Kenya Business Integrity Guide

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Prepared by Control Risks
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Introduction

Kenya is an important market for the UK and both countries have an interest in promoting private sector collaboration that is founded on the principles of business integrity. At the policy level, the two countries share common principles: Kenya's Bribery Act (2016) is closely modelled on the UK Bribery Act (2010). Similarly, both governments share a commitment to promoting human rights in business.

This website is based on the principle that business integrity is a key ingredient of sustainable commercial success, especially in a complex, rapidly evolving economy such as Kenya's. It draws on the experience of larger and smaller companies already operating in the country.

The website has six sections:

- *Setting the scene.* We explain what makes Kenya commercially attractive to so many companies and summarize the main integrity challenges that apply to all companies, both Kenyan and international.
- *Winning business*. This section takes you through the key processes that you will need to navigate as you enter the market and explains where you can find the help that you need. In particular, it tells you what to look out for when identifying potential business partners, and we explain the challenges of government procurement.
- *Running the business*. We explain the challenges that you may encounter, for example when recruiting and managing local staff, and how you use their expertise to anticipate and prevent problems.
- *Solving problems*. Even the best-managed and most ethical businesses run into problems from time to time. We explain how to respond and where to turn for help.
- *Specific industries*. Here we look at the Infrastructure, Manufacturing and Agriculture sectors in some detail.
- *National and international business integrity initiatives*. Finally, we outline local and international initiatives that support the business integrity agenda and may be important sources of information and support.

Summary: How to survive and thrive

These are the key integrity points to note when doing business in Kenya:

- *Do your homework.* Do your commercial research and make sure that you have a clear business case. As we discuss in the *Winning business* section, it is especially important to be thorough in your preparation when identifying potential business partners.
- *Make your expectations clear.* You can do this by for example, sharing your company Code of Ethics or Business Principles, along with other promotional material, when first getting to know potential partners. The partners that you want – the ones with a high degree of professionalism – will regard high standards as a point in your favor. If they suggest otherwise, that is already a warning sign.
- *Train your people.* Make sure you have the right internal controls. The most important 'control' is a well-trained staff that understands and shares your commitment to integrity.

- *Don't compromise.* If you share a Code and then fail to live by it, you will be more vulnerable to predatory bribe-seekers. If someone tells you that ethical compromises are 'part of doing business here', you should explain that you do things differently.
- *Be prepared to say 'no'*. 'Doing things differently' may mean turning down opportunities that at first look promising but where something appears to be not quite right. Avoiding bad or suspicious deals will save you time, money and – in the worst case – legal problems. Here we tell you what to look out for.
- *Follow local regulations scrupulously*. Failure to do so will make you more vulnerable to officials seeking bribes in return for overlooking real or alleged failure to follow required procedures. Take expert local advice when needed.
- *Take your time*. If you face demands for small bribes to speed up government processes, be prepared to wait, and allow for delays in your business plans. Small administrative bribes (often known as 'speed money' or 'facilitation payments') are illegal in both Kenya and the UK.

1. Setting the scene

Kenya serves as a commercial gateway for the wider East African market. With successive governments' pro-business policies and region's most developed financial markets, many international businesses with interests across the region choose to base their operations in Kenya, particularly in the capital Nairobi. This has been partly the result of relative political stability.

However, ethnicity remains a key point of vulnerability. The politicisation of ethnicity results in periods of heightened ethno-regional tensions, particularly around elections where politicians use ethnicity as a tool for voter mobilisation. This issue came to the fore in the aftermath of a disputed election in 2007 where over 1,100 people were killed in inter-communal violence. The decentralisation of authority to 47 semi-autonomous county governments from 2013 and growing demands for government accountability will likely drive a decline in ethnic-driven voting in the longer term. However, the process will be slow, given deep-seated mistrust between communities. Meanwhile, though the importance of ethnicity in the corporate context has declined, allegations of favouritism based on ethnic identity in local companies remain.

Business potential

Kenya has experienced strong GDP growth of between 4% and 6% annually over the past decade, and this this trajectory expected to continue in the coming years. Kenya's business potential stems from the fact that its economy is more diversified than many of its African peers. Its lack of resource-dependence will continue to provide a buffer to external shocks such as fluctuations in global commodity prices, despite the continued importance of the agricultural sector. Decades of investment in the education system have also created a large pool of qualified local labour with an estimated one million Kenyans entering the workforce annually. In addition, Kenya also provides an entry-point into the wider East African market comprising over 300m people through its membership of the East African Community (EAC) comprising Kenya, Uganda, Tanzania, Rwanda, Burundi and South Sudan.

The government's overall development plan, *Vision 2030* provides the government's strategy to develop Kenya to a middle-income country by the year 2030. The implementation of *Vision 2030* is supported by five-year Medium-Term Plans (MTPs), which generally coincide with election cycles to allow for some shifts in emphasis by incumbent administrations. The current administration under President Uhuru Kenyatta has also outlined priority sectors for the period 2017-2022 under the *Big Four Agenda* which prioritises manufacturing, food security, universal healthcare and affordable housing. Under these plans, there are clear business opportunities as private sector involvement remains a cornerstone of the Kenyan government's policy.

Growth in the three-to-five-year outlook will be driven by:

- Government-led infrastructure projects encompassing transport, energy and social infrastructure (such as schools, hospitals and low-cost housing).
- Agriculture will likely continue to be the country's largest employer and receive government policy support and international investment, especially in the Agri-processing, value-addition and horticulture sub sectors.
- The vibrant services sector, notably tourism, financial services and Information and Communications Technology (ICT).

International businesses are in a good position to exploit opportunities across sectors and project lifecycles; not only are the large-scale infrastructure projects opportunities, but they are also laying the foundation for future growth and opening underserved markets in Kenya and the wider East African region.

Cordial bilateral relations between the UK and Kenya also work in favour of British businesses. As the former colonial power, the UK has extensive trade and diplomatic links with Kenya. Kenya is a major recipient of UK development assistance and with the UK planning for its post-Brexit future, Kenya has emerged as one of the key African markets targeted by the UK. This was demonstrated when UK Prime Minister Theresa May in August 2018 visited Kenya, meeting with Kenyatta and pledging to support anti-corruption efforts and job creation in Kenya. Although British investment has declined in relative importance amid the rise of Chinese-funded projects, the UK is an important trade partner for Kenya with the UK ranking 13th for Kenya's import sources and ranking as the 5th largest destination for Kenyan exports.

Integrity risks

You should be aware of a number of potential integrity-related challenges. These need not be a deterrent to investment or trade, but you need to take them into account as you expand your business in the country:

- *Overlap between political and business interests.* Prominent politicians and their families have extensive commercial interests across the economy. Political exposure is not in itself a deterrent to doing business or engaging local partners in Kenya, which has a relatively small private sector compared to the UK. However, it is highly recommended that companies conduct background checks and due diligence to establish if local partners have inappropriately leveraged political connections to secure commercial advantages or preferential treatment. Companies that are too closely associated with individual politicians may face a backlash if there is change of leadership. In the worst case, they could find themselves caught up in allegations of bribery.
- *Political (grand) corruption*. According to local press reports, government officials are routinely implicated in the mismanagement and misappropriation of public funds. Businesses considering opportunities in government-priority sectors should carefully assess their exposure to integrity issues related to grand corruption and the track record of relevant state agencies with regard to tackling corruption. This is particularly the case for public procurement.
- *Bureaucratic (petty) corruption*. Businesses frequently encounter demands for small bribes to speed up routine interactions with government. A knowledge of UK and Kenya anti-corruption and anti-bribery laws, regulations and reporting mechanisms will assist business to protect their interests. Both Kenyan and UK laws forbid all forms of bribery. If pressed, you should politely but firmly refuse to pay. In addition, a clear understanding of the required bureaucratic procedures, liaising with local legal advisors, will allow businesses to identify where unscrupulous officials are attempting to defraud them. Developing internal controls, policies and procedures and a bribery resistance strategy will also allow business to navigate petty corruption issues.
- *Prevalence of economic crime*. Kenya's position as the financial hub of the region leaves its banking system vulnerable to the laundering of proceeds from crime, including corruption. In addition to implementing policies to address corruption concerns, businesses should take careful consideration and background checks in hiring of personnel and selection of local financial service providers.

- *Supply chain and labour issues*. In Kenya, there is limited understanding of workers' rights, especially among blue collar workers. The prevalence of informal arrangements, for example for agricultural and construction workers, makes it difficult for workers to legally enforce their rights and reluctant to report abuse. In recent years, there have been several media reports detailing abuse of workers in the agricultural sector (especially workers in the horticulture sub-sector). The risk to business stemming from labour issues is elevated when engaging local companies particularly along lengthier supply chains where third-party service providers are engaged by local partners. Ensuring local partners are selected based on their positive track-record and their adoption of international labour rights standards will work to limit businesses' exposure to supply chain risks.
- *Other human rights concerns*. Kenya has a comprehensive set of laws protecting human rights. However, as documented in US State Department reports, a record of political interference, pervasive corruption and the use of heavy-handed tactics by state security forces undermine the country's human rights reputation. Businesses that require additional security support from state security forces, for example in construction projects, are encouraged to provide additional human rights and community engagement training for their assigned officers.

Local vocabulary

The vocabulary used to solicit bribes or engage in corrupt practices varies depending on the situation. Some common phrases include "Kitu kidogo", "chai", or "soda". These are typically used in interactions with police and lower-cadre civil servants and equate to individuals asking the respondent for something small, to buy them a cup of tea or a soft drink, in order to expedite processes or, in the case of traffic stops, let them go. References to food are common when talking about corruption, with local nationals referring to govern corruption as individuals "eating [public] money".

However, even everyday terms can be adopted to mean bribes. In the 2015 Smith and Ouzman case for example, "chicken" was the term used in communications to refer to bribes. It is for this reason the case is referred to locally as "chickengate".

