

# Targeting Natural Resource Corruption

Welcome! We will begin shortly.

This is a Zoom webinar. All participant videos are off and lines are muted, but please feel free to introduce yourself in the chat.

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# The anti-corruption potential of beneficial ownership transparency and implications for natural resources



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Center, George Mason  
University  
(Moderator)*



# Get Engaged

Audio Settings ^



Chat

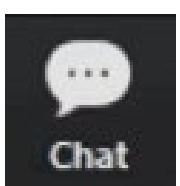


Raise Hand



Q&amp;A

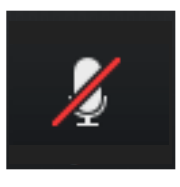
Leave Meeting



Chat

## 1. Exchange thoughts with other participants via chat

*Introduce yourself and share your own insights and questions in the chat window*



## 2. All participants are muted

*Given high attendance in this webinar, all lines will remain muted*



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# The anti-corruption potential of beneficial ownership transparency and implications for natural resources



**Elise Bean**

Former Staff Director & Chief Counsel, *U.S. Senate Permanent Subcommittee on Investigations*





# Anti-Corruption Potential of Beneficial Ownership Transparency & Implications for Natural Resources

Elise J. Bean

Former Staff Director, US Senate Permanent Subcommittee on Investigations

Author, *Financial Exposure*

September 30, 2021



# Why should natural resource advocates care about beneficial ownership transparency?



- Because those who traffic in wildlife, overfish, clear-cut forests, and produce mining hellscape do it for the money.
- They use shell entities to move, launder, and invest the funds to produce even more money.
- To stop them, we need to eliminate entities with hidden owners.



# Obiang Shell Companies



**Teodoro Obiang**  
**Minister of Agriculture & Forestry**  
**(Timber & deforestation issues)**



Sweetwater Malibu  
LLC

Ebony Shine  
International LLC

# Corporate Transparency Act: 12 Years in the Making



- 2008 – First bill introduced. Bipartisan from the start.
- FACT slowly built a broad coalition – law enforcement, national security, public interest groups, even banks, Chamber of Commerce, Delaware Secretary of State.
- 1/1/2021 – Bipartisan law enacted as part of defense bill.



# Nonpublic Registry



- National registry housed at Treasury's bureau, FinCEN.
- Applies to U.S. corporations, LLCs, & "other similar entities."
- Also non-US entities that register to do business in the US.
- Wanted it to be public, but we lost that fight.

# Strong Definition of Beneficial Owner

- Requires naming human beings.
- Individuals who own or control a U.S. entity.
  - Hold 25% or more of ownership interests; or
  - Exercise “substantial control” of the company.
  - No nominees, agents, employees, other stand-ins.
- Must provide name, address, birthdate, identifying number.







# The Exemptions

- 23 Exemptions.
- Justification: US already knows the true owners or a large US physical presence means US can find out.
- Exempts banks, registered broker-dealers, publicly-traded corporations, insurance companies, more.
- Lobbyists won some dubious exemptions: pooled investment vehicles, dormant companies, nonprofits.

# Access to the Registry

- Law limits access to registry data.
- Four groups given limited access:
  - Federal, state & local law enforcement
  - Non-US law enforcement
  - Financial regulators
  - Financial institutions





# Non-US Access is Very Limited



FinCEN may disclose data upon receipt of:

(ii) a request from a Federal agency on behalf of a law enforcement agency, prosecutor, or judge of another country, including a foreign central authority or competent authority (or like designation), under an international treaty, agreement, convention, or official request made by law enforcement, judicial, or prosecutorial authorities in trusted foreign countries when no treaty, agreement, or convention is available—

(I) issued in response to a request for assistance in an investigation or prosecution by such foreign country; and

(II) that—

(aa) requires compliance with the disclosure and use provisions of the treaty, agreement, or convention, publicly disclosing any beneficial ownership information received; or

(bb) limits the use of the information for any purpose other than the authorized investigation or national security or intelligence activity;

# Data Quality

- Penalties for false or incomplete information.
- One year to file updates.
- GAO and Treasury audits.
- Treasury IG complaint process.
- Fighting to get verification process for new data.







# Implementation Timeline

- FinCEN implementing regulation due Jan. 1, 2022.
- New companies – start registering on date specified in regs.
- Existing companies – extra 2 years to register.

# US Beneficial Ownership Registry



- U.S. creates more corporations than the rest of the world combined – about 2 million per year.
- U.S. registry could be a huge advance in corporate transparency.
- If you want a good registry and effective access to the data, file a comment.

# Thank you!

FinCEN has not yet issued a proposed rule to implement the Corporate Transparency Act. In April 2021, it issued a solicitation for advance public comment; that comment period closed in May 2021.

To see the comment letter submitted by the FACT Coalition:

<https://www.regulations.gov/comment/FINCEN-2021-0005-0142>

Look for the official proposed rule to be issued by FinCEN in the next few months.



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The World Bank • UNODC

# Beneficial Ownership Transparency: Why this means of curbing corruption matters in natural resources and conservation

# 30 September 2021

# Why are shell companies (and other types of legal structures) so popular for moving illicit money around the world?



Separate legal personality



Hiding ultimate beneficial ownership



Access to the financial system



Asset Ownership



# Selling secrecy: example of “privacy packages” for company incorporation advertised by Trust and Company Service Providers

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Order Here

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### Basic Privacy and Asset Protection Package

The Basic Privacy and Asset Protection Package offers privacy from the start. This package adds Director Services and a physical address with monthly mail forwarding services which gives you confidentiality.

