

**REPORT OF THE COMMITTEE ON ENVIRONMENT AND
NATURAL RESOURCES ON THE EAST AFRICAN CRUDE OIL
PIPELINE (EACOP) (SPECIAL PROVISIONS) BILL, 2021.**

OFFICE OF THE CLERK TO PARLIAMENT
PARLIAMENT BUILDING
KAMPALA - UGANDA

NOVEMBER, 2021

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The East African Crude Oil Pipeline (EACOP) (Special Provisions) Bill, 2021 was Read for the First Time on the 05th of October 2021 and referred to the Committee on Environment and Natural Resources for scrutiny. The Committee considered the Bill in accordance with Rule 189(c) of the Rules of Procedure of Parliament, and hereby reports as follows.

The East African Crude Oil Pipeline (EACOP) (Special Provisions) Bill, 2021 is a Project-Specific Bill with an overarching purpose to foster the full implementation of the Intergovernmental Agreement and Host Government Agreement between Uganda and her Tanzanian State Partner as well as development partners in order to facilitate the EACOP Project.

The Government of Uganda and the Upstream Partners (Tullow, CNOOC and Total) entered into a Memorandum of Understanding for the commercialisation of Uganda's oil on the 05th of February, 2014 where the Government and the Upstream Partners agreed on the development of two projects namely; a refinery with capacity of 60,000 barrels of oil per day and an export crude oil pipeline.

In order to facilitate the implementation of the export of crude oil pipeline which will run from Kabaale in Hoima District, Uganda; to a Marine Storage Terminal (MST) at Chongoleani, Tanga Region, in Tanzania, on the East African Coast, the Government of the Republic of Uganda and the Government of the Republic of Tanzania entered into an Intergovernmental Agreement (IGA) for cooperation in the development of the East African Crude Oil Pipeline (EACOP), wherein the two states agreed to enter into respective Host Government Agreements (HGA) with EACOP Company and to enact enabling legislation to facilitate implementation of the project in the respective states.

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The IGA was ratified by cabinet under Minute No.351 (CT 2017) and laid on the Floor of Parliament on the 21st of September 2017; which means that Uganda is bound by the Bilateral Treaty she signed with Tanzania and therefore under obligation to honor the provisions therein.

The Government of the Republic of Uganda embarked on negotiations of the Host Government Agreement with EACOP Company which culminated into signing of the same on the 11th of April 2021 in the presence of their Excellences, Yoweri Kaguta Museveni and Samia Suluhu Hassan of Uganda and Tanzania respectively. The Host Government Agreement was laid on the Floor of Parliament of Uganda, on the 05th of May 2021.

Given the unique, complex and cross border nature of the EACOP, there are aspects that were agreed upon in the HGA in order to facilitate the implementation of EACOP that are not aligned with the current law and therefore require to be enabled.

In this regard, the HGA makes provisions for enactment of an enabling legislation to facilitate implementation of the project in Uganda, as a condition precedent to the effectiveness of certain clauses therein. It was against this background that the East African Crude Oil Pipeline (EACOP) (Special Provisions) Bill, 2021 was drafted and tabled before Parliament and consequently forwarded to the Committee on Environment and Natural Resources for scrutiny.

3.0 OBJECTS AND THE BENEFITS OF THE BILL

The object of this Bill is to enable certain provisions of the Intergovernmental Agreement (IGA) signed between the Republic of Uganda and the United Republic of Tanzania and the Host Government Agreement (HGA) signed between the Government of Uganda and the East African Crude Oil Pipeline Company Ltd to facilitate the development and implementation of the East African Crude Oil Pipeline (EACOP) Project in Uganda, to facilitate the development and implementation of the East African Crude Oil Pipeline Project

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in Uganda under the Intergovernmental Agreement and the Host Government Agreement.

The Bill is divided into thirteen parts and two schedules. Part 1 of the Bill is the Preliminary, providing for the commencement of the Bill, application, purpose of the Act and interpretation (terms and definitions). Part II of the Bill provides for the transportation tariff, Part III is on security; Part IV covers title to petroleum and payment in Kind; Part V is on antitrust and other competition related matters; part VI provides for Project authorisations; Part VII is on land rights, Part VIII provides for national content requirements; Part IX is on insurance and reassurance, Part X handles non-interruption of project activities; Part XI provides for third party access; Part XII is on decommissioning and Part XIII covers Miscellaneous. There are two schedules: Schedule 1 is on insurances and Schedule 2 is on agreed fiscal regime.