Drivers for reform

The government has launched a series of anti-corruption initiatives, partly motivated by domestic political considerations, including attempts to ease the stark income inequalities, as well as pressure from diplomatic actors and donors.

The latest of these initiatives has been ongoing since the beginning of 2018, following the disclosure of a government audit report highlighting missing funds in government agencies. Although the current anti-corruption drive has seen the arrest of some prominent politicians, their allies and family members for misappropriation of public funds, no convictions have been secured.

There continues to be severe pressure on the government to demonstrate its commitment to anti-corruption efforts as high levels of graft have severely undermined public trust in institutions. Local media extensively cover the issue and government organisations, such the Ethics and Anti-Corruption Commission (EACC) and Kenya National Human Rights Commission (KNHRC), issue frequent reports, while NGOs – including the local chapter of Transparency International (TI) and the Africa Centre for Open Governance (AfriCoG) – regularly organise campaigns against high levels of corruption and impunity. This comes in the context of sharp income inequalities whereby politicians are perceived to have disproportionately benefited from their tenure, while approximately 35% of the population live on less than USD 1.90 a day according to 2018 World Bank data. In addition, ethno-regional differences in income also prompt allegations that members of certain ethnic communities benefit more from the proceeds of corruption than others. In a bid to address such allegations and demonstrate its commitment to poverty reduction, the government is likely to continue with its anti-corruption efforts in the coming years.

Moreover, the Kenyan government also faces significant external pressure to tackle graft. Since Kenya is a large recipient of development assistance, bilateral and multilateral donors hold some sway over government reform agendas. They have made statements over the years condemning high levels of graft or threatening the suspension of foreign aid due to graft.

The country's desire to maintain and grow its position as a regional commercial hub has also led the government to adopt a series of new laws based on international models. The Bribery Act (2016) that came into force in 2017 is largely based on the UK Bribery Act (2010). Anti-money laundering and counter-terrorism financing legislation introduced in 2009 and 2012 respectively were also developed with external technical assistance from the UN and other multilateral institutions, such as the World Bank. Meanwhile labour laws have been updated in the past decade to tackle issues such as unionisation, minimum wage, and the employment of children in line with International Labour Organization (ILO) standards.

The role of international business

International businesses have had an important influence in domestic attempts to address integrity issues. Most Western companies are already subject to strict legislation from their home countries, such as the UK Bribery Act and US Foreign Corrupt Practices Act (FCPA), which place compliance requirements for their international operations. To the extent that they model best practice, and expect high standards of their local partners, they can play an influential and positive role in Kenya.

Moreover, large foreign companies possess significant bargaining power with the government and smaller local companies given their size and technical expertise. This also makes it easier for them to resist demands for bribes from government or private sector actors.

Smaller companies have less leverage, but they should still be able to use both UK and Kenyan law as a 'shield' to resist demands: "we simply can't pay" (See below Solving problems).

Chambers of Commerce and professional associations

Local business associations are an important source of expertise and networking opportunities, particularly for companies who are new to Kenya. The following is a list of the most important organisations.

British Chamber of Commerce Kenya (BCCK)

The British Chamber of Commerce Kenya (BCCK) was established by the British Business Association of Kenya, with support from the UK Department of Trade and Investment. Its purpose is to promote, represent and safeguard the business interests of British persons doing business or seeking to do business in Kenya or any person wishing to do or seeking to do business with anyone in the UK. In addition to providing information, the BCCK serves as a networking platform and serves as a lobby group for British business in Kenya. The BCCK serves as the host for the UK government's Business Integrity Initiative

Contact information:

Address: British High Commission Nairobi, Upper Hill Road, Upper Hill, Nairobi, Kenya

Tel: + 254 740 187 707

Email: businessintegrity@bcckenya.org

American Chamber of Commerce Kenya (AmCham Kenya)

The American Chamber of Commerce, Kenya (AmCham Kenya) is a non-profit membership organization founded in 2005, to represent and spearhead the interests of American companies in Kenya and promote trade and investment between Kenya and the US. AmCham organises networking events, champions best practice for doing business and provides information for US companies looking to do business in Kenya or Kenyan companies looking to export to the US. AmCham offers a 'business matchmaking service' that facilitates and creates linkages between its members.

Contact information

Address: Coca-Cola Plaza, Kilimanjaro Road, Upper Hill, Nairobi

Tel: +254 020 325 3350 / +254 734 109 350

Email: info@amcham.co.ke

Kenya Private Sector Alliance (KEPSA)

Kenya Private Sector Alliance (KEPSA) is the private sector apex and umbrella body set up in 2003 to bring together business community in a single voice to engage and influence public policy for an enabling business environment. It has over 500,000 members and organises training, information and networking events for both domestic and international companies in Kenya.

Contact information:

Address: 5th Floor, Shelter Afrique Building, Mamlaka Rd, Kilimani, Nairobi, Kenya

Tel: +254 202730371|2 / +254 720 340949 / +254 735 999979

Email: info@kepsa.or.ke

Kenya Association of Manufacturers (KAM)

Established in 1959, Kenya Association of Manufacturers (KAM) is the representative organisation for manufacturing and value-addition industries in Kenya. KAM's aims are policy advocacy, trade and investment promotion, and the adoption of international best practice in Kenya.

Contact information:

Address: 15 Mwanzi Road opposite West Gate Mall, Westlands, Nairobi, Kenya

Tel: +254 020 232481 / +254 722 201368 / +254 734 646004/5

Email: info@kam.co.ke

Kenya Bankers Association (KBA)

Established in 1962, the Kenya Bankers Association (KBA) is the industry association for banks in Kenya and serves as one of the financial services industry's main sector lobby group. The KBA is heavily involved in advocacy around financial services regulations and publishes regular reports on the banking industry.

Contact information:

Address: 13th Floor, International House, Mama Ngina Street,

Tel: +254 20 2221704 / +254 20 2217757

Email: info@kba.co.ke

Law Society of Kenya (LSK)

Established by an Act of Parliament in 1948, the Law Society of Kenya (LSK) serves as Kenya's bar association. All practicing advocates are registered by the LSK, which not only serves as the professional association for the legal profession but is heavily involved in legal advocacy.

Contact information:

Address: Lavington, Opposite Valley Arcade, Gitanga Road

Tel: +254 208 155295 /+254 720 904 983 / +254 704 442 154

Email: lsk@lsk.or.ke

Institute of Certified Public Accountants of Kenya (ICPAK)

Established in 1978, the Institute of Certified Public Accountants of Kenya (ICPAK) is a member of the Pan-African Federation of Accountants (PAFA) and the International Federation of Accountants (IFAC). The ICPAK serves as the regulator for the activities of all Certified Public Accountants and works to maintain adherence to international accountancy standards in Kenya.

Contact information:

Address: CPA Centre, Ruaraka, Thika road, Nairobi, Kenya.

Tel: +254 719 074 000 / +254 719 074 000 / +254 733 856262

Email: icpak@icpak.com

2. Winning business

Identifying opportunities

To identify new opportunities, international businesses should:

- *Consider investing in government priority areas*. In doing so, businesses are likely to receive additional support and broad acceptance for projects. You can consult:
  - National development plans, such as *Vision 2030* or current president Kenyatta's *Big Four Agenda* website, which outline key areas and sectors of focus for the government
  - The Kenya Investment Authority provides prospective investors with information about business opportunities.
  - The Public Private Partnerships (PPP) Portal was launched in June 2018. This is a publicly searchable online database of current and future government projects.
- *Consult public notices* (including in national newspapers) to identify and respond to business opportunities in the private sector, processes for identifying and responding to business opportunities are less well defined. Larger companies and those listed on the Nairobi Securities Exchange (NSE) will issue public notices for Requests for Proposals (RFPs).
- *Consult with the BCCK or DIT* to find out about broader UK-Kenya bilateral trade focus areas and available business support initiatives.

You should undertake a thorough political, regulatory, operational and security assessment, before committing to a project. There can be significant regional variations in the business and security environment. For example, variations in county (local) government laws or intercommunal tensions can have a detrimental impact on supply chains.

Identifying and winning business with government entities can be challenging. A significant amount of public work is not only won on the basis of competitive tenders but also through building trust and demonstrating credibility with government agencies. Public procurement processes are subject to high levels of political interference.

Building trust

The small size of the private sector means that business circles in particular sectors can be quite small. It is important to build up a professional network as partnership opportunities are typically shared and sourced through personal connections.

International businesses should time to develop relationships, and many local businesspeople will have an expectation of social interactions before formal business ties can be established.

Businesses looking to build up their networks can consider the following options:

- *Attend events and training sessions organised by the BCCK and other chambers of commerce, industry bodies and professional associations.* These are a useful starting point for businesses looking to engage with the domestic private sector or receive formal and informal advice.
- *Appoint a local board with board members sourced from within the domestic private sector*. Respected and experienced board members can facilitate introductions to both government officials and local partners. However,

as with the employment of local staff, companies should verify and carry out background checks on their board members to determine their track record and possible political exposure.

- *Consider joining local social, sports and charity clubs and organisations*. While joining such organisations can provide access into business circles, their existence however feeds into perceptions that business dealings are exclusionary. It is widely perceived that the most important deals and transactions are agreed upon outside of the corporate environment and in social spaces, including during social (after work) gatherings and events, country clubs, and golf courses.

While socialising for business purposes, you should:

- *Take account of ethnic affiliations.* Ensure that your networks and local staff come from diverse backgrounds to avoid allegations of ethnic bias.
- *Make sure that entertainment expenditures fall within your policy and are appropriately accounted for.*
- *Follow up any informal conversations with official communications*. Progress any subsequent business interactions through formal channels.
- *Avoid extensive overlap between personal social and business networks*. This helps to prevent conflicts of interest.
- *Ensure that all employees understand and declare any conflicts of interest*. Where necessary, they should hand over responsibility of important business relationships to non-conflicted employees.

