Policy Impacts on Africa's Extractive Sector:

Uganda, the Stagnation of Minerals, and the Promise of Oil[21 22]

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Abstract

The East African country of Uganda has seen its growth increase steadily in the last decade. While minerals have stagnated, the continued presence of agriculture and the 2006 discovery of oil have given the country reason for economic optimism. Not yet tapped, Uganda expects to construct a pipeline and start extracting this oil within the next five years. The Ugandan government, led by President Yoweri Museveni, has promoted oil as the opportunity to industrialize the country. However, Uganda must improve on several facets to make this happen. Their fiscal regime needs improvement, as it is not internationally competitive and suffers from tax leakage. As for economic diversification, the government plans for a quasi-market approach to industrialize, but it will need to improve education before attracting investment. Value addition must also be created for their resource economy, especially in minerals. In terms of regional connections, Uganda should continue its involvement with the African Union and the East African Community. While the government promotes oil as the key to transforming Uganda into a middle-income, industrialized country this change will not occur unless the government changes the country's prevailing policies. Museveni's government must, for instance, improve their transparency, not muzzle civil society groups and let institutions build more capacity. Without structural changes to the government, oil will not lead to the envisioned development of Uganda.

Introduction

A landlocked country in East Africa, Uganda has been experiencing stagnation in the mining sector. However, the recent discovery of oil and natural gas, which have not yet been processed and produced, has the potential to boost its development prospects if appropriate policies are formulated and implemented. Kampala is the capital and largest city in a country with a population of approximately 37.1 million. Agriculture is the most important sector of the economy, as it employs upwards of two-thirds of the population (CIA, 2015). Behind coffee and fish, gold

21 This paper was informed by interviews conducted in Uganda in September 2016. Semi-structured interviews were conducted with the Uganda Chamber of Mines, SIPA Resources Limited, Auranda Minerals, Krone Limited, Makerere University, Mbarara University, African Gold Refinery, Africa Institute for Energy Governance, and the Uganda Ministry of Energy and Mineral Development. All interviews were conducted in confidentiality, and the names of interviewees are withheld by mutual agreement.

22 The author would like to thank Anoukh de Soysa for his research assistance on the paper.

is the country's third largest export with sales worth US$122 million in 2006[23]. Uganda's mining sector currently accounts for 1% of Gross Domestic Product (GDP) (KPMG, 2015, p. 10). Uganda has seen its economy grow considerably over time, with recently estimated GDP growth rates being 5.8% in 2017/18, an increase from 3.9% growth in 2016/17 (KPMG, 2018). This growth has been attributed to increased activity in manufacturing, construction, and mining, and may be considered a significant increase from the growth rate of 2.6% in 2012. In terms of sector, in 2015, agriculture accounted for 26.7% of GDP, the industry contributed 22.2%, and services contributed 51.1% (CIA, 2015). Still, however, approximately 20% of the population remains below the national poverty line (PwC, 2018).

In 2006, oil was discovered near Lake Albert along the border between Uganda and the Democratic Republic of Congo. Confirmed reserves of 2 billion barrels make it sub-Saharan Africa's biggest onshore oil discovery in 20 years (NRGI, 2015). Oil is already central in the country's long-term planning for development and poverty reduction, but dates pertaining to production remain unknown. While some estimates suggested that production would be as early as 2017 (Deloitte, 2014, p. 31), limited progress indicates that a date beyond 2020 seems more likely.

Mining in Uganda first took place in the late 1920s and became commercially viable in the 1950s. Following independence from Britain in 1962, Uganda exported copper, but the mining sector never recovered after the politically turbulent years of Idi Amin's presidency in the 1970s. During this period, almost all mining companies ceased production, after which the sector was neglected during the 1980s and 1990s. In fact, large-scale industrial mining had almost disappeared, having been nationalized by Amin's regime. The mining sector's contribution to GDP fell from 6% in the 1970s to less than 0.5% in 2010 (World Bank, 2010). Reduced to artisanal and small-scale operations, the sector was under-exploited and declining, far from being able to exhibit its economic potential. However, mining progressively regained attention at the end of the 1990s, when the government attempted to attract foreign investment into the sector.

Although small, the mining sector currently focuses on the commercial mining of gold, cobalt, copper, iron ore, tungsten, steel, tin, lead, limestone, diamond, salt, and vermiculite (NRGI, 2015). Most of the mining in Uganda takes place close to the Democratic Republic of Congo and Rwanda, and many activities are still nascent or at the exploration stage. The annual growth of the mining sector depends primarily on the global demand since almost all minerals are exported

23 See KPMG (2015, 10) for a discussion about the controversy regarding how much gold is mined domestically and whether gold mined in the Democratic Republic of Congo is re-exported.

in raw form. Facilitated by an increase in construction activity (iron ore being critical for the making of steel used in construction), the sector grew by 14% from 2006 to 2007, a substantial increase from 8% between 2005 and 2006 (NRGI, 2015). Residential construction has been the main source of demand in recent years, followed by commercial and infrastructure construction. Mining groups are also driving the construction boom: Jentex Mineral Co. Ltd is a gold company also active in construction, as well as the large Madhvani Group. The Ugandan government has also been working on road construction between mining areas, power plants, and water sources and is pushing for further exploration to quantify results.[24]

