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COMMUNIQUE DEMANDING THAT SHS 6B OIL CASH PAID OUT TO PUBLIC OFFICIALS IS RETURNED IMMEDIATELY

Introduction & Background

Mindful of our collective mandate to ensure that public resources benefit all Ugandans, we, Africa Institute for Energy Governance (AFIEGO), Global Rights Alert (GLA), National Association of Professional Environmentalists (NAPE), Centre for Constitutional Governance (CCG), Guild Presidents Forum on Oil Governance (GPFOG), GRAFENI BUTIMBA Hoima, Kwatanisa Buseruka, Kakindo Orphans-Buliisa and the Oil Refinery Residents Association (ORRA), are unequivocally calling on the over 40 public officials who received the Shs 6B oil bonus payment to return it to the consolidated fund immediately.

It is alleged that the payments arose from settlements acquired out of two tax disputes between Uganda and Heritage Oil and Uganda and Tullow Oil. The Heritage Oil dispute was to a tune of $434M while that of Tullow was to a tune of $ 473M but only $250M is being collected.

We are also calling on the institutions mandated with playing an oversight role and recovering public money to hence forthwith commence on the process of recovering this money in addition to providing full information on the whereabouts of the reported over $ 700M collected in capital gains tax from the above disputes. In this regard, our calls are made to the president of the Republic of Uganda, the Minister of Finance and the Speaker of Parliament of the Republic of Uganda. They are also made to the parliamentary chairpersons of the Natural Resources Committee, the Public Accounts Committee and the Committee on Commissions, Statutory Authorities and State Enterprises (COSASE).

Failure to return the stolen money dressed as bonus payment will leave us with no option but to continue with a name and shame campaign targeted at ensuring that taxpayers' money is returned.

We arrived at this unshakeable position, which we will relentlessly pursue, during January 4 and 5, 2017 discussions with stakeholders from Kampala, Hoima and Buliisa.

Discussion

Participants at the aforementioned January 4 and 5, 2017 meetings noted the following:

(i.) First, they observed with sadness the events in the sector since the discovery of oil in 2006. It was noted that despite the good Income Tax Act of Uganda 1997, government has been failing to collect the right taxes from the following sales: the sale of Energy Africa to Tullow Oil, the sale of Hardman Resources to Tullow and the first sale of Heritage Oil to Tullow. In all these transactions, the country lost over $300 million in taxes.

(ii.) Further, the participants expressed concern that deliberate secrecy in the oil sector was facilitating bad oil agreements with costly tax exemption clauses; in 2015, these exemption clauses saw Uganda lose $223M to Tullow alone. We lost the above because the Minister of Energy signed the oil agreements with Tullow well knowing that only the Minister of Finance had powers to sign any agreement with a tax exemption. Secrecy enabled the signing of such agreements. And now, the Attorney General, Uganda Revenue Authority and Ministry of Finance officials whose commissions and omissions are causing huge losses to the country are sharing the little revenue that is left for the citizens. This is unacceptable. Ugandans must wake up and punish those responsible for the losses, participants said.

(iii.) They also noted that it was unfortunate that the public officials who have been signing Production Sharing Agreements (PSAs) with companies containing confidentiality clauses, tax exemptions and other unfair terms that have undermined our country's sovereignty in taxation and other matters of national importance are also the same people who ignored parliament's resolutions of October 10 and 11, 2011. In these resolutions, parliament recommended against new oil transactions until all the required new oil laws had been put in place and it called for renegotiation of all existing PSAs to remove unfair terms. A resolution for ministers suspected to have taken bribes from oil companies to step aside for investigations was also passed. Unfortunately, the President and his government ignored and dismissed parliament's resolutions and today, we are suffering the consequences of impunity of those officials who are sharing bonuses from the little oil revenue that is left.

(iv.) Regarding the use of oil revenues, the law requires that they be used for development purposes and not consumption, as laid out in section 59 (3) of the Public Finance Management Act (PFMA). While allowing for money for budgetary support to be withdrawn from the petroleum fund following authorisation by the Auditor General, section 59 (1) of the same Act stipulates that parliament must authorise such withdrawals. Participants noted with grave concern that this provision was flouted in events leading to the Shs 6B bonus payment. They called for employment of officials of high moral integrity who can work for the citizens as opposed self-serving public officials.

(v.) In the spirit of transparency, the participants called on the Minister of Finance to table before parliament and disclose to the public all the petroleum revenues that Uganda has collected since 2006. They also called on the Minister to table before parliament, the semi-annual and annual reports of the Petroleum Fund for 2016 in addition to calling on him to publish the same information in newspapers and on the Ministry's website for easier public access as mandated under section 61 (1&2) of the PFMA.