Includes:

- Everything that is included with our Basic Incorporation Package, plus
- Physical address with monthly mail forwarding
- Allows for use of a Wyoming address on the Articles and the State's website
- Public Record Nominee Director

**\$995.00**

PRIVACY AND ASSET PROTECTION

WHY USE

REGULAR OR CLOSE

LLC VS CORP

### Attorney Privilege Privacy Package

The Attorney Privilege Privacy Package offers Director Services, with an attorney, supplied by us, as your go-between. Your contact information is not kept at our offices. Our records only have the attorney as our contact. All communications are sent to the attorney and he forwards these to you. This gives you attorney-client privilege privacy.

Includes:

- Everything that is included with our Basic Incorporation Package, plus
- Nominee Director for the public record
- An Attorney as our go-between, giving you attorney-client privilege
- Once-a-month Attorney mail forwarding with physical address
- Allows for use of a Wyoming address on the Articles and the State's website

**\$1495.00 (includes monthly attorney mail forwarding)**

[Click here to go to Order Form](#)

- Deluxe corporate binder with company

Live Help Online

that includes:

### Ultra Asset Protection Trust Package

The Ultra Asset Protection Trust Package provides bullet-proof asset protection. This package includes a 1,000 year Wyoming Spendthrift Trust wrapped with three LLC's, gives you a physical presence in Wyoming with a phone line for the trustee, and two hours of time with the attorney to draw up the Trust.

Includes:

- Wyoming 1,000 year Spendthrift Trust designed for your needs by an attorney
- Corporate Mail Forwarding and Physical Address Package for Trustee and the Trust
- Allows for use of a Wyoming address on the Articles and the State's website
- Special Trustee LLC
- LLC for the Beneficiary
- LLC for the advisor
- An Attorney for two hours of consultation
- Phone Service answered by computer for Trustee
- Plus everything that is included with our Basic Incorporation Package.

**Price \$4995.00**

**News release:**

As of this year Wyoming has the best LLC asset protection law in the nation.

@returningassets

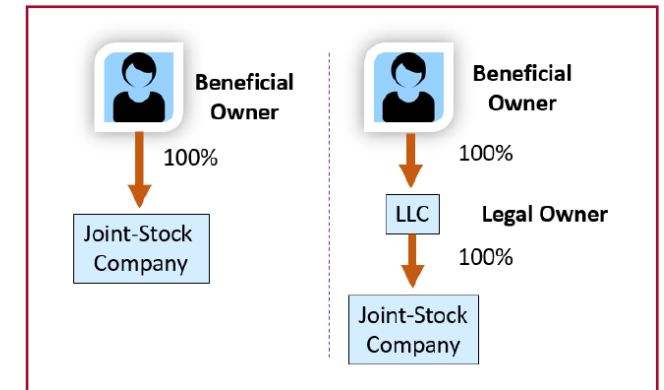
# International Policy Responses:

- FATF Standard on Beneficial Ownership (R.24/R.25/IO.5) (2012)
- G20 High Level Principles on Beneficial Ownership Transparency (2014)
- 4<sup>th</sup> and 5th European AML Directives (2015/2018)
- OECD Global Forum on Transparency and Exchange of Information for Tax Purposes (2015)
- Open Government Partnership (OGP) commitments on beneficial ownership
- EITI Standard (2016)

# FATF Glossary Definition of Beneficial Ownership

**Beneficial owner** refers to the natural person(s) who **ultimately owns** or **controls** a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise **ultimate effective control** over a legal person or arrangement.

- It must be a *natural* person (a human being)
- It cannot be a nominee
- There can be more than one beneficial owner
- The two-part definition requires two tests:
  - Legal ownership - direct or indirect
  - Control through other means
- Most countries define a threshold, e.g. 25%, 10% or other





# Global Standard on Beneficial Ownership Transparency of Legal Persons and Legal Arrangements – FATF R24/25 and IO.5

## R24: Transparency and beneficial ownership of legal persons

- *Countries should ensure that there is **adequate, accurate and timely information on the beneficial ownership and control of legal persons** that can be obtained or accessed in a timely fashion **by competent authorities**.*

**R10, R22, R23:** Customer Due Diligence & Suspicious Transaction Reporting obligations for Financial Institutions and DNFBPs

**IO. 5:** *Legal persons and arrangements are prevented from misuse for money laundering or terrorist financing, and information on their beneficial ownership is available to competent authorities without impediments'*

# Access to Beneficial Ownership Information has multiple purposes and uses

## INVESTIGATION AND PROSECUTION OF CRIMES

- Detect, investigate and prosecute ML, corruption, environmental crimes
- Trace proceeds of crime hidden abroad (asset recovery)
- Recover lost public revenues from tax evasion