Key government actors in the sector include the Ministry of Energy and Mineral Development (MEMD), Ministry of Finance, Planning, and Economic Development, and Directorate of Geological Survey and Mines. The Uganda Chamber of Mines and Petroleum represents the interests of private actors in both the mining and energy sectors. According to the chamber, the country wants to look at seven minerals in particular[25]: (i) iron ore, (ii) tin, tantalum, and tungsten (TTT), (iii) gold, (iv) platinum group metals, especially copper, nickel, and zinc, (v) aluminium clays, (vi) phosphates, (vii) rare minerals and rare earth, and (viii) vermiculite.[26] The chamber has been trying to stimulate the mining sector by attracting new investors and introducing risk management. It argues that exploration needs to first take place before there are discussions about beneficiation. Furthermore, beneficiation cannot be taken seriously if there is not enough interest in, and resources required for, exploration to take place. Unlike other countries in the region, Uganda has had trouble attracting large mining companies.[27]

Although similarly ridden with uncertainty, the government appears to be comparatively more focused on the energy sector; specifically the oil and gas industry[28] . The Petroleum Exploration and Production Department of the MEMD

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24 The government has never conducted a comprehensive national minerals survey, so it is unclear what mineralized zones contain and in what quantities. However, smaller mineral surveys have been conducted across the country and such reserves are assumed to be small (KPMG 2015, 5, 9). Low-resolution surveillance, in terms of the geo-mapping of minerals for instance, has been done, with 20% of the country's total area having been covered thus far. There appears to be much potential for gold, copper, and cobalt, though assessment of commercial viability has yet to take place (Uganda Chamber of Mines and Petroleum, in discussion with the author, August 24, 2015). Millions of dollars are being sought to de-risk proposed projects to increase their feasibility through thorough professional economic and technical appraisals of areas, and mapping the most endowed areas (Uganda Chamber of Mines, email message to author, February 8, 2015).

25 The list of the most important minerals has been determined after a series of geological, geochemical, and geophysical studies, sponsored by the World Bank, the African Development Bank, the Nordic Development Fund, and the Ugandan government and carried out between 2008 and 2012 by a consortium led by the Geological Survey of Finland, with the Department of Geological Survey and Mines of Entebbe.

26 Interview with Uganda Chamber of Mines and Petroleum, August 24, 2015.

27 Interview with African Gold Refinery, August 24, 2015.

28 See Deloitte (2014, 31–33) for an overview of the oil and gas industry, including exploration drilling for commercial hydrocarbon reserves, the licensing and operation of blocks, the proposal of field development plans, and further acquisition of production licenses.

is the government entity directly responsible for the supervision of the industry. The government introduced the National Oil and Gas Policy in 2008 and enacted the Petroleum (Exploration, Development and Production) Act in 2013 to govern the sector. However, the guidelines and provisions outlined in the policy and legislation have yet to be fully implemented.

The MEMD and Tullow Oil, a major actor and one of only three licenced operators alongside French Total and Chinese-government-run China National Offshore Oil Corporation, both estimate that the oil reserves could generate over $2 billion annually for over 20 years. This would exceed the $1.7 billion per year that Uganda receives in official development assistance (NRGI, 2015). The government suggests that there are 3.5 billion barrels of recoverable reserves, while Tullow Oil provides a more conservative estimate of 1.7 billion barrels. The ability to fully tap into this potential is contingent on overcoming a number of key challenges. For instance, the discoveries are largely in remote and environmentally-sensitive areas, and as the oil is solid at room temperature, transportation would require a costly heated, insulated pipeline (Deloitte, 2014, p. 32). In August 2015, the governments of Uganda and Kenya settled on the northern route for a crude oil pipeline that will transport oil from the Albertine region to Lokichar and Lamu. Investors prefer the southern route through Nairobi to Mombasa, citing security concerns on the northern route related to the civil war involving the Lord's Resistance Army. However, the costs and risks involved in pursuing the southern option are higher – taking the route involves displacing hundreds of residents (Ochie'ng, 2015).

In line with policy and legislation governing the oil and gas industry, the Petroleum Authority of Uganda, a government-owned regulatory body, was founded in 2014 and had its board of directors approved by the parliament in September 2015. Similarly, the Uganda National Oil Company was incorporated in June 2015.[29] Although it operates as a private company, the company is wholly owned by the government. Generally tasked with handling the state's commercial interests in the oil and gas sector, the company specifically aims to manage the government stake in upstream, midstream, and downstream activities. In addition, the company also manages the country's share of petroleum received in kind and develops in-depth expertise in the industry. As a result of these responsibilities, the company is expected to boost energy security, improve revenue generation, and help reinvest profits in economic development and job creation.