3.1 EXISTING LEGAL AND REGULATORY FRAMEWORK GOVERNING THE MANAGEMENT OF PETROLEUM RESOURCES:

The following are some of the laws and regulations passed for the management of petroleum resources.

- i. Petroleum (Exploration, Development and Production), Act 2013
- ii. Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 Act 4 of 2013
- iii. The Public Finance Management Act, 2015
- iv. Petroleum (Refining, Conversion Transmission and Midstream Storage) Regulations, 2016 S.I. 36 of 2016
- v. Petroleum (Refining, Conversion Transmission and Midstream Storage) (National Content) Regulations, 2016
- vi. The Petroleum (Exploration, Development and Production) Regulations 2016
- vii. The Petroleum (Exploration, Development and Production) (Health, Safety & Environment) Regulations 2016

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- viii. The Petroleum (Exploration, Development and Production) (National Content) Regulations 2016
 - ix. The Petroleum (Exploration, Development and Production) (Metering) Regulations 2016
 - x. The Petroleum (Refining, Conversion, Transmission and Midstream Storage) (Health, Safety & Environment) Regulations, 2016

4.0 DEFECTS IN THE EXISTING LAW

The EACOP Project in Uganda will be regulated by several laws including the Petroleum (Refining, Conversion Transmission and Midstream Storage) Act, 2013 and the various laws on environment, land, tax, insurance and immigration among others. However, some of the matters agreed upon in the IGA and HGA which are necessary for the effective implementation of the project in Uganda are either not covered by the existing law or are inconsistent with the existing law.

This Bill therefore seeks to complement the already existing applicable laws by enabling aspects of the project that are inconsistent with or not provided for under those laws. In addition, the HGA makes the enactment of enabling legislation a pre-condition for full effectiveness of the HGA. It therefore means that without enactment of the EACOP Bill, the HGA would not be fully effective and it would not be possible to fully implement the EACOP Project in Uganda.

4.1 REMEDIES PROPOSED TO DEAL WITH THE DEFECTS

The Bill seeks to fully define the legal and regulatory framework for the EACOP Project in Uganda by enabling aspects agreed upon in the IGA and HGA to ensure lawful implementation of the project in Uganda.

It should also be noted that the United Republic of Tanzania has also passed a similar law to enable implementation of the project in Tanzania. The Governments of Tanzania and Uganda granted the project a number of incentives to ensure the pipeline is least cost and the tariffs set. These incentives can only be put into effect by the enactment of enabling legislation.

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5.0 THE BILL'S COMPLIANCE WITH THE THIRD NATIONAL DEVELOPMENT PLAN (NDP III)

The National Development Plan III (2021/22 – 2024/25) envisions a transformed Ugandan Society from a peasant to a modern and prosperous Country within 30 years. The goal of this Plan is “To Increase Household Incomes and Improve Quality of Life of Ugandans”. The goal is being pursued under the overall theme of Sustainable Industrialization for inclusive growth, employment and sustainable wealth creation.

NDP III is to be implemented under 18 development programmes including the Programme on sustainable development of petroleum resources. NDP III recognizes that the oil and gas industry has a potential to transform Uganda's economy. Therefore, the goal of this programme is to attain equitable value from the petroleum resources and spur economic development in a timely and sustainable manner.

The key results to be achieved over the next five years under the programme are:

- Percentage change in the amount of revenue from oil and gas by 2%;
- Ugandans employed in the oil and gas and related industries from 3,400 jobs in 2019 to 200,000 jobs.

Consequently, the Ministry of Energy and Mineral Development has earmarked fast tracking the implementation of infrastructure projects in the Albertine Region to ease movement of goods, labour and provision of services as one of the objectives to achieve the above targets. Specifically the East African Oil Crude Pipeline has been earmarked as a key intervention. Therefore, the enactment of the EACOP Bill is a step towards the achievement of the aspirations of the NDP III as enshrined in the targets above.

6.0 GENERAL OBSERVATIONS ON EACOP PROJECT

The East African Crude Oil Pipeline (EACOP) is a 1445 kilometer heated pipeline expected to be constructed between Uganda and Tanzania as a key infrastructure for the transportation of Uganda's crude oil.