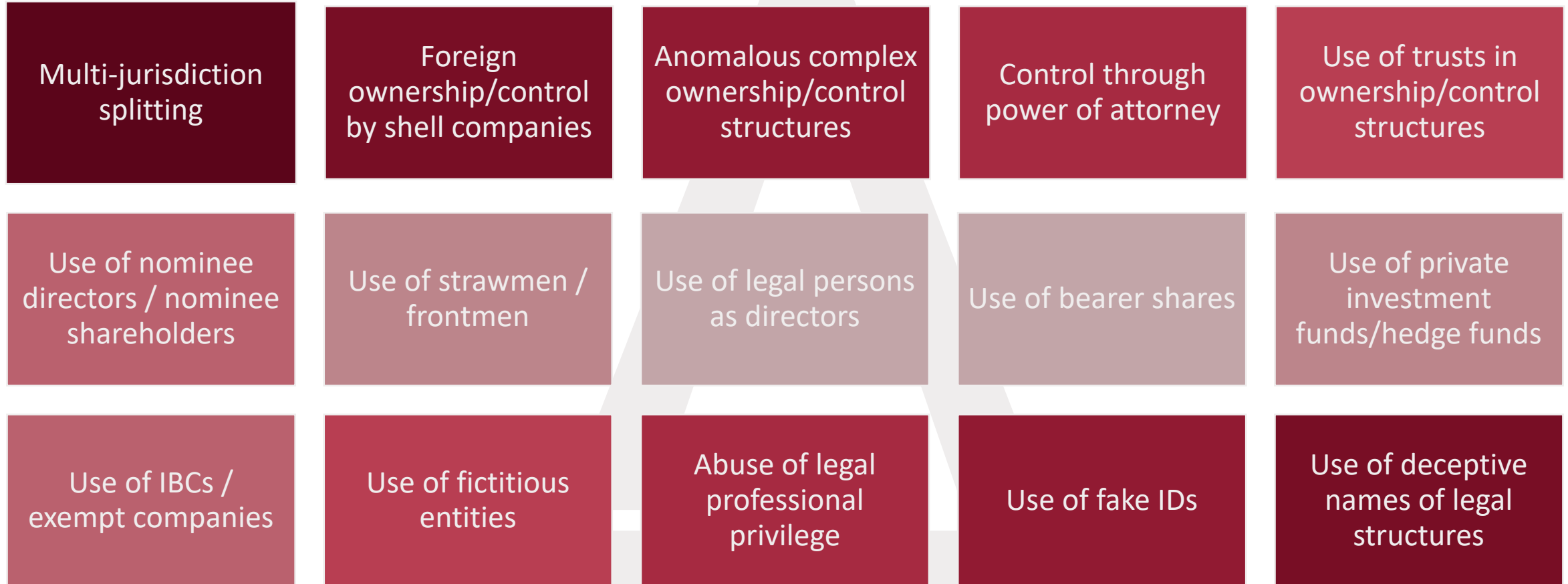
## PREVENTION & DETERRENCE

- Deter ML, corruption, environmental crimes
- Deny safe havens for proceeds of crime
- Prevent conflicts of interest in public procurement, business licensing, etc.

## PROMOTION OF BUSINESS INTEGRITY

- Promote business integrity and accountability
- Protect trading partners (due diligence)
- Promote transparency in supply chains and joint ventures

# Typologies of Misuse: How to Hide the Beneficial Owner?





# Key questions for the implementation of BO frameworks

1) Collection Mechanism

2) Data Storage & Format

3) Verification

4) Access

5) Enforcement

# Making it work: different approaches to addressing the challenges

## *Phased approach to implementation - Nigeria*

- Started with sectoral approach (EITI)
- Transitioning to national public registry through the Corporate Affairs Commission (CAC)
- Civil society engagement in policy reform to support mainstreaming (OGP)
- Link to public procurement reform and e-GP system a possible next step

## *Verifying the true owners of companies doing business with the State- Slovakia*

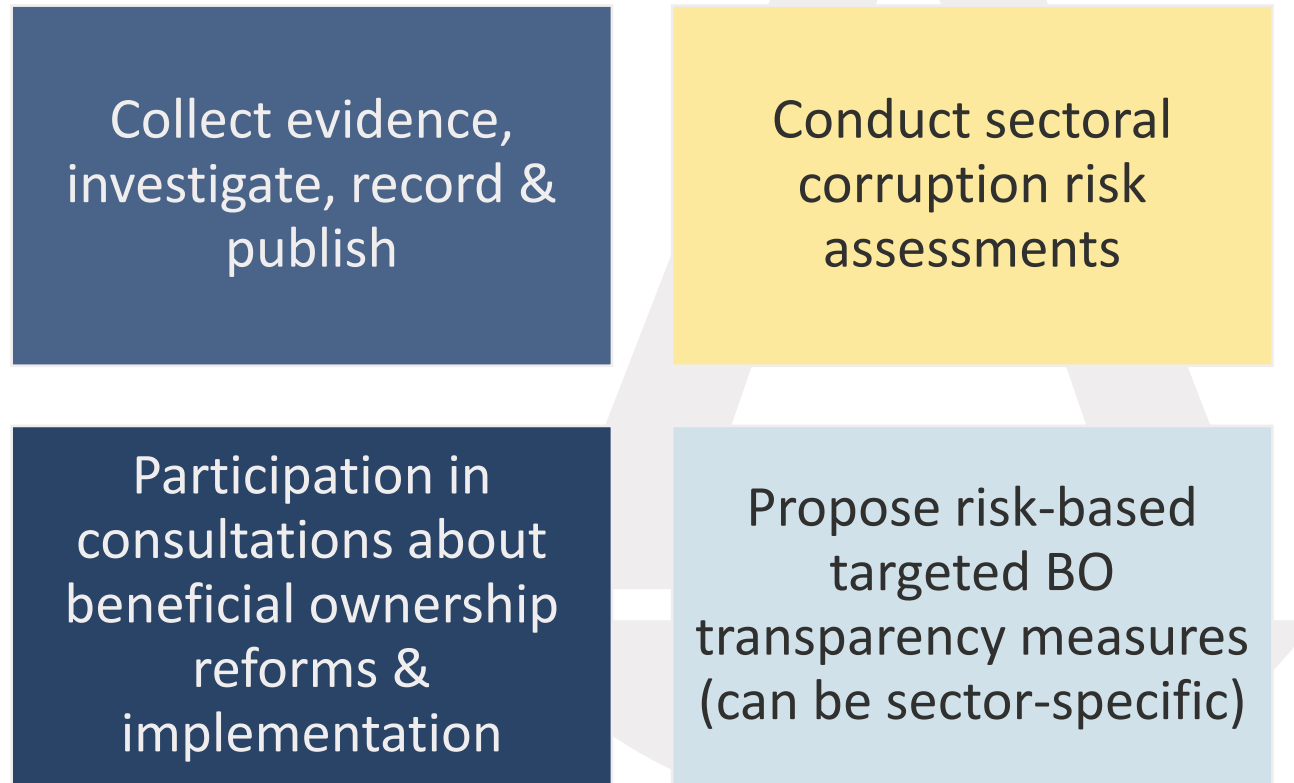
- Firms must register as 'Partner of the Public Sector' to do business with the State
- "Authorized persons" are required to verify the identity of beneficial owners (and suffer penalties with firms)
- Public can query the veracity of a disclosure
- Over 70 investigations have been conducted since the register was launched



