Entrepreneurial spirit

The enormous business potential of Nigeria and Turkey is muddied by inherent cultures of corruption

IN the January issue of *Governance + Compliance*, we looked at the opportunities and risks of doing business in the emerging markets of Mexico and Indonesia. In this issue we assess the second two countries in the MINT acronym, Nigeria and Turkey.

In a 2014 Radio 4 broadcast, economist Jim O'Neill described Nigeria as 'one of the few places in the world where money seems to be in the blood.' This African country of some 170 million people, he went on to say, has an entrepreneurial spirit bigger than any of the other MINT or even BRIC nations.

Economic forecasts would suggest that he has a point. Nigeria has the largest economy in Africa and is ranked 26th globally, according to the World Bank's economic report on Nigeria published in 2014. The country has enjoyed consistently high economic growth rates in recent years and the reassessment of the country's accounts data in 2014 by the National Bureau of Statistics, suggests that Nigeria's economy is far more diversified than previously indicated. Whereas agriculture, trade, and oil and gas account for just over half of Nigerian output (54% versus previous estimates of 85%); telecommunications, manufacturing, real estate, construction and entertainment all contribute a far higher share of GDP than previously thought. With the fall in oil prices, this is good news for Nigeria and the World Bank is still predicting a continued growth in GDP of 5–6% into 2017. However, only time will tell how well the Nigerian economy really does cope with a prolonged fall in oil prices.

Other factors contributing to Nigeria's more optimistic outlook is its growing middle class, which is spawning the emergence of a service industry looking to deliver a range of products to meet new demands. Its population is young (62% under 25), it is rich in natural resources and it is the biggest beneficiary of Foreign Direct Investment in Africa.

The UK is one of the largest investors in Nigeria. In 2011, the UK and Nigeria agreed on a joint mandate to double trade from £4 billion to £8 billion and recent figures suggest that this target has almost been met.

However, as with many emerging markets, opportunity is matched by risk. According to the Global Competitiveness Report for 2013–14, corruption and the country's inadequate infrastructure are the two most problematic factors for doing business in Nigeria. The road network is not sufficient for the size of the country and is poorly maintained: of the country's 200,000 km of roads, only 40,000 km are paved and accidents are commonplace. Nigeria's railways have suffered decades of financial neglect and mismanagement. However, the current government has committed to a 25-year strategic plan to modernise the network and is looking to private investment for support. Power is even more problematic. Nigeria's population of 170 million share the same amount of power as Northern Ireland with its population of 1.8 million. As a result, power cuts are widespread and generators essential.

The country is looking to change and has an ambitious plan, Vision 20:2020 Nigeria, which aims to elevate the country to one of the world's top 20 economies by 2020. However, although steps are being made to improve the country's infrastructure, the dual problem of corruption and crime needs to be tackled more robustly.

On the face of it, Nigeria has taken several crucial measures towards combating corruption, including the ratification of the United Nations Convention Against Corruption and the African Union Convention on Preventing Corruption. The Independent Corrupt Practices Commission was established in 2000 with a mandate to investigate corruption and prosecute offenders enforcing, in theory, the Corrupt Practices and other Related Offences Act, which became law in the same year.

This legislation applies to all public officials and criminalises both active and passive bribery as well as attempted corruption, abuse of office, fraud, extortion and money laundering. In addition, the Money Laundering (Prohibition) Act 2004 criminalises individuals and organisations who make or accept cash payments in excess of NGN 500,000 (£1,750) or NGN 2 million (£7,000) respectively.

Contributing to Nigeria's more optimistic outlook is its growing middle class, which is spawning the emergence of a service industry

The government has attempted to tackle corruption in the vital oil and gas sector, becoming compliant with the Extractives Industry Transparency Initiative (EITI) in 2011. Investment portals have been set up, providing greater oversight and information on investment requirements and business registration procedures. Progress has also been made in public procurement with public tenders now more regularly advertised.

Despite this, according to the 2012 report by the country's own Petroleum Revenue Special Task Force, the country has lost out on tens of billions of dollars in oil and gas revenues over the last decade.

This gap between theory and practice is borne out by the 2010 Global Integrity report, which suggests that although Nigeria's legal framework for addressing corruption appears strong, the enforcement and penalties are insufficient, scandals still abound and Nigeria ranks in the bottom 20% of Transparency International's Corruption Perceptions index.

Nigeria's system of federal government means that regulation and enforcement can vary from state to state. For example, some legal codes are

Corruption is widespread in both the public and private sectors in Turkey, with public procurement particularly prone

based on Sharia law in the north and others based on customary law, known as 'traditional law' in the South. Arbitrary taxes and licensing requirements are imposed at random to raise extra revenue. In addition, both foreign and domestic companies regularly encounter administrative barriers, red tape and other procedural delays when seeking to do business in Nigeria. Demands for kickbacks, facilitation payments and other forms of bribery are also commonplace. Particularly problematic is obtaining property rights. Transferring property is complex and subject to corruption. Most land is publicly held and granted only by hereditary leases with the majority of transfers carried out at state level and requiring state governor approval. According to the World Bank's Doing Business in Nigeria 2014 report, Nigeria is one of the worst places in the world to register property; the process can take between six months and two years. It is also expensive with legitimate fees as high as 15% of the land value.

