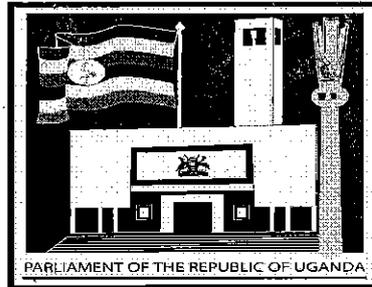


PARLIAMENT OF THE REPUBLIC OF UGANDA



**REPORT OF THE PARLIAMENTARY COMMITTEE ON NATURAL
RESOURCES ON THE PETROLEUM (EXPLORATION, DEVELOPMENT
AND PRODUCTION) BILL 2012**

AUGUST 2012

1.0 Introduction

The Petroleum (Exploration, Development and Production) Bill, 2012 was read for the first time on Wednesday February 8th, 2012 and in accordance with Rules 112 and 113 of the Rules of Procedure of the Parliament of Uganda, the Bill was referred to the Parliamentary Committee on Natural Resources for consideration.

2.0 Methodology

In the process of scrutinising the Petroleum (Exploration, Development and Production) Bill, 2012, the Committee;

- 1) Held meetings with and received views from;
 - i). The Ministry of Energy and Mineral Development;
 - ii). Prof. Jenik Radon, Columbia University, New York;
 - iii). His Highness the Omukama of Bunyoro Kitara Kingdom;
 - iv). The Civil Society Coalition for Oil and Gas; comprising Global Rights Alert, Publish What You Pay, Africa Institute for Energy Governance; Pro Diversity Conservationists in Uganda;
 - v). Human Rights Network (HURINET);
 - vi). Westminster Foundation for Democracy;
 - vii). Prof. Kasozi Ephraim of Makerere University;
 - viii). The United Nations Office for the Commissioner for Human Rights;
 - ix). Uganda Chamber of Mines and Petroleum;
 - x). Bunyoro Parliamentary Group;
 - xi). Bunyoro Local Oil and Gas Advocacy Group (BULOGA);

- xii). Hon. John Ken Lukyamuzi-The Shadow Minister for water and environment
- xiii). Centre for Constitutional Governance
- xiv). Uganda Wildlife Authority (UWA);
- xv). National Environment Management Authority (NEMA);
- xvi). Uganda Women Parliamentary Association (UWOPA);
- xvii). Parliamentary Forum on Oil and Gas;
- xviii). Prof. Sempebwa Frederick, Katende and Sempebwa Company Advocates;
- xix). The Office of the Auditor General;
- xx). Insurance Regulatory Authority;
- xxi). Cultural leaders of the Jonam;
- xxii). Global Witness-an International Non Governmental Organization;
- xxiii). The Association of Uganda Oil and Gas Services-an umbrella body of local service providers to the petroleum licensees in Uganda;
- xxiv). Ker Kwaro Acholi
- xxv). Uganda Revenue Authority
- xxvi). Inter Religious Council of Uganda;
- xxvii). Private Sector Foundation
- xxviii). Local Communities of Buliisa and Kabaale

2) Referred to relevant documents namely;

- i). The Constitution of the Republic of Uganda;
- ii). The Access to Information Act, 2005;
- iii). The Occupational Health and Safety Act;
- iv). The National Environment Act;
- v). Petroleum (Exploration and Production) Act 1985 (Ch 150);
- vi). The National Oil and Gas Policy for Uganda, 2008;
- vii). The Petroleum (Exploration and production) Regulations, 1993
- viii). The Public Finance Bill, 2012;
- ix). The Production Sharing Agreements;
 - a) Between the Government of the Republic of Uganda and Tullow Uganda Limited in respect of the Kanywataba prospect area;
 - b) Between the Government of the Republic of Uganda and Tullow Uganda Limited in respect of exploration area 1;
- x). The Bunyoro Agreement of 1955;
- xi). The views of the Members of the Parliamentary Adhoc Committee on the regularization of the Oil and gas sector;
- xii). The Environmental Monitoring Plan for the Albertine Grabben 2012-2016;
- xiii). The Land Act, 2004;
- xiv). The Companies Act, 2010;
- xv). The PPDA Act;

- xvi). The Interpretations Act
 - xvii). The Petroleum (Exploration and Production) Act, 1984 of Ghana
 - xviii). The Petroleum Commission Act 2011, of Ghana
- 3) Conducted fact-finding visits to;
- (i) The Albertine Graben;
 - (ii) Norway;
 - (iii)Australia;
 - (iv)United States of America.
- 4) Held Seminars and workshops

3.0 Objectives of the Bill

The object of the Bill is to give effect to Article 244 of the Constitution of the Republic of Uganda, 1995; to give effect to the National Oil and Gas Policy of Uganda (2008); to regulate petroleum exploration, development and production; to establish the Petroleum Authority of Uganda; to provide for the National Oil Company; to regulate the licensing and participation of commercial entities in petroleum activities; to provide for an open, transparent and competitive process of licensing; to create a conducive environment for the promotion and exploration of Uganda's petroleum potential; to provide for efficient and safe petroleum activities; to provide for the cessation of petroleum activities and decommissioning of infrastructure; to provide for the payment arising from petroleum activities; to provide for the conditions for the restoration of derelict lands; to repeal the Petroleum (Exploration and Production) Act CAP 150; and other related matters.

4.0 Defects in the existing law

The legal framework that currently governs the activities of the petroleum industry includes; the Petroleum Exploration and Production Act, 1985 Cap 150 and the Petroleum Supply Act, 2003. The Petroleum Exploration and Production Act, 1985 Cap 150 which is currently over two decades old is inadequate in effectively governing the oil and gas sector given the new and emerging challenges created by the discovery of commercial quantities of petroleum resources in Uganda. In addition, the National Oil and Gas Policy for Uganda, 2008 requires operationalization. Further, there is need to give effect to Article 244 of the Constitution of the Republic of Uganda, 1995. The culmination of all these is the need to overhaul the existing legal framework so as to enhance the effective handling of petroleum activities.

5.0 Brief Historical perspective to Uganda's oil and gas sector

Much as the history of petroleum exploration in Uganda dates back to the early 1920's when significant oil exploration was done by E.J. Wayland, a government geologist who documented substantial amounts of hydrocarbons in the Albertine Graben¹, consistent oil exploration activities only began in the early 1980s, as evidenced by the acquisition of aeromagnetic data across the entire Albertine Graben in 1983 and the enactment of the Petroleum (Exploration and Production) Act, 1985. In 2006, the announcement of oil discoveries in the Kaiso-Tonya area confirmed the commercial potential of the Albertine Graben area. To date, Oil and Gas Exploration activities in the Albertine Graben have had a

¹ http://www.ugandaoilandgas.com/ugandaoilandgas_003.htm

90% drilling success rate, with 58 of the 64 exploration and appraisal wells drilled to date encountering oil and/or gas.²

The establishment of the Petroleum Exploration and Production department within the Ministry of Energy and Mineral Development in 1991, culminated into the enactment of Petroleum (Exploration and Production) Regulations of Uganda 1993 and the grant of exploration licenses to foreign companies.

The discovery of commercial quantities oil and gas in Uganda ushers in unique challenges and opportunities accruing to the discovery of commercial quantities of petroleum in Uganda, the importance of regularizing the oil and gas sector inter-alia through proper and dependable legal, institutional and policy frameworks will enable Uganda to leverage this newly discovered wealth for the betterment of its people. It is noteworthy that the African continent is dotted with many instances of states that missed their opportunity, due to various reasons, to apply petroleum and other natural resource wealth prudently subsequently resulting into conflict, strife and environmental degradation. Averting such a scenario requires rigorous preparation and this report is one of the steps in that direction.