PART II : Key Instruments for Fighting Corruption  
Chapter. 9 Beneficial Ownership Transparency

# Opportunities for Action

AML measures rely on a **risk-based approach** → requires an understanding of corruption/ML risks (national-level but also sector-level)



# Thank you!



Stolen Asset Recovery Initiative

The World Bank • UNODC

[star.worldbank.org](http://star.worldbank.org)

 [@returningassets](https://twitter.com/returningassets)



# The anti-corruption potential of beneficial ownership transparency and implications for natural resources



Delgado / WWF-Peru

**Michele Kuruc, J.D.**  
Vice President, Ocean Policy,  
*WWF-US*



# **Beneficial Ownership Virtual Panel**

**September 30, 2021**

**Michele Kuruc**  
**World Wildlife Fund**  
**[michele.kuruc@wwfus.org](mailto:michele.kuruc@wwfus.org)**







## A Profile of Fisheries Today



**3.3**

**BILLION**

people depend on fish as an important part of their diet

**34+%**

of the world's fisheries are overexploited, depleted, or recovering from depletion

**\$50**

**BILLION USD**

is the high-end annual estimate of global losses due to illegal fishing



# Characteristics of the Fisheries Sector

.....

- History of weak regulation, including reluctance to address role of Beneficial Ownership
- Overall lack of transparency
- Vessels, fleet affiliations, vertical integration
- Ease of changing flags/registration
- Flags of non-compliance, convenience
- Jurisdictional/government complicity and collaboration



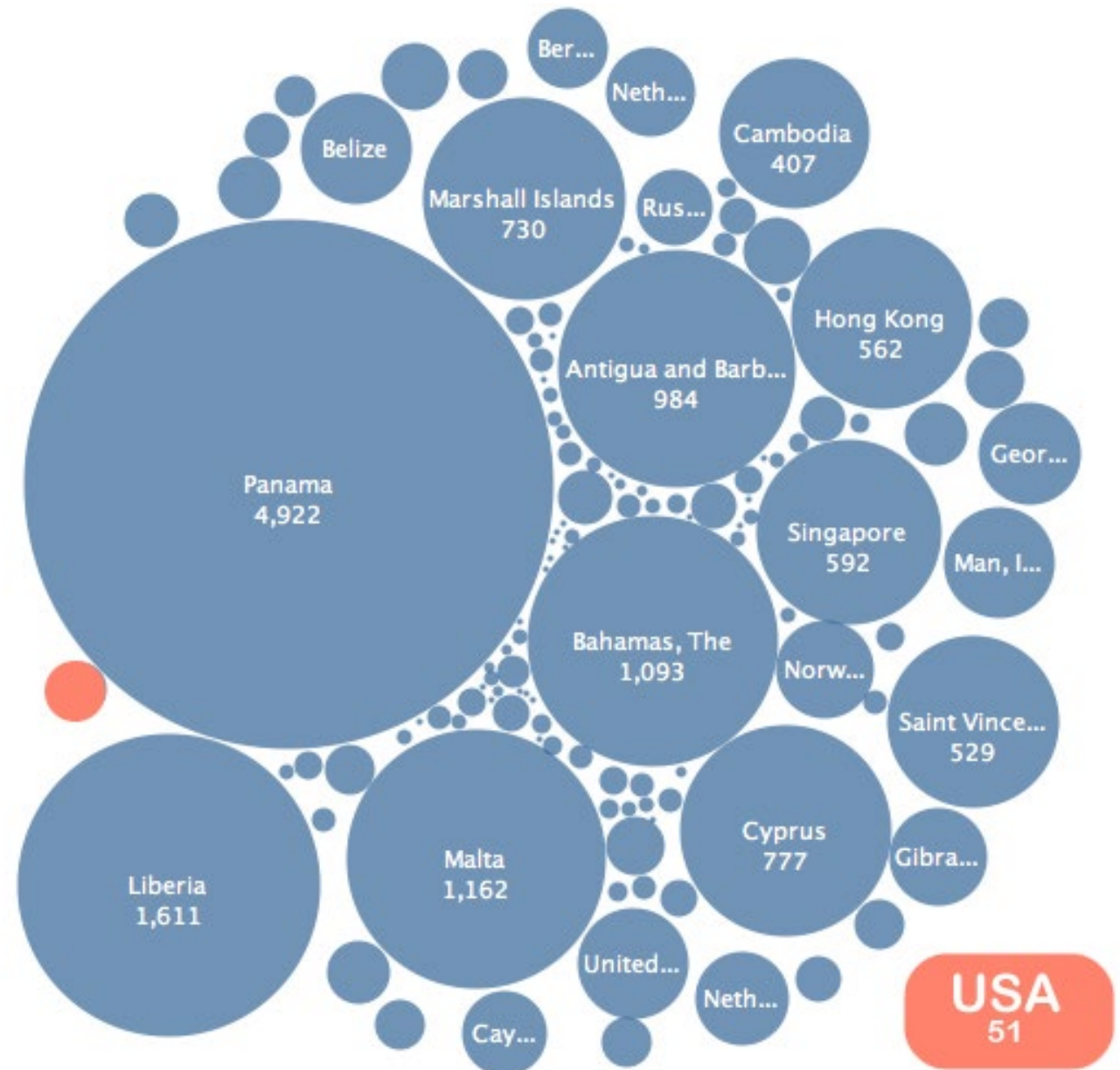
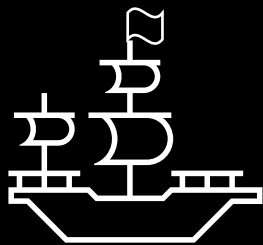


