CIVIL SOCIETY COALITION ON OIL AND GAS
UGANDA

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May 18, 2015

The Honourable Mary Jo White
Chairperson
Securities and Exchange Commission
100 F Street, NE
Washington, DC
20459-1090

Dear Chair and Commissioners,

RE: Ugandan civil society support for mandatory Dodd-Frank Section 1504 project and company level disclosure requirements

The Civil Society Coalition on Oil & Gas in Uganda (CSCO) is an alliance of over 40 Ugandan civil society organizations that promotes good governance in the oil and gas sector. CSCO includes a Revenue Tracking Thematic Group that monitors oil revenues, builds capacity within wider Ugandan civil society to do so, and raises awareness among the general public regarding oil revenue tracking and management. CSCO also carries out legislative advocacy related to the oil sector, as well as engaging directly with oil companies.

We are writing to express our strong support for a Dodd-Frank Act Section 1504 rule that aligns with the EU Accounting and Transparency Directives, including public disclosure of company-by-company, contract-based project-level reports.

Uganda is on the verge of a major oil boom. At least 6.5 billion barrels have been discovered from less than 40% of the country's oil regions since 2006, making Uganda's oil fields the third largest by reserves in sub-Saharan Africa after Nigeria and Angola.[1] Once production starts, the revenues from oil are projected to double government revenue. If managed successfully the expected oil and gas revenues have the potential to transform the economy and dramatically improve living conditions for Uganda's citizens.

The situation in Uganda is critical because the resources of this country have not yet been developed. Adoption of a strong Section 1504 rule by the SEC requiring company- and project-level disclosure would help Uganda avoid many of the pitfalls that have plagued other poor but resource rich countries. Ugandan citizens may experience the benefit of their

[1] 'Uganda Lays the Groundwork for Biggest Ever Oil Block Sale', Wall Street Journal, October 1, 2014.

country's resources from the beginning of their development if they can track the revenues paid by each company for each project and thereby hold their government accountable.

CSCO is concerned that limited financial transparency in Uganda's oil sector presents a serious risk of revenues being wasted or corruptly diverted, and that the country could fall prey to the 'resource curse' if such risks are not averted. Uganda already has a long history of high-level corruption. Recent World Bank figures indicate the Ugandan Treasury loses US$286 million to corruption every year,[2] and the country is ranked 140 out of 177 on Transparency International's 2013 Corruption Perceptions Index.[3]

Uganda is not a member of the Extractive Industries Transparency Initiative (EITI) and although the Government has made public commitments to join the scheme, it has taken no concrete steps to do so. Furthermore, the Public Finance Management Act 2015 is not EITI-compliant and its provisions for petroleum revenue transparency are weak. There are very limited provisions for any kind of effective petroleum revenue oversight, weak mechanisms for ensuring accountability, and no public reporting or disclosure requirements. There is also no mention of requirements for notional earmarking to describe from which sources revenues were collected and to where they will be allocated.

This opacity has already made it difficult for citizens and civil society to effectively track the few pre-production payments that have already been collected from companies engaged in exploration over the past decade (such as Heritage Oil and Gas, Tullow Uganda Operations Pty and CNOOC Ltd) including signature bonuses, annual surface rentals, permit fees and data purchases. Conversely, the introduction of company-by-company and project-by-project reports will greatly enhance CSCO's ability to monitor individual companies' contributions to the public finances and ensure firms are meeting their payment obligations, as well as ensuring that the Government is properly collecting and accounting for payments. Having access to this information is an essential first step to holding the Government to account for how the revenues are managed and used.

CSCO is planning to develop a pilot project to use the project-level data that was voluntarily disclosed by Tullow Oil Plc in April 2013 to track these reported payments into Government accounts.[4] This project intends as a first step to reconcile Tullow Oil's payments with reported receipts of funds from the Uganda Revenue Authority. We then intend to continue to track the funds through inquiries and interviews with officials from the Bank of Uganda and Ministry of Finance to understand the management of these payments and final use of the revenues. The figures disclosed by Tullow represent only a small fraction of the total oil payments already received by the Government. However, if we have access to company- and project-level payment data from a wider set of firms operating in Uganda, we will expand this work and be able to advocate more effectively for transparency at the "receiving" end of Government.

