



Uganda Extractive Industries Transparency Initiative

**CSCO WORKSHOP FOR TAX CHART ON BO IN UGANDA
AND ALTERNATE REVENUE MEASURES**

FY 2023/24

Summary Report

20th October 2022,
Golf Course Hotel,
Kampala – Uganda

Abbreviations & Acronyms

ACODE	Advocates Coalition for Development and Environment
AML	Anti Money Laundering
BO	Beneficial Ownership
BOT	Beneficial Ownership Transparency
CSCO	Civil Society Coalition on Oil and Gas
CSO	Civil Society Organization
DRM	Domestic Revenue Mobilization
EITI	Extractive Industries Transparency Initiative
FATF	Finance Action Task Force
ID	Identification
MOFPED	Ministry of Finance, Planning and Economic Development
MSG	Multi-Stakeholder Group
NBOC	National Beneficial Ownership Committee
NIRA	National Identification Regulatory Authority
UGEITI	Uganda Extractive Industries Transparency Initiative.
URA	Uganda Revenue Authority
URSB	Uganda Registration Services Bureau
USAID	United States Agency for International Development

CONTENTS

- 1.0 Introduction
- 2.0 Objective of the Meeting

AGENDA

- 3.0 Arrival and Registration, Introduction, Safety Moment
- 4.0 Remarks
- 5.0 Placing Uganda's Beneficial Ownership Legislative Framework in the Global Context
- 6.0 Plenary Discussion
- 7.0 The National Beneficial Ownership Committee: Scope, Roadmap and Next Steps
- 8.0 Presentation of CSO Revenue Proposals FY 2023/24
- 9.0 Group Discussions
- 10.0 Presentations/Feedback
- 11.0 Way Forward and Closing remarks

1.0 INTRODUCTION

This report is about an activity of the Tax Chart focusing on Beneficial Ownership in Uganda. The One-day workshop was held on 20th October 2022, at Golf Course Hotel, Kampala, Uganda.

The workshop was attended by members from CSCO, Media and UGEITI Secretariat.

The general output of the workshop was to engage members and seek views to stimulate debate and create awareness on BOT and approaches towards achieving the same for stakeholders to counteract money laundering, tax evasion, and other financial crimes in the extractives sector. The meeting was supported by Diakonia, Oxfam and USAID-DRM4D, designed and conducted by The Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI) Uganda in collaboration with CSCO and Tax Justice Alliance Uganda. The facilitators were:

- a) Mr. Samuel Bekoe, BO Expert
- b) Mr. Edwin Kanakulya Kavuma, Compliance Officer, UGEITI Secretariat , and
- c) Representative of Tax Justice Alliance Uganda

This engagement provided CSCO with an opportunity to enhance knowledge on BO. It was also used to help understand the context and challenges faced in the implementation of BOT. Through the need to increase the tax base to enhance the Domestic Revenue Mobilization Strategy, there was need to identify and provide alternative revenue measures FY2023/24. This was therefore a platform used by CSCO to present and agree on alternative tax measures for FY2023/24 that could be submitted to MOFPED for consideration to increase revenue collections and reduce the tax burden.

2.0 OBJECTIVE OF THE MEETING

The objectives of the engagement were:

- i) To enhance the capacity of stakeholders on BO and its implications on DRM.
- ii) To stimulate increased stakeholder oversight in the governance of Uganda's extractives sector.
- iii) Agree on the alternative tax measures for FY 2023/24 which will be submitted to the Ministry of Finance for consideration.

The workshop commenced with a Prayer led by Mr. Oscord Mark Otile from ACODE, the Moderator Mr. Paul Twebaze taking participants through the Safety Moment of the premises and introductions.

4.0 REMARKS

SEATINI UGANDA

The remarks were made by Ms. Regina Navuga, Program Officer. She welcomed all participants to the workshop and thanked them for taking the time to attend. She noted that there were a number of stakeholders from CSCO that attended a training on BO in April 2022. So, they wanted to use the opportunity to enhance knowledge on BO to support tax collections through the Domestic Revenue Mobilization Strategy. She said they wanted government to expedite the process for the BO Bill such that it could become law. The absence of a legal and regulatory framework on BO was posing a challenge. There was need to carry out a benchmarking exercise to support the process of attaining BOT. She highlighted key components of the training held in April 2022 as:

-Issues on BO, Expedite the BO bill, Gathering information on BO, Linkages between BO and DRM, Create Awareness on BO, Target Stakeholders on BO,

How to engage on BO.

She said she believed that the engagement was a continuation of a dialogue on the subject and further informed participants about the presence of a Consultant to provide more knowledge and guidance. She said there was need to increase the tax base so BO could be used to know who is liable to pay tax, what kind and amount.

In conclusion, she thanked their partners, Oxfam, USAID, CSCO and UGEITI Secretariat for the support rendered.