Register any type of pleasure boat (either private or commercial) in any of our Flags worldwide (Malta, Greece, Isle of Man, Cyprus, State of Delaware). Also, any type of fishing vessel under the Belize Flag.



## Frequency/distribution of flags of non-compliance/convenience in the maritime sector = flags for sale

- Often no connection to jurisdiction - e.g., no residency or reporting requirements
- Easy to obtain registration-few requirements
- Lax monitoring, including worker safety protocols
- Several land-locked countries - e.g., Mongolia, Bolivia (revenue generation)







# Some Outcomes due to Obscured Beneficial Ownership

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- Difficult to trace/flag hopping, identify, determine history and affiliation, hold liable, remove from service
- Numerous violations including corruption (e.g., FishRot), allocations, fish-related, area of operation, crew, pollution, safety, etc.
- Across the sector:
  - Unfair economic advantage
  - Lower operating costs
  - Unknown product source/legality
  - Impossible for appropriate sanctions to be imposed
- Easier to hide everything





# What can/should be done

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- Institute sector-wide full transparency across a range of topics; make info accessible to governments and the public – e.g., FITI
- Note parallel in forestry – widely-traded commodity
- Use of Unique Vessel Identifiers/IMO numbers with photos – vessel lifespan application – FAO Global Record of Fishing Vessels, inc BO information
- Tighten jurisdictional requirements/eliminate legitimacy/legality of FOC - e.g., disincentives to register there; slowing process of any products harvested or carried by FOC vessels if not reject them; convert to a black list
- More research to show extent and impacts of problem –70% of all IUU vessels flagged to tax haven registries, C4ADS study outcomes



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elaya / WWF-Peru

**Louise Russell-Prywata**  
Director of Policy and  
Programmes, *Open Ownership*



**Open  
Ownership**



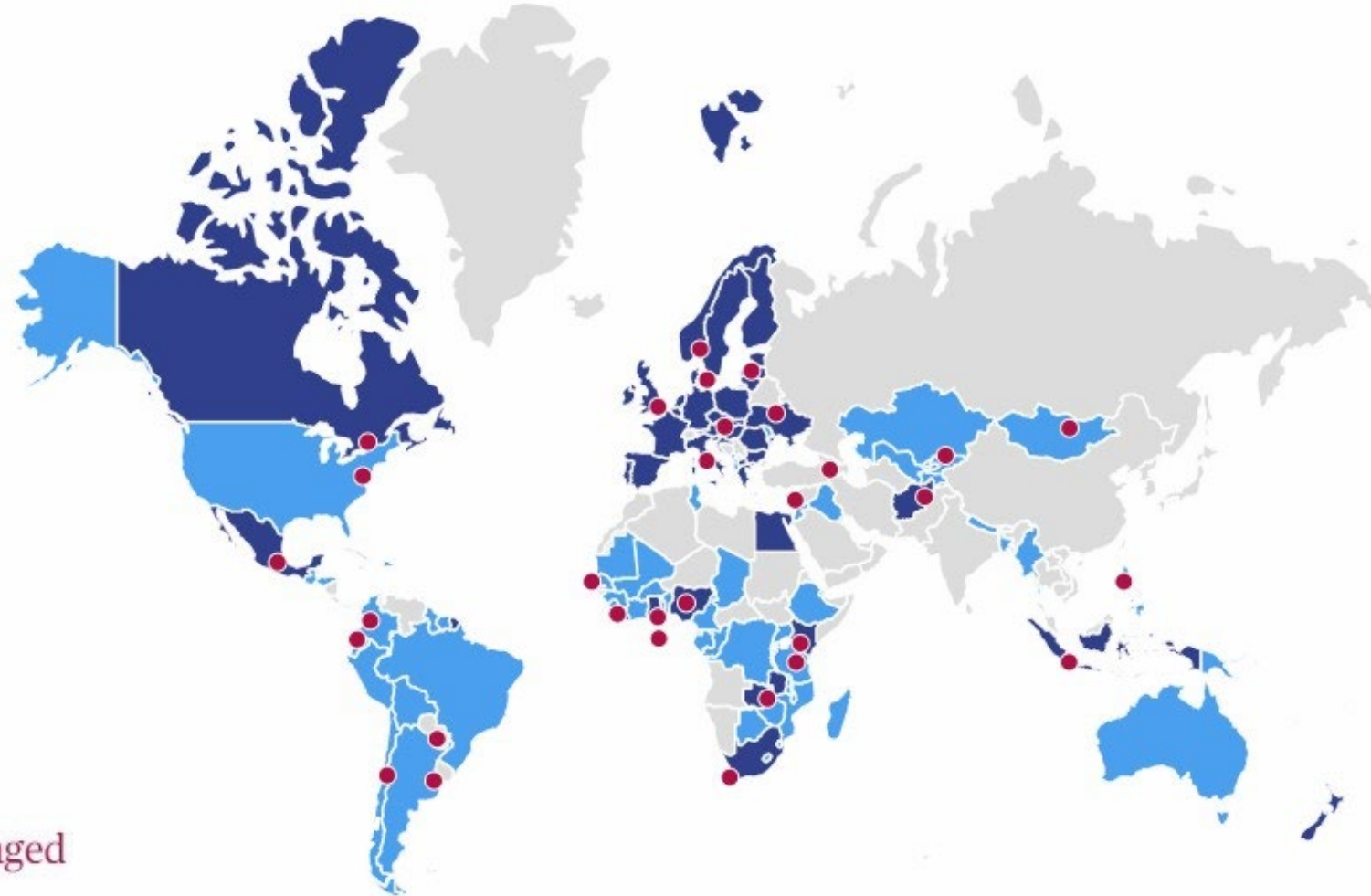
# **Realising the potential of BOT for natural resource management: how can we get there?**