6.0 Observations and Recommendations

The Committee's observations are thematically structured around the core areas of; transparency and accountability, environmental concerns, local content, equity and participation, macro-economic implications of petroleum, institutional arrangements and legislative oversight.

i). Transparency and accountability

² <http://www.petroleum.go.ug/page.php?k=curnews&id=12>

The Committee is cognizant of the centrality of openness, transparency and accountability in enhancing the efficacy of institutions tasked with governing Uganda's petroleum sector. In the same vein, the Constitution of the Republic of Uganda 1995, the Access to Information Act 2005 and the National Oil and Gas Policy of Uganda, 2008 all recognise and seek to safeguard openness and access to information. However, it should be noted that since 1993 when the Government of Uganda signed the first Production Sharing Agreement, the secretive manner in which PSAs and their inherent clauses have been kept has raised a lot of consternation in the public. While some concerned citizens have opted to use the courts of law to gain access to these PSAs³, institutions like Parliament continue to grapple with inquests into allegations of gross irregularity in the oil and gas sector.⁴ Much as the Government argued that the disclosure of information in the PSAs would compromise its negotiating position in the allocation of the remaining oil exploration blocks in the Albertine Graben, it goes without saying that transparency and accountability is an indicator of good governance and in the absence of which, good governance will always remain a dream. To reinforce the efficacy of transparency and accountability, the Committee adopted a comparative analysis of Uganda and Ghana – a fellow emerging democracy on the African continent. Ghana is one Africa's leading democracies, with high freedom and anti-corruption rankings. When it discovered offshore oil in 2007, it chose to convene a national discussion involving all stakeholders. Institutions, including the press and civil society, were all able to contribute and play a role in shaping oil policy. Ghana has publicly released its PSAs, and is a leader in complying with the Extractive

³ Refer to Charles Mwanguhya Mpagi and Izama Angelo V Attorney General. Case Number 752 of 2009

⁴ Refer to the debate that characterized the special sitting of the 9th Parliament of Uganda on the 10th and 11th October 2011.

Industries Transparency Initiative ("EITI") not only in Africa, but globally.⁵ The Ghana experience is in stark contrast with our own. But more importantly it provides crucial lessons. With transparency and accountability, institutions are strengthened and good governance becomes a reality.

In pursuit of transparency and accountability, the Committee further notes that much as the Access to information Act (ATI), 2005 sets the parameters of accessing information in the possession of Government, the Official Secrets Act of 1964 which provides for secrecy in matters such as security and defence, was not repealed by the ATI Act. This Act creates barriers to citizen access to a broad range of government-held information and its vague and broad formulation inevitably perpetrates the culture of secrecy and confidentiality.

There is need therefore for this law that we are enacting to cascade openness and transparency, provide sufficient checks and balances and mitigate abuse of office and corruption.

ii). The economic implications of petroleum

As Uganda transits into the 'oil-age', it goes without saying that revenues and other economic benefits accruing to petroleum activity have the potential to hasten her growth and development depending on how it is managed. Experts have predicted that oil is poised to double government revenues from \$2.261 billion once full production is underway.⁶ This

⁵ Moss, Todd, and Lauren Young. "Saving Ghana from Its Oil: The Case for Direct Cash Distribution - Working Paper 186." *Center for Global Development*. Oct. 2009. Web. 01 June. 2012.

⁶ *Annual Economic Performance Report 2010/11*. Ministry of Finance, Planning and Economic Development.

implies that with oil revenues, chronic budget deficits will be mitigated and an increase in receipts from exports due to petroleum exports will spur macro-economic growth. However, if such hopes are to materialize, there is need for prudent and sustainable management of oil revenues. The colossal and sudden inflow of revenues accruing to petroleum may expose Uganda to the risk of undermining other sectors thereby ushering in negative macroeconomic effects of resource-funded spending, commonly termed as the "Dutch disease". The resultant effect is vulnerability to the inevitable decline in production once the petroleum resource is exhausted.

In addition, it should be noted that the oil and gas exploration and development if not managed prudently and responsibly can heighten disharmony between those who benefit from its development and those that suffer the disruption and displacement that so often accompany its extraction.

Given the finite nature of the petroleum resource that Uganda has been gifted with, there is need for deliberate and sustained effort to desist from over-reliance on oil revenues, and instead use and distribute the benefits accruing to petroleum equitably and sustainably to enhance national unity and cohesion while at the same time nurturing and developing strong national institutions that will transcend the era of petroleum. Further still, it is imperative to align the expenditure of petroleum revenues to local needs that will enable natives to bolster their capability to effectively participate in the oil and gas sector. Considering that the revenue management dimension of the oil and gas sector is enshrined in the Public Finance Bill, 2012, the Committee hopes that those scrutinizing that Bill bear this in mind.

iii). Environmental management

Uganda's oil discoveries have occurred in the ecologically sensitive Albertine and the Murchison Falls area of the River Nile. This calls for adequate safeguards to protect the delicate ecological balance. The Lake Albert for instance is integral in sustaining drainage to most if not all the wetlands and rivers in the Albertine Graben. In acknowledgement of the region's unique biodiversity and potential for eco-tourism, Uganda has established 22 protected areas in the Albertine Graben (75% of all protected areas in Uganda are in the Albertine Graben), including the nation's largest national park, Murchison Falls National Park, which is also the second most visited thanks to its spectacular wildlife viewing and the Victorian Nile Falls, which force the entirety of the Nile through a shoot 6m wide and into the Victorian Nile Delta, home to a vast array of threatened species including the crested crane, cheetah, hippopotamus and giraffe.⁷In addition, the bulk of the natural resources in the Albertine are shared at an international level thereby adding to the sensitivity and importance of the sustainable and responsible management of the environment given that any oil spillages, environmental destruction or safety hazards will have far-reaching local and international effects.

In addition, the Committee notes that waste management and disposal is already a challenge yet production is still to commence. Currently the waste from exploration activity is being stored in temporary locations such as bitumen containers and polythene. Actual disposal awaits the requisite waste management regulations from NEMA. This therefore calls for rigorous, timely and sustainable interventions in as far as waste disposal and management is concerned

⁷ National Environment Management Authority (NEMA). *Environmental Sensitivity Atlas For the Albertine Graben*. Vol. 2. Government of Uganda, 2010.

The Committee also notes the need for institutional safeguards for people affected by oil exploration; production and related activities yet such people are not directly employed in the industry.

The Committee recommends that the National Environment Management Authority, Uganda Wildlife Authority, the Water Resources Management Directorate and other state organs mandated to manage different aspects of the Environment need their capability enhanced and their operations adequately resourced if they are to efficiently and effectively monitor and regulate petroleum exploration and production activity and its ramifications on the environment. This may inevitably require an amendment to the Acts that establish the mandate and govern the operations of the respective agencies that superintend over the various aspects of the environment. This enhances the capacity to handle expanded mandates.

In addition, NEMA in consultation with other relevant Government agencies should efficiently and effectively devise modalities for waste management and disposal.

iv). Local Content and Participation

In the recent past there has been an upsurge in demands by locals in the Albertine Graben for a fair share of the proceeds of petroleum discovered in their vicinity. More prominently, His Highness the Omukama of Bunyoro, the Ker Kwaro Acholi and the traditional chiefs of the Jonam have been vocal in asserting the need for greater transparency, inclusion in decision making and equitably sharing the proceeds of oil and gas discovered in their localities. Amidst all these, it is imperative to note that

the extractive industries is generally less-labour intensive and as such local content and participation should not be narrowed to job allocations.

a) It is in this vein that the Committee recommends the establishment of requisite and appropriate institutional frameworks to enhance the capability of local Ugandans to harness the demographic and economic changes that accrue to oil exploration and production activity.

b) The Government should strictly monitor and enforce local content provisions in all production sharing agreements, especially in areas such as labour, training and local goods and services provision and generally facilitate Ugandan natives and local businesses to effectively participate in the oil and gas sector. This needs to be provided for in the law and this Bill provides an opportune moment. In addition, the capability of the state needs to be bolstered in as far as monitoring and enforcing local content provisions is concerned.

v). Institutional arrangements

The institutional framework in the Bill is based on a tripartite model separating government bodies into policy, regulatory and commercial functions. Whereas the Ministry of Energy and Mineral Development is tasked with broad overall policy and supervision, the routine monitoring work is vested in the various centres of competence such as the Petroleum Authority and the National Oil Company. The Minister retains the role of making regulations and general supervisory role over the Petroleum Authority. The Day to day administration is vested in the Authority because the Minister should not be bogged down with the day to day administration of the sector, while the National Oil Company is the main commercial arm of government in the oil and gas sector.

