The Extractive Industries and Society 2 (2015) 33–45

Contents lists available at ScienceDirect

The Extractive Industries and Society

journal homepage: www.elsevier.com/locate/exis

Original Article

The Extractive Industries Transparency Initiative (EITI) in Uganda: Who will take the lead when the government falters?

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ARTICLE INFO

Article history:
Received 11 June 2014
Received in revised form 20 November 2014
Available online 18 December 2014

Keywords:
Resource curse
EITI
Revenue transparency
Uganda

ABSTRACT

Uganda is expected to join the group of African oil producing countries in 2018. The Government of Uganda (GoU) has high hopes for the sector and expects oil to transform the country from a low-income into a competitive upper middle-income country by 2040. However, despite these claims, the GoU's management of the sector is already being criticized, specifically over corruption and tax disputes with oil companies.

The Extractive Industries Transparency Initiative (EITI) has, during the last decade, gained increased recognition as a standard for promoting transparency and revenue disclosure for resource-rich countries. In the 2008 National Oil and Gas Policy (NOGP), the GoU expressed its intention to adopt the standard. The objective of this paper is to analyze why the GoU, seven years later, has still not made any progress with an EITI process. Furthermore, it assesses the leverage and motivation for non-government stakeholders (development partners, civil society and oil companies) to take the lead on the EITI and compensate for the lack of political will.

1. Introduction

Uganda is expected to join the group of African oil-producing countries in 2018. The Government of Uganda (GoU) has high hopes for the oil sector and by 2040; oil revenues are expected to transform the country from a low-income into a competitive upper middle-income country (NPA, 2013). President Yoweri Museveni's motto for the emerging oil sector is "*Norway not Nigeria*": instead of following the path of other African countries and oil revenues and getting lost in corruption and patronage, Uganda aspires to a model of transparency and responsible oil management (Anderson, 2010). However, although the first barrel of commercial oil has not yet been produced, there are already worrying signs regarding the GoU's management of the sector, specifically high-level corruption and missing signature bonuses (Global Witness, 2010). The GoU's enthusiasm over the oil boom sharply contrasts civil society's prediction of an oil curse.

The term *resource curse* was first coined by Richard Auty to describe the paradox of lower economic growth in countries rich in natural resources (Auty, 1993). Besides under-performing economically, countries rich in oil, gas, and other minerals have also been shown to have a higher incidence of conflict and suffer from poor governance (Karl, 1997; Sachs and Warner, 1995). The relationship between institutions and the resource curse was explored by Lane and Tornell (1996), who found that rent-seeking activities were more frequent in countries with low-quality institutions. The role of institutions and transparency in avoiding the resource curse has since been examined further by Mehlum et al. (2006), Collier and Hoeffler (2005) and others. In the late 1990s, civil society advocacy and publications, such as the Global Witness report, "*A Crude Awakening*", which examines the opaque mismanagement of the oil sector in Angola, helped to raise public awareness of the resource curse. Pressure from the Publish what You Pay (PWYP) campaign, which has lobbied for transparency in the oil and gas sector, along with high-level political support, notably from Tony Blair, former Prime Minister of the United Kingdom, led to the launch of the Extractive Industries Transparency Initiative (EITI) in 2002. The EITI is a global standard which aims to improve transparency in oil, gas and mining and constitutes "a global coalition of governments, companies and civil society working together to improve openness and accountable management of revenues from natural resources" (EITI, 2014a).

In the National Oil and Gas Policy (NOGP) adopted in 2008, the GoU expressed its intention to adhere to the EITI. Despite occasional statements from the President and the Minister of Energy and Mineral Development reconfirming this intention, no

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http://dx.doi.org/10.1016/j.exis.2014.11.006
2214-790X/

concrete steps toward an EITI process have been taken (New Vision, 2013). Official reasons for the delay tend to be technical and focus on the ongoing review of the national oil legislation (Oil in Uganda, 2014c; PWYP, 2014). Nevertheless, more recent statements by the GoU suggest that this delay also results from economic and political considerations. A key contribution of this study is to, by means of analysis of empirical data, contribute to the discussion on the inhibitors for and prospects of the EITI process in Uganda. More specifically, it is a qualitative study in which data were collected via interviews with key stakeholders in Uganda and secondary data from industry and policy documents. Building on existing research, the paper sheds further light on EITI stakeholders' incentives for transparency and broadens understanding of the ability and will of non-governmental stakeholders to promote the process. In doing so, it seeks to answer the following three research questions:

1. To what extent are the three identified pillars of EITI (revenue disclosure, multi-stakeholder group and contract transparency) of relevance to the Ugandan oil sector?
2. Which expected costs and benefits of transparency and EITI are likely to explain the Government of Uganda's decision to delay an EITI process?
3. What role can non-government stakeholders (development partners, civil society and oil companies) play in fostering an EITI process in Uganda?