CSCO

The remarks were made by Mr. Onesmus Mugenyi, Deputy Executive Director, ACODE. He informed members that CSCO was hosted at ACODE with a Secretariat. He said it was important for government to start implementing BOT in Uganda. He reminded participants that they could have heard of shell companies operating in the country without knowing the ultimate individuals who benefit. He further said these shell companies were used to siphon money from one jurisdiction to another. The framers of EITI could had noticed a lot of tax evasion. So, countries implementing EITI were required to have a BO Register according to Requirement 2.5 of the EITI Standard.

CSOs were interested in BO and were ready to participate in putting together all the frameworks to support BOT implementation in the country. The Companies Act was amended such that these frameworks could be put in place to support BO. He said with the current law, there was need for regulations to support its implementation and urged participants to participate in the process such that good regulations could be developed.

When concluding his remarks, he wished all good deliberations and thanked all for taking the time to attend.

PALU

He noted that Gold trade from Africa was worth about \$89b. Most of this was carried out through illicit financial flows. The continent was losing so much of this money that could be used for infrastructure development like roads, education, health. Most of African countries were susceptible to illicit financial flows, corruption. He highlighted the following:

- there was need to improve the governance framework in the extractive sector.
- need for implementation of BO in the extractive sector since these resources are finite.
- countries needed to put in place laws to support BOT implementation.
- countries needed laws in place to cab illicit financial flows.
- some of the benefits of BOT was to prevent corruption, illicit financial flows.

He reminded participants of the previous training organized by SEATINI, it was noted that the process of BO implementation was stagnated. He said with BO laws in place after the recent amendments, there was need for a proper definition for BO and legislative framework to support its implementation.

PLENARY DISCUSSION

The Moderator Mr. Paul Twebaze then asks participants for their reactions.

A participant asked about the progress on the BO Bill.

Responding to the question, Mr. Onesmus Mugenyi from ACODE said when the proposal for developing a BO Bill came up, there was a team working on the Companies(Amendment)Act because the Act was an over aching Act to provide for BO. After which there was need to proceed to make regulations. The Companies (Amendment) Act 2022 was recently passed by Parliament and the President accented to it.

The Compliance Officer of the UGEITI Secretariat responded and

said when Uganda was put on the spot by FATF to meet the requirements for AML and Terrorism Financing, the Companies (Amendment) Act was used to provide for amendments to include BO and was passed by Parliament. The Consultant was available to shade more light on the subject.

5.0 PLACING UGANDA'S BENEFICIAL OWNERSHIP LEGISLATIVE FRAMEWORK IN THE GLOBAL CONTEXT

The presentation was made by the Mr. Samuel Bekoe, the BO Expert. He said there was a lot of potential with BO implementation and the highlights of the presentation are;

-Who takes the ultimate control in AGM Petroleum Ghana Limited? BP's Ownership Structure, The Panama Papers(The Power Players), Sky news(Nigerian court seizes 56 houses linked to ex-oil minister), Typologies, How do Companies conceal BO?, The First Family's stake in Azerbaijan's Gold Fields, Petrobras Bribery and Kickback Scandal, Angola's Nazaki Bidding Case, Statoil Rafsanjani Case, Mercator-Kazakhstan Case, Why do companies setup complex ownerships? Secret Corporates, Common Methodologies, Counting the cost, why does BO matter? BO Disclosure (the benefits).

6.0 PLENARY DISCUSSION

Participants raised a number of queries and issues. They are:

- How many countries are effectively implementing BO because Uganda as a country lacks the capacity and there isn't government willingness to enforce?
- The presentation requires dealing with a lot of data sets and numbers, is there a specific tool required for capturing information?
- Examples of best practices noted in the presentation but where can they be found since there's need for a data base?
- Provide challenges for BO implementation taking into account the Political Economy of countries.
- Integrating agency systems isn't an easy task, how do you advise?
- Agencies like URA have a lot of data. What's the benefit of more BO information and how can capacity be enhanced for implementation yet it's an added cost?
- There was a company called BLQ (Betting) that vanished recently after collecting a lot of money from people. How can it be traced including its ownership?
- With different IDs, one can register different companies multiple times. Give the best method for handling such a challenge because some of the issues arise due to weaknesses in the IT systems.
- In Ghana, are all processes for seeking services (data/systems) on-line without any form of payment? Who is supposed to use the BO information especially if Political Economy of a country is considered when a government isn't interested in implementing?
- Do governments in Africa benefit from BO because there isn't any huge amount of money that can enter a country without government detecting unless it doesn't pass through the banking system? Isn't it deliberate for governments not to create a system?
- In many African countries, fraudsters open banks in rural areas, use it to carry out illegal activities and encourage the people to

deposit money then vanish. Is it true for Ghana's case?

-For one to carry out an investigation and report about an issue, there must be a conducive environment. In some jurisdictions, it's better to keep quiet for safety reasons. It's important to create awareness and carry out advocacy for BO.

- There is need to develop a BO implementation model that fits the African context since there is a lot of political interference hindering implementation. Most developed countries are using BO to satisfy their interests.

Response from Consultant

Examples of countries implementing and the capacity: Ghana, Liberia were at an advanced stage as well as EU (UK, Austria, France etc.) Nigeria, South Africa, Kenya, Namibia were implementing though with some challenges. BO had become a global wave with all countries getting involved. BO should cut across all sectors and not limit it to the extractives e.g. Telecom, Gaming/Betting, Insurance, Real Estate, Banking because these were sectors with a lot of money laundering cases.