There is therefore need to clearly spell out the various roles, powers and obligations of the various institutions being established by the law. The volume of work for the regulatory authority is so enormous. Single point accountability where the regulatory authority grants a license monitors the activity of the licensee and takes the decision to revoke the license.

vi). The National Oil Company

The National Oil Company (NOC) as envisaged in the law will be the main commercial arm for state participation in the oil and gas industry. The NOC is usually premised on local expertise, nationalistic fervor, or a myriad of other factors and as a company, it usually develops along several different lines. Traditionally National Oil Companies have been established and nurtured as purely parastatal in nature and they handled their own sales of crude and of products from domestic refineries. Examples of this genre are: Iraq National Oil Company (INOC); Sonatrach (Algeria); Pemex (Mexico); and Petroleos de Venezuela. As may be expected, the relationships of such purely parastatal NOCs with the world oil community are predominantly on an arm's length basis. However over the years, the rigours of the industry in terms of the volume and cost of investment and adaptability to rapid technological changes has impacted on the nature of NOCs. There has been a realization that the NOC should not only embrace suitable private sector tendencies but also radically shed-off some, if not all, of its pervasive bureaucratic tendencies synonymous with many parastatals. This explains why many NOCs today have been modified to suit this trend and be able to attract private capital and ease technological transfer. Furthermore, the challenge of limited resources in emerging oil economies like Uganda implies that the state alone cannot adequately

meet the resource needs of the NOC hence posing a threat to the capability, growth and sustainability of the NOC.

This challenge can be ameliorated by setting up the NOC in a manner that makes it efficient and effective and suitable to attract private capital. As in the case of Uganda, the Companies Act has provisions that can permit the creation of such a NOC.

vii). Land rights and compensation

The Committee notes the need to entrench the categorical principle of compensation prior to acquisition, drawing on the guarantee of the customary and other rights to land laid down in the Constitution of Uganda. The Committee takes cognizance of the prevailing controversies surrounding the compensation of residents of Hoima affected by the construction works on the Hoima-Kaiso-Tonya Road and has already communicated this matter to the Minister of Lands, Housing and Urban Development. Much as the Ministry of Energy and Mineral Development has embraced the Resettlement Action Plan (RAP) as a comprehensive tool of handling matters of compensation in the Graben, there is need to ensure that;

- a) In handling compensation, the RAP conforms to the principles of fairness, adequacy, promptness and quick settlement. This compensation should transcend land per se and cover aspects such as heritage and other livelihoods as well.***
- b) There is need to define guidelines for prior and informed consent to land acquisition, including the guarantee of an open and transparent public hearing. During these hearings, it is imperative to provide full information in the applicable local languages on the proposed development, its potential benefits and its potential impacts at the local, regional and***

national levels, as well as the proposed resettlement and compensation measures for affected people. Special emphasis on the involvement of women residents in public hearings, and the incorporation of their perspectives on resettlement and compensation measures.

- c) ***Further, it is important to urgently devise a policy of compensation that upholds the Constitutional guarantees, protects the land rights of persons living in current and prospective oil-rich areas so as to ameliorate the potential ramifications of unfair land alienation and malpractices accruing to oil and gas activity. This is particularly critical since land is not just the primary source of livelihood but also defines the way of life for many rural Ugandans.***

A comparative analysis of the other resource-rich nations especially in developing countries reveals that issues of access to land and related resources, and forced displacement are a major reason of conflict. By providing for just and equitable practices around land, Uganda can avert similar problems.

The consideration of land acquisition and compensation in the oil producing areas should take cognizance of the range of customary land ownership patterns and the land rights of the people, which are recognized by the 1995 Constitution, that exist in the affected areas. This should further be translated into physical land surveying on the part of the government and awarding of land titles to people—a process that remains prohibitive in terms of financial, legal and social resources and therefore cannot be undertaken by the common Ugandan – a significant barrier in protecting himself or herself from exploitation and land alienation and

something which the GOU needs to seriously examine and address.

viii). Land use and Physical planning

Considering the infrastructural, commercial and other dimensions of the oil and gas industry and the vast repercussions there-in, there is need to bolster the physical planning of the areas where petroleum has been discovered or is potentially prevalent.

The Committee appreciates that the Albertine Graben has been declared a special planning area but further notes the need to expeditiously effect this plan and accordingly bridge the information gap about it.

ix). Health and safety

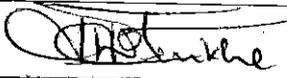
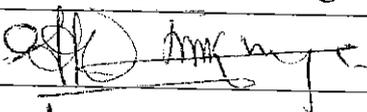
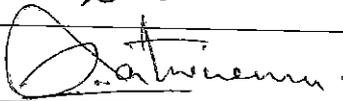
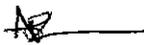
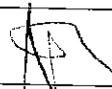
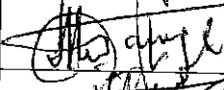
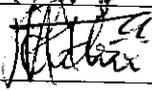
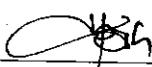
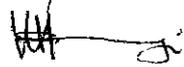
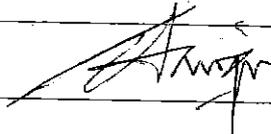
It is noteworthy that the oil and gas industry and its attendant activity comes with health and safety risks in as far as contamination, fires and adverse mechanical occurrences, among others are concerned. For the case of Uganda, in addition to the afore-mentioned risks, there also exists the threat of fault rupturing considering the geographical history of the rift valley formation in the area. This requires adequate capacity to not only manage such occurrences but also enable their avoidance.

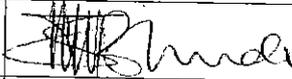
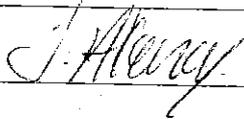
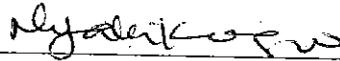
There is therefore need to develop the requisite health and safety capabilities across the various stakeholders operating in the industry. In addition, the policy and regulatory framework should address matters of health and safety appropriately.

7.0 Recommendations

The Committee recommends that the Petroleum (Exploration, Development and Production) Bill, 2012 be passed into law subject to the proceeding proposed amendments.

**ENDORSEMENT OF THE REPORT OF THE COMMITTEE ON
NATURAL RESOURCES ON THE PETROLEUM (EXPLORATION,
DEVELOPMENT AND PRODUCTION) BILL, 2012**

NO	NAME	SIGNATURE
1.	Hon. Kafabusa Werikhe Michael	
2.	Hon. Kwizera Eddie Wagahungu	
3.	Hon. Wamakuyu Mudimi	
4.	Hon. Nankabirwa Anna Maria	
5.	Hon. Katwiremu Yorokamu	
6.	Hon. Bangirana Kawooya Anifa	
7.	Hon. Mujuni Vincent Kyamadidi	
8.	Hon. Byarugaba Grace	
9.	Hon. Muhwezi Jim Katugugu	
10.	Hon. Wangolo Jacob	
11.	Hon. Ruhunda Alex	
12.	Hon. Kiwanda Godfrey	
13.	Hon. Drito Martin	
14.	Hon. Bigirwa Julius Junjura	
15.	Hon. Komuhangi Margaret	
16.	Hon. Bakaluba Mukasa	
17.	Hon. Yaguma Wilberforce	
18.	Hon. Namirembe Bumba Syda	
19.	Hon. Lokeris Samson	

20.	Hon. Sejusa David	
21.	Hon. Alaso Alice Asianut	
22.	Hon. AtimAnywar Beatrice	
23.	Hon. Bwambale Bihande	
24.	Hon. Okumu Reagan	
25.	Hon. Ibi Florence Ekwau	
26.	Hon. Akena James	
27.	Hon. Ken Lukyamuzi	
28.	Hon. Baryayanga Andrew	
29.	Hon. Oboth Jacob Marksons	
30.	Hon. Phyllis Chemutai	
31.	Hon. Nyakikongoro Rose	

AMENDMENTS TO THE PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL, 2012.