The paper is structured as follows. The introductory sections outline the analytical framework of the paper, providing an overview of the literature on EITI, tri-sector partnerships and cost–benefit analysis of transparency. The following sections provide an overview of the political economy of the oil sector in Uganda and outline the paper's methodology. The subsequent analysis and results are guided by the paper's research questions. More specifically, the first section of the analysis assesses the relevance of the EITI to the oil sector in Uganda, and explores the political, economic and normative reasons for the GoU's deferral. The analysis concludes with an assessment of the capacity and will of non-government stakeholders to promote an EITI process in Uganda. The concluding section of the paper summarizes the key findings of the analysis.

2. The EITI as a tool for mitigating the resource curse

Twelve years after its launch in 2003, EITI is recognized today as a leading revenue transparency standard, with 17 candidate countries and 31 compliant countries. Overall, EITI reports have, to date, covered a combined USD 1332 billion in government revenues from the extractive industries sector (EITI, 2014b). The underlying idea of the EITI is, through increased transparency and revenue disclosure, to help put populations in a better position to hold their government to account and thereby facilitate improved governance. The extent to which the standard has succeeded in achieving this is, however, open to debate. The difficulty of scientifically assessing the impact and efficiency of the EITI is due not only to the methodological challenges of quantifying improved transparency and accountability, but also to data constraints. The first country to become EITI-compliant was Azerbaijan in 2009. For academic research, six years is a short time to be able to assess broad societal changes. In addition, it has been suggested that the efficiency of the EITI is hindered by its organizational set-up, as stressed in an independent evaluation from 2011, which reported that the "EITI being a consensus-based body, so standards and agreements easily fall to the level of least common denominator" (Scanteam, 2011, p. 48). Research also indicates that the success of the EITI and other Transparency and Accountability Initiatives (TAIs) depend on the actual country conditions for transparency, such as a free press, free civil society and political leadership (Frynas, 2010).

Furthermore, it is believed that the strength of TAIs lies in promoting governance processes (e.g., information-sharing and forums of dialogue within the extractive industries sector). On the contrary, TAIs are less successful in contributing to development outcomes, such as more responsible management of resources and poverty alleviation. Another obstacle, as argued by Fenster (2005–06), relates to an over-focus on information disclosure while overlooking enabling conditions for translating information into accountability. The author notes that "Transparency theory's laws result from a simplistic model of linear communication that assumes that information, once set free from the state that creates it, will produce an informed, engaged public that will hold officials accountable" (p. 886). A counter-argument would be that the expectations of the standard as a driver of governance change need to be realistic and adapted to EITI's mandate. The limitations of the EITI are well recognized by Jonas Moberg, Head of the EITI Secretariat, who has gone on record stating that:

> ...[the] EITI does not suggest that it is the solution to what has become known as the resource curse. Revenue transparency by itself is not enough to ensure that natural resource wealth generates benefits and development for a country's citizens". [Moberg, 2009]

Moberg further argues that in order to be relevant, the EITI needs to maintain a strategic focus, with emphasis on: (i) transparency and the disclosure of revenues by companies and government; and (ii) accountability between government and its citizens through the multi-stakeholder group (Moberg, 2009). The relevance of revenue disclosure and the multi-stakeholder groups as key pillars for the standard will continue to gain support following further evaluations and studies (Mainhardt-Gibbs, 2010; Scanteam, 2011). Furthermore, and as argued here, the EITI has a third emerging pillar: contract disclosure. Even though contract disclosure is not yet an EITI requirement, it is nevertheless an emerging norm among signatory countries. Thus, so far 20 EITI-implementing countries have started to publish details of their contracts (Open Contracting, 2014). These three identified EITI pillars – revenue disclosure, multi-stakeholder consultations and contract transparency – will guide the analysis that follows.

2.1. Revenue disclosure

In countries prone to corruption and rent-seeking patronage, oil revenues are often misused for personal enrichment or political patronage (Kolstad and Wiig, 2009). The EITI reports on revenue disclosure therefore aim to shed light on deficiencies in government revenue management systems and outstanding payments from oil companies. In Nigeria, the 2005 EITI report identified more than USD 560 million in underpaid taxes by oil companies. With the EITI contributing to the closing of fiscal loopholes, Nigeria is estimated to save up to USD 1 billion a year (Meyer, 2011). At the same time, merely focusing on revenue payments is not enough to stop corruption, which can occur all along the value chain: license allocation, procurement and end use of revenues (World Bank, 2009). The EITI board has so far argued that the standard's strength lies in its narrow scope, and that additional reporting requirements along the value chain risk being too burdensome or intrusive for compliant countries (EITI, 2012). Thus, whereas EITI's revenue disclosure might not safeguard against all types of misuse, it is an important first step for resource-rich countries.