The Uganda National Oil Company also handles the government's interests in the development of an oil refinery. Estimated costs amounted to around $4 billion. Foster Wheeler Energy Limited UK conducted the feasibility study, which

29 For financing options for the Uganda National Oil Company, (see Lassourd 2015).

determined that this was the best option for the country. The World Bank and International Monetary Fund expressed sceptical views against the construction of the refinery, as it would need costly and extensive infrastructure, and would result in significant pollution (Valeriya, 2015). The government selected Russia's RT Global Resources as its preferred investment partner for the construction of the refinery (Ssekika, 2015b). The government was to hold a 40% share in the refinery, and the refinery was to be built through a public-private partnership.

However, these initial efforts to secure an investor failed as talks with RT Global Resources gradually broke down. In April 2018, the government signed an agreement with an international consortium – including a subsidiary of General Electric in the USA – to build and operate a refinery in western Uganda. The lack of associated infrastructure, such as the transportation pipeline and the oil refinery, is a key reason for the delay in commencing oil production. This delay is also exacerbated by disagreements between government and field operators over taxes and development strategy (Biryabarema, 2018). Positive steps are now being taken, and continued improvements in the policy and regulatory environment are likely to engender further progress.

Fiscal Regime

Uganda's fiscal regime for both the mining and energy sectors is basic and does not meet international standards in some areas. The following provisions, in particular, are absent:

- Corporate income tax capped at a special rate for special mining licences
- Resource rents tax and additional profits tax on special mining licences
- Reduction of the withholding tax on expatriated dividends, but gradual increase of the tax for investors domiciled in tax havens
- Retention fees for resource rights

Uganda's corporate income tax rate for the mining sector differs from those of other East African Community (EAC) countries, as the country imposes a variable rate of between 25% and 45%. The rate is dependent on where operations fit within a formula that assesses profitability[30] . Tanzania, Rwanda, and Kenya have a fixed rate of 30%, and Burundi's rate is fixed at 35% (Tsikata and Chambers 2013, p. 27). Royalties are at 6% for resident companies (they are included

30 The regular corporate income tax rate beyond mining is 30% for all sectors.

in taxable income and tax is withheld at source) and 15% for non-residents companies (they are subject to double tax treaty provisions)[31] (KPMG, 2012, pp. 1–2). Given these arrangements, it is debatable as to whether the government promotes foreign direct investment with its fiscal regime. The stability of the regime has been an issue.

Recent changes to Value-Added Tax (VAT) laws with the Value Added Tax (Amendment) Act of 2015 have increased certain costs for investors, set the terms for the long-term development of the nascent oil and gas industry, and affected competitiveness by global standards. This is confirmed by the fact that Uganda is ranked 92nd by the 2014 Investment Attractiveness Index for the mining sector published by the Fraser Institute (Jackson, 2014). In 2017, Uganda was dropped from consideration as the survey had insufficient responses from the country (Stedman and Green, 2018).

The mineral fiscal and regulatory regime is based on the Mining Act of 2003, slated for amendment, and the Mining Regulations of 2004 (A and B). The current fiscal and regulatory regime for the oil and gas industry is based on the National Oil and Gas Policy of 2008, Petroleum (Exploration, Development and Production) Act of 2013, and Petroleum (Refining, Gas Processing and Conversion, Transportation and Storage) Act of 2013. Mining and oil companies and sub-contractors are taxed in accordance with the provisions of general tax legislation, meaning the Income Tax Act of 1997, Value Added Tax Act of 1996, and East Africa Community Customs Management Act of 2004.[32] Once production is commenced, the Public Finance Management Act of 2014 will govern the management of revenue from the production of oil and gas. The government has asked the International Monetary Fund for assistance to establish a revenue-sharing mechanism for the oil and gas industry.[33] Other relevant statutes and guidelines include the Land Act of 1998 and National Environment Management Authority regulations of 2007.

Ugandan companies are taxed on their worldwide income at a flat rate of 30%. Dividends paid to a non-resident parent company are subject to tax withholding at a rate of 15% under general rules. This rate may be reduced if a shareholder is a resident of a country with which Uganda has a double tax treaty. It is possible for foreign legal entities to hold interests in production sharing agreements (PSAs) and carry out other types of business activities in Uganda via branches. These are usually taxed at 30%, and there is an additional tax of 15% that effectively applies to profits repatriated to the head office.[34]

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31 According to World Bank data, the tax revenue has been 11% of the GDP in 2012, against 13.4% in 2011.

32 All EAC countries adopted this act. Under the East African Customs Union, there are import duty rates of 0% for raw materials, 10% for semi-finished goods, and 25% for finished goods (KPMG 2012, 3).