- **Clause 2, page 10, Purpose of this Act**

(a) **insert** a new sub-clause (1) as follows -

“(1). The purpose of this Act is to operationalise the National Oil and Gas Policy by -

(a) establishing an effective legal framework and institutional structures to ensure that the exploration, development and production of petroleum resources of Uganda is carried out in a sustainable manner that guarantees optimum benefits for all Ugandans, both the present and future generations.”

(b) creating a conducive environment for the efficient management of petroleum resources of Uganda including -

(i) promotion of reconnaissance and exploration for petroleum in Uganda;

(ii) evaluation of discoveries;

(iii) development and production of petroleum resources;

(iv) storage of petroleum before transporting it to a delivery point; and

(v) transportation of petroleum up to a delivery point.

(c) establishing institutions to manage the petroleum resources and regulate the petroleum activities;

(d) regulating petroleum activities, including licensing, exploration, development, production and cessation of petroleum activities or decommissioning;

(e) ensuring public safety and protection of public health and the environment in petroleum activities; and

(f) supporting the development of State participation and national content in the petroleum industry in Uganda.”

Justification:

To emphasise the establishment of an effective legal framework and institutional structures for the petroleum sector to achieve optimum benefits as the critical purpose of the Act.

(c) **insert** a new paragraph (g) as follows -

“(g) providing for Parliamentary participation in the oil and gas sector”.

Justification:

To include Parliamentary participation as one of the purposes of the Act.

(d) **insert** a new paragraph (h) as follows -

“(h) ensuring transparency and accountability in the conduct of all activities regulated under this Act.”

• **Clause 3, page 10, - Interpretation**

(a) Substitute for the definition of “block” the following –

“block” means acreage which may be stratigraphically delineated as provided for in schedule 3 of this Act and includes part of a block as constituted”.

Justification:

To widen the definition to accommodate situations of licensing by stratigraphic delineation.

insert the following new definitions -

(i) *“Delivery point” means the point at which petroleum passes through the intake valve of the pipeline, vessel, vehicle, craft, terminal or refinery in Uganda*, Immediately after the definition of *“currency point”*

Justification:

To provide for the most appropriate definition of the term which also caters for refinery situations.

(ii) *“Discovery area”* immediately after the definition of the word *“discovery”* as follows -

“Discovery area” means the block or blocks in an exploration area comprising the geological feature as outlined by the relevant geological or geophysical data in which a discovery is located”.

Justification:

To define vital aspects of the petroleum value chain as applied in the Bill.

(iii) **Substitute** for the definition of ***“petroleum activity”*** the following -

“Petroleum activity” means planning, preparation, installation or execution of activities related to petroleum including reconnaissance, exploration, development, production, transportation, storage, cessation of activities or decommissioning of facilities.”

Justification:

To give a clearer delineation between midstream petroleum operations and upstream activities.

(c) In the definition of *“reconnaissance”* **delete the word** *“and”* appearing immediately after the word *“geophysical,”* and **insert** the words *“and*

drilling of shallow boreholes for calibration” immediately after the word “surveys”;

Justification

To include drilling of shallow boreholes in the definition of “reconnaissance” to allow seismic surveys to be carried out optimally.

(d) **Immediately after the definition of “reservoir” insert** the following new definition-

*“**transportation**” means the movement of petroleum from the wellhead to the delivery point;”*

Justification

To differentiate the transportation under the upstream Bill which involves transportation by pipeline up to the delivery point from the transportation under the midstream Bill which is referred to as “transmission”.

• **Clause 4, page 15 - Compliance with environmental principles**

(a) **Substitute** in (1), for the words “...take into account, and give effect to...” the words “...comply with...”

Justification:

To ensure strict compliance with the environmental principles prescribed by the National Environment Act and any other relevant law.

(b) **Substitute** in sub clause (5), for the words -

(i) “...five...” the words “...one hundred...”

(ii) “...ten years...” the words “...twenty...”

(c) **Substitute** in sub clause (7), for the words “...five...” the words “...fifty...”

Justification:

To provide for a more deterrent penalty.

- **Clause 6, page 16 - Prohibition of petroleum activities without authorisation**

Substitute in sub clause (2) paragraph (a), for the word "...ten...", the word "...one hundred..."

Justification:

To provide for a more deterrent penalty.

- **Clause 7, page 19 - Agreements with Government**

A. insert a new sub-clause (2) to provide for the extent to which clauses on confidentiality, stabilisation of law and arbitration can be negotiated in a Production Sharing Agreement or any other agreement made under section 7 as follows -

"(2) An agreement entered into under sub-section (1) of this section may comprise clauses in regard to confidentiality, stabilisation of law and arbitration provided that -

(a) the confidentiality clause shall only seek to restrict publication of information to third parties regarding the person's commercial or other information that is protected under the Access to Information Act, 2005, laws governing intellectual property rights and any other relevant laws.

(b) the stabilisation clause shall not prevent Government from exercising its legislative mandate to enact future legislation which may affect the agreement.

(c) the arbitration shall be done in accordance with the laws of Uganda".

B. Insert new sub-clauses (3 and (4) to provide for Cabinet and Parliamentary approval of model Production Sharing Agreements or any other model agreements as the case may be, as follows -

“(3) The Authority shall develop or cause to be developed a model Production Agreement or any other model agreement as may be entered into by Government under this section which shall be submitted to Cabinet for approval.”

“(4) The Minister shall lay before Parliament the model Production Agreement or any other model agreement approved by Cabinet under subsection (3).”

“(5) A model agreement approved by Cabinet shall guide negotiations of any future agreements under this section and any future agreements shall comply with the provisions of the model agreement except that modifications which are not contrary to this Act or any other relevant law and are justifiably necessary to address unique aspects of individual agreements may be made.”

Justification:

To guide contract negotiations to avoid bad deals for the Country' without scaring away investment in petroleum exploration and development.

C. Insert a new sub-clause (6) to create specific offences in regard to failure to comply with section 7 and corrupt tendencies in negotiating contracts as follows -

“(6) A person who, being a Minister, a public officer or any other person mandated or authorised to perform a duty or a function under this section shall perform that duty or function in a manner that ensures compliance with the provisions of this Act and any other relevant law.”

“(7) A person mentioned in subsection (6) who performs a duty or a function under this section contrary to the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding two hundred thousand currency points or imprisonment not exceeding four years or both.”

“(8) A person who offers, gives, receives or solicits anything of value to influence an action of a politician or a public officer in the process of negotiating an agreement under this section commits an offence and shall on conviction be liable to a fine not exceeding two hundred thousand currency points or imprisonment not exceeding twenty years or both.”

Justification:

To provide for prohibitive sanctions to ensure compliance with the law.

- **Clause 9, page 17 – Functions of the Minister**

Delete paragraphs (b), (c) and (d).

Justification:

They are redundant since these are the known functional duties of the Minister; besides, clause 180 empowers the Minister to make regulations for the sector.

- **Clause 11, page 18 - Functions of the Authority**

(a) **Substitute** for sub-clause (1) the following -

“(1) The Authority shall be responsible for the monitoring and regulation of petroleum activities in Uganda”.

Justification:

To specifically provide for the broader responsibility of the Authority as being to monitor and regulate petroleum activities in Uganda.

(b) In sub clause (2) (a), **substitute** for the words “oil and gas”, the word “petroleum and other substances”

(c) In sub clause (2) (b), **substitute** for the word “operations” the word “activity”.

Justification

To provide clarity since the word petroleum activity is defined in the Bill.