**Louise Russell-Prywata  
30th September 2021**



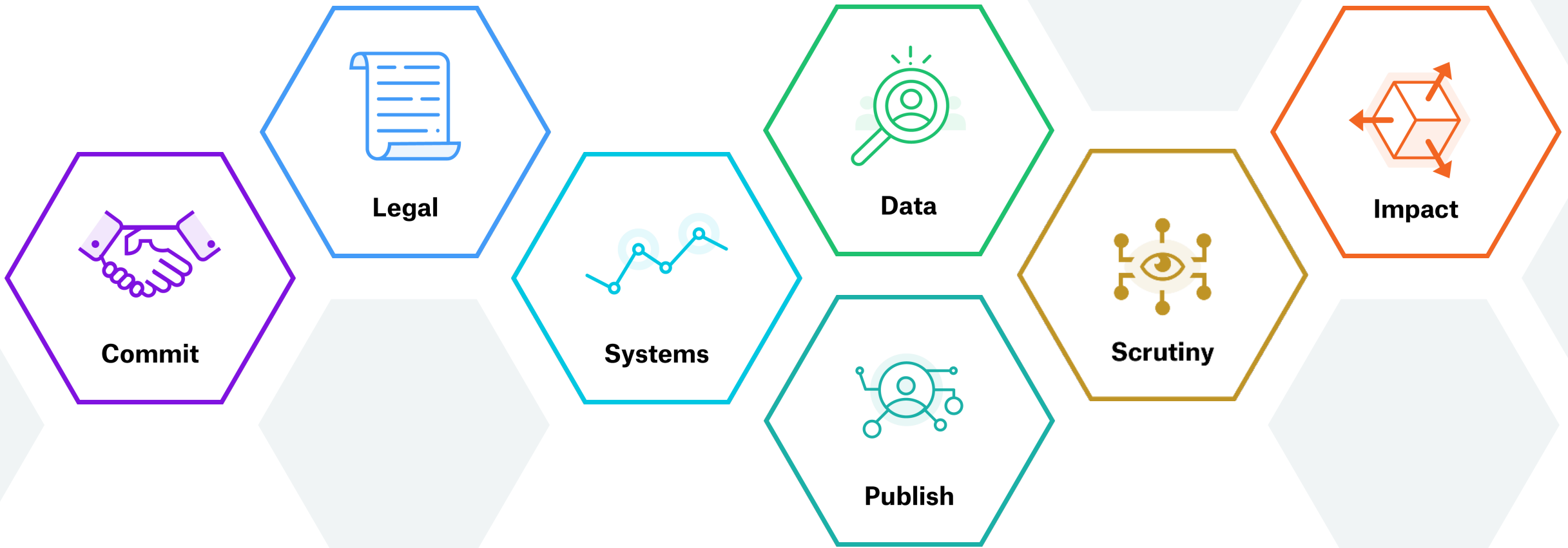


# Global Snapshot: substantial momentum



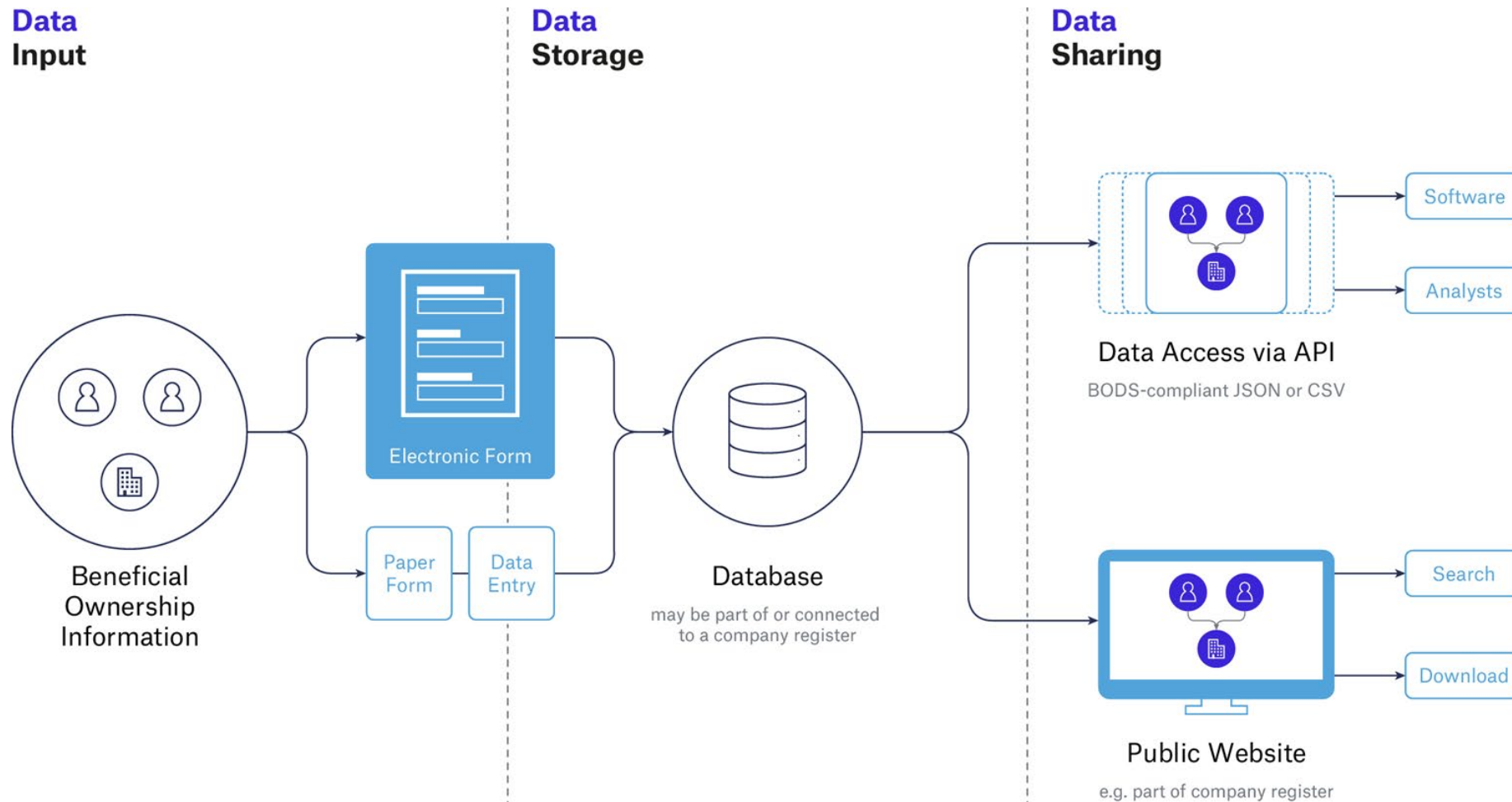
**Includes: ~30 OGP commitments to BOT (as of August 2020)  
55 EITI-implementing countries committed to BOT in extractives sector**





**Commitment** is just the first step: we need implementation that's *effective* i.e. that enables data use

# What are countries looking to implement?



# How can countries implement effectively?