33 Interview with Africa Institute for Energy Governance, August 25, 2015.

34 See Deloitte (2014, 36–41) for a comparison of key terms in production sharing agreements (PSAs) across East African

The Income Tax Act includes basic transfer pricing rules that have not been extensively applied: avoidance and cross-border transactions reduce the overall compliance. More detailed regulations were introduced in 2011, along with documentation requirements in 2012, but monitoring and audits are needed to properly understand the major area(s) of tax leakage. Resources from the extractive sector are perhaps not efficiently secured, and sizeable illicit leakages from oil exploration have been already reported (Africa Progress Panel 2013: 64). PSAs typically include specific transfer pricing and valuation rules. Tax law in the country does not allow any fiscal consolidation for companies that are under common control, with each company taxed separately and no allowance for offsetting the profits of one company against losses of an affiliate. There is also ring-fencing of contract areas so that profits from one PSA cannot be sheltered from income tax by losses from another PSA (Deloitte, 2014, pp. 33–35).

Uganda implements a VAT system, where the standard rate is 18%. Some goods and services, such as petroleum products, are exempt, while others, including exports, are zero-rated. The import of plant and related machinery is exempt from VAT as an incentive for investment. A company that sells exempt goods and services is not able to recover VAT on related goods and services that it purchases. In circumstances where goods and services are standard or zero-rated, input VAT can be recovered by offset or refund. A company that imports services is required to self-charge input VAT on their costs. Since July 2012, VAT on imported services accounted for in this way cannot be offset against output VAT. Further, the upstream oil and gas industry is heavily taxed in Uganda, like in other countries. The government collects rents estimated to be over 80% through confidential PSAs. Customs duty and withholding tax exemptions apply to imported equipment for upstream activities. It is reported that PSAs include stabilization provisions that protect companies from changes in laws after PSAs are signed, and it remains unclear whether PSAs, which do not have the force of law, override domestic legislation in the event of a conflict. In 2010, rules were introduced to tax any gains arising from the disposal of interests in PSAs. The rules are effective from 1997 when the Income Tax Act came into force, but it is unclear whether companies are protected by economic stabilization provisions (Deloitte, 2014, pp. 33–35).

Diversification of the Economy

The government's promotion of the oil and gas industry is an economic diversification initiative that has the potential to turn Uganda into a middle-income country within a few decades. Described in Uganda Vision 2040, the government's economic growth strategy revolves around "harnessing strategic

countries.

opportunities by strengthening the relevant fundamentals", increasing the country's global competitiveness in the production of goods and services, improving social development indicators, and strengthening governance. Key opportunities include the country's abundant labour force, minerals, oil and gas, agriculture, tourism, industrialization, and trade (Uganda, 2013, p. 16). In the context of value addition in the oil and gas industry, the government's areas of focus include the construction of the oil refinery which, in turn, is expected to have a multiplier effect through secondary industries (plastics, agrochemicals, fertilizer, lubricants, paint, bitumen, thermal power generation in particular) and tertiary industries (machinery, transport, hotels, construction, real estate, and communication). Other focus areas include the support of scientists, engineers, and technicians, the establishment of a specialized oil and gas research development centre, enterprise development, capacity building, and the establishment of a local area development fund (Uganda, 2013, pp. 48-50). Policy reforms and shifts involve a quasi-market approach, with the government providing investment and promoting public-private partnerships, while the private sector acts as the engine of growth and development. The vision prioritizes oil and gas, front-loading investments in infrastructure, and establishing a modern industrial system (see Uganda, 2013, pp. 16–18).

With regard to minerals, Uganda has the potential for value addition and beneficiation, such as the production of jewellery from gold and gemstones and the enhancement of industrial mineral processing. According to Uganda Vision 2040, the government plans to provide manufacturing feedstock to help establish an industrial base for the local production of consumer and industrial goods. It will establish processing industries for phosphates in Tororo, limestone in Karamoja and iron ore in Kabale (Uganda, 2013, p. 51).

According to the MEMD, beneficiation is not attainable, due to intrinsic limitations, and prioritization is not desirable at the present time, as it could penalize other minerals.[35] In terms of immediate opportunities, TTT present low-hanging fruit, as they are not difficult to process, so establishing a smelter would create an opportunity for beneficiation and could be a catalyst for other industries. Aluminium clays have much potential as well, with the technology available to build an environmentally-friendly aluminium processing plant.[36] The MEMD is interested in refining copper for export, but first needs to conduct a cost-benefit analysis to assess viability. It is also interested in exporting small quantities of vermiculite.[37] The MEMD was expected to begin geophysical surveys of certain areas in 2016, which would enable data processing, geological

35 Interview with Uganda Ministry of Energy and Mineral Development, August 27, 2015.

36 Interview with African Gold Refinery, August 24, 2015.

37 Interview with Uganda Ministry of Energy and Mineral Development, August 27, 2015.

modelling, field development, environmental impact assessment and monitoring, and market analytics. Uganda will need to find more mineral deposits to attract exploration investment from mining companies. Given low global mineral prices at the moment, the government needs to find many mineral deposits and conduct feasibility studies that demarcate probable and proven reserves of minerals. Only then will it be able to make a case for kick-starting mineral beneficiation. Importantly, the government needs to understand the supply chains and markets for each potential mineral product and determine how to increase production to improve the feasibility of smelting. A competitive, predictable legal environment is also needed to attract investors to the mining sector.[38]