(d) **Substitute** for sub clause (2) (g), the following-

“(g) participate in the measurement of petroleum to allow for estimation and assessment of volume, composition and value for fiscal or economic purposes or for resource management and operational reasons and be responsible for the approval of the exercise;”

Justification

No final decision has been made as to the modelling of fiscal or economic term elements. Rather than linking the measurement to specified elements, it is recommended to use a language which is generic to encompass measurement for any fiscal or economic purposes. In addition measurement of petroleum may be required for other reasons than for fiscal and economic purposes. The revised language reflects this.

- **Clause 12, page 20- Conduct of functions of the Authority**

In sub clause (2) (b) **insert** the word “*petroleum*” immediately before the word “*activities*”.

Justification

To provide clarity since the word petroleum activity is defined in the Bill.

- **Clause 14, page 21 - Directions by the Minister**

Insert in sub clause (1), the words “*...approved Government...*” immediately after the words “*...respect to the...*”

Justification:

To require that the policy must be approved by Government.

- **Clause 18, page 22 - Board of directors**

Substitute for sub clauses (4), (5) and (6), the following and re-number accordingly -

(4) The members of the Board appointed under subsection (2) shall be persons who are qualified in and have experience and proven capacity in any of the following-

- (a) petroleum geosciences or petroleum engineering;*
- (b) environment;*
- (c) health and safety or insurance;*
- (d) law;*
- (e) business administration or management, or finance or economics;*
- (f) chemical and process or refinery engineering;*
- (g) land use planning and management."*

(5) For the avoidance of doubt, the Minister shall, for each of the qualifications prescribed under subsection (4), appoint only one person.

(6) The Minister shall designate as chairperson of the Board, one of the members appointed under subsection (2) who is qualified and experienced in the disciplines prescribed under subsection (4) (a), (b) (d) or (e).

(7) The Executive Director shall be the Secretary to the Board."

Justification

To widen the relevant experience to include land use, planning and Management and insurance; and to ensure that the chairperson of the board is a person experienced in the core and most relevant (in terms of knowledge of the key technical aspects of the sector and management and administration) disciplines of petroleum geosciences or engineering, environment, law, or business administration or management, or finance or economics.

- **Clause 20, page 24 - Tenure of office**

(a) **insert** in sub-clause (1), the word "...only..." between the words "... re-appointment for..." and "...one more..." term.

Justification:

To emphasise that the re-appointment should be for only one more term.

(b) **Delete** the words "...be appointed to..." appearing between the words "...members of the Board shall..." and "...hold office...".

Justification:

Re-appointment entitles members of the board to hold office without further appointment.

- **Clause 21, page 24, Termination of appointment**

Insert in sub clause (2) the words “...upon appointment or...” immediately after the word “...disclose...”

Justification:

To require members of the board to disclose relevant matters in which they have an interest.

- **Clause 33, page 31 - Duty not to disclose information**

Insert in subsection (1), at the beginning of the provision, the words “Subject to this Act, the Access to Information Act, 2005...”

Justification:

To keep the non-disclosure within the limits authorised by law.

- **Clause 34, page 31 - Funds of the Authority**

1. **Delete** paragraph (b)

Justification:

To preserve the integrity of the Authority by insulating it from grants and donations which may be compromising.

2. **Insert** a new paragraph (d) as follows -

“(d) any revenues in form of rentals, bonuses, sale of data packages and technical information prepared for bidding rounds and levies as the Authority may determine, with the approval of the Minister, but shall exclude revenue accruing to Government in form of royalties, surface rentals, signature bonuses, proceeds from sale of Government share of production and any other duties or fees payable to the Government from contract revenues under the terms of a petroleum agreement.”

Justification:

To empower the Authority to generate some revenue to support its financing.

- **Clause 42 (2)(a), page 32 - Annual report.**

Insert the word “...petroleum...” immediately before the word “...reserve...”

Justification:

To be specific as to the type of reserves.

- **Clause 43, page 34 - Establishment of the National Oil Company**

(a) insert in sub clause (1) the words “...which shall be wholly owned by the State...” immediately after the words, “...National Oil Company...”

Justification:

To ensure that the National Oil Company is fully owned by the Republic of Uganda.

(b) insert a new sub clause (2) as follows -

“(2) The National Oil Company may, with the approval of Parliament, offer its shares to the public upon acquisition of the required competencies and capacity provided that the State shall retain sixty seven percent of the shares in the company.”

(c) insert a new sub clause (3) as follows -

“(3) Before the issuance of its shares to the public under subsection (2) of this section, the shareholders of the National Oil Company shall be the Minister who shall hold ninety nine percent and the Minister responsible for Finance who shall hold one percent of the companies shares on behalf of the State.”

Justification:

To specifically provide for the ownership of the National Oil Company; its shareholding structure; and to empower the company to issue its shares to the public in a manner in which the State retains majority shares.

Consequential amendments to renumber sub clauses (2(and (3) to become (4) and (5) respectively.

- **Clause 44, page 35**

Substitute for paragraphs (g) and (h) the following -

“(g) to participate, in accordance with the terms of the petroleum agreement, in joint ventures in which it holds an interest on behalf of the State.”

“(h) to participate in meetings of the operating committees in furtherance of its participation in the respective joint operating agreements; and”

Justification:

To spell out the specific functions of the National Oil Company more clearly.

- **Clause 45, page 35- Duties of the Board of Directors of the National Oil Company**

In sub clause (1) (b) **insert** the word “*petroleum*” immediately before the word “*activities*”.

Justification

To provide clarity since the word petroleum activity is defined in the Bill.

- **Clause 47, page 36- Instructions to the National Oil Company**

Delete the words “*including the stipulation of rules relating to the duty of secrecy of Board members and employees*” appearing at the end of the clause.

Justification

It is catered for under clause 150(3).

- **Clause 48, page 36 - Opening up of new areas for petroleum activities**

1. In sub clause (1), **substitute** for the word "shall", the word "may"

Justification

To give the Minister discretion in deciding whether or not to open up new areas for licensing. For instance, based on a Strategic Environment Assessment, it may be good grounds for the minister not to open up parts of an area considered for opening up.

2. **insert** a new sub clause (4) as follows -

"(4) The Minister shall submit to Parliament a report detailing the areas to be opened up for petroleum activities and the evaluation and impact assessment conducted under subsections (2) and (3)".

Justification:

To inform Parliament right from the beginning of petroleum activities.

3. **Substitute** for sub clause (8) the following -

"(8) Where the views and comments under subsection (5) are negative, the Minister in consultation with other relevant Government agencies, shall consider and take into account such views and may declare an area open for petroleum activities."

Justification:

To require the Minister to consult on the negative views in order for him or her to make an appropriate and well informed decision.

4. Renumber the sub clauses to accommodate the changes made.

- **Clause 49, page 37 - Application for reconnaissance permit**

Insert at the end of sub clause (3), the words "...and shall require the applicant to comply with environment restoration conditions as may be determined by the National Environment Management Authority in consultation with the Minister".

Justification:

To mandate NEMA to require restoration of the environment as one of the conditions for the grant of a reconnaissance permit.

- **Clause 50, page 38 - Grant of petroleum reconnaissance permit**

Insert a new sub clause (2) as follows -

“(2) The Minister shall announce all reconnaissance activities in the local languages, on local media, of the area where the permit applies and shall designate a local contact office from which or a person from whom the public can access information or register their concerns”.

Justification:

To inform the public to be affected, of the reconnaissance activities.

- **Clause 51 - page 38 - Activities authorised by reconnaissance permits**

Insert a new sub clause (3) as follows-

“(3) Where reconnaissance activities are to be carried out in an area that is a gazetted habitat for wild life, they shall be conducted in a manner that takes into account the breeding and migratory patterns of the wild life in the area.”

Justification:

To minimise interruption to the breeding and migratory patterns of wild life.

- **Clause 53, page 39 - Announcement of areas for petroleum exploration licensing**

(a) **insert** a new sub clause (2) as follows -

“(2) The Minister shall, within fifteen days of approval by Cabinet under sub section (1), report to Parliament all areas open for bidding for a petroleum exploration licence.”