Tool/system for BO: Each agency normally had its own system used for capturing this information and the challenge goes beyond borders. There was need for inter-agency coordination such that the systems could be linked. To carry out investigations, one needed supporting evidence, get external history of company though this could be very difficult.

Challenges: BO does not hamper business registration. Most of the due diligence must be carried out after the collection of information and sanctions imposed for any wrong/questionable information.

Political Economy: CSOs needed to carry out advocacy with evidence for best practices. The use of figures to promote BO was important such that government could buy-in though threats would always arise.

Gaps: Uganda had started well, coordination of agencies was difficult yet NIRA had got a lot of information. The biggest challenge was that each agency wanted its own version of software with a specific individual benefitting which hindered implementation.

Identity of companies: There was difficulty in knowing the identity of owners of a company when it registered to operate a business in a country. Verification was normally a challenge. Companies coming to a jurisdiction and duping citizens was common. So, government needed to find a solution to this but with BO implementation, the real owners could be found/traced.

IT System challenges: NIRA needed to capture biometrics with finger printing data. The different systems of agencies needed to be linked to NIRA. The ID Cards needed to be linked with the Sim Cards or Driver's License etc. There was always a challenge with fake names but if the system of the different agencies were linked, then it could be cured.

Ghana's system: BO information was paid for in Ghana. For Uganda's case, CSOs could carry out advocacy to make it freely accessible since BO implementation was still at its initial stages. Most African countries charged a fee but there was need to make some basic information free.

Uganda had no option but to start implementation. There was a

global push at the international level from FATF where the country was to be put on the Grey List with implications.

Politicians: There was need for engagement to make them understand the benefits for implementation. It's not illegal for public officials to own businesses. They were also required to declare assets regularly.

They also benefited from the laxity in the system of government where BO information was not captured. This was the reason why governments normally were against BO implementation. In most African countries, every rich individual had political backing to protect interests. Most citizens also don't have bank accounts.

Fraudsters opening banks: In Ghana it would be difficult. Citizens normally reported what they saw immediately to the authorities. In Nigeria, it would be possible because of the existence of a massive rural area.

BO model for Africa: It's a global village where all systems worked for global benefit. For example, if one was to borrow huge sums of money to implement huge projects, one went to the developed world to secure the financing. For Africa to develop its own BO model would therefore be very difficult. There was need to work with the global system since issues relating to Terrorism and Money Laundering weren't unique to Africa alone.

7.0 THE NATIONAL BENEFICIAL OWNERSHIP COMMITTEE: SCOPE, ROADMAP AND NEXT STEPS

The presentation was made by Mr. Edwin Kanakulya Kavuma, the Compliance Officer, UGEITI Secretariat. The highlights of the presentation are;

-Introduction to EITI, Standard-3 core aspects, Requirements of the EITI Standard, Uganda's EITI journey, Current priorities for UGEITI, EITI membership benefits for ordinary Ugandan, Beneficial Ownership Disclosure, The NBOC, Objectives/Functions of NBOC, Role of CSOs in EITI-BO, Conclusion: Next steps for Uganda towards BOT.

PLENARY DISCUSSION

A participant noted that most companies in the UGEITI Report FY19/20 did not disclose their BO information. He asked, "How can the NBOC and the Secretariat enforce compliance in regard to the recently passed Companies (Amendment) Act 2022?"

The Compliance Officer responded and said, in the first UGEITI Report FY19/20, BO information was not captured for all companies because the report was produced using the Flexible Reporting Methodology after an MSG decision where Unilateral disclosure was adopted for the Mining Sector and Full reconciliation for the Oil and Gas sector. The Secretariat was therefore able to get BO information for the Oil and Gas sector and not Mining. Going forward, that information would be provided. With the new law on BO, after the development of regulations, sanctions would be imposed to manage implementation. In the current arrangement, when companies were Filing Returns, they would be required to provide BO information by URSB.

In conclusion, on behalf of the Secretariat, he thanked CSOs, for the opportunity and engagement as well as the support rendered.

UGEITI CONULTANT:

She said she had been supporting UGEITI Secretariat in implementing EITI Requirements and thanked CSO's for the invitation. She further noted that though most CSOs present weren't on the MSG, their participation was key and encouraged during EITI implementation. She encouraged them to use the available channels to get information and carry out advocacy. During Validation, CSOs would be engaged and views collected to find out the level of participation. The International Secretariat would look at the list of CSOs in the country and call on any for views. If response was poor, then that would reflect negatively on the country's image. She said they should use the available platform since government had given CSOs the opportunity to participate in the EITI process. They should familiarize themselves with all the EITI available information.

The Secretariat didn't participate in the session under the following Agenda item:

- 8.0 Presentation of CSO Revenue Proposals FY 2023/24
- 9.0 Group Discussions
- 10.0 Presentations/Feedback
- 11.0 Way Forward and Closing remarks