Notably, Ugandan President Yoweri Museveni issued a presidential directive in 2011 to ban the export of unprocessed minerals based on an argument that it denied the country income and employment. The ban came into effect for local and international actors in the mining sector in February 2015. Museveni declared to members of parliament: “Make it a culture not to allow minerals to go out of this country unprocessed. We must educate our people to defend our economy. I do not want to be part of these historical mistakes” (Nalubega, 2015b). The reason behind the ban was the perceived need to stop the business of mineral exports until mining policies were updated.[39] Instead of catalyzing the production of final or semi-final mineral products, the ban resulted in people who invested and worked in the sector not being able to export raw materials for necessary revenue, leading to requests for grace periods, considerations of court action, borrowing money from other sectors such as agriculture to sustain operations, and resorting to alternative ideas such as selling unprocessed minerals to a national mineral processing plant (Nalubega, 2015b; Ssekika, 2015a).

Museveni lifted the ban later that year, in August, noting that he was “misled” by advisors, referring to officials at the MEMD who convinced him that it was more economically viable to process minerals in the country than export them raw. Many actors applauded this decision on the understanding that it would attract more investors to the sector. However, others suspected that the move could have been made to gain votes in the February 2016 elections and wondered if the directive would be reinstated once the elections were over (Nalubega, 2015a). The Ugandan example illustrates how – beyond the positive socio-economic impacts of beneficiation on African countries and the real will of leaders to follow this path, or at least its use for communication purposes – the benefits of beneficiation depend on the quantity and price of the minerals and metals concerned. Beneficiation may have modest fallouts on the economy in the end. The MEMD underlines that in Uganda mining products are, for the moment,

38 Interview with Auranda Minerals, August 27, 2015.

39 Interview with Africa Institute for Energy Governance, August 25, 2015.

insufficient to attract important investments, while beneficiation of oil and gas is different and has more potential, because of the peculiar role of extractives in the market.

Key requirements for economic diversification that address commonly cited problems for doing business in Uganda are education and training to cultivate a skilled workforce and large-scale improvements in power supply. The scarcity of physical and human resources at all education levels, low enrolment especially in rural areas, and high university tuition costs have resulted in low levels of educational attainment that “present major downside operational risks to investors” (see BMI Research, 2015, pp. 23–46). There is also a need to strengthen the quality of education to ensure that value addition can take place and local content can be offered.[40] The introduction of petroleum-related undergraduate and post-graduate programs at private universities and scholarships offered by development partners on a competitive basis are promising steps, but structural weaknesses across the education system must be addressed.

Concurrently, low power supply is one of the biggest obstacles to investment, with the electricity network needing both renovation and expansion (KPMG, 2015, p. 16). Uninterrupted electricity still does not reach many parts of the country, transmission lines are congested at most times (electricity occasionally goes to a village council instead of individual households), and electricity bills are high. Uganda is a member of the Eastern Africa Power Pool (EAPP), which was established in 2005 to increase the volume and reduce the cost of electricity, and a joint EAC-EAPP Regional Power Plan for the 2013–38 period exists, but demands are urgent. There are many investment opportunities in energy efficiency improvement (MEMD, 2015b) and discussions on the short-term use of crude oil and gas for power generation before the commercialization of oil are ongoing. The plans for infrastructure in Uganda Vision 2040, especially in guaranteeing better power supply must, therefore, be an overarching priority.

Another option for economic diversification that has largely gone undiscussed in the country is renewable energy development. For instance, there are many investment opportunities in biofuels, specifically ethanol, for small and large producers (see MEMD, 2015a). Supporting this further, the MEMD has created an enabling environment for biofuel development with the introduction of the Renewable Energy Policy of 2007 and Biofuels Bill of 2015. The opportunities presented by investment in renewable energy have benefits that include the creation of jobs and a chain of multiplier effects throughout the economy. Further, promoting the inclusion of women in skilled jobs in both the mining and energy sectors through education, equipping them with entrepreneurial knowledge and

40 Interview with Africa Institute for Energy Governance, August 25, 2015.

skills, and changing work environments to be more conducive to women, should be further explored. This is particularly pertinent given the amount of surplus female unskilled labour and potential benefits for whole communities.

Linkages Promotion

The government is finalizing a national mining policy and regulations that will supersede the Mineral Policy of Uganda of 2000. The most recent iteration of the draft Minerals and Mining Policy for Uganda, i.e. in 2018, contains a number of broad policy objectives including value addition, policy directions and strategies, an enhanced institutional framework outlining roles for various actors, an implementation framework and a promise to develop monitoring and evaluation plans (see DGSM, 2015; MEMD, 2018). It also includes sections on promoting national and local content through skills development, the employment of Ugandans, procurement of Ugandans' goods and services, the development of a model community development agreement, and formalization of artisanal miners into small-scale miners through the provision of extension services, creation of legal frameworks and regulatory mechanisms, access to capital and property rights, and capacity building for exploration activities. The original draft, which passed stakeholder consultations, was criticized for having a scant section on value addition with the conclusion that it still needed a lot of work. Further deliberations on the draft policy, possibly in the form of a national conference, are likely to precede formulation, after which it will be finalized and recognized by law.[41]