A politically exposed board member

An international company operating in the financial services sector had relied on their local board to facilitate introductions when they first entered the Kenyan market. Two years into operations, a corruption scandal involving the misappropriation of funds from a government department implicated their board chairperson.

The company dismissed the individual to distance themselves from the allegations and undertook an independent review of business won through their chairperson to determine if corruption had been involved in these interactions.

Gifts and hospitality

In recent years gift-giving and expectations of corporate hospitality have declined in both government and business circles. You should be aware that:

- *Government officials are subject to strict limits on what they may accept*. The Constitution prohibits public officers from soliciting or accepting a personal loan or benefit in circumstances that compromise their integrity. There are further details in the Public Officer Ethics Act, the Leadership and Integrity Act and the EACC Leadership and Integrity Regulations.
- *Local companies are now more likely to have their own gifts policies*. These will define the upper limits of the value of gifts they can receive. Companies often maintain a gift register as part of their compliance with antibribery laws.

In this context, international businesses should:

- *Draw up a gifts and hospitality policy defining what is and is not acceptable*. This must be compatible with your company's international policy and may include further guidelines specific to Kenya. Make sure that your staff members understand the reasons for the policy and apply it rigorously.
- *Ensure that any gifts and hospitality are appropriate and fall within agreed limits*. Company promotional materials, such as branded stationary, are commonly presented during initial meetings, and these are normally acceptable.
- *Engage with local businesses and government officials in a transparent and open manner*. For example, corporate sponsorships of events and conferences is permitted and encouraged.
- *Establish hospitality guidelines for interactions with public officials*. Even during casual social interactions such as lunches or drinks, there should be no expectation of favourable treatment. Providing officials with hotel stays is considered unethical because it could be seen as an attempt sway government decision.
- *Understand local expectations concerning "per diems"*. Some officials expect to collect a "per diem" to attend conferences or training sessions, typically covering food and transport costs. You should check that any such payments are compatible with your own internal company policies, as well as those of the relevant government department. It is best to negotiate any such payments when setting up the event. Any payments should be channelled through the government department rather than given to individuals.

Business partners

Corporate governance standards vary significantly between the large formal and established corporate entities and smaller or single-person firms. The UK Ministry of Justice *Guidance* on the Bribery Act highlights the importance of assessing 'partnership risk' and businesses should exercise caution when selecting partners, regardless of size. The Great.gov.uk website gives general guidance on the questions to consider when assessing business partners.

General considerations

In the Kenyan context you should note that:

- Many larger companies have in the recent past drawn on their political connections and affiliations to expand their businesses. Their business models may not sustainable if the people to whom they are connected lose power.
- Many large corporates in Kenya are family owned. Such companies at times fall short of international standards of corporate governance. They are also at greater risk of being caught up in internal family disputes.
- Ethnicity is another consideration, particularly with family-owned enterprises. Ideally you should look for partner companies whose teams include members from a broad range of ethnicities.

Initial market research

Some key questions to consider are:

- Which are the main companies in the sector/market? Is it dominated by one or a small group of firms? Powerful monopolies or semi-monopolies can have undue influence or close relationships with the government, regulators or prominent politicians.

- What is the public reputation of the sector/market? This will give international businesses an initial understanding of the prevalence of corruption or unethical business practices in the selected sector.

Due diligence on individual companies

Some key questions to consider include:

- Internally, is there a clear business case to engage the services of the prospective partners? Is the nature of the services to be provided clearly laid out in the proposals, work or task orders and other contracts? Having this in place will allow international businesses to identify where there is, for example, inflation of costs or attempts to influence the choice of service providers by employees or governments.
- Does the company appear on official registers and professional associations? All companies are expected to maintain up to date information with the Registrar of Companies. There is both a digital registry (Business Registration Service [BRS] available via the government services portal, e-business) and physical registry. Disclosure and reporting requirements for firms listed on the Nairobi Securities Exchange (NSE) makes it easier to find relevant information on them. Professional services firms will also be registered with their relevant associations, such as the Law Society of Kenya (LSK) for law firms.
- Can you verify the prospective partner's contacts and location? Larger companies registered in Kenya should appear in searches on the Internet including websites, physical addresses and contact information but smaller companies may not have an online presence.
- Is the prospective partner's income credible for its size and are sources of income verifiable? You should consider whether the prospective partner's stated revenues tally with the stated services provided. International businesses should request audited financial statements from prospective partners in order to verify sources of wealth.
- Does the prospective partner have a track record of working with other international companies? This may indicate that the prospective partner has gone through vetting processes and is subject to international business practice standards.

Assess the partner's political exposure and business integrity track record

Some key questions to consider include:

- Are the prospective partner's main shareholders or senior management related to, or do they have close links, with prominent politicians? Have their patterns or success of their business changed (improved or deteriorated) with changes in government? This will allow businesses to determine whether prospective partners have leveraged their political links to secure favourable treatment or win government contracts.
- Is the prospective partner reliant on one specific client or a small group of clients? Is the prospective partner's clients list comprised mainly of government entities? Are contracts with the government publicly available?
- Have media searches of the prospective partner uncovered adverse allegations such as involvement in corruption scandals, or accusations of unethical business or labour practices? How has the company responded to any allegations?
- Have media searches identified any corporate governance issues such reports of mismanagement, embezzlement or fraud? This is particularly important for family-run businesses where standards may not be as rigid as, for example, NSE-listed companies.

- Does the company have, and actively enforce, internal business integrity policies such as anti-bribery policies and employee codes of conduct?

Evaluate exposure to integrity issues along supply chains

Some areas to consider include:

- Does the prospective partner know of, and ensure adherence to, business integrity policies such as anti-bribery policies by its suppliers? International businesses should be aware that some international laws will hold them accountable for integrity violations along their supply chains, and if not, NGOs and other pressure groups will likely link violations along supply chains to international companies.
- What security provisions, including access control measures, do partners have in place to prevent stock theft and/or product counterfeiting?
- What labour and product control standards do prospective partners have in place to ensure occupational health and safety, and consumer safety?
- Is the prospective partner amenable to periodic site visits and spot checks? Such visits can assist in establishing the compliance of local partners to international labour practices and product standards. They can also highlight gaps in security provision that can be exploited to defraud the business. For example, stock and warehouse theft is a growing concern in Kenya with incidents typically perpetrated by insiders, particularly in the food and beverages sub-sector.

Advisors, consultants, agents

Local consultants and advisors – including lawyers, accountants, real estate specialists and logistics specialists – often play a vital role in helping international companies set up and manage their businesses. Well-qualified professionals with the right local knowledge can help their clients anticipate and avoid integrity risks. However, across Africa, there have been many cases where third parties have paid bribes on their client's behalf. In Kenya, the EACC has gone so far as to accuse white-collar professionals of facilitating corruption.

This background reinforces the UK Ministry of Justice *Guidance* on the Bribery Act, which highlights the importance of conducting due diligence on third-party advisors and consultants. Again, the Great.gov.uk website gives helpful general guidance.

To minimise risks, you must:

- *Define and document the services the third party will provide*. Vague job descriptions such as 'facilitating government relations' are not acceptable.
- *Check their professional qualifications*. For example, financial and legal professionals who must be qualified or registered with relevant professional associations.
- *Ensure they make a firm commitment to business integrity*. Third parties should understand and accept your own no-bribes policies. Your contract should include a clause terminating your agreement if they are found to be involved in bribery.
- *Assess their integrity reputation and any political exposure*. See the Business Partners section for guidance.

- *Ensure that the payment structure is commensurate with the services they provide*.
- *Monitor their activities once you employ them*.

Integrity risks associated with the use of agents are particularly high in land transactions where agents have been alleged to either collude with the sellers to secure inflated prices of land, or fraudulently issue fraudulent title deeds while selling the original title deed to another party.

Obtaining a business license

The process of obtaining a business license has been digitised, simplified and formalised in recent years, especially following the introduction of the Companies Act (2015), which is broadly based on the UK Companies Act (2016)

Business registration is done via the government to business (G2B) eBusiness portal where businesses can download, fill out and submit their application forms and supporting documentation. After registration, businesses must also apply for Kenya Revenue Authority (KRA), National Social Security Fund (NSSF) and National Health Insurance (NHIF) numbers. Payment for registration is also digitised and can be done via mobile money (which are commonly used across the country) thereby further limiting businesses' exposure to integrity risks such as requests for bribes.

Businesses then register with the KRA (for value added, income and pay-as-you-earn taxes) and apply for a unified business permit (including premises) from the respective county government. The Kenya Investment Authority can play a facilitation role in assisting businesses to set up their operations in the country.

However, companies still face demands for small bribes to expedite processes. You should therefore:

- *Build in longer lead times for license applications*. In general, you should anticipate that processes will take longer than advertised and be prepared to be persistent, while making it clear that you will not pay any bribes to speed up processes.
- *Request receipts for any payments*. You should verify that receipts provide a breakdown or description of the services provided and fees charged, and that they tally with the amounts actually paid.
- *Use digital platforms and payment systems, where possible*. This will reduce the time spent on processes and opportunities for bribery demands.
- *Make sure that you document each step of the process*. This will allow you to resist bribery demands by demonstrating strict compliance.
- *Consider engaging specialist advisors or consultants.* However, you should note the integrity risks associated with engaging consultants (see Advisors, consultants, agents section).
- *Consider seeking support from your diplomatic mission or national chamber, such as the British Chamber of Commerce in Kenya (BCCK)*. This would be appropriate where business permit processes are taking extended periods of time with no substantiated reasons provided by public officials.

Public procurement

The Public Procurement and Disposal Act of 2015 (PPADA) sets out required standards and procedures, oversight, transparency and accountability mechanisms. However, despite recent efforts to public procurement more transparent and open, there are still widespread reports of abuses.