Justification:

To require the Minister to bring Parliament on board to enhance Parliament's oversight mandate.

(b) **Split** sub-clause (2) into two sub-clauses (3) and (4) as follows-

"(3) The announcement referred to in subsection (1) shall be published in the Gazette and in newspapers of national and international circulation and in other electronic and print media."

"(4) The announcement shall -

(a) state the area open for petroleum exploration;

(b) stipulate a period of not less than three months for making applications; and

(c) contain such information as the Minister may consider necessary".

Justification:

For clarity

(c) **Insert** in the original sub clause (4) the words "... this Act and regulations made under this Act..." immediately after the words "...in accordance with..."

and **delete** the words "...procedures prescribed by regulations or by the Public Procurement and Disposal of Public Assets Act, 2003 and any other relevant laws in Uganda".

The new clause provides as follows:

"(4) The bidding process shall be carried out in accordance with this Act and regulations made under this Act".

Justification:

To specifically provide that the relevant law for the bidding process for petroleum exploration licence shall be the Petroleum (Exploration, Development and Production) Act and regulations made under the Act.

Consequential amendment: Re-number the clauses accordingly.

- **Clause 54, page 39- Direct applications**

1. **Insert** the word “...the...” immediately before the word “...exceptional...” and **Substitute** for the word “...include...”, the word “...shall be -”

Justification:

To define the exceptional circumstances in specific and certain terms to close avenues for abuse.

2. **Insert** the words “...where the...” immediately before the word “...application...” and **insert** the word “...is...” immediately after the word “...application...”

Justification:

To complete the provision.

3. **Substitute** for paragraph (c), the following -

“(c) the need to enhance the participating interest of the State.”

Justification:

To provide, in specific terms, the need to enhance the participating interest of the State as one of the exceptional circumstances.

- **Clause 56, page 41 - Objection to petroleum exploration activity**

Substituting for the word “...activity...” the word “...licence...”, in the head note.

Justification

Part IV deals with licensing and clause 56 should provide for objection to petroleum exploration licence not activity.

- An adjustment in the numbering of clauses has been done to ensure a logical flow of certain provisions as follows –

(i) **Clause 57, page 41 - Application for petroleum exploration licence** is re-numbered as clause 54.

(ii) **Clause 56, page 41 - Objection to proposed petroleum activity** is re-numbered as clause 55 with an amendment to substitute for the word "...activity..." the word "...licence...", in the head note.

Justification:

Part IV deals with licensing and **clause 56**, to be consequentially renumbered as **clause 55** should provide for objection to petroleum exploration licence not activity; and also to ensure a logical flow of the provisions.

Consequential amendments:

To re-number subsequent provisions accordingly.

- **Clause 59 page 43 - Grant of petroleum exploration licence**

1. **Transfer** the word "...may..." which appears immediately after the word "...the Minister..." to a position between the words "...duly made..." and "...grant..."

2. **Insert** the words "...in accordance with section 57 of this Act..." immediately after the words "...application duly made..."

3. Redraft to read as follows:

"(1) The Minister, in consultation with the Authority and with the approval of Cabinet upon an application duly made in accordance with section 57 of this Act, may grant a petroleum exploration licence on such conditions as he or she may determine in respect of any block or blocks."

Justification:

To grant the Minister discretion to either grant a petroleum exploration licence or not; to require the Minister to consult the Authority before issuing a petroleum exploration licence; and to achieve clarity.

- **Clause 61, page 44- Rights conferred by petroleum exploration licence**

Substitute for the word “operations” appearing in the second last line, the words “petroleum activities”

Justification

To provide clarity and consistency since the word petroleum activity is used and defined in the Bill.

- **Clause 62 page 44 - Duration of petroleum exploration licence**

Insert in paragraph (b), the word “...subsequent...” immediately before the word “...period not...”

Justification:

To emphasise a renewal period.

- **Clause 64, page 46 - Relinquishment of areas**

(1) **Substitute** in sub clauses (1) and (2) for the words “Subject to Any modification contained in a petroleum agreement...” the words “Subject to this Act...”

(2) **Insert** a new sub clause (3) as follows –

“(2) For purposes of sub section (1), a block which is stratigraphically delineated shall be considered as a block before it was stratigraphically delineated”.

Justification:

Relinquishment should be made in accordance with the Act; and to cater for stratigraphically delineated blocks for purposes of Relinquishment.

- **Clause 65, page 46 - Renewal of petroleum exploration licence**

(a) **Insert** in sub-clause (4) the words “...as may be prescribed in regulations by the Minister...”

Justification:

To empower the Minister to make regulations to prescribe the special circumstances there by creating certainty.

(b) Immediately after sub clause (7), ***insert*** the following new sub clause -

“(8) The renewal of a petroleum exploration licence under this section may be made subject to such other conditions as the Minister may deem necessary”.

Justification

To allow the Government retain negotiation leverage if required during the exploration phase, by not limiting the conditions for renewal of exploration licence.

• **Clause 66, page 48- Exploration for petroleum**

(a) In paragraph (a), ***insert*** the words *“and carryout”* immediately after the word *“commit to”*.

(b) In paragraph (d)-

(i) ***insert*** the words *“a minimum number of”* immediately after the word *“drill”*;

(ii) *“and ***insert*** the word *“and”* immediately after the word *“wells”*;
*and**

(iii) ***delete*** the words *“as the basis for the data acquired from the activities referred to in paragraphs (b) and (c)”*

(c) Immediately after paragraph (d), ***insert*** the following new paragraph-

“(c) carry out any other exploration activity stipulated in the minimum work programme”

Justification

To better reflect that it is the minimum work programme that specifies what activities that licensee is obliged to carry out during the exploration phase; and for clarity.

• **Clause 67, page 48 - Notification of discovery of petroleum**

(a) ***insert*** in paragraph (d) of sub clause (1) the word *“...report...”* immediately after the word *“...evaluation...”*

Justification:

To achieve clarity.

(b) **insert** in sub clause (2) the words "...of a discovery of petroleum...".

Justification:

To achieve clarity

(c) **substitute** for sub-clause (6) the following -

"(6) Where petroleum is discovered in an exploration area, the Authority may require by notice in writing served on the licensee from time to time to submit in writing within the period specified in the notice particulars of -

(a) the chemical composition and physical properties of the petroleum;

(b) the stratigraphical position and depth of the discovery; and

(c) any other matters relating to the discovery specified by the Authority in the notice."

Justification:

Redrafted to achieve clarity.

- **Clause 69, - page 50 - application for petroleum production licence.**

Insert a new sub clause (2) as follows and renumber accordingly -

"(2) The exclusive right referred to in subsection (1) applies only to reservoirs included in the application and any other prospect or discovery within the area which the application covers may be required to be stratigraphically delineated or relinquished."

Justification:

To accommodate licensing of stratigraphically delineated areas.

- **Insert the following new clause immediately after clause 68-**

"69 Disposal of petroleum during exploration

Any petroleum extracted during exploration period for purposes of testing the reservoir before the issuance of a production licence shall be dealt with in a manner agreed upon by agreement by the Government and the licensee."

Justification

To enable Government and the licensee dispose of any petroleum extracted during the exploration phase but before the issue of a production licence and to avoid flaring or reinjection into the well of the said petroleum. Currently, there is no provision in the law on how to deal with it.

• Clause 71, page 52- Report on reservoir and field development plan

(a) In sub clause (2), ***insert*** the following new paragraph immediately after paragraph (h)-

"(i) an assessment of the potential effects of the petroleum activities on the environment, social and other relevant activities"

Justification

To require the licensee to carry out an impact assessment in connection with the submission of any field development plan to allow for a wider scoped impact assessment and not only be limited to an environmental impact assessment.

(b) Amend sub clause (3) as follows-

(i) In paragraph (a) ***insert*** the words "use or" immediately before the word "disposal".

