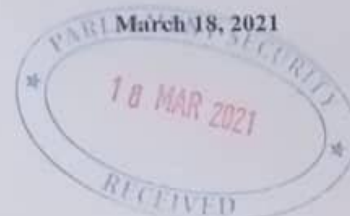


AFRICA INSTITUTE FOR ENERGY GOVERNANCE



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The Chairperson,
Parliament's Budget Committee,
Kampala (U).



Dear Sir/Madam,

R.E: HALT THE APPROVAL OF BUDGET OR LOAN REQUESTS FOR EACOP PROCESSES

Introduction

The above refers.

Africa Institute for Energy Governance (AFIEGO) and the undersigned 21 civil society signatories send you warm greetings. We also appreciate you and your committee for, on Tuesday March 16, 2021, rejecting a supplementary budget request of over UGX 480 billion by the Ministry of Finance, Planning and Economic Development (MoFPED).

The ministry made the request to parliament to enable Uganda National Oil Company (UNOC) to acquire funds to meet part of its equity financial obligations as a 15% shareholder in the East African Crude Oil Pipeline (EACOP) project. UNOC is expected to contribute \$213 million - over UGX 780.9 billion- for development of the EACOP project.

The MoFPED informed parliament that the over UGX 480 billion was urgently needed to enable UNOC to commit funds before the Final Investment Decision (FID) for the EACOP project can be made by the end of this month. Total, CNOOC, UNOC and the Tanzania Petroleum Development Corporation (TPDC) are the developers of the EACOP project and are expected to jointly make the FID.

The Members of Parliament (MPs) on the Budget Committee refused to approve the supplementary budget request because they don't have access to the FID documents and are therefore unaware if the conditions therein are favourable or unfavourable to Ugandans.

We applaud the committee for this decision and are requesting that parliament continues to reject any budget or loan requests to support the EACOP processes. It is notable that on Wednesday March 17, 2021, the State Minister for Finance, Hon. David Bahati, requested parliament's approval to enable the MoFPED to borrow \$130 million (over UGX 476 billion) from the domestic market to meet UNOC's EACOP equity financing obligations and pay historical oil costs.

We show why we are calling on parliament and all Ugandans to reject the above-mentioned supplementary and/or loan requests below.

Concerns

- (a) **Left in the dark; secrecy in EACOP processes:** Honourable, as parliament's Budget Committee pointed out during the March 16, 2021 interface with the MoFPED, the EACOP agreements such as the Host Government Agreement (HGA) and FID processes remain a preserve of a select group of people from the executive. Not only are the people's representatives, MPs, in the dark as regards the aforementioned processes, so are the directly affected communities in the ten districts of Uganda and the general populace at large. Failing to provide critical information as regards oil sector processes poses grave threats to the nation, as we will show.
- (b) **Four agreements signed or near completion, citizens locked out:** Honourable, since 2017, the executive led by the president and his cabinet ministers have signed agreements such as the 2017 Inter-Governmental Agreement (IGA) and the 2020 HGA for the EACOP project. In addition, information from the Ministry of Energy and Mineral Development (MEMD) in addition to the Petroleum Authority of Uganda (PAU) indicates that the Shareholders Agreement (SHA) in addition to the Tariff and Transportation Agreement (TTA) are nearing completion. The agreements have been signed or developed without MPs and citizens' knowledge of the contents of the agreements. Worse, the agreements have been developed without citizens' input.
- (c) **Proceeding with the EACOP without an enabling law in place:** Government is also proceeding to conclude decisions on the EACOP amidst a legal vacuum and lack of public participation. Yet the EACOP project poses huge social and environmental threats to Uganda and the region at large. Information from the MEMD indicates that an EACOP law has been developed. This has been done without citizen consultation. In addition, parliament is expected to debate and enact the EACOP law after major decisions such as signing of the EACOP's IGA, HGA, SHA and TTT agreements in addition to the FID have been made. In effect, parliament will be expected to rubber stamp the EACOP processes, an unfortunate travesty that must be avoided at all costs.
- (d) **History on revenue loss due to dealing in the dark:** Honourable, history shows us that dark deals and secrecy in the oil sector portends no good. As you must be aware, Uganda has lost billions of dollars in the oil sector due to secrecy among others. In 2015, Uganda agreed to be paid only \$250 million in taxes by Tullow yet government had demanded \$437 million in capital gains tax (CGT) from the company. Later, the former Minister of Energy and Mineral Development, Hon. Syda Bbumba, informed Ugandans that the loss arose from her signing of an agreement that she had not read. Further, under the cover and lack of public scrutiny provided by the 2020 COVID-19 lockdown, in April 2020, government and Total in addition to Tullow informed Ugandans that Tullow would be selling its entire stake in Uganda's oil sector to Total at \$575 million. The parties informed Ugandans that instead of government earning \$167 million in CGT as government had been demanding from Tullow for the

sale of over 21.5% of its stake, Uganda would earn a paltry \$14 million from the sale of Tullow's entire stake. What a tragedy! Ugandans must not fall into the dark trap facilitated by secrecy again. No monies whether from the national budget or borrowing should be allocated for the EACOP processes to support signing of an FID whose details Ugandans don't have.