Importantly, the government needs to set the standards for mining companies to follow with respect to value addition, beneficiation, and local content. There has been public outcry, particularly from artisanal miners, that mining has not led to industrialization, the creation of jobs and secondary industries, or revenue generation.[42] There is evidence that some artisanal miners are exploited, as certain mining companies have been found to employ artisanal miners to keep salaries low and benefits non-existent. There is a need to formalize these artisanal miners and give them a voice, particularly in negotiations over prices.[43] Specific laws for artisanal and small-scale mining do not exist yet, and current regulations do not address the specificities of this sub-sector. This is despite awareness and attention on small-scale mining rights going back to the 1964 Mining Act.

Alternatively, there is the option to formalize small-scale supply production chains and invest in setting up larger mines.[44] The Uganda Chamber of Mines

41 Interview with Auranda Minerals, August 27, 2015.

42 Interview with Uganda Chamber of Mines and Petroleum, August 24, 2015.

43 Interview with Africa Institute for Energy Governance, August 25, 2015.

44 Interview with Auranda Minerals, August 27, 2015.

and Petroleum argues that the government needs to establish a roadmap for the mining sector, which involves outlining what needs to be achieved over the next 5 – 10 years. The roadmap should include value addition parameters and strategy, employment targets, as well as revenue estimations and projections. This would lead to a holistic vision for the mining sector and mineral exports.[45]

The experience of Krone Uganda Limited, a Ugandan company, is an example of the efforts and challenges faced by mining companies in the country. The company has the monthly capacity to supply 20 metric tons of Wolfram, which can be processed into tungsten to produce steels and alloys with a variety of uses, including the production of cell phones and hospital equipment. Like other companies, Krone allows artisanal miners to mine and sell Wolfram concentrate to the company, which has helped generate employment and incomes for them and their families while lowering production costs for the company. For every kilogram that an artisanal miner brings, the company pays 10,000 shillings to the miner. Approximately 2,000 miners and 86 Krone employees directly benefit from the company's operations, with the multiplier effect being large on their families. As part of this community development agreement, a certain part of royalties also goes back to communities. Moreover, the company recently acquired earth-moving equipment, which will help artisanal miners mine more minerals and increase production capacity tenfold to 200 metric tons per month.

Despite these efforts, there are very few smelting plants for Wolfram in the world and none in Africa. Approximately $220 million would be required to build a mini smelting plant for value addition purposes. Brake discs and pads would probably be the easiest products to produce in Uganda given available resources, but the country does not have the silver needed to mix with the Wolfram to produce them and, as mentioned, the power supply would be an inhibitive problem. Further, Krone Uganda Limited is forced to import all mining and safety equipment – a costly problem faced by most, if not all, mining companies operating in the country. Secondary industries reliant on the mining sector could, and should, be created and supported by the government. Since food is sourced locally, policy pertaining to local content may begin with that and, at present, the government could work toward establishing a mineral value chain and food hub together.[46]

In the context of oil and gas, the government is mostly dealing with the implementation of existing policies, licencing rounds, and construction of the oil refinery at the moment. However, petrochemical industries will be created in line with the National Oil and Gas Policy of 2008, which stipulates the development of petrochemical industries around an oil refinery. The oil and gas industry

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45 Interview with Uganda Chamber of Mines and Petroleum, August 24, 2015.

46 Interview with Krone Limited, August 26, 2015.

has many investment opportunities in the upstream and midstream sectors (see MEMD, 2015d). In PSAs, local content is to be encouraged by the contractor, but no minimum percentage is prescribed (Deloitte, 2014, p.41). In 2011, the MEMD put the share of national content during the ongoing exploration stage at 15% (OAG, 2015, p. 2). The Office of the Auditor General found that the value of procurement from Ugandan service providers in the industry amounted to about $330 million over the 2010–13 period, representing 28% of the total spent by all companies.

The proportion of Ugandans directly employed rose from 69% in 2012 to 80% in 2014, but absolute numbers dropped, and significant wage differentials were noted. Also, all companies made efforts to train their Ugandan staff members but training budgets were not fully utilized and training deviated from plans, while companies' contributions of over $4 million for the training of government officials were not used due to delays at the MEMD and problems with transfers to the Uganda Consolidated Fund (OAG 2015, pp. iv–v). The Office of the Auditor General concluded that the overall management of national content by the MEMD has not been adequate and recommended, among other things, the establishment of performance targets and indicators for national content (see OAG 2015, pp. v–vi). New regulations[47] are expected to clarify the local content clause in the Exploration, Development and Production Act, which currently states that goods and services not originating in Uganda are to be delivered via joint-venture arrangements with Ugandan companies (Deloitte, 2014, p. 33).