The EACOP will transport oil from the delivery point in Hoima District, Uganda, to the coastal port in Tanga District, Tanzania. The Uganda National Oil Company (UNOC) and the Tanzania Petroleum Development Corporation (TPDC) have 15% shareholding in the pipeline company each, CNOOC Uganda Limited (CUL) has 8 % and Total Energies, Uganda B.V. holds 62% shares in the company

6.1 METHODOLOGY

The Committee was guided by the provisions of Rule 129 of the Rules of Procedure of the Parliament of Uganda to examine the Bill in detail and make all such inquiries in relation to it. In line with this rules, the Committee;

- i. Received submissions and held meetings with the sponsors of the Bill; the Ministry of Energy and Mineral Development and its Agencies charged with management of petroleum resources in the country i.e. Petroleum Authority of Uganda and Uganda National Oil Company.
- ii. Received views and interfaced with other key Government Ministries, Departments and Agencies.
- iii. Received submissions and held meetings with members from the private sector. These included Civil Society Organizations, and private individuals. A comprehensive list of key stakeholders is attached as Annex 1.
- iv. Reviewed relevant documentation including sector laws and Policies, the HGA, IGA, Tariff and Transport Agreement (TTA), Shareholders Agreement (SHA), Production Sharing Agreements (PSA), Environmental, Social Impact Assessment Reports and Permits, sector Agreements, Resettlement Action Plan reports; Ministerial Policy Statements, presentations made to the Committee.

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First and foremost, it's important to note that this bill is intended to domesticate the Inter-Governmental Agreement between Uganda and Tanzania and fully operationalize the Host Government Agreement between Uganda and the project company, under the terms agreed upon in the respective agreements. It is further important to note that the enactment of this law should have preceded the negotiations of the said agreements. This is where the Committee's input was limited.

It has been reckoned that the negotiation of the tariff regime was protracted for over four years and Ugandan negotiators made concessions in the best interest of the Country. Furthermore, the negotiations and terms of the agreement were influenced by the disinterest of the major world financial institutions such as the World Bank and International Monetary Fund which shunned financing the development of the oil and gas sector in Uganda to less influential financial institutions that could still accept to fund Uganda's ventures, but on stringent terms and conditions.



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speaks to this limitation than the recent spate of demonstrations in France against Total Energies continued investment in this sector in Uganda.

The Committee was informed by the stakeholders that their participation was limited by the fact that many of them had not accessed the important agreements; HGA, IGA, SHA, PSA, TTA.

Finally, due to resource limitations the Committee did not benchmark countries with similar projects; as well as visiting the Project Affected Persons (PAPs) in the districts through which the pipeline is proposed to traverse.

In conclusion therefore, the limitations notwithstanding, the Committee interacted with various stakeholders, examined the Bill and came up with proposed amendments. The Committee therefore calls upon this Parliament to rise to the occasion and express the highest spirit of patriotism for our country in order to get our oil out of the ground for the transformation of our mother land.

8.0 COMMITTEE ANALYSIS, OBSERVATIONS AND RECOMMENDATIONS

This part of the report will examine the proposed clauses of the bill, their legality, effect and effectiveness in light of the Constitution, existing laws and policy, court decisions, and the mischief it intends to cure. The analysis will be on thematic areas as provided for in the bill as well as new proposals to the bill.

8.1 COMMENCEMENT

Clause 1 of the bill seeks to grant retrospective commencement of early project activities. The purpose for this retrospective commencement is to ensure that preliminary project activities that have taken place since the 1st of January 2016, including public works and associated costs undertaken by the investors prior to signing of the agreements are brought under the bill. This is due to the fact that the current Midstream Act does not provide for early project activities. Most stakeholders recommended that the relevant Ministries, Departments and Agencies under the oil and gas sector should furnish Parliament with the

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details and cost implications of the retrospective application of the Bill once passed into law. That this will particularly apply to the disclosure of companies that undertook the works, value and approval for works for the period 2016 until the Bill is passed into law.

Committee observation:

The Committee was furnished with the cost implication of the early project activities by the Ministry responsible for Energy and Mineral Development.

The Committee noted that the total cost for Early Project Activities is USD 428,190,000 and the details are in Appendix-II.

The Committee further noted that the early project activities have been listed under Statutory Instrument No. 59 of 2020 and issues of cost implications of early project activities have further been dealt with under clause 38.