Politicians are widely believed to use their advance knowledge of government projects to personal advantage. This includes buying land in advance of large construction projects in anticipation of receiving government compensation for land use. The practice of politicians colluding with local businesses to establish shell companies to use as fronts to bid for and win government contracts is also problematic. For example, in February 2019 police summoned three cabinet secretaries (ministers) over their links to companies that were paid for – but never delivered – services on several dam construction projects across the country.

Companies considering participating in public tenders should:

- *Document their compliance with official processes when submitting a bid*. You should be prepared to provide evidence if required.
- *Ensure there are no employee or company conflicts of interest.*
- *Exercise additional caution when participating in closed or non-competitive tender processes*. The lack of public oversight on such procurement can lead to political interference and/or changes in requirements in the post-contract award stages.
- *Document decision-making processes regarding the cost of your bids*. For example, if required, you should be prepared to provide estimates of staff time and associated costs, material costs and professional fees.
- *Only use vetted business partners, advisors, consultants and agents,* as outlined in previous sections. You should resist pressure to use specific politically connected consultants and independently identify project partners.
- *Ensure that internal policies and strategies are in place* to counter bribery demands or other unethical business practices.
- Involve the BCCK and Department for International Trade (DIT) to intervene with government agencies on their behalf where companies believe corruption has been involved in the award of a public tender. If a company has evidence to support claims, they should report this to the EACC to independently investigate. Companies should take the EACC's advice on involving the Public Procurement Regulatory Agency (and its Administrative Review Board – PPARB) and/or the police's DCI.
- *Use official channels of communication for all interactions with public officials during the public procurement cycle*. Keep in mind that unscrupulous public officials may prefer to conduct business over the phone, but you should insist that official instructions are communicated in writing.
- *Resist arbitrary changes in procurement terms and conditions*. You should require any such changes to be verified by the company's and public entity's legal representatives. Companies should consider publicising significant changes to contractual terms or project timelines to avoid future allegations that services provided did not match the specifications advertised in initial tenders.
- *Verify invoicing details and other payment terms*. You need to ensure that there are no unexplained costs, for example through collusion between company employees and public officials, included in final payments.

In addition to ensuring compliance and lowering operating costs in the long run, businesses will find that these practices can put them at a competitive advantage. The Kenyan public and international observers are increasingly vigilant about corruption issues and being implicated in corrupt practices can have a severe impact on a company's international reputation. For example, when reports of bribes paid by foreign companies to secure tenders for the construction of Kenya's new Standard Gauge Railway (SGR) emerged in mid-2018, these severely damaged the reputation of the companies involved as bribery allegations escalated into allegations of racism.

A study published by Kenyan thinktank, the Institute of Economic Affairs (IEA) in 2018 identified a number or risk areas for businesses in public procurement processes.

3. Running the business

Working with local staff

5.6%

of individuals in the 2017 EACC Ethics and Corruption survey reported encountering demands for bribes to secure employment.

Kenya's labour market is highly competitive and there is a pool of skilled professionals in most sectors. Memberships of professional associations are increasingly common. This means that most local staff will be aware of internationally recognised business integrity and ethics standards.

However, ethnic bias and nepotism can lead to less qualified candidates being selected due to their relationships with individuals in local management teams. In addition, hiring or human resources managers can also demand and receive bribes from prospective candidates.

Integrity issues such as these can be mitigated with robust internal policies and controls, and continuous training for staff. It is therefore important for companies to:

- Ensure anti-corruption and anti-bribery policies encompass human resource policies
- Put in place and reinforce objective, transparent recruitment and promotion criteria
- Require local nationals to disclose personal political connections
- Conduct regular training of staff on anti-corruption and anti-bribery issues, requiring employees to certify they have received the training
- Monitor compliance to policies by conducting audits and reviews of hiring practices and promotions
- Document hiring and promotion decisions to avoid allegations of ethnic bias, nepotism or corruption
- Provide a whistleblowing mechanism for employees to confidentially report instances of unethical practices
- Establish objective grievance processes for individuals to report cases of corruption

Addressing corruption in hiring practices

A multilateral organisation received anonymous reports that its human resources managers were charging 'application fees' to prospective candidates. The country management conducted a review of their local recruitment practices, including employing an external consultant to survey their current staff's knowledge of the issue. The organisation found that many local hires had paid the fees, thinking they were officially mandated. The organisation dismissed the managers involved in the scheme, re-wrote their internal human resource practices to address ethics in recruitment, conducted training for its staff. It now makes it explicitly clear in job advertisements that there is no requirement for candidates to pay fees in order to apply for the job.

Additional care must also be taken when vetting staff educational backgrounds. A government decision in 2012 to allow polytechnic or vocational training schools to obtain university charters has led to the proliferation of institutions labelling themselves as professional colleges and universities. The inability of education sector regulators to accurately monitor and regulate this has also led to some university courses being offered without proper authorisation, as well as the development of a black market for the issuance of fraudulent education certificates. Reports of specific schools being affected by the issue appear frequently in local media. For example, the Commission of University Education in February 2019 issued a warning that over 10,000 students were registered on 'unauthorised' university courses.

Meanwhile, labour laws provide significant protections for local employees, the transfer of skills and roles from expatriate management to local staff, and clearly defined processes for the termination of contracts. However, perceived wrongful terminations or mistreatment of local staff can be a very sensitive issue. There have been reports of disgruntled ex-employees sending anonymous letters or complaints to the Directorate of Immigration, alleging discrimination by expatriate staff, for example in response to dismissals. The directorate however usually gets involved when there is evidence to support such claims. In a recent high-profile case, a Chinese national was deported in September 2018 for making racist remarks about Kenyans.

Visas and immigration

The appointment of a new head of the Directorate of Immigration in 2014 led to a marked reduction in reported incidents of corruption in the immigration services. This is due to the formalisation of immigration policies and the digitisation of several application processes, predominantly through the e-citizen and e-visa platforms.

However, businesses still routinely face business integrity challenges such as:

- *Demands for small bribes to expedite permit applications.* Companies and their representatives should politely but firmly resist such demands. Documenting and providing evidence of compliance with publicised procedures and requesting receipts for any payments can help businesses navigate such challenges.
- *Fraud in the issuance of permits*. There have been instances of unregistered agents issuing false permits, ostensibly on behalf of the government. In 2018 the Interior Ministry undertook an extensive re-vetting and reissuance of work permits for foreign nationals. You should only use verified consultants or agents for immigration services.

Visa applications are now processed online rather than on arrival, but foreign nationals occasionally encounter demands for bribes at entry points such as airports, including the main Jomo Kenyatta International Airport (JKIA) in Nairobi. This can take the form of demands for bribes, for example in cases where individuals have the wrong visa category. In rare occasions, unscrupulous officials can also confiscate and demand payment for the return of an individual's passport. In such cases you should politely refuse to make any unofficial payment, if necessary, asking to see a more senior officer

Holders of valid Kenyan work and residence permits are supposed to have visa-free access to other East Africa Community (EAC) countries. However, in practice this works mostly with travel to Rwanda and Uganda only and visas are still required for travel to other East African countries. Foreign nationals using land borders to re-enter the country occasionally encounter bribery demands.

Finding office space

Kenya and in particular Nairobi, is experiencing exponential growth in the real estate sector. This means that businesses looking to establish operations in Kenya for the first time will have several options and be able to bargain on price for office space.

When looking for office space, it is necessary to:

- *Use verified agents and consultants*, as described in the Advisors, consultants, agents section
- *Exercise care in selecting locations*. This should not only be based on security and operational considerations, but also on the basis of the ownership of the buildings, as well as the contractors involved in its construction. It is alleged that the real estate sector is also used to launder the proceeds of crime and corruption.
- *Establish that contractual terms are fair*. There can be attempts by unscrupulous local businesses to defraud foreign companies by, for example, inflating rents. This can be avoided by looking at several options before settling on one location. In addition, businesses should also ensure that maintenance costs are adequately catered for either through the existing rental agreements or with separate maintenance companies. There are anecdotal reports that some businesses are presented with bills or penalties when moving out of premises for fabricated maintenance or repair costs.
- *Verify rates for public services, such as power and water connections or waste management*. Most businesses will also have private service providers for water and waste management due to deficiencies in public services, but public entities will still expect payment. You should establish whether payment for private providers falls within rental agreements.
- *Conduct site reviews*. The growth in the real estate sector has also been accompanied by laxity in building quality, as regulators have been unable to enforce appropriate standards. As a result, there have been some building collapses in lower-income sections of the city. Moreover, several buildings are alleged to have been constructed without appropriate permits or to be constructed on illegally obtained land. For example, the National Environment Management Authority (NEMA) in August 2018 demolished ‘illegal structures’ built on riverbanks in Nairobi, including some office spaces. Several of these were believed to be owned by politicians.

Most international businesses choose to set up in one of several hubs across the city with the Central Business District (CBD), Westlands, Riverside, Upper Hill and Kilimani areas being the most popular. Industrial Area and places close to the airport are also hubs for businesses with warehousing or manufacturing operations.

Importing and exporting

The government places limited restrictions on importing and exporting of goods. The country is a member of the World Trade Organization (WTO) and several regional trade organisations including the EAC, the Common Market for Eastern and Southern Africa (COMESA) and the recently agreed African Continental Free Trade Agreement (AfCFTA). In addition, the country has several bilateral and multilateral trade agreements with various countries and institutions. In theory, this allows for relative freedom in selecting the sources of imports or export destinations and offers the potential for the reduction in tariffs for the import and export of goods. Moreover, the digitisation of customs procedures has reduced the levels of corruption at main ports and entry points.