The Open Ownership Principles provide a framework for considering the elements needed for effective BOT

Offer some benchmarks to assess how well countries' BO reforms are likely to enable impactful use of BO data

# Implementing BOT effectively: the OO Principles

## Disclosure & collection:

1. Robust definitions with low thresholds
2. Comprehensive coverage
3. Sufficient detail is disclosed

## Full list:

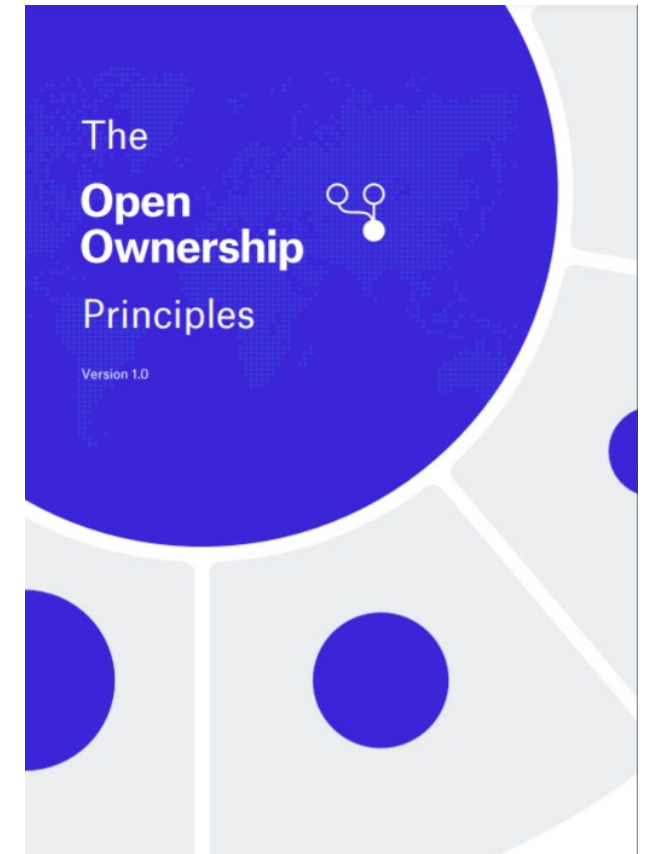
[openownership.org/principles](https://openownership.org/principles)