(ii) ***Insert*** the following new paragraphs (b) and (c) immediately after paragraph (a) and renumber accordingly-

"(b) the applicant's assessment of whether the development and production of the reservoir should be subject to unitisation or joint petroleum activities in accordance with this Act;"

"(c) the applicant's assessment of how to coordinate petroleum activities with other licensees, including the joint use of facilities subject to this Act and any other applicable law;"

(iii) Immediately after paragraph (l), **insert** the following new paragraphs-

“(m) information as to how the facilities may be disposed of when petroleum activities have ceased; and

“(n) where the development is planned in two or more phases, the applicant shall provide information on the full development to the extent possible.”

Justification

To ensure efficient and coordinated petroleum activities, including in relation to any midstream operations planned in close coordination with the upstream activities.

29. Clause 72, page 55- Duration for processing application or bids for petroleum production licence

1. **Re- number** the current provision as sub clause (1).
2. **insert** the following new sub clause-

“(2) For avoidance of doubt, the applicant for a petroleum production licence shall not enter into any substantial contractual obligations or commence construction work until a field development plan has been approved.”

Justification

To ensure that a licensee does not make any commitments before the field development plan is approved and to avoid a situation where the Government would feel obliged to approve a development plan because of the extent of contractual obligations already entered into by the licensee. This increases the possibility for Government to influence the outcome of the assessment of the field development plan.

- **Clause 76, page 57 - Content of petroleum production licence**
 - (a) **Insert** at the beginning of sub-clause (1) paragraphs (c), (e), and (f), the word “shall...”

Justification:

To complete the provision in order to achieve clarity.

(b) In sub clause (3), **insert** the words “*supply of petroleum produced to a refinery, gas conversion plant or plant for energy generation*”, immediately before the word “*disposal*”.

Justification

The new words refer to refining and gas conversion, by stating that conditions may require a licensee to provide feedstock to a specific refinery or power generation plant.

(c) Immediately after sub clause (3), **insert** the following new sub clause-

“(4) The Minister may stipulate as a condition for granting a petroleum production licence that the licensee shall enter into agreements with other licensees on terms specified by the Minister.”

Justification

To empower the Minister to require a licensee to enter into agreements with other licensees since clause 76 also applies to the petroleum production licence and not only the petroleum exploration licence as stated under clause 53 (3).

• **Amend Part VI as follows-**

(a) Insert the following new clauses immediately after clause 80 and renumber accordingly-

“81. Grant of licence for the placement and operation of a facility

(1) The Minister may in consultation with the Authority, on application duly made for a licence to install, operate or use a facility to carry out a petroleum activity, grant to the applicant a facility licence in such a manner and on such conditions as the Minister may determine.

(2) A facility licence may only be granted for the construction, placement, operation or use of a facility not already subject to a petroleum production licence.

(3) *The facility licence may be granted for a duration stipulated by the Minister and may, subject to application from the licensee, be renewed by the Minister.*

(4) *The applicant shall obtain permission or licence required by applicable law in respect of a facility licensed.*

(5) *The details of the procedure for application, grant, and renewal of a facility licence shall be prescribed by regulations.*

82. Content of a facility licence

Without prejudice to the generality of section 81(5), a facility licence shall, as a minimum include-

(a) the date of the grant of the licence;

(b) the geographical area to which the licence relates;

(c) the facility or facilities, activities or use to which the licence relates;

(d) any conditions on which the licence is granted; and

(e) the operator.

• 83. Rights conferred by a facility licence

A facility licence, while it remains in force shall, subject to any other law, and conditions of the licence, confer on the licensee, the right to install, place, operate or use a facility."

Justification

To leave part of the pipelines for transportation of petroleum under the Upstream Bill. This is because the owner or operator of the contemplated pipelines from the fields to a refinery or midstream storage facility may not be the same as the licensee under a Production Sharing Agreement. Also a licence for the installation and operation of a pipeline may be granted for a different period than the period stipulated in a petroleum production licence.

• Clause 81. Page 61 - Disclosure of co-operation agreements by applicants

delete sub clause (2).

Justification

Clause 81 (1) does not apply to joint petroleum activities or unitisation, the clause relates to two or more applicants who decide to apply for a petroleum production licence together. Sub-clause (2) deals with coordination of petroleum activities and therefore fits better under clause 101.

- **Clause 85, page 63 – Work practices for licensee**

substitute in sub clause (4), for the words “...one hundred...”,
the words “...two hundred...”

Justification:

To provide for a more deterrent penalty.

- **Clause 95, page 73 - Measurement of petroleum**

Substitute for clause 95, the following-

“(1) The Minister may, by regulations, stipulate the equipment, methods and standards to be applied for measurement of petroleum produced, processed or transported for resource management, operational, economic and fiscal purposes.

(2) The Minister may stipulate in regulations that there shall be multiple measurement points.

(3) The licensee shall measure and report on the composition, volume and value of petroleum measured at the measurement points as prescribed by regulations.

(4) The Authority may, from time to time, direct that any measuring appliance be tested or examined in a manner, upon occasions or at intervals, and by means specified in the direction.

(5) Where the Authority, after considering any representations in writing made by the licensee concerned, determines that a measuring appliance is, upon any test or examination under subsection (4), found to be false or unjust-

(a) the appliance shall be deemed to have existed in that condition during a period presented by half of the period from the last occasion on which the appliance was tested or

examined under subsection (4), to the date when the appliance was found to be false or unjust; or

(b) any royalty payable under the licence for that period shall be adjusted accordingly.”

Justification

The details relating to the measurement of petroleum shall be prescribed by regulations under the current clause 95 (1). The sub clauses proposed for substitution attempt to stipulate the manner in which petroleum will be measured yet they are not exhaustive enough. It's better to leave it for regulations for more specific details.

Further, the original sub clauses provide for the measurement of petroleum produced. The proposed provisions include “processed petroleum” as one alternative to clarify that measurement in and out of central processing unit shall also be included, as applicable. It may be required to measure petroleum at several different points from the well to the point where the petroleum enters a refinery, a storage facility or is shipped in bulk. The language has thus been adjusted to include transportation as well.

- **Clause 97, Page 74 - Restrictions on gas flaring and venting**

substitute in sub clause (6), for the words “..one hundred...” the words “...five hundred...”

Justification:

To provide for a more deterrent penalty.

- **Clause 101, page 77- Coordination of activities across licence boundaries**

Substitute for clause 101 the following-

“101. Unit development

“(1) A reservoir extending from one licence area into another shall be subject to a unit development.

(2) The affected licensees shall agree within a reasonable time on how to co-ordinate the development of a reservoir to achieve optimal recovery of petroleum.

(3) A unit development agreement shall include principles for apportionment of petroleum from the reservoir.

(3) The terms and conditions of the agreement referred to in subsection (1) shall be subject to approval by the Authority.

(4) Where consensus on a unit development agreement in subsection (1), is not reached by the licensees within a reasonable time, the Authority may determine how the unit development shall be conducted, including the apportionment of the petroleum from the reservoir.”

Justification

To require licensees to enter into unit development agreements in cases where the reservoir extends beyond one licence area.

- ***Insert*** the following new clause immediately after clause 101-

“102. Joint petroleum activities

(1) The licensees may agree on joint petroleum activities of several reservoirs including joint exploration, drilling, production, transportation, utilisation or decommissioning and disposal.

(2) The terms and conditions of a joint agreement referred to in subsection (1) on joint petroleum activities shall be subject to approval by the Authority.

(3) Where the joint petroleum development of several reservoirs is clearly socio-economically favourable or beneficial from a resource management perspective, the Authority may require the licensees to enter into an agreement for one or several joint petroleum activities within a specified period of time.

(4) The Authority shall give notice to the licensee, stating the deadline for reaching the joint agreement.

(5) Where the licensees fail to reach an agreement for joint petroleum activities referred to in subsection (3) within the stipulated deadline, the

Authority may determine how the joint petroleum activities shall be conducted.”

Justification

To introduce a provision for the regulation of joint development of several reservoirs. Furthermore the new provision would require all agreements on joint petroleum activities to be subject to approval by the Authority.