In practice, businesses face a number of challenges:

- Not all protocols for the respective trade agreements have been ratified and several sectors, such as agriculture are heavily protected by the government. This leaves companies vulnerable to demands for demands for bribes for allegedly illegal importation.
- Bribery demands or the levying arbitrary charges for allegedly incorrect documentation. Importers and exporters alike occasionally face issues to do with their certificates of origin at entry points, particularly the port of Mombasa.
- Customs officials are reported to cause artificial delays in order to create opportunities to solicit demands for bribes.
- Organised criminal networks are known to operate syndicates involved in illegal commodities (including narcotics) and arms trafficking out of main ports. Without proper procedures in place, companies can find their containers are being used in illegal operations.
- Bribery and fraud in the issuance of certifications by the Kenya Bureau of Standards (KEBS). Companies have reported receiving requests for bribes in order to expedite the verification and certification process. There is also a black market for KEBS verification stickers.

As cargo inspection, handling and clearing is likely to remain a manual process in the coming years, customs will continue to be a key point of vulnerability for businesses. Companies should:

- Use vetted cargo clearing agents with good business track records, utilising processes described in previous sections
- Engage specialist legal advisors on trade issues in order to both ensure compliance to local laws but also identify potential exemptions or tariff reductions applicable for goods.
- Establish clear internal policies and resistance strategies will help businesses practically address bribery issues.

Paying taxes

42.3%

of individuals in the 2017 EACC Ethics and Corruption survey believe that “most” tax officials are corrupt

The Kenya Revenue Authority (KRA) has developed an online tax portal where companies declare and calculate tax obligations. This makes it easier for companies to submit their taxes and decreases opportunities for unscrupulous officials to demand bribes.

Nevertheless, some aspects of the system remain onerous, and can leave organisations vulnerable to requests for small bribes to expedite processes. If you ever receive such a request, you should politely refuse and work to resolve problems through official channels.

Continuing tax-related challenges include:

- As the government seeks to raise more revenues domestically especially with rising sovereign debt levels, tax has become an easy target. Businesses feel that the tax compliance burdens are placed on larger and foreign organisations, and many are required to submit extensive documentation to demonstrate compliance.
- The government continuously makes changes to tax laws, with value-added tax (VAT) in particular subject to change in value and its application on different goods on almost a yearly basis. This can create challenges for businesses as it requires them to recalculate tax obligations.

- Customer service support at the KRA can be difficult to access, with queries either answered vaguely or different officials interpreting regulations differently. Due to changes in procedures and the submission of false claims by some local businesses, tax compliance certificates can be difficult to obtain particularly where a business has several suppliers.

4. Solving problems

Resisting demands

Establishing internal policies, procedures and protocols make it easier for businesses to resist bribery demands. In addition, a few practical suggestions for action to take when faced with demand for payments include:

- **Play for time, if possible**: Time is your friend and the extortionist's enemy. Our first advice is therefore to stay calm and to look for a polite means of procrastination. In some cases, procrastination may be a solution when dealing with more senior extortionists: for example, if you are dealing with a political official who may soon be leaving office.
- **Assess the nature of the bribery threat**: Unfortunately, resistance is not always so straightforward. If the company faces a sustained threat, it needs to make the best use of whatever time is available to assess the situation in as much detail as possible and then draw up an effective counterstrategy. The questions to ask include:
  - Who is making the demand – and is it possible to appeal to their superior?
  - What is the basis for the bribe – if, for example, the company is accused of not following local regulations, what are the official recourses for righting the wrong, or is the accusation of baseless?
  - Who are your friends – does the company have a formal or informal network of well-connected allies, such as local consular or diplomatic officials, that can apply political or economic pressure to relieve the bribe demand?
  - What are the security implications?
- **Develop a resistance strategy**: This can include a combination of approaches including seeking expert advice, appealing to a higher authority, insisting on transparency, and looking for an alternative solution.
- **Stay safe**: Ensuring your employees' safety should be an overriding consideration. The UK Ministry of Justice's official *guidance* on the Bribery Act recognizes that "there are circumstances in which individuals are left with no alternative but to make payments in order to protect against loss of life, limb or liberty", and it adds that "the common law defense of duress is very likely to be available in such circumstances". However, in Kenya such circumstances are likely to be rare. Moreover, it should be noted that the defense of duress applies to – for example – threats of physical demands. It does not apply to bribes paid to protect a company's commercial interests.

Enforcing contracts and getting paid

Increased sovereign debt levels have exacerbate payment delays to publicly contracted companies as the government prioritises servicing external debt obligations. This has repercussions across the economy. However, in cases of payment disputes, companies can pursue legal avenues, as outlined below.

Government payment arrears

In a draft Budget Policy Statement released in January 2018, the National Treasury admitted that government delays or non-payment of suppliers and contractors was affecting other sectors of the economy. A report in November 2018 by credit rating agency Moody's identified Kenyan banks as having one of the highest ratios of non-performing loans (NPLs) in Africa, and highlighted government arrears in payments to the private sector as a key driving force behind this.

County governments also face severe cashflow challenges given their reliance on central government disbursements. This results in payment delays for their contractors, for example Nairobi County alone was in January 2018 reported to be in arrears to contractors over USD 6m for utilities and other service provider payments.

Local businesses are more likely to be most affected by payment delays given that government prioritises attempts to attract and retain foreign businesses. However, foreign companies are also exposed, particularly as these delays also affect their own suppliers.

Contract law

Kenyan contract law is governed by the Law of Contract Act (which is founded on the English common law and doctrines of equity). Additional statutes that govern the enforcement of contracts include the Consumer Protection Act, Sale of Goods Act, and Limitation of Actions Act. Disputes arising out of commercial transactions are handled either by magistrates or by presiding judges depending on the monetary thresholds of the contracts. There is a special Commercial Division in the High Court of Kenya. Certain contracts must be in writing before the courts can enforce them, including contracts for the sale of land. The limitation period for actions for breach of contract is six years.

Foreign judgements and contracts

Kenyan law permits parties to choose the governing law applicable to their contracts, except for certain contracts, such as those dealing with land and employment, which are automatically subject to Kenyan law. Under the Foreign Judgments (Reciprocal Enforcements) Act, certain foreign judgments (such as those from the superior Courts of the UK, Australia, Malawi, Seychelles, Tanzania, Uganda, Zambia and Rwanda) are recognised and enforceable in Kenya, subject however to registration with the Kenyan courts. Kenya is also a signatory to the Convention on the Settlement of Investment Disputes and therefore a member of the International Centre for the Settlement of Investment Disputes (ICSID).

Dispute resolution and arbitration

Arbitration is widely used in Kenya and is governed by the Arbitration Act, 1995 (which is an UNCITRAL model of arbitration law). Kenya is also a signatory to the 1958 New York Convention. In addition, Kenya has an active local chapter of the United Kingdom's Chartered Institute of Arbitrators, and this is often called on by parties in commercial contracts to resolve disputes. Cases in Kenyan courts can take some time to be concluded. In relation to commercial contracts it takes at least two years but depending on the nature and complexity of the case it could take up to six years.

In recent times, there have been attempts to reform the judiciary and a number of judicial officers have been appointed to the judiciary in a bid to ease the backlog of cases.

Integrity issues in the judiciary

The 2010 constitution has gone some way to address anomalies within the legal system, though the harmonisation of laws will take some time. Judicial reforms in the past few years have helped make the judiciary one of the more trusted public institutions in Kenya.

While some corruption persists in the courts, inefficiency in the form of slow processing and unnecessarily lengthy procedures is a more common problem. This results in high legal costs.

Political influence and corruption do not usually impinge on court cases involving foreign companies unless they need to take legal action against a government or other well-connected figure. The courts have also issued rulings against foreign companies in favour of local pressure groups. Lawyers must be of Kenyan nationality to practise in Kenya, requiring that foreign investors work with a Kenyan firm.

What to do if you discover bribery within your organization

The general advice to follow is:

- *Inform senior management at once.*
- *Keep a record*. It is essential to keep a record of all steps that the organization has taken to respond to the problem.
- *Form a senior management committee*. The committee will need to come to a considered assessment of the evidence and form a crisis management plan including a strategy on public and internal communications when these are needed.
- *Conduct an internal investigation***.** You need to do this discreetly, without 'tipping off' the person who is suspected of paying the bribe.
- *Take legal advice on reporting to government authorities*. The UK Serious Fraud Office encourages early but not necessarily immediate self-reporting. However, according to Part IV of the Kenya Bribery Act, a person in a position of public or private authority "shall report to the [Ethics and Anti-Corruption] Commission within a period of twenty-four hours any knowledge or suspicion of instances of bribery". It is essential to take legal advice how to manage potentially conflicting reporting requirements.

Dealing with law enforcement

Companies who wish to report a suspected bribery incident should report direct to the Ethics and Anti-Corruption Commission (EACC). Contact details are available on the EACC website.

Local opinion polls, such as the 2017 EACC survey, regularly cite the police as the single most corrupt institution in the country, with ordinary citizens frequently facing demands for bribes from police officers, even during routine traffic stops. If this happens to you, you should:

- *Respond to any questions politely and courteously*.
- *Explain that, if you have committed an offence, you will gladly pay through official channels*. Your company's policy means that you will need to have an official receipt.

In most cases, this approach should enable you to get out of the situation safely, and without paying a bribe. However, you should use your judgement. If you feel physically threatened, this amounts to a form of duress and it is better to pay to avoid injury.

Police are often accused of committing criminal acts or colluding with criminals. In addition, the police's reputation for extrajudicial killings also seriously undermines its public legitimacy.