Committee Recommendation:

The Committee recommends that clause 1 stands part of the Bill.

8.2 APPLICATION

Clause 2 is on the application of the bill, it is to the effect that the bill shall only apply to the East African Crude Oil Pipeline (EACOP) Project. It is imperative that a project such as this one that traverses state lines has specific laws made in the states through which the pipeline traverses to facilitate the implementation of the Project in those territories.

Committee Observation:

The Committee observed that there was need to clarify that the bill shall only be applicable to EACOP Project premised in the Ugandan territory given the cross-border nature of the project.

Committee Recommendation:

The Committee recommends that clause 2 stands part of the Bill albeit with amendments to specify that the Bill's application is limited to EACOP project in Uganda.

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Answer

With regard to this clause, some stakeholders stated that the term “Decommissioning Plan” as used in the bill seeks to introduce another layer of authorisation from the relevant Tanzanian state Authority which is outside the jurisdiction of Uganda .This is inconsistent with the principle of state sovereignty and they therefore accordingly proposed that the definition of “decommissioning plan” be replaced as below;

The stakeholders further proposed that given the technical nature and implications of ambiguity in this law, and the nature of the oil and gas industry, the terms “metered volume” and “payment in kind” be defined in interpretations clause of the bill.

The Committee observed that the interpretations clause not only defines the key terms used in the bill, it is also meant to ensure that the definitions used in the bill do not contradict the terms agreed upon in the Host Government Agreement.

**The Committee recommends that the clause 4 stands part of the bill
albeit with the following amendments;**

albeit with the following amendments;

"Decommissioning plan" should be redefined as proposed above that the definition complies with the National Environment Act of 2019 and the

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Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013, but also respects and upholds the sovereignty of Uganda.

"Payment -in-kind" should define as follows "The use of crude oil as payment for the transport tariff instead of cash".

"Metered volume" should be defined as follows "That amount that has gone through at the point of entry at Kabaale and has been captured".

8.4 TRANSPORTATION TARIFF

This was one of the most contentious provisions in the bill. Clause 5 of the bill seeks to the set tariff regime agreed upon by the parties under Article 11(8) of the Host Government Agreement.

The clause provides for two tariff régimes. The first regime applies to the crude oil from the existing Uganda oil fields estimated at 1,046,000,000 barrels; at a rate of USD, 12.77 per barrel and adjusted each year starting from the first anniversary of the first commercial delivery of petroleum at the exit point of the EACOP system.

This was agreed upon by the parties to the HGA to ensure that the pipeline provides the least cost for transportation. It was also the basis for the tax exemptions granted by the partner states. It is pertinent to note that the tariff will be escalated by the lower of annual rate of 2% or the United States Consumer Price Index (CPI) to cater for inflation.

Upon achieving the milestone of producing 1,046,000,000 barrels, the second transportation tariff shall apply. This new transportation tariff shall be determined for the additional crude oil produced with a guarantee that none of the costs incurred by the pipeline company prior to the 1,046,000,000-barrel milestone will be considered in the calculation of the new tariff.

The tariff shall be approved by the Petroleum Authority of Uganda which is required by section 6(2) (i) of the (Refining, Conversion, transmission and Midstream storage) Act, 2013 to carry out this duty.

In light of the concessions granted to the project, the parties agreed that the computation of the new tariff shall not take into account initial capital and

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operating expenditure covered under the fixed tariff regime. This would lead to a lower tariff hence increasing on the take/profit of the shippers (including the State and UNOC).

The Committee noted the following proposals made by stakeholders in regard to this provision that;

- i. The drafting of clause 5(a) is vague and contrary to the spirit of the Bill in respect to tariffs as stated in the memorandum of the Bill, which was equally not clear as to whether it intended to set or to fix the tariff. If the provision intended to fix the tariff, it increases the tariff by about 2% per year.
- ii. It is important to note that any increase in the transportation tariff reduces Uganda's take in the upstream development. If the charge of USD 12.77 per barrel was to be adjusted at 2%, a cost of USD 20.54 per barrel is expected after 25 years. Considering a worst-case scenario price per barrel of USD 30.28 in 2008 (WTI), we find this charge high.
- iii. Clause 5(2) seeks to deny the Petroleum Authority of Uganda (PAU) its ultimate mandate to approve the tariffs under section 35 of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013 and therefore should be deleted.

