relationships to enter into the more competitive 'hub' markets of the region like Thailand and Singapore. Our second strategy was and continues to be to enter a market before our clients invest, which is quite the opposite of the more typical strategy of following one's clients into the new coun-

try. We would never want to say that we are opening a new office in a new country to assist clients investing there, because for DFDL, this would mean we are five years too late! Our goal is to welcome our clients to a country, with local expertise and capacity, not fly in with or after them.

We have faced three main hurdles while employing this growth strategy – financial resources, available talent and systems implementation. High cost of debt financing means our growth has been mostly financed by equity. We've also had problems keeping good talent long term, both local and foreign, not because they don't want to work for us, but because, as first movers, we are frequently the first source of recruitment for our competitors, clients and international institutions. Also, as you can imagine, it is not easy to convince a top-quality foreign lawyer to take up a long-term career in some of the countries where we operate. We decided to accept this problem as part of the fabric of our emerging markets business model and built in a strong integration and succession program to bring new lawyers on board and capture their knowledge before they depart. That being said, our continued expansion has certainly helped to keep our junior expat lawyers in our firm for increasingly longer periods; now having the opportunity to rotate around the ASEAN region with DFDL.

**AMC:** How is DFDL structured and how does this benefit clients?

**DD:** DFDL has a corporate model, with a board and non-lawyer management. We believe this allows us to adapt to the rapidly changing legal, political and economic environment of our frontier markets quickly and effectively while expanding into new markets and new practice areas.

**AMC:** Professor Richard Susskind maintains that we are “on the brink of fundamental change in the world of law”. Would you agree that this is true across Asia? What are the key drivers of this change?

**DD:** In my view, the change is more like one of accelerated evolution than being on the brink of any fundamental shift. This evolution arguably began with the advent of the plain English movement just before I started law school. Susskind’s theory is not entirely relevant to our emerging markets practice in that his theory is based on the assumption that most aspects of the legal profession are routine, or can be made routine, and therefore be provided with greater cost and process efficiency. In frontier markets, very little is routine, and cuts against this assumption on all fronts. From employees, to government practice, to court implementation, police enforcement, law, regulations, legal documents – all are in flux. But of course as a legal practice, we are trying to carve out those areas that are routine and apply Susskind’s efficiency theories to them.

**AMC:** On Training: our belief is the aim of training is to produce lawyers who can be at the top of their game, where knowledge of the law and a profound grasp of professional ethics and integrity, as well as the necessary commercial acumen to be your own boss, are embedded in the DNA. Do you subscribe to the above and how does DFDL attempt to accomplish the above? Is operating in the challenging business environment of Asia a particular challenge?

**DD:** Yes I do. Our associates are required to take on a great deal of responsibility immediately. As I mentioned earlier, one of the core pillars of our growth strategy is to develop our local lawyers so they can manage cases and client files to provide high level, ethical and accurate legal advice closely tailored to the clients’ needs. Most of such training is on-the-job training, but we are always trying to find additional ways to increase our lawyer’s skillsets and improve our knowledge base in a cost-sensitive environment.

**AMC:** What keeps you awake at night?

**DD:** The issue of attracting and retaining lawyers mentioned earlier used to keep me awake quite often, as did the rather extreme business cycles we have experienced regularly. However, now that I and DFDL have embraced both as being an inevitable part of our emerging markets practice, I sleep much better. In fact, I sleep pretty peacefully these days with the confidence that our model is one that is right for the times, as the world continues to shift its focus and investments to the developing world. Of course, we will continue to have increased competition in our markets, but we also have increased business opportunities. We also know that our competition will face the same challenges in developing a long term international legal business in frontier markets outside their home countries that we faced.

**AMC:** On Fees and Service: what are the various ways that DFDL engages with clients regarding compensation for services rendered? Have you seen a shift in preferred billing arrange-

ments in recent years? Is there one particular ‘stand-out deal’ where you think the firm made an exceptional contribution?

**DD:** We have had downward pressure on our fees from the very beginning, with fixed fees and capped fees being a core part of our fee structure from day one. So that is nothing new, but of course we also have many hourly billing relationships. As to a stand-out deal, I am sure each of our partners would have their own list, but a few at the top of my list are the Caltex (Chevron) investments in Cambodia’s retail petroleum sector over the years; the Nam Thuen 2 hydro-electrical project in the Lao PDR; and Heineken’s production facilities and joint ventures throughout the region.

**AMC:** What advice would you give an ambitious and intelligent young person interested in pursuing a career in law today?

**DD:** Look for the gaps, and position yourself to fill them. There are many unique opportunities out there for a driven young lawyer, so you don’t need to be over 40 to do something innovative and interesting.

**AMC:** What is your hinterland (i.e. what are your interests outside of the firm)? How do you control your time so that you can pursue them?

**DD:** Tennis and Travel – but ‘travel’ is a bit too trivial. It is the cross-culture experiences that I value most. By being able to make firsthand comparisons between my own perspective and those of the people whom I encounter, I acquire a more diverse understanding of different societies; thereby endlessly altering the lens through which I view the world.

**AMC**

David D. Doran is a Partner, Chairman and the Founding Partner of DFDL. He has over 20 years’ experience as a legal adviser in the Mekong Region in a number of different areas of law. In 1994, he co-founded Dirksen Flipse Doran & Le (DFDL), in Vientiane, Lao PDR. In 1995 he founded DFDL Cambodia, and served as its Managing Director until February, 2003. At that time, he relocated to Bangkok, where he refocused his practice to cover large energy sector projects in the Lao PDR and regional M&A. As the head of DFDL’s Regional Energy, Mining and Infrastructure Practice Group, he continues to supervise work in Cambodia, as well as manage various Thai projects. He has special expertise in the energy sector, having represented both sponsors and lenders for major power and energy projects in Cambodia and the Lao PDR. He also has special expertise in M&A in all sectors. Mr Doran is an experienced manager of small and large professional teams. He was born in Thailand and is a Thai national.