5. Specific industries

Risks during the course of a typical project lifecycle

When evaluating exposure to integrity issues in any sector, it is recommended that businesses take a project lifecycle approach. This will allow them to better understand and mitigate integrity risks. Some of the common integrity risks and suggested mitigation strategies are listed below:

Table 1: Addressing integrity risks along the project lifecycle

Project stage	Integrity risks	Mitigation strategies
Conception/planning	• Demands for bribes in order to secure the contract • Pressure to inflate the contract price and apportion part of the work to specific entities or individuals • Pressure to subcontract to certain companies or consultants in order to win the consultancy contract • Political pressure to set up operations in specific geographies regardless of their feasibility	• Politely but firmly refuse bribery demands, citing Kenyan and UK legislation • Document and make clear the basis of costs in project proposals and concepts • Establish and emphasise the need for clear business cases to justify the engagement of or subcontracting of work to external consultants and other third parties • Carry out independent assessments and refer to feasibility studies when questioned on the chosen location of operations
Financing	• The provision of false or misleading information in investment prospectuses • Assurances that project planning work, such as impact assessment and feasibility studies, have been conducted by independent and reputable companies • Inflated projected project costs in order to cater for bribes or political corruption • Working with government or private entities with a poor track record of financial management, accountability and transparency • Pressure to accept financing from specific entities	• Verify the information provided by project sponsors by undertaking due diligence on the process and providers of project planning services • Seek external and independent project risk assessments, particularly where companies suspect the project sponsors are providing inaccurate or incomplete information, or where there are legacy issues associated with a contract • Vet proposed financers, local partners and proposed financial institutions. This will limit companies' exposure to being used as a conduit for laundering the

	▸ Pressure to use specific financial institutions or financial service providers (consultants)	proceeds of crime, corruption or terrorist financing ▸ Establish the source of incomes for high-net-worth individuals and corporates before accepting financing from such entities
Operational	▸ Politicisation of labour and local community issues whereby local politicians incite workers or communities to protest against companies for alleged labour violations ▸ Bribery demands from government officials conducting routine inspections of projects ▸ Tax-related integrity issues, described in the Paying taxes section ▸ Fraud, embezzlement or asset misappropriation by staff, sometimes in collusion with local law enforcement ▸ Human rights abuses by project security personnel, either private contractors or state security forces ▸ Use of child labour or the mistreatment of workers by suppliers	▸ Carry out social impact assessments and establish local community engagement programmes ▸ Politely but firmly refuse bribery demands, citing Kenyan and UK legislation as necessary ▸ Independently vet project partners and service providers as described in the Business partners section ▸ Adopt best practice in financial management and routine audits to detect fraud or embezzlement ▸ Conduct routine reviews of internal policies to establish whether they are fit for purpose ▸ Conduct routine inspections or site visits of local suppliers to ensure compliance to labour and health and safety laws ▸ Provide local community engagement and human rights training to project security personnel ▸ Establish crisis management plans to enable response and recovery from disruptive incidents.

Infrastructure

The Kenyan government has made the development and upgrading of infrastructure a priority in recent years. This provides several opportunities for businesses across several project types, from transport and energy to water and telecommunications projects.

Main risks

The main integrity risks in the infrastructure sector are:

Public procurement

The nature of infrastructure projects, particularly critical national infrastructure such as roads, railways, ports, airports, pipelines and water and energy supply, means that businesses will be required to understand and work closely with government agencies in order to submit successful bids. Public-led infrastructure projects typically involve large sums of money and this creates higher incentives for corruption. Businesses may encounter demands for bribes in order to win bids, be charged arbitrary fees for bid submission, encounter pressure to inflate bids, and pressure to partner with specific suppliers or contractors. Please see the Public procurement section for details and advice on how to mitigate the associated integrity risks.

Land issues

Infrastructure projects typically require the use of larger tracts of land. In cases where the government has not set aside public land for a project, securing the appropriate permissions from county and central government can be complex and leave companies vulnerable to bribery demands. In addition, local community issues such as compensation and resettlement, can be challenging to manage with local leaders also prone to politicising these issues. Local politicians are also known to use advance knowledge of planned projects to purchase land in the vicinity of the projects in order to secure compensation for their use. Meanwhile, a significant portion of land in Kenya (some estimates put this at over 60% of all land) is not titled or designated as ‘community land’ – under the Community Land Act (2016) – making it difficult to determine relevant parties to negotiate with on access and usage.

Companies should:

- Build in long project lead times to address and resolve land-related issues as this will require negotiations at the central and county government, and local community levels.
- Verify land ownership and allocations with all relevant authorities and publicise the information prior to commencing projects.
- Carry out stakeholder mapping and analyses to identify the relevant parties likely to be involved, have influence and potentially derail projects. This will allow companies to anticipate, develop engagement strategies and respond to and recovery quickly from disruptive incidents.
- Continually engage with government and community stakeholders to ensure buy-in to projects at all levels and throughout the course of the lifecycle.

Integrity risks for technical consultants

Businesses can be invited by the government or private companies to assist in the development of a project concept document or blueprint to allow them to conceptualise or plan for a specific project. Examples of this could include consultancy services for feasibility studies to inform the selection of the best routes for transport and energy infrastructure, or the location for the development of new satellite cities or housing developments. Depending on the type of project this may involve opportunities for technical consultants to conduct market assessments, security threat assessments, feasibility studies, front-end engineering and design (FEED) projects, environmental and social impact assessments (ESIAs) or supply chain evaluations. Typically, these opportunities will be advertised widely, including in prominent national newspapers.

Some integrity issues that companies could face include demands for bribes in order to secure the contract, to inflate the contract price or subcontract to certain companies, as well as pressure to amend report findings and recommendations in favour of specific political constituencies or interests. In addition to utilising resistance strategies outlined in previous sections, companies could also consider partnering with donor or multilateral agencies such as the World Bank. The presence of such actors in these processes can mitigate some of these risks by placing higher compliance expectations on government officials.

Other operational risks

With project plans and finances in place, companies will have to set up their project operations in a manner that is both efficient and compliant in order to complete projects within the agreed timeframe and budget. If the company is new to the country, they will need to establish their presence, including ensuring they are able to securely import vital equipment (see Winning business and Running the business sections for more information).

In addition to the common integrity risks outlined in the previous section, companies in the infrastructure sector are likely to encounter bribery demands in permit applications for the project. This can include permits required from regulatory agencies such as the National Construction Authority (NCA), National Environmental Management Authority (NEMA) or specific sector (energy, transport, roads, ports) regulators or from county governments. Companies should use develop resistance strategies outlined in previous sections to prepare themselves for such instances.

Integrity risks associated with poor labour practices are also prevalent in the infrastructure industry, where there are occasional reports of poor pay and working conditions as well as the use of illegal labour or children. Companies should ensure their project partners have in place occupational health and safety policies and should carry out spot checks and audits to ensure compliance.

Completion of some infrastructure projects will involve some form of close-out or management handover to the project sponsor or a local entity. Integrity issues associated with this process include pressure to select certain entities, state or private, to take over the project on completion despite their limited experience in the sector; and asset misappropriation or stripping by project staff, in collusion with local regulatory agencies and law enforcement. This can cause severe reputational issues for companies who may face allegations of delivering substandard work. Companies are advised to continuously document project milestones with inspections conducted and countersigned by project sponsors. In addition, companies should engage external, independent inspectors and auditors to verify project progress at different stages.

Professional associations

International Project Finance Association (IPFA)

Association of Energy Engineers (East Africa Chapter)

Institute of Engineers in Kenya (IEK)

Kenya Association of Project Managers (KAPM)

Association of Construction Managers in Kenya (ACMK)

Kenya Property Developers Association (KPDA)

Kenya Association of Manufacturers (KAM)

Leading companies in the sector

The breadth of the types of projects in the infrastructure sector and ongoing support from the government means that there are several international companies present in Kenya. However, due to their ability to come with significant amounts of project funding and close bilateral relations between Kenya and China, Chinese companies have come to dominate the sector. For example, China Road and Bridge Corporation (CRBC) has several projects across the country, including the current administration's flagship SGR project while the development of Lamu port is currently being undertaken by China Communication Construction Company (CCCC). China Wu Yi also has several road and bridge construction projects across the country. The energy and telecommunications infrastructure, as well as real estate development sub-sectors have more variation in the country of origin of the companies involved.

International companies looking to compete in the infrastructure sector should consider:

- Researching and identifying individual bid evaluators to understand their motivations, likely drivers of and influence in decision-making, and track record in awarding tenders.
- Carrying out research on their competitors, including their modus operandi elsewhere in the world, to understand where their relative strengths and weaknesses are in comparison to their rivals.
- Forming project consortia with other reputable international and local companies to jointly bid for large projects. This will allow companies to leverage the individual companies' abilities to present a more complete 'package deal' for the bid evaluators.
- Emphasise the quality of previous work, including present recent examples of finished projects, in cases where they believe their bids will be more expensive than competitors.
- Approaching the BCCK, DIT and High Commission to assist with government engagement and lobbying efforts.

Sources of information and advice

The sector regulators including the National Construction Authority (NCA), Energy Regulatory Commission (ERC), Kenya Ports Authority (KPA), Kenya National Highways Authority (KeNHA), Kenya Civil Aviation Authority (KCCA) and other project-specific authorities such as the Lamu Port-South Sudan-Ethiopia Transport (LAPSSET) Authority are useful sources of information and integrity-specific advice on the infrastructure sector.

Manufacturing

Manufacturing forms a key part of the government's *Vision 2030* development strategy. The government's interest in manufacturing is driven by a push to create employment for its large young population and diversify its exports. The sector in Kenya is significantly more developed than its regional East African peers meaning that there is existing manufacturing capacity and capability. However, there is considerable market opportunity with rising incomes and government export development ambitions.

Main risks

The main integrity-related risks in the manufacturing sector are:

Labour issues

Given the length of manufacturing supply chains and reliance on several suppliers, it can be difficult to ensure compliance to appropriate labour standards in the sector. Companies in Kenya can find that prospective local partners using child labour, exploiting workers (for example offering poor pay and working conditions), or employing illegal immigrants. This is especially a concern in the case of shift workers and those involved in manual labour. Occupational health and safety standards (as outlined in the Occupational Health and Safety Act 2007) are not always properly monitored and enforced by the Ministry of Labour.

Companies should vet all project partners prior to their engagement, ensure partners have in place occupational health and safety policies, and carry out spot checks and audits to ensure compliance to appropriate labour standards.