• **Clause 113, page 83 - Removal of property by licensee**

- (i) **Substitute** in sub clause (1) (a) for the word “...operations...”, the words “...petroleum activities...”
- (ii) In sub clause (1) (b), **Substitute** for the word, “...made...”, the word “...drilled...”.
- (iii) in subclause (1)(b) substitute for the words “ those operations”, the words “petroleum activities”

Justification:

To provide for clarity and consistency. The word petroleum activity is defined in the Bill and to apply the appropriate industry word.

- (iii) in sub clause (3) by substituting for the words “...one thousand...”, the words “...ten thousand...”

Justification:

To provide for a more deterrent penalty.

• **Clause 120, page 88 - Pricing of petroleum**

Substitute for the provision with following -

“120 The pricing of petroleum shall be in accordance with the method prescribed by regulations and shall take into account international oil and gas prices.”

Justification:

To provide for petroleum pricing while taking into account international oil and gas prices.

- **Clause 121 - State participation in petroleum activities**

Amend clause 121 as follows-

(a) In sub clause (1) **insert** the words “with the approval of Cabinet directly or through an entity designated,” immediately after the word “may”.

(b) **Substitute** for sub clause (2) the following-

“(2) When announcing areas for granting of petroleum exploration licences according to this Act, the Minister shall, with the approval of Cabinet, specify the maximum Government share which may be exercised by the Government under subsection (1)”

(c) Immediately after sub clause (2), **insert** the following new sub clause-

“(3) The Government’s maximum share shall be stipulated in the award of a petroleum exploration licence and petroleum production licence.”

Justification

To empower the Government to stipulate its participating interest either at the time of award of petroleum exploration licence or petroleum production licence share either directly or indirectly through a designated entity and ensure transparency and predictability for investors.

- **Clause 123 (2), page 89 - Training and employment of Ugandans**

(i) **insert** at the end the words “...and shall take into account gender equity, persons with disabilities and host communities”.

(ii) **insert** a new sub clause (3) as follows –

“(3) In this section, “host communities” means the inhabitants of the district in which petroleum activities take place.”

Justification:

To require the training and recruitment of Ugandans to take into account gender equity, persons with disabilities and host communities.

- **Clause 126, page 90 - Pollution damage**

(i) **insert** in sub clause (1) in the definition of “pollution”, the words “... or emitting noise...” immediately after the words “...depositing of wastes...”

(ii) **Insert** in sub clause (1), in the definition of “pollution damage”, the words, “emission of noise” between the words “petroleum” and “from a facility.”

Justification:

To broaden the definition of pollution to include emission of noise; and to achieve clarity.

- **Clause 130, page 93 - Recourse for pollution damage**

Insert (c) immediately after 129 (2) at the end of the second line of sub clause (1).

Justification:

To limit its application to paragraph (c) of sub clause (2), clause 129 so as not to suffocate the contractual rights of the licensee to recover from the persons exempted under clause 129 whose arrangement with the licensee is of a contractual nature.

- **Clause 132, page 93 - Restrictions and rights of others**

Insert a new sub clause (3) as follows –

“(3) Where the land owner is aggrieved by the decision of the Minister in sub clause (2), the land owner may appeal against the decision in a court of competent jurisdiction”.

Justification:

To provide for and emphasise a right of appeal for the land owner.

- **Clause 138, page 98 - Safety precautions**

insert the words “...in accordance with the Occupational Health and Safety Act, 2006, Act No. 9 of 2006 and any other relevant law” immediately after the word “...necessary...”

Justification:

To entrench the need to comply with laws intended to promote occupational health and safety.

- **Clause 144, page 101 - Commission of inquiry**

Insert a new sub clause (3) as follows -

“(3) The Minister shall lay before Parliament the report of the inquiry made under subsection (1).”

Justification:

To inform Parliament, and the public, the results of the inquiry.

- **Clause 150, page 106 - Prohibition against disclosure of information**

(a) In sub clause (3), **insert** the words *“or service of the Authority,”* immediately after the word *“service”* and **insert** the words *“or member of the Board of the Authority,”* immediately after the word *“servant”*.

Justification

To extend the duty of non disclosure information to members of the Board and employees of the Authority.

(b) **Substitute** in sub clause (4) for the words *“...five hundred ...”* the words *“...one thousand...”*

Justification:

To provide for a more deterrent penalty.

- **Clause 151, page 108- Royalty on petroleum**

1. In sub clause (1) **substitute** for the words *“well head”* the words *“delivery point”*.

Justification

To allow the Government to collect more royalties at the delivery point by avoiding deductible costs for cleaning and transporting crude oil between the well head and the delivery point which would mean less royalties to the Government.

2. **Delete** in sub clause (3), the words “*or during any extension period allowed by the Authority*” appearing immediately after the word “*date*”

3. substitute for subclause (5) the following-

“(5) The Authority shall in each financial year prepare an annual statement stating the value of certificates issued in accordance with this Act.”

3. **Delete**, in sub clause (6) the word “*financial*” appearing immediately before the word “*statement*” in the first line.

Justification:

To harmonise with the Income Tax Act, Chapter 340.

• **Clause 152, page 109 – Annual fees**

In sub clause (2), substitute for paragraph (a) the following –

“(a) acreage rental, including for stratigraphically delineated acreage.”

Justification:

To accommodate the licensing of stratigraphically delineated areas.

• **Clause 154, page 109 – Payment terms.**

Delete sub clause (2).

Justification:

For clarity; the licensee’s obligations with respect to payments will be discharged in accordance with relevant laws.

• **Clause 155, page 110 – Penalty for late payment.**

Substitute for clause 155 the following –

“155. Where a person does not make a payment under this Act on or before the time when the amount is payable, the person shall pay as a penalty, a surcharge of five per cent of the amount in default for each day of default.

Justification:

To ensure early and timely payment in compliance with the Act.

- **Clause 156, page 110 – Recovery of payments under this Act**

Substitute for the words “in a court of competent jurisdiction” the words “in accordance with the Income Tax Act, Cap 340.”

Justification:
To harmonise with the position under the Income Tax Act, Cap. 340.

• **Clause 162, page 113 - Contravention of decisions and orders issued under this Act**

substitute for the words in paragraph (a), “two hundred...” the words “...two hundred fifty...” and for the word “...ten...” the word “...twenty...”

Justification:
To provide for a more deterrent penalty.

• **Clause 163, page 113 - Miscellaneous offences**

substitute in paragraph (c) for the words -

(a) in (i) “...five hundred...”, the words “...ten thousand...” and “...five years...” the word “...twenty years...”

(b) in (ii) “...five...”, the words “...fifty...”

Justification:
To provide for a more deterrent penalty.

• **Clause 167, page 116 - Survey of oil wells and facilities**

Substitute in sub clause (5), for the words “...one hundred...”, the words “...one thousand...” and “...one year...” the words “...five years...”

Justification:
To provide for a more deterrent penalty.

• **Clause 168 page 117 - Maintenance of property**

- **Schedule 3, page 136 – Graticulation of the surface of the Earth.**

To provide for the supremacy of the Constitution.

Justification:

Insert at the opening of the provision the words “*Subject to the Constitution...*”

- **Clause 184, page 128 - Supremacy of this Act**

includes all the words.

To use the word petroleum activity as defined in the Bill; its meaning

Justification

(b) In sub clause (2) (ac), **substitute** for the words “*exploration, appraisal, development and production*”, the word “*petroleum*”.

measurement of petroleum.

To specifically empower the Minister to prescribe regulations for the

Justification

“(o) *the methods, measurement points and equipment to be used for measuring petroleum, water and other substances in relation to petroleum activities.*”

(a) **Substitute** for sub clause (2) (o), the following-

- **Clause 180, page 124-Regulations**

To provide for a more deterrent penalty.

Justification:

Substitute in sub clause (4) for the words “*one thousand...*”, the words “*...ten thousand...*”

- **Clause 173, page 119 - Information required by Minister**

To provide for a more deterrent penalty.

Justification:

Substitute for the words “*...two thousand...*”, the words “*...ten thousand...*”