This is an issue of huge concern in Uganda since the management of oil revenues has already proven to be controversial. In 2011, the Government struck a deal with a Russian arms exporter for a $740 million advance for the purchase of six fighter jets. According to the

[2] Cited in US Department of State, Bureau of Democracy, Human Rights and Labor, Uganda 2012 Human Rights Report.
[3] Available here: http://www.transparency.org/cpi2013/results
[4] See pages 176 to 179 of Tullow Oil's 2013 Annual Report, available here: http://www.tullowoil.com/files/pdf/tullow_ar_report_2013.pdf

Ugandan newspaper New Vision, the Governor of the Bank of Uganda "said he consented to the use of funds after President Yoweri Museveni assured him the revenue from oil would be used to reload the account."[5] The same year, some members of Parliament alleged that three senior members of Cabinet, included the Prime Minister, had received 'oil bribes' from the companies Eni S.p.A and Tullow Oil. While the Parliamentary *ad hoc* committee in charge of the investigation later found no evidence to support the allegations, committee sources allege that this conclusion was due to an inability to access the necessary information and an overreliance on secondary information.[6]

Even though oil has not yet left the ground, there is already evidence of malfeasance and misconduct associated with oil sector revenues. It is only through strong mandatory transparency that civil society can effectively carry out its role as an objective third party to monitor the vested interests of both oil companies and the Government to ensure that the maximum amount of revenues due to the citizens of Uganda are realized by the population. As of now, civil society can only rely on infrequent discretionary disclosures from the Government and companies. The reliability of such disclosures is questionable since civil society has no means to validate the figures. Based on past events, we do not have the assurance that oil revenues will be handled appropriately without effective civil society oversight to demand accountability among all actors.

CSCO is planning to use project- and company-level data disclosed under the forthcoming SEC rule in conjunction with a new contract modelling tool developed by the UK NGO Global Witness, which allows citizens to use publicly available contracts to predict how much revenue a government will receive from that contract.[7] We will check project-level payment data disclosed by companies against the model's predictions to analyse and raise questions about any discrepancies between reported payments from modelled predictions. This is only possible if payment disclosures are made by company and by contract, especially given that companies in Uganda normally operate in joint venture partnerships. As each partner firm is structured differently, civil society organizations need to be able to monitor payments made by individual companies that arise from their Production Sharing Contracts in order to compare the data and help identify potential inconsistencies or other irregularities.

Aggregate revenue data that is not broken down by contract will be of no use in comparing company payment disclosures with those modelled for each individual contract. Similarly, if revenue data is not disaggregated by company, it will not aid our understanding of the deals negotiated, and variations in payments made, by different companies. Only payment data that is company-specific would enable us to call on both companies and the Government to explain any substantial variations among different companies, and ensure that individual firms are not improperly obtaining fiscal benefits.

In addition, some CSCO member organizations are planning to use project-level payment data disclosed by Tullow Oil to develop an initiative aimed at sensitizing Ugandan citizens to the importance of oil revenues, and to stress the importance of Government accountability in oil revenue management. In order to do so, we are planning to carry out a mock 'value for money' study in which Tullow Oil's published payments will be used to translate the oil revenues into the potential tangible infrastructure and development projects that the revenues

[5] 'Fighter Jets Were Not Bought Using Oil Money – Treasury', New Vision, November 17, 2011.
[6] 'How Werikhe Report Exonerated Three Ministers', The Daily Monitor, November 19, 2013.
[7] Available here: http://www.globalwitness.org/ugandaoilcontracts/#

could fund to improve lives of citizens throughout the county and especially in areas where Tullow Oil's projects are located.

In this way, we are aiming to translate the oil revenues into benefits that are more recognizable and familiar to citizens, including communities affected by oil extraction projects, so that they can explicitly see the direct benefit that payments from individual projects and companies could have on their daily lives. By pairing the exact number of schools, health centers, roads, and power plants made possible by oil revenues from specific companies and projects with actual local need, we aim to educate citizens about the potential benefits of oil revenues, encourage them to become more engaged in oil revenue transparency issues and demand realization of these benefits on the ground.

Project- and company-level payment data will also be useful to CSCO members whose advocacy programs cover the mining sector. For example, the Mining Act 2003 requires 17% of royalties from mineral projects to be shared between central government and local governments of districts in which mineral projects are located, and 3% of mining royalties to be distributed to land owners who host the projects. Total non-tax revenues from the mining sector, which include royalties, have been averaging around US$10 million per annum so there is certainly a lot of money at stake for local governments and citizens expecting their fair share in royalties.