Government policy implementation

Manufacturers in Kenya are incentivised to set up operations in specific Special Economic Zones (SEZs) and Export Processing Zones (EPZs). SEZs and EPZs can provide companies with generous incentives such as tax breaks, government guarantees for funding and subsidies for imports. However, in practice the relevant legislations, such as the Special Economic Zone Act (2015), are unevenly enforced. Moreover, the locations of SEZs and EPZs are intensely politicised: high-ranking politicians exert influence to have these zones created in their home regions in order to boost their electoral appeal, regardless of whether it is feasible or most efficient to do so. For example, Deputy President William Ruto in 2017 was criticised for launching an SEZ in Uasin Gishu County, one of the regions of his ethnic-Kalenjin support base, during an election year.

Companies in SEZs and EPZs can therefore face heightened reputational risks and challenges related to paying tax, importing and exporting, as well as labour provisions. Companies should cite relevant laws when faced with such pressures, firmly decline to pay bribes and ensure that all location decisions, staff hiring, and business subcontracting decisions are based on sound business cases.

Other operational risks

In addition to the common risks, a significant challenge for manufacturers is the falsification of the origin of inputs into manufacturing processes by suppliers. For example, local partners could be using conflict minerals, unethically sourced inputs or illegally smuggled commodities in their operations. In Kenya, the presence of organised criminal smuggling networks involved in smuggling commodities such as timber, sugar and gold from within the region means that such risks are heightened compared to other jurisdictions. Companies should therefore

- Take additional care when onboarding project partners, checking whether partners have appropriate permits in place, verifying source inputs through supply chain analyses and establishing any connections with organised criminal networks
- Engage external support to design manufacturing operations with integrity issues in mind. For example, appropriate security design will allow the company to provide duty of care to its staff and prevent stock theft or contamination.

Serving the market

Companies are also exposed to integrity issues during the distribution and sale of manufactured goods. These include:

- The prevalence of counterfeit goods in the local market, sometimes produced with the complicity of employees. Companies can suffer reputational damage if counterfeit versions of their products circulate in the market and cause harm to consumers. In Kenya, the beverages sub sector (both alcoholic and non-alcoholic) is particularly prone to such issues where sophisticated schemes involving the re-filling of branded bottles for resale in the local market exist.
- Consumer fraud, including the submission of false claims or returning of used products for alleged product defaults.
- Stock theft perpetrated by criminals sometimes in collaboration with employees and security forces. The sale of stolen goods creates a black market for cheaper versions of a company's products thereby cutting into profit margins.

To mitigate these issues, companies should:

- Ensure they have clear communication and marketing strategies so that consumers can distinguish genuine products from counterfeits.
- Establish clear guidelines for recalls, compensation and refunds to prevent consumer fraud.
- Engage vetted private security for their operations and cooperate with law enforcement to break-up black market operations selling their stolen merchandise.

Professional associations

Kenya Association of Manufacturers (KAM)

Association for Supply Chain Management (ASCM)

Kenya Institute of Supplies Management (KISM)

Leading companies in the sector

Several international companies have their regional headquarters in Nairobi. Some prominent examples include Unilever East Africa, British American Tobacco, Colgate-Palmolive, Nestle, Proctor & Gamble, East African Breweries Limited (EABL) a Diageo subsidiary and automotive manufacturers, such as Hyundai and General Motors. There are also large Kenyan companies operating in the sector, including Bidco Africa and Chandaria Industries Limited, which also serve the entire East Africa region.

Sources of information and advice

The sector regulators – including KEBS and the main industry body KAM – are useful sources of information for the sector as a whole and integrity advice on the manufacturing sector.

Agriculture

As the country's largest employer and an important foreign-exchange earner, the agricultural sector is likely to remain a priority for the government in the coming years. Although most viable agricultural land is concentrated in the southern parts of the country, the development of energy and water infrastructure is opening up new areas for exploitation. Meanwhile, the government drive to commercialise the sector will also continue to drive support for agri-business opportunities.

Main risks

The main integrity-related risks in the manufacturing sector are:

Land issues

It can be challenging for companies to secure the required land for commercial agriculture projects. businesses can face integrity issues to do with land access, compensation and resettlement. Politicians often politicise land issues and central and county government interactions on land can involve bribery demands. Meanwhile, the lack of titles and designation of large tracts as 'community land' also presents challenges for company-community negotiations over access and usage. Please refer to the land concerns in the infrastructure sector section for more information.

Labour issues

At present a significant amount of employment in the agricultural sector is manual. Companies need to check whether prospective local partners use child labour, are exploiting workers (for example offering poor pay and working conditions) or employing illegal immigrants.

Occupational health and safety standards (as outlined in the Occupational Health and Safety Act 2007) are not always properly monitored and enforced by the Ministry of Labour. Moreover, the shift towards mechanisation in some sub sectors has been fiercely resisted by agricultural labour unions and associations out of concern for the loss of employment opportunities. These issues occasionally result in labour unrest and can cause reputational damage for companies in the sector.

Companies should vet all project partners prior to their engagement, ensure partners have in place occupational health and safety policies, and carry out spot checks and audits to ensure compliance to appropriate labour standards. Where companies intend to shift to significant mechanisation in their projects, they should ensure that this is clearly communicated to existing manual labourers. Companies may also want to consider retraining programmes or other social support programmes for workers being made redundant in order to prevent significant labour unrest.

Politicisation of agriculture

Small-holder farmers are an important constituent for politicians across the country. As a result, there remain significant protections for farmers in place despite the government's stated desire to modernise and commercialise the sector. For example, international companies can face intense political pressure to offer above-market prices to small-holder farmers or can be accused of worker' rights abuses for individual politician's electoral purposes. These issues can feed into higher reputational risks for companies in the sector.

Other operational risks

Companies in the agricultural sector may encounter integrity issues such as:

- Use of harmful chemicals and pesticides by local contractors. A laxity in standards can lead unscrupulous businesspeople to use products with harmful side effects for workers or the environment along the agri-business supply chain. The detrimental health effects for employees and consumers are not only a serious ethical concern for businesses but can also have severe ramifications for the reputation of a business.
- Controversy over water usage. Given that the country experiences periodic droughts, the allocation of water resources to commercial agriculture purposes is a sensitive issue that can elevate reputational concerns for businesses.
- Use of child labour or the mistreatment of workers by suppliers. The horticulture sub-sector has gained significant international negative publicity in recent years after reports of poor working conditions in greenhouses producing flowers for export to Europe.

To mitigate these issues, companies should:

- Take additional care when onboarding project partners, checking whether partners have appropriate permits and use harmful chemicals or have other poor labour practices. Keep in mind there could be differences in banned chemicals used in the UK or EU compared to Kenya. When in doubt, opt for the likely stricter UK/EU safety standards
- Engage external support to design operations with integrity issues in mind. For example, technical and community engagement consultants will be able to advise on sensitive issues such as water use, and assist companies in communicating this to local communities

Serving the market

In addition to the integrity issues outlined in the distribution and sale of manufactured goods, deficiencies in the quality of warehousing or cold storage to prevent the spoiling of fresh produce. The detrimental health effects that the sale of perishables can have on consumers can be linked back to producers, raising reputational risks for businesses. Companies may want to consider establishing their own warehousing or cold storage spaces or partnering with vetted partners that can ensure appropriate standards.

Professional associations

Kenya Flower Council (KFC)

Fresh Produce Exporters Association of Kenya (FPEAK)

Kenya Tea Development Association (KTDA)

Agricultural Industry Network (AIN)

Kenya National Farmers Federation (KENAFF)

Leading companies in the sector

Several international companies are involved in the agricultural sector. Some prominent examples include tea growers and exporters such as Unilever Tea James Finlay, Tetley Tea, over 50 international flower and vegetable exporters; fertiliser companies such as Yara; and seed producers such as Monsanto. Large Kenyan companies include Kakuzi Limited, Sasini, IPS Kenya, Del Monte Kenya, Export Trading Group and a host of other agricultural supply and value-addition companies.

Sources of information and advice

The sector regulators including Agriculture and Food Authority (AFA), and industry professional associations are useful sources of information and integrity-specific advice for agriculture.

6. National and international business integrity initiatives

Kenya has put in place measures to prevent and eradicate corruption and to promote business integrity. These measures include a comprehensive legal and institutional framework that tackles corruption, bribery and other economic crimes, as well as human rights issues. Additionally, local civil society and international agencies play an important role in the promotion of business integrity and the eradiation corruption through various initiatives. Nonetheless, limited political will and capacity constraints in the agencies limit their impact and effectiveness.

National business integrity initiatives

To combat corruption and encourage business integrity in Kenya, the Kenyan constitution created specialised agencies to oversee the promotion and protection of human rights, and the prevention and eradication of corruption.

The Ethics and Anti-Corruption Commission (EACC)

The EACC is an independent commission created by the Kenyan Constitution and governed by the Ethics and Anti-Corruption Commission Act (2011). The primary function of the EACC is to combat and prevent corruption, economic crime and unethical conduct. The commission is composed of five commissioners including a chairperson. To fulfil its obligations, the commission has the power to conduct investigations of suspected acts of corruption, bribery or economic crimes or any violations of anti-corruption legislation and to recommend to the Director of Public Prosecutions the prosecution of such acts. Businesses thus have a duty to cooperate with the EACC'S investigations. Additionally, the commission provides businesses in Kenya with guidance on the development of procedures to prevent bribery and corruption in their operations.

Public Procurement Regulatory Agency (PPRA) / Public Procurement Administrative Review Board (PPARB)

Created under Public Procurement and Disposal Act (2005), the PPRA exists to monitor, assess and review the public procurement and asset disposal system to ensure they conducted under the correct legal frameworks and work in the public interest. The PPRA also presents reports to parliament on public procurement and provides advice to government agencies on how to set up procurement processes. Its PPARB is a central independent procurement appeals review board that reviews, hears and determines government tendering and asset disposal disputes.