It is, unmistakably, the primary responsibility of the government of Uganda to foster and create an enabling environment for mining and energy companies to invest in Uganda's vision of a sustainable economy driven by minerals, oil and gas. It is also clear, however, that in the absence of coherent policy, pervasive corruption, and high operating costs, there remains much to be done for the private sector to fully realize its potential in Uganda. The Uganda Chamber of Mines and Petroleum represents the interests of private sector stakeholders and may stand to play an important in role in highlighting the concerns and issues of mining and energy companies. This role, potentially characterized by advocacy and lobbying, is particularly critical in the context of a country where civic space is limited or shrinking, and civil society is often co-opted by government to push agendas that are politically expedient.

The government's endorsement of the Africa Mining Vision (AMV) Private Sector Compact is, therefore, a promising development. While the AMV seeks

47 New petroleum regulations on exploration, development, production, health, safety, the environment, national content, and midstream operations including the oil refinery were expected in June 2015 but have been delayed. Moreover, upstream local content regulations to enforce targets for the procurement of Ugandan goods and services as well as the employment and training of Ugandans are being finalized.

to place Africa's broader development objectives at the heart of all policy pertaining to mineral extraction, the Compact is designed to close gaps between mining communities, the private sector, and governments (UNECA, 2017). It is, in effect, a recognition of the urgent need to identify and pursue strategies for promoting shared value and benefits across sectors. This arrangement, in turn, is likely to form the basis of a transparent, accountable, and responsive extractive sector, involving multiple stakeholders in what can then be considered a hybrid governance framework. Yet, this prospect remains a distant ambition in Uganda as basic indicators of good governance – such as perceptions on corruption (Transparency, 2017) – continue to raise red flags.

Regional Value Chains

The government is introducing plans to establish Uganda as a hub in regional value chains for gold, oil and gas. According to the Uganda Chamber of Mines and Petroleum, there is a need to prioritize minerals that are exported.[48] There are many investment opportunities and value chain analyses on the extent to which value addition can be achieved through beneficiation for each mineral (see MEMD, 2015c). The government plans to build a state-of-the-art gold refinery near the airport in Kampala, which will help open the country to international investors. The Ugandan company African Gold Refinery Limited has teamed up with gold refiners in Dubai to refine gold from countries in the region. This stands to make Uganda a regional hub for gold refining and bring in $2 million a year.[49] If implemented, the operation of this refinery would complement the efforts of Ugandan gold refinery Victoria Gold Star – opened by Russian investors in 2010 – in legalizing the trade in gold (see Curnow, 2010).[50] Importantly, planning and development of a petroleum-based industrial park around the oil refinery is also in the works. The MEMD engaged global consulting engineering firm SMEC to develop a master plan for the industrial park, for which the government has allocated approximately 3,000 hectares of land. This makes it potentially one of the largest industrial parks in the world (SMEC, 2018). Utilities, infrastructure, and common services available at the park will include the oil refinery, an international airport, export hub, energy-based industries, and petrochemical industries along with a host of associated facilities (see MEMD, 2015d).

As a member of the 54-country African Union, Uganda has many established approaches to capturing regional value chains. The African Union's Africa Mining

48 Interview with Uganda Chamber of Mines and Petroleum, August 24, 2015.

49 Interview with African Gold Refinery, August 24, 2015.

50 Armed groups in the Democratic RepubliRepublic of Congo are known to be smuggling gold to Dubai, thereby funding the civil war in the East African country (see, for instance, Kelley, 2014).

Vision (AMV) is a key long-term continental project for regional natural resource governance that includes the promotion of local beneficiation and value addition of minerals to provide manufacturing feedstock (see African Union, 2009). In other words, the AMV “outlines the roadmap to the transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development in Africa” (UNECA, 2016).

The impact of the AMV on discourse pertaining to mining in Uganda is abundantly evident. The draft Minerals and Mining Policy 2018 (see MEMD , 2018), for instance, explicitly refers to the country’s commitment under the AMV, and the policy is considered to be an effort to consolidate the strategic direction of the industry in Uganda with this vision. Specifically, a number of the proposed policy provisions aim to respond to recommendations in the AMV to contribute positively to the achievement of the UN Sustainable Development Goals. This includes capitalizing on opportunities to end poverty by investing mineral revenues in economic and social development, responsibly managing landscape impacts, ensuring sustainable access to energy, and establishing peace, justice and strong institutions.

Similarly, a member of the five-country EAC, Uganda has also worked closely with the African Minerals Development Centre (AMDC) and other EAC partner countries to align and harmonize mineral and mining policies within the sub-region, guided principally by the AMV. Studies have been conducted, for example, to assess the extent to which the policy and regulatory frameworks of the EAC countries facilitate the achievement of the goals and objectives of the AMV. These goals include fostering a transparent and accountable mineral sector, promoting good governance, harnessing the potential of small-scale mining, and building human and institutional capacities.