## Availability and accessibility:

1. Data held in a central register
2. Data accessible to the public
3. Data is structured & interoperable

## Quality and reliability:

1. Measures taken to verify the data
2. Data up to date with historical records kept
3. Adequate sanctions & enforcement



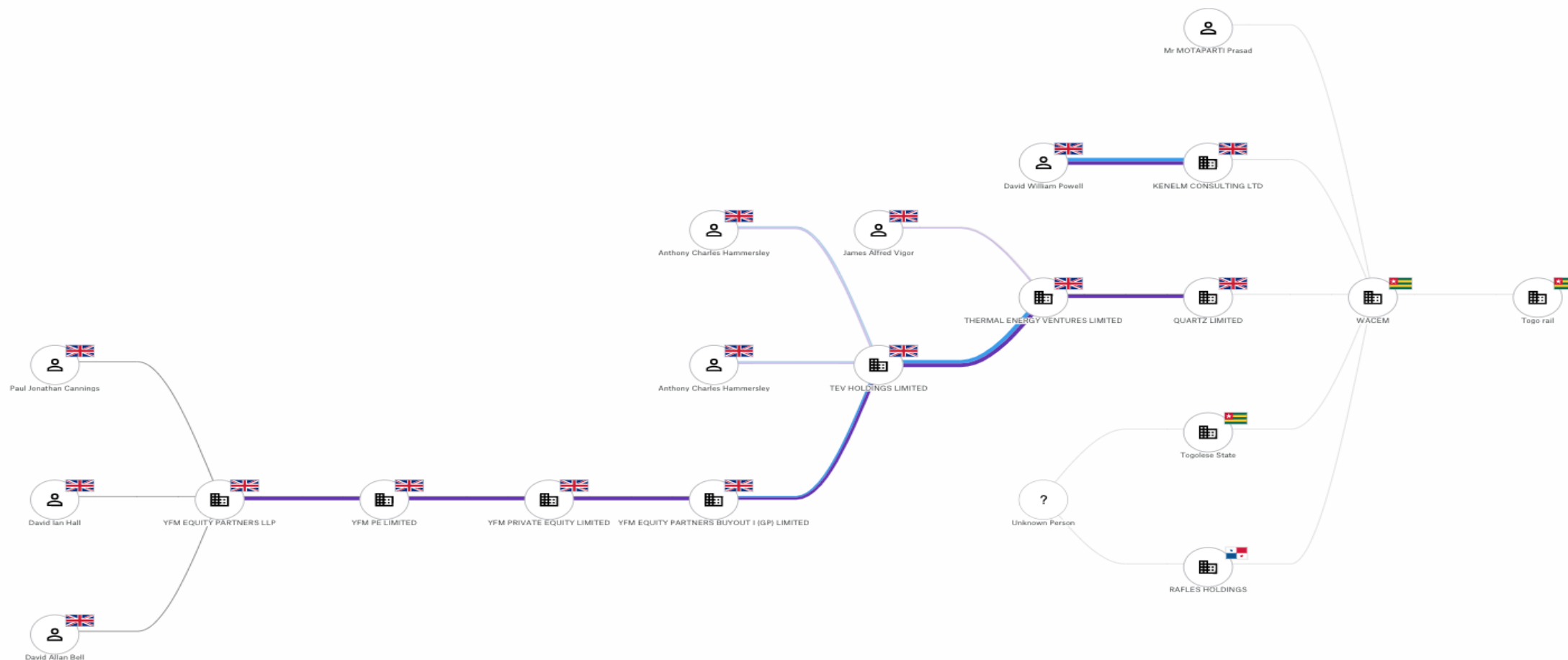


## The Beneficial Ownership Data Standard (BODS)

BODS provides a structured data format, along with guidance for collecting, sharing and using high-quality BO data

- The [data schema](#) describes how and what data should be shared. It can also inform the design of data collection and management systems;
- The [technical guidance](#) provides support for publishers and users of the data.

# Using BODS to visualise ownership structures



## 1. Data minimisation

- Don't collect unnecessary data. E.g. would business address suffice so that personal address is not necessary?

## 2. Layered access

- Restricting public access to sensitive fields while maintaining access for authorities

## 3. Protection regimes

- Mechanisms for applying for exemptions in exceptional circumstances such as risk of personal harm

Read more: [Policy briefing: making central BO registers public](#)

# Benefits of beneficial ownership transparency



**Build business and market confidence**



**Run effective tax systems**



**Improve governance and state procurement**



**Tackle corruption and criminal activities**



**Recover stolen assets**

What do all these have in common? **Key contributors to reducing inequality.**

BOT is not a silver bullet, but **it is a critical component of a sustainable, just financial system for the 21st century.**

Benefits to natural resource management are key, given the direct and indirect effects of poor resource management on social and economic inequality.

Strong case for a growing and diverse set of actors to support reforms.



# Open Ownership



## Contact:

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[louise@openownership.org](mailto:louise@openownership.org)

Technical Helpdesk:  
[support@openownership.org](mailto:support@openownership.org)



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# Targeting Natural Resource Corruption

Harnessing knowledge, generating evidence, and supporting innovative policy and practice for more effective anti-corruption programming

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