(vi.) The system through which ministry technocrats develop legislation such as the PFMA with provisions that will favour them in the future is flawed, participants noted. They said that that policy corruption was being facilitated by a powerful executive that designs and bullies or corrupts parliament. Yet no country can survive the oil curse where there is a weak or no parliament. The Upstream oil law which provides excessive powers of negotiating and terminating oil agreements to the Minister of Energy was given as an example where parliament was bullied by the executive. Participants recalled that while members of parliament (MPs) had given the above powers to the Petroleum Authority of Uganda, the same parliament was coerced and influenced by the powerful executive to reverse and give the above powers to the Minister of Energy. It is now the same minister signing unfair oil agreements causing huge losses to the country. It is also the same executive authorising payment of bribes dressed as a presidential handshake to public officials who are paid monthly to do exactly what they did.

(vii). Participants cautioned that unless the excitement of easy lumpsome cash acquired out of oil activities is checked, Uganda could go in the way of other African oil producers such as Nigeria, Chad and others whose citizens continue to be poor despite huge oil revenues collected for decades. Participants noted that it is a sad that the Commissioner General of Uganda Revenue Authority is trying to create an impression that the Shs 6B that was given out does not even constitute 1 percent of the taxes recovered and therefore its little to worry about when young girls are dropping out of school due to lack of sanitary pads, there is no radiotherapy machine in Uganda's and indeed the region's referral cancer center at Mulago Hospital and millions of citizens are perishing from simple diseases such as malaria due to lack of few million shillings. The participants cautioned that without careful spending that is keenly watched by the public, all oil money would be wasted. This would result in wasted opportunities and this has to be jealously guarded against.

(viii) Last but not least, the participants called upon Ugandans to prepare for the worst as the country commences the processes of building the oil refinery and pipelines. If citizens fail to be vigilant and monitor the negotiations, the same public officials may connive with private companies to inflate the multi-billion dollars projects or sign bad agreements and then the same people will turn around during court battles to act as saviours who deserve bonus.

Recommendations

In view of the above, the following recommendations were made:

(a.) That without any further delay, the Shs 6B that was irregularly given to the public officials is returned. Failure to do so will set a bad precedent resulting in poor spending of oil money to the detriment of Ugandans and the region.

(b.) That the Minister of Finance tables before Parliament all the petroleum revenues that Uganda has collected since 2006. That the Minister also tables before Parliament, the semi-annual and annual reports of the Petroleum Fund for 2016 in addition to publishing the same information in newspapers and on the Ministry's website as mandated under section 61 (1&2) of the PFMA.

(c.) That audits by the Auditor General and parliament are carried out to ascertain the status of the oil revenues received from all oil transactions since 2006.

(d.) That an audit of the process leading to the signing of PSAs with the oil companies operating in Uganda with the view of identifying and addressing weaknesses in addition to punishing officials responsible for loss of oil revenues is undertaken.

(e.) Finally, that the excessive powers of the executive that see it develop laws and policies for its benefits in addition to ensuring that the checks and balances that should be provided by parliament are overlooked should be trimmed. Without this, oil revenues will continue to be spent lavishly on a few public officials.

In the meantime, AFIEGO and partners will continue to engage parliament and other stakeholders to amend and strengthen the oil revenue laws to guard against excessive discretionary powers on the part of the executive. These powers are being used to steal public funds disguised as bonuses.

We shall also print photos and names of all public officials who took the Shs 6B oil money and disseminate them to the communities in a name and shame campaign.

In addition, we shall continue and expand our public awareness campaigns to mobilise citizens across Uganda to be more vigilant to monitor the new oil developments including the proposed oil refinery and export pipeline.

We thank you.

Signed by Mr. Dickens Kamugisha,
CEO, AFIEGO
On behalf of the nine (9) signatories to this communique

Note: This communiqué is addressed to the president of the Republic of Uganda, the Ministers of Finance and Energy, the Speaker of Parliament and the parliamentary chairpersons of the Natural Resources Committee, Public Accounts Committee and COSASE. It is also addressed to the Attorney General of the Republic of Uganda, all the people of Uganda and development partners who use their tax payers' money to support our country.

Persons who benefitted from the pay are also addressed. They include: the Commissioner General, Uganda Revenue Authority (URA), Secretary to the Treasury-Ministry of Finance, Executive Director, Uganda National Roads Authority (UNRA), Executive Director, Kampala Capital City Authority (KCCA) and others.