The Kenya National Commission on Human Rights (KNCHR)

The KNCHR is an independent commission established by the Kenyan Constitution and the Kenya National Commission on Human Rights Act (2011), whose function is to promote and protect human rights in Kenya. In fulfilling its mandate, the commission promotes the protection and respect for human rights in public and private institutions and thus its operations often impact on Businesses in Kenya, especially with regards to labour relations and environmental issues. Moreover, to monitor the promotion and respect of human rights, the commission has the power to hear complaints and investigate allegation of human rights violations. Businesses are encouraged to cooperate with the KNCHR investigations.

Laws and law enforcement

Legislation

Kenya has a comprehensive anti-corruption and business integrity legal framework that tackles corruption, bribery and other economic crimes as well as human rights issues. This body of laws is applicable to all persons doing business in Kenya and to the all actions of Kenyan companies including those done outside Kenya. Failure to comply with these laws may attract heavy fines, imprisonment or disbarment from conducting business in Kenya. The following laws impose anti-corruption and business integrity related duties on all Kenyan businesses and businesses operating in Kenya:

- **The Constitution of Kenya (2010).** In particular, businesses should take note of the Bill of Rights section which outlaws servitude, slavery, forced labour, and child labour; emphasises the importance of fair labour practices, including in relation to renumeration and working conditions; and provides the right to a clean and healthy environment thereby requiring businesses must assess the environmental impact of their operations.
- **The Anti-corruption and Economic Crimes Act (2003).** This defines corruption in broad terms, to include deceit in agent-principal relationships, failure to disclose conflict of interest, secret inducements for advice, and bid rigging. In ensuring compliance, businesses in Kenya must therefore assess their internal operations in addition to external operations. Furthermore, as the act criminalises dealing with property which ‘a reasonable person’ would know was acquired as a result of corruption and the commission of breaches related to public procurement procedures.
- **The Bribery Act (2016).** Under this act, businesses in Kenya are liable for bribery committed by their agents, employees or any other person who performs services for or on behalf of the business, if this bribery was done with the intention of retaining or obtaining any kind of benefit for the business. Moreover, like the UK Bribery Act, the law imposes a duty on businesses to put in place appropriate procedures to prevent bribery and corruption in their operations. The EACC is meant to provide businesses with guidance on the development of such procedures.
- **The Public Procurement and Asset Disposal Act (PPADA, 2015).** The PPADA applies to all state organs and public entities with respect to procurement planning and processing, inventory and asset management, disposal of assets and contract management. The PPADA established several institutions to regulate public procurement in Kenya. These include:
  - Public Procurement Oversight Authority (PPOA): Also known as the Public Procurement Regulatory Authority, the PPOA ensures that procurement procedures are complied with; monitors the public procurement system and recommend improvements; assists in the implementation and operation of the procurement system; and initiates public procurement policy and amendments to the PPDA.
  - Public Procurement Oversight Advisory Board: This Advisory Board advises the PPOA on the exercise of its powers and the performance of its function; approves the estimates of the revenue and expenditures of the Authority; and recommends the appointment or termination of the Director-General.

- Public Procurement Administrative Review Board: The Review Board promotes and upholds fairness in the Public Procurement system through judicious and impartial adjudication of matters arising from disputed procurement proceedings and as a major alternative to the court system. The Review Board also offers general legal advice to the Procurement Stakeholders in relation to conflicts and proceedings during filing and/or hearings of the Review.

- **The Proceeds of Crime and Anti-Money Laundering Act (2009).** This act defines money laundering, which it defines as dealing with property that "a reasonable person" would know forms part of the proceeds of crime, if the said dealing results in the concealment of the property's criminal connection. Similarly, the act criminalises the ownership, acquisition and possession of property that forms part of the proceeds of a crime. The act also established the Financial Reporting Centre (FRC) to enable the reporting of suspicious transactions.

- **The Employment Act (2007).** The act outlines the duties of employers with regards to their staff in great detail and includes certain human rights considerations. For instance, servitude, slavery, forced labour, and child labour are outlawed, and special emphasis is placed on the fair treatment of staff. Businesses in Kenya must ensure that their labour relationships comply with the provisions of this act.

Law enforcement agencies

Kenyan law enforcement agencies have an important role in the fight against corruption and business integrity issues in Kenya. The Police, the Judiciary and the Director of Public Prosecutions collaborate to enforce and implement anti-corruption laws and other business integrity related legislation through investigations, prosecution, and trials.

Police

The Kenya Police Service participates in the enforcement of anti-corruption/business integrity legislation through investigations and arrests of suspected acts of corruption, money laundering and other economic crimes. The Directorate of Criminal Investigations (DCI), an organ of the police, conducts investigations of suspected acts of corruption, money laundering and other economic crimes, often in collaboration with the EACC. Furthermore, the Kenyan Police Service has the power to arrest persons suspected of criminal conduct including corruption, bribery and other integrity related crimes.

The Director of Public Prosecutions

The Director of Public Prosecutions (DPP) is an independent constitutional body that is responsible for the prosecution of all suspected criminal acts, including corruption, money laundering and human rights violations. Based on the investigations and recommendations of the EACC and the DCI, the DPP prosecutes suspected acts corruption, money laundering and human rights violations before a competent court.

Judiciary

The Kenyan Judiciary has the responsibility to try all suspected acts corruption, money laundering and human rights violations. To ensure the effectiveness of such trials, the High Court of Kenya has specialised divisions that hear business integrity and corruption related cases. For instance, the Anti-corruption and Economics Crimes Division deals with suspected cases of corruption, money laundering and other economic crimes. The Labour and Employment Division hears matters concerning violations of labour rights. Matters concerning violations of the right to a clean and healthy environment are dealt with by the Environment and Land Court.

Local civil society

Civil society plays an important role in the promotion of business integrity and the eradiation corruption in Kenya through various monitoring and awareness initiatives. Industry bodies in Kenya frequently organise events and training on integrity challenges and how to address them. Some examples include:

- KEPSA's Anti-corruption Compliance training, offered in partnership with the Centre for International Private Enterprises (CIPE), and its Multi-sectoral Initiative on Corruption, which acts as a convening forum for public-private dialogue on corruption.
- UN Global Compact in Kenya. The compact promotes ethical and sustainable business practices and carries out training for companies that sign up to the compact. The global compact works closely with KEPSA and KAM on integrity training and advocacy.
- Initiatives led by KAM, such as its Code of Ethics for businesses, and an ongoing partnership with the University of Nairobi to train corporate management on anti-corruption compliance.

Other civil society groups that engage in anti-corruption advocacy in the country and incidences of human rights violations include:

Africa Centre for Open Governance (AfriCoG)

The Africa Centre for Open Governance (AfriCoG) is a non-governmental organisation with a mission to entrench an anti-corruption culture in Kenya and Africa, with a focus on the public and private sectors. Its funders include the embassies of Finland and the Netherlands in Kenya, and the Canadian International Development Agency. The Centre is very active in Kenya, where it provides research on governance and public ethics issues, and monitors breaches of anti-corruption laws in both the private and public sectors. AfriCoG also has a useful guide for SMEs looking to operate compliantly in Kenya. Furthermore, AfriCoG regularly participates in anti-corruption demonstrations in Kenya.

Transparency International Kenya (TIK)

Transparency International (TI), an international NGO that aims to eradicate corruption in world has an active chapter in Kenya. To combat corruption in Kenya, TIK monitors corruption in County Governments and advocates for the participation of the general public in the provision of crucial social services. Moreover, through its Advocacy and Legal Advisory Centres, TIK provides advocacy and legal advice to victims of corruption.

Institute for Business and Human Rights (IHRB)

The Institute for Business and Human Rights (IHRB) is an international think tank whose mission is to promote the respect for human rights in business through policy and accountability initiatives. In collaboration with the KNCHR, the institute promotes the respect for human rights in the Kenyan extractive sector through research and policy advocacy.

Centre for International Private Enterprise (CIPE)

The Centre for International Private Enterprise (CIPE) is a non-profit think tank, that is affiliated with the US Chamber of Commerce and whose mission is to strengthen democracy around the world. CIPE encourages democratic governance in the public and private sectors in Kenya by promoting accountability, transparency and the respect for human rights. In collaboration with the Institute of Economic Affairs (IEA) and other partners, CIPE launched an initiative to encourage the participation of civil society groups in County Governments' budgetary decisions to foster transparency.

International law and enforcement

In addition to local legislation and institutions, various international anti-corruption and business integrity legal instruments and agencies apply to businesses in Kenya. These include the African Union Convention on Preventing and Combating Corruption and the United Nations Convention Against Corruption. The provisions of these conventions are similar to those of Kenyan anti-corruption and business integrity Acts of parliaments including the Anti-corruption and Economic Crimes Act (2003) and the Bribery Act (2016).

Furthermore, British persons and businesses operating in Kenya are subject to British anti-corruption and business integrity legislation such as the UK Bribery Act (2010). Consequently, British law enforcement agencies such as the Serious Fraud Office (SFO) may investigate and prosecute suspected acts of corruption committed in Kenya by British firms or citizens. For example, in 2007 the SFO initiated investigations into the suspected bribery of Kenyan electoral and examination offices by British firms operating in Kenya, in a corruption scandal known as the 'Chickengate'. The investigations resulted in the trial and conviction of British citizens and firms before the Southwark Crown Court.

International agencies

International organisations such as the World bank have taken measures to combat corruption and encourage business integrity in Kenya through sanctions and suspension of loans. For instance, in 2001 the World Bank suspended loans to Kenya worth over GBP 193m due to concerns over the widespread corruption in the country. Similarly, in 2018 the World Bank sanctioned the Rift Valley Railways, a private railways management company due to corruption committed in Kenya and which involved investment projects by the International Finance Corporation (IFC), the private sector arm of the World Bank Group. Likewise, the United Nations Development Programme (UNDP) has launched several initiatives to combat corruption and encourage accountably in Kenyan public institutions.

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