

**PAKISTAN AT THE CROSSROADS**

At no other time in its 62 years has the survival of Pakistan looked so fragile. Events of the last few months have generated media headlines of ‘failed state’ and ‘Pakistan on the brink’ with the more alarmist observers pointing to a possible scenario of the ‘Balkanisation’ of the country. International perception has been badly (some say irretrievably) damaged with the consequent impact on foreign direct and institutional investment. But are things as bad as they appear?

On the ground, the answer appears not. Take Karachi, for example, where the business and social life continues apace in the commercial centre and port of 20 million people. Here there is little outward



display of the fight against the threat of Talibanization apart from increased security at hotels and frequent police check points. In Islamabad the atmosphere is different; highly visible security counter measures make the country’s political and diplomatic enclave look as though they are facing a civil war. Which in the sense they are.

*Perhaps it is more apt to describe Pakistan as a flailing state rather than a failing state.*

A multitude of internal and external threats face the country. Upon closer examination there is broad similarity with those threats that faced the country in the volatile 1990s: then the Army overthrew two successive democratic governments; war with India was imminent on more than one occasion; Pakistan tested its nuclear capability in response to India’s own tests; factions of the MQM infighting in Karachi left an average of 23 dead daily; and US cruise missiles violated sovereign airspace as they flew towards the caves in Afghanistan; then to add to its woes the Asia Financial Crisis ripped into the fragile economy in 1997 and Pakistan was again back in the arms of the IMF.

The country is challenged and many say that Pakistan is the crossroads. More informed observers though will ask ‘When has it not been?’ The biggest threat to Pakistan is from within: it is politically fractured; the economy is fragile and its internal security is threatened. Pakistan is not a country that can be ruled homogeneously and last month’s decision over the administration of the SWAT Valley is an example of this.

Yet there is a prevailing sense of nationhood amongst its people and its institutions. There is a point below which the country never manages to descend and its fragile unity remains intact. Perhaps it is more apt to describe Pakistan as a flailing state rather than a failing state.

*In Part II, the next article will examine the factors that keep Pakistan together and why there is more cause for optimism. The author, Charles Blackmore, advises foreign companies on Pakistan and is available for selective assignments.*

**UPCOMING EDITIONS**

- Qatar
- Energy Security
- Lowering Your Exposure to Corruption

© EMCIIS Limited

38 Craven Street  
London  
WC2N 5NG  
UK

Tel: +44 (0)20 7930 0150  
Fax: +44 (0)20 7930 2469  
[www.emciis.com](http://www.emciis.com)

**This quarter EMCIIS completed assignments in a variety of jurisdictions including: Russia, India, Pakistan, Iraq, Nigeria, Vietnam, Belgium, Spain and the UK.**

**Please contact us at +44 (0)20 7930 0150 for a copy of a chart showing our areas of capability and operation.**

**In addition to offering commercial due diligence in these countries, EMCIIS also provides bespoke country risk reports, executive background screening, litigation evidence and support, asset tracing, Construction Contract Monitoring (CCM) as well as premises security reviews and electronic sweeping.**

# OFFSHORE TAX HAVENS

As unravelling fraud and extravagant bonus payments continue to dominate international headlines, there has been an increase in interest in offshore tax havens and the need to better regulate the most secretive tropical islands and mountainous retreats.

The blacklisting of 45 territories by the Organisation for Economic Co-operation and Development (OECD) for non-compliance was a recent focal point of the G20 Summit in London, where punitive financial sanctions were discussed as the next step in dealing with these havens.

When the term “offshore” is mentioned, a list of familiar jurisdictions usually comes to mind, but does this reflect the true picture? Whilst many of these jurisdictions still operate with a varying degree of company and banking secrecy, it should not be forgotten that there are major economies closer to home that also operate in this way. In the US for example, there are several states where it is possible to open bank accounts or establish companies with little or no

verifiable information. Some also pride themselves in offering limited reporting and

disclosure requirements to government. Even in the UK, a determined applicant can form a company via the internet without providing identification or verification of information.

Wherever you plan to do business, be it in a traditional offshore territory or a leading economy, it is always wise to conduct an appropriate level of due diligence to determine beneficial ownership and company history. In doing this, simply obtaining paper filings and company registration details is often insufficient and in many cases provides no information of value. To better understand the background and business reputation it is always worthwhile to consider the ‘human intelligence approach’ and access contacts or sources in the industry who are close to the subject entity; rarely, if ever, is this found in the jurisdiction itself.