Added to that is the growing security threat and high crime rate, which make operational costs hefty, as companies need to invest substantially in security measures to mitigate these risks. A watertight finance function is also essential to establish the highest standard of financial controls.

Before entering Nigeria, companies should carry out a thorough assessment of all the risks and develop a tailored risk mitigation programme. In addition to adequate security protection for all personnel, companies need a robust anti-corruption programme. This needs to be communicated effectively and properly embedded, ideally with a strong compliance team to monitor and oversee implementation. Senior management need to understand the climate, providing time and support to allow business to be developed on the right side of the law. GoodCorporation has found that working alongside the growing number of young Nigerians educated abroad but returning to take advantage of new opportunities can be very helpful. Their knowledge of the country coupled with a real determination to tackle corruption can assist with anti-corruption compliance at a local level.

Due diligence of third parties, sales agents, partners, intermediaries and suppliers is essential. Businesses need to undertake risk-based anti-corruption due diligence such as the Business Anti-Corruption Portal's Public Procurement Due Diligence Tool or GoodCorporation's Due Diligence Framework. Anti-corruption clauses should be included in contracts as a matter of course and training undertaken to ensure that expectations are understood.

Turkey

Turkey also presents many challenges – it is already the sixth largest economy in Europe and the 18th largest in the world according to the World Bank. Turkey's growth has been rapid; in less than a decade, per capita income has nearly tripled and now exceeds $10,000. This puts it on par with Mexico, but ahead of Indonesia ($3,500), Nigeria ($1,500) and also China ($3,600). Trade between the UK and Turkey is growing rapidly, increasing by almost 40% since 2009, worth over $11 billion a year. Business links between the UK and Turkey are good with over 2,500 UK companies already established including BP, Shell, Vodafone, Unilever BAE, Diageo, Aviva and HSBC.

Turkey has long been established as the gateway to Asia and the Middle East, however recently, Turkish business interests have been expanding south into Africa and north into the Central Asian markets, which have opened up following the demise of the Soviet Union. This presents additional opportunities for companies to work with Turkish businesses, to enter these markets.

Turkey has a receptive business climate, with a free market economy, liberal trade agreements, a Customs Union agreement with the European Union and solid public finances, all of which have contributed to the country's recent success. In addition, the Turkish government has also implemented a number of reforms aimed at reducing red tape and regulatory burden. However, economic growth still slowed in the second quarter of 2014, with GDP in the three months to June at 2.1%, well below expectations. A number of factors contributed: the country's long border with Syria presents real security risks, political tensions over EU membership, ongoing economic problems within the EU affecting trade, monetary tightening and geopolitical tensions in Iraq and the Ukraine.

The country has also been dogged by a high-profile corruption scandal concerning the alleged award of illegal permits in building projects, involving some 60 suspects including a former minister's son and a construction tycoon.

Corruption is widespread in both the public and private sectors in Turkey, with public procurement particularly prone. Bribes are often demanded, despite the country's Criminal Code, which outlaws active and passive bribery, attempted corruption, extortion, bribing a public official, money laundering and abuse of office. However, these laws are poorly enforced and anti-corruption authorities are deemed to be largely ineffective. There is no independent body in charge of monitoring the implementation of anti-corruption measures. Strong immunity regulations for high-ranking officials are also considered to be an important obstacle to the fight against corruption according to Transparency International.

Facilitation payments, despite being illegal under Turkish law, are widely demanded. When dealing with authorities issuing licences and permits, gifts are often requested and businesses need to make it clear to sales agents, staff and intermediaries that under UK and US legislation, such gifts constitute a bribe. Dealing with licences and permits is regarded as one of the most challenging areas for companies operating in Turkey. Businesses need to acknowledge these difficulties and implement appropriate anti-corruption training, communication and due diligence to ensure that adequate procedures have been taken to mitigate these risks.

Ensuring that a robust anti-corruption programme is developed and embedded is vital for any business entering an emerging market, particularly those in high-risk parts of the world. There are signs that tolerance of corruption is decreasing, but as yet there is little evidence from our work on the ground that practices are changing. As legislation and enforcement improve, albeit slowly in some parts of the world, businesses need to ensure they implement a zero tolerance approach to avoid finding themselves in breach of the law. Anti-corruption compliance teams need to take a proactive approach so their company's activities comply with local and international anti-bribery laws, tailor their procedures accordingly and implement regular monitoring to ensure processes are both adequate and effective.

Robust approach

As we have already seen with GSK in China, foreign companies are also at risk of being prosecuted alongside domestic businesses, as countries start to demonstrate a more robust approach to tackling corruption. Where corruption is endemic and bribes are demanded as part of the public procurement process, businesses need to be very wary of the activities of sales agents and joint venture partners. One of the largest Foreign Corrupt Practices Act cases to be brought resulted from a joint venture in Nigeria involving a Halliburton subsidiary, Snamprogetti Netherlands, Technip and Japan's JSG. A total of $180 million was paid in bribes to officials over a ten-year period to win a $6 billion contract. The case was tried in the US courts in 2010 and collective fines of $1 billion were paid. In the many new markets emerging around the globe, it is a fact that companies simply cannot have inadequate procedures.

Michael Littlechild IS THE CHIEF EXECUTIVE AND CO-FOUNDER OF BUSINESS ETHICS ADVISERS GOODCORPORATION