However, Local Governments and entitled citizens are not receiving their full share of royalties due to a lack of information and knowledge about their entitlements. The amounts of royalties being paid to district governments also remain low due to under-reporting by mining companies and a lack of capacity on the part of the Department of Geology, Surveys and Mines to audit the validity of the royalty calculations made by mining companies. For example, according to local sources in Moroto District, which possesses large limestone and marble reserves used to produce cement, local government receives suspiciously irregular and un-validated royalty payment figures into its treasury from central Government. Sources on the ground are confused by the payment totals and very sceptical of their validity, especially when they are very low, considering the amount of limestone and marble alone being mined in the district and the overall output from the mines.

Many communities throughout Uganda stand to benefit from mining royalties paid to their local governments. Communities in these areas therefore have a particularly strong interest in monitoring payments from each project and each company to ensure they are meeting their royalty commitments in full. An important additional benefit of company- and project-level transparency is that it would also act as a strong deterrent to companies underpaying royalties in the first place.

Additionally, the Public Finance Management Act requires that 6% of royalties from oil extraction is to be distributed to local governments in the oil producing regions along the Albertine Graben. Communities and local governments in these regions therefore also have a great interest in accessing company-level and project-level reports to ensure each firm is fulfilling its payment obligations, and that these payments are reaching the rightful beneficiaries in the region. CSCO intends to work with communities in oil producing regions to monitor these payments and assist them to hold both individual companies and the state to account for them.

Having access to financial data is critical to CSCO's work. For example in the fall of 2013, the group was given access to the confidential results of the Parliamentary *ad hoc* committee investigation into malfeasance allegations (particularly bribery as cited above) against several Government officers. While the committee report cleared the officers of allegations of receiving bribes from various oil companies, it also included account transfer information as well as reported revenue figures from the different Government institutions involved in oil revenue collection and management; namely the Uganda Revenue Authority, the Ministry of Energy and Mineral Development, and the Bank of Uganda.

This information was very useful as it showed a great deal of discrepancy, at times amounting to nearly US$500,000, between revenue figures reported between the different Government entities. It also showed that a number of different accounts managed by different Government entities were being used for depositing oil revenues with very little coordination between entities, which risked funds being diverted without any one particular entity being held accountable.

This information directly informed CSCO's work on the Public Finance Management Act 2015, enabling us to successfully advocate for strict depositing and withdrawal protocols for the Petroleum Fund, as well as clearer delegation of powers and obligations between the different Government entities in collecting and depositing oil revenues into the Petroleum Fund.

As a major vector for corruption and malfeasance in the extractive sectors, we feel that revenues from extractive activities must be monitored very closely. In the case of Uganda this is especially true considering the country's long history of confidential agreements between Government and investors. We are very concerned about the Government's lack of substantive commitment to revenue transparency and the current low levels of political will to push change on the issue. Mandates that force more transparency from companies would help provide CSCO with much more leverage to advocate for improved domestic transparency measures and help deter the embezzlement of funds. Strong U.S. transparency requirements would help shift the norms of the operating environment in Uganda and help us push the Government in the same direction. Alongside the direct uses of data outlined in this letter, this would be one of the most important benefits coming from Dodd-Frank 1504 disclosures.

It is therefore the recommendation of the undersigned including CSCO members and other civil society organizations in Uganda, that the Securities and Exchange Commission pass a strong rule for the implementation of Dodd-Frank Section 1504 that mandates company and project-level disclosures. Civil society organizations have made effective use of similar types of information in the past and have great interest in using 1504 disclosures to improve extractive industry revenue transparency and accountability in Uganda so we can better work to ensure that the benefits from oil, gas, and mining activities are rightfully returned to the citizens of the country.

Yours Sincerely,

Irene Ssekyana
Chairperson,
Civil Society Coalition on Oil & Gas in Uganda

Signed for and on behalf of the following CSCO members,

Action Coalition on Climate Change

Advocates Coalition for Development and Environment

Advocates for Natural Resource Governance and Development

Citizen Concern Africa

Civic Response on Environment and Development

Environmental Management for Livelihood Improvement

Forum for Women in Democracy

Global Rights Alert

Green Watch Uganda

Kibaale District Civil Society Organization's Network

Livelihood Improvement Programme of Uganda

Navigators for Development Assistance

Practicing Environmental Managers Organization

Pro-Biodiversity Conservationists in Uganda

Southern and Eastern African Trade, Information and Negotiations Institute

Southwestern Institute on Environment and Development

Transparency International Uganda

Water Governance Institute

Youth Concern on Environment and Development