- (e) **Total E&P's pressure on the Ugandan government:** Honourable, you should remember the behavior of Total E&P in September 2019. Prior to that month, Tullow Oil's sale of over 21.5% of the company's stake to Total and CNOOC collapsed. This was due to a dispute with government over tax assessment. Government was demanding for a tax of \$167 million while Tullow Oil offered \$85 million. When the deal collapsed, Total E&P suspended activities on the EACOP project. This exerted pressure on government. In desperation and without public consultations, government allowed Tullow Oil to sell not just 21.5% of its stake but the company's entire stake to Total with a paltry \$14 million being charged in taxes. To date, neither Total E&P nor government have explained why Total suspended activities on the EACOP and why a tax of \$85m that had already been offered by Tullow Oil was never collected.
- (f) **Taking advantage of Uganda:** Total E&P is taking advantage of the Ugandan government's desperation to conclude the FID to force government to accept oil decisions that are socially, economically and environmentally dangerous. For example, government has been forced to borrow massively to construct roads in the oil region including an environmentally-destructive road from Masindi to Pakwach passing through Budongo Central Forest Reserve and Murchison Falls National Park. These two ecosystems are major tourism assets. Today, government is being pressured to borrow money to support UNOC to put \$130 million upfront to please Total E&P to conclude the FID. What kind of FID can Ugandans expect from companies that are using dirty tricks to coerce a poor country like Uganda to enter into wrong and destructive oil decisions? This country cannot survive the oil curse amidst secretive dealings and corporate capture.
- (g) **Environmental concerns:** Honourable, we would like to draw your attention to the fact that the EACOP's immense potential environmental impacts are of concern to a wide range of stakeholders. The EACOP and the Tilenga in addition to Kingfisher oil projects and their associated roads developments will affect or have affected over 30 ecosensitive areas in Uganda including Murchison Falls National Park, Budongo forest, Murchison Falls-Albert Delta Wetland System and others. Of major concern is the fact that a third of the EACOP will be constructed in the Lake Victoria basin. This poses immense oil pollution risks yet despite this, the project developers failed to provide adequate mitigation measures to address the threats. As a result, court cases have been filed by youth and environmentalists in courts in Uganda, the East African Court of Justice (EACJ) and France. These court cases ought to be concluded before any FID is made. Government should also not be allowed to borrow and or fund oil projects at a time when there are still court cases challenging the same projects.

(h) Social challenges: The EACOP project is also bedeviled by social challenges. Since 2019, over 5,000 people whose land is being compulsorily acquired for the EACOP project have been waiting for compensation. As they wait, the people from ten districts in western and south western Uganda were stopped from growing perennial crops, setting up any new developments and burying their dead on their land. This has caused immense challenges such as loss of family incomes, household food insecurity, school dropouts especially amongst girls, abuse of cultural rights and others.

(i) Debt burden: In addition, since the discovery of oil in 2006, government has been borrowing heavily. While government claims that oil is not being mortgaged, it is not a coincidence that the debt burden has worsened amidst oil activities. Parliament as a representative of Ugandans should use its oversight powers to stop the bad situation from worsening. If UNOC must participate, Uganda as the owner of the oil resource must pledge its oil while the companies invest the money. In any case, the EACOP project's economic viability is questionable in light of the worldwide energy transition efforts. Companies will therefore only proceed to sign the FID if they are given favorable terms at the expense of our country.

Recommendations

What should be done in the light of the above?

- (i) Parliament should not approve the supplementary and or loan request of over UGX 480 billion by the MoFPED to support UNOC to meet its EACOP obligations.
- (ii) Parliament should use its oversight powers to ensure that all the EACOP agreements including the IGA, HGA, SHA and TTT are made public. The process for initiating, negotiating and signing any oil agreement should be participatory where all relevant stakeholders including the citizens are involved.
- (iii) Further, MEMD should immediately table the EACOP Bill before parliament for debate. The public including the affected communities should be consulted effectively. The law should be in place before the FID is concluded and before any public monies are advanced for the EACOP and other related projects.
- (iv) In addition, parliament must task the EACOP project developers and government to respect the constitutional right for every citizen to own and utilise his or her land until payment of fair and adequate compensation is paid. The project developers must be compelled to let the EACOP-affected people to use their land for the developments such as growing of perennial crops that were stopped.
- (v) The EACOP project will have transboundary impacts on communities in Kenya, the Democratic Republic of Congo (DRC) and others. Parliament should ensure that government conducts cross-border consultations before concluding critical oil decisions.
- (vi) Finally, the EACOP FID should be put on hold until all the cases against the Tilenga and EACOP projects in the aforementioned courts are heard and concluded.

We look forward to your co-operation in this matter.

Thank you,

Kamugisha

Dickens Kamugisha,

CEO, AFIEGO

Signatories

1. Africa Institute for Energy Governance
2. Oil Refinery Residents Association
3. World Voices Uganda
4. Centre for Energy Governance
5. Karambi Action for Life Improvement
6. Guild Presidents' Forum on Energy Governance
7. Kwataniza Women's Group
8. Centre for Constitutional Governance
9. Graffen Organisation Butimba
10. Citizens Concern Africa
11. Action Coalition on Climate Change
12. South Western Institute for Policy and Advocacy
13. African Initiative on Food security and Environment
14. Twimukye Womens Organisation
15. Environmental Governance Institute
16. Association of oil-affected youth
17. Kasese Citizens Coalition to Safeguard Biodiversity
18. Katwe Sanitation and Clean Energy Women's Club
19. Friends of Nature
20. Youth for Green Communities
21. DYCOPERA -Composed of civil society organisations from the Greater Virunga and Ituri regions of the DRC

CC

- The President of Uganda
- The Speaker, Parliament of Uganda
- The Minister of Finance, Planning and Economic Development
- The Minister of Energy and Mineral Development
- The Chairperson, National Economy Committee of Parliament
- The Chairperson, Natural Resources Committee of Parliament
- The Human Rights Committee of Parliament
- The CEO, UNOC
- The Executive Director, PAU
- Uganda Human Rights Commission
- The Inspectorate of Government
- The Auditor General