EMCIIS has developed a wide network of sources and former industry professionals in many global locations who are often able to provide an in depth insight into a company or subject’s history. This is often the area where the most valuable and incisive information originates from.

## IS FRAUD A CONCERN FOR YOU?

*Considering recent events in the financial world, the likelihood for fraud being uncovered within companies will probably increase. Now is a good time to assess the threats, analyse the risks and know what your response will be. Do you have a fraud response plan and are you confident it will work? You may need to consider issues such as retrieval of documents, computer evidence and staff confidentiality. EMCIIS can assist by providing a co-coordinated approach involving investigators, computer forensics and accounting expertise all to the highest levels of evidential standards.*



## BRIBERY LAW

The Ministry of Justice last week published a draft of the Bribery Bill which aims “to reform the criminal law to provide a new, modern and comprehensive scheme of bribery offences that will enable courts and prosecutors to respond more effectively to bribery at home or abroad”. Under this new law commercial organisations will be guilty of an offence if they fail to prevent bribes taking place.

How will this affect the way you operate overseas? Perhaps a good example is to look at the USA and its Foreign Corrupt Practices Act (1977). The FCPA is a US law that criminalises bribery of foreign officials anywhere in the world. This law applies not only to US companies, US citizens and foreign companies listed on US stock exchanges but it also covers *the actions of third parties* such as foreign subsidiaries, agents, consultants, distributor and JV partners.

***The OECD has long been critical of the UK for failing to bring its anti-bribery laws in line with its international obligations.***

A foreign company is liable under the FCPA if it has a US headquarters or operations, or uses the country’s banking system. In order to avoid being liable for third party payments, the Department of Justice recommends US companies to conduct due diligence and take necessary precautions to ensure that they have formed business relationships with reputable and qualified partners and representatives overseas.

What should the due diligence cover? There are five main points:

- Search for any links between individual/company and politically exposed persons
- Identify beneficial ownership of company
- Check reputation of individual/company amongst peers and other industry contacts
- Check/verify source of wealth of individual/company
- Search for any allegations of corruption or bribery

Due diligence is only one preventative measure against bribery being committed by third parties. Others measures EMCIIS recommends include:

- Drawing up a set of guidelines for all members of staff to follow. Instill an anti-corruption culture in your organisation.
- Provide training for those staff who have regular contact with foreign officials or work on tenders for contracts.
- Ensuring that all third parties employed by your organisation sign up to your anti-corruption guidelines.

In failing to implement some basic preventative measure your company could be criminally liable under the new Bribery Laws.

## SUDAN

The largest country on the African continent is not high on the list of favourites among foreign direct investors. Issues such as Darfur, the regime in Khartoum, the years of civil war between north and south, and the impact of US sanctions (intriguingly, except for *gum Arabic*, which is the only item that is exempt sanctions because it is the essential ingredient for Coca Cola) have blighted most opportunities. That is before the recent ruling by the ICC for the arrest and trial of the sitting President of the country.

These are the issues that occupy international headlines. Rarely, however, is there a mention of Southern Sudan and its interim government in Juba, a former township on the river Nile that has expanded twenty-fold since the signing of the Comprehensive Peace Agreement (CPA) in December 2005.

Culturally and ethically the two parts of the country could not be more different, the black Christian south as distinct from the Muslim north, a root cause of the many years of bitter conflict. The CPA brought an end to this and with it recognition for a Government of Southern Sudan (GoSS), a border (still disputed because of the location of the oil fields), an interim constitution and agreement that in 2011 the South will have a Referendum to vote on whether to unite with Khartoum or cede from the North.

The vote to go alone could see the birth of the first new nation in the 21<sup>st</sup> century. However, in the way current boundaries are drawn that would mean the South had 80% of Sudan's known oil reserve - something the North will not allow.



---

To remove your name from our mailing list, please send an email to [enquiries@emciis.com](mailto:enquiries@emciis.com).  
Questions or comments? E-mail us at [enquiries@emciis.com](mailto:enquiries@emciis.com) or call +44 (0)20 7930 0150.