The country has also conducted value chain analyses that should be compared with EAC integration potential, the regional mineral value-added strategy, and high-value mining considerations for gold and TTT in particular. The challenge is to convert mineral value-added potential into sustainable value-added processes and consultants’ recommendations include: (i) consider joining the Extractive Industries Transparency Initiative to enhance transparency and, subsequently, financing prospects, (ii) establish a Regional Stakeholder Technical Committee to harmonize mining codes and practices, improve regional coordination around mineral value-added and high-value mining strategies and promotion, and undertake a study of relevant national, regional, continental, and international financial windows, (iii) standardize reporting and statistics on mineral resources and ore reserves as reported by companies, including data generated from geological surveys, (iv) establish a high-level joint working group on gold and TTT to address economic and political constraints on their potential (see Precht, Joseph, and Roberts, 2013, pp. 70–82).

Further, the AMDC's Country Mining Visions are useful implementation tools. The African Union's Accelerated Industrial Development of Africa initiative also deserves attention since it features various regional infrastructure projects and the facilitation of joint cross-border industrial enterprises and intra-regional trade within the framework of value chains (see African Union, 2011).

Regarding legal instruments for promoting strategic regional industries and value chains, enhancing value addition, and developing supportive infrastructure, the EAC Treaty has the force of law in Uganda: "The harmonisation agenda of the EAC and the powers given by [the EAC] Treaty to its organs to make laws and give directives offer mechanisms to promote the strategy of using the region's mineral resources to contribute to its industrial development" (Tsikata and Chambers, 2013, p. 47). With regard to the oil and gas industry, a promising development in line with EAC Vision 2050 would be the realization of a Petroleum and Natural Gas Fund, which would involve at least 2% of revenue from the industry being dedicated to support training, research, development, and innovation (EAC, 2015, p. 68).

Conclusion

The government has succeeded in developing a comprehensive policy framework, backed by law, to guide activities in both the mining and energy sectors. There are also recommendations on policies and plans being proposed by different sources and stakeholders. However, as there have been fewer policy impacts than expected, there is a need to re-focus on the institutional milieu. President Museveni, who has been in office since 1986, has been re-elected for a fourth presidential term following the general elections on February 18, 2016. This is despite opposition parties citing corruption and rent-seeking as convincing reasons to dislodge Museveni from power Booth et al., 2014, p. 61).[51] Corruption continues to be pervasive, and this drives up costs for companies and complicates business operations (BMI, 2015, p. 7). Transparency International (2017) ranks Uganda's public sector as one of the most corrupt in the world, ranked 151 out of 180 countries on its Corruption Perceptions Index in 2017.

To improve development prospects, and facilitate the success of its extractive sector; it is essential to ensure transparent, accountable and effective governance in the country. Uganda should, therefore, seek to join movements such as the international Extractive Industries Transparency Initiative and integrate global standards and best practice into national regulatory frameworks. For mining

51 See Booth et al. (2014, 56–75) for an analysis of political and economic power linkages, political challenges, and institutional restraints in Uganda.

to contribute to sustainable development, the government needs to ensure that proper mining legislation and codes are implemented and should account for the minerals exported and royalties accrued. The government has struggled to ensure the implementation of existing policies and is keen to empower the institutions it has set up to oversee this implementation. Politicians have been managing the processes of recently established institutions, but they lack the necessary capacity, technical knowledge, and experience. These institutions should be allowed to operate freely and independently without government influence.[52]

Moreover, civil society has not been able to either encourage the government and companies or hold them to account. The heads of non-governmental organizations are in many cases now being appointed by the government, a situation that has been causing mistrust between these organizations and the communities that they are supposed to represent. The government is trying to weaken and muzzle civil society by trying to pass a new civil society law since it is upset by the fact that civil society groups are going to rural communities and outlining the extent of laws and policies and lack of their implementation. If this is the government's orientation, companies need to work with civil society groups to help ensure that they have the necessary capacity to carry out their work. Companies need to work with non-governmental organizations that have strong connections to communities to inform them of their rights and responsibilities. Non-governmental organizations are afraid of being closed down by the government, given a history of activities being curtailed, and certain influential leaders and civil society members were imprisoned in the run-up to the February 2016 elections.[53] Civil society must also be allowed to operate without government influence.

Both the mining and energy sectors, particularly the oil and gas industry, have much potential to fund the implementation of Uganda Vision 2040, which has many overlapping areas with the post-2015 global development agenda. Implementation of both will involve actualizing the full potential of the mining and energy sectors and generating the revenue to be redistributed equitably across the country. However, a large part of the disabling environment that has thus far been largely ignored is the existence of widespread corruption and lack of capacity within the government.

Furthermore, the prevailing political economy must inspire strategic choices. Uganda's development vision focuses on oil as the resource able to transform the country in the short-term future. The varied treatment for oil and gas on one side and mining, metals, and minerals on the other, must be motivated by political economy considerations and a clear understanding of geological limits. It appears

52 Interview with Africa Institute for Energy Governance, August 25, 2015.

53 Dickens (Africa Institute for Energy Governance), discussion.

that the massive potential for tapping into oil and gas and the opportunity for rents may be overshadowing the mining sector in ways that constrain a proper evidence-based discussion on how to leverage the transformative potentials of Uganda's minerals, in the spirit of the African Mining Vision. The government presents a vision of a country transformed by oil, but the government must first transform itself to realize that vision.

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