The Committee was informed that these tax waivers are more beneficial to Uganda than the taxes that would have been received if Uganda hadn't waived the tax. This is because Uganda, as the crude oil resource owner, derives more value from the proceeds of the sale of crude oil than the taxes that would have been generated from the tariff in EACOP had they not been waived.

The Committee was further informed that the fixed tariff regime transfers significant risks, like cost escalation and overruns, to the project investors.

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The Committee learnt that the formula for the tariff is enshrined in section 35 (d) of the Petroleum (Refining, Conversion, Transmission and Storage) Act 2013 which stipulates that the tariff will take into account the investment costs, operation and maintenance costs, or other costs incurred in the operation of

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iv) Dividends – 5.6% (0.72 USD)

Committee observation

Therefore, it is worth noting that the amendment of this clause is limited to the parameters that were agreed to in the Host Government Agreement, and as such any amendment to vary the terms surrounding the transportation tariff would be in breach of the Host Government Agreement. The Committee further takes cognizance of the fact that without the enabling legislation; the set tariff would be unlawful.

The committee recommends that clause 5 stands part of the bill albeit with an amendment;



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8.5 SECURITY

The Bill proposes under clause 6 that the Project Company and project participants be permitted to grant security of any description over their shares in the project company and the EACOP project. The security envisioned under the clause is enforceable by lenders. The implication of this clause is that it allows Uganda to use its stake in the EACOP Company as collateral for financing.

The Committee made the following observations with regards to this clause;

- i. Under Article 45(4) and (5) of the Host Government Agreement the parties agreed that the project company and its shareholders and or shippers shall have a right to create security of any description (including charges or other encumbrances) over the Shares in the Project Company (including any such Shares owned by the Ugandan State Participant), over the EACOP System or any other Project Related Assets may be granted to, registered, perfected and enforced by the Finance Parties (or any agent or trustee on their behalf).
- ii. This Clause is contrary to sections 34 and 74 of the Public Finance Management Act (PFMA) which bars encumbering public and/or financial assets without approval from parliament.
- iii. Section 34(6) of the Public Finance Management Act (PFMA) prohibits an Accounting Officer from pledging or otherwise encumbering the land or any other asset of a Vote without the permission of Parliament. A vote means an entity for which an appropriation is made by an Appropriation Act or Supplementary Appropriation Act.
- iv. Section 74 of the Public Finance Management Act (PFMA) provides that the financial assets of the Petroleum Fund including present or future financial assets shall not be earmarked, pledged, committed, loaned out, or otherwise encumbered by any person or entity.
- v. In order to facilitate the full participation of UNOC as a shareholder in the EACOP Project, the right to have security taken over its shares in

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EACOP Limited needs to be activated for equal treatment with other shareholders. It would therefore be rightly put that, without disapplying the above sections of the PFMA Article 45(4) and (5), the Host Government Agreement would not be effective.

- vi. This clause also disappplies Section 50 of Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 which is to the effect that; where Government requires the removal of a facility any lien or encumbrance on the facility lapses. Therefore, any takeover of the pipeline by Government would leave lenders in an uncertain position and make it harder for them to recover any monies owed to them. This risk alone would discourage potential financiers from lending to the EACOP project. It has therefore been disappplied to reduce potential risks to this project.
- vii. The Public Finance Management (Amendment) Bill is already before Parliament and being scrutinized by the relevant committee.

Committee Recommendation

The Committee recommends that clause 6 should stand part of the Bill albeit with the following amendments;

- i. Under clause 6(2) to delete the words "and each key project party" so that this bill only legislates on the act of borrowing by the project company alone not the project parties.***
- ii. Clause 6(3) to require approval of Parliament at every act of borrowing by the project Company, which approval shall be given within 14 days.***

Justification

1. It is imperative for the aforementioned provisions of the Public Finance Management Act and the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, to be disappplied in order to give effect to Article 45(4) and (5) of the Host Government Agreement.

2. Uganda National Oil Company needs to have full rights to take security over its shares, if it is going to have full participation as a shareholder in the project company.

8.6 TITLE TO PETROLEUM

Clause 7 of the bill seeks to give effect to (Article 11(11) (a) & (i) of the Host Government Agreement) which require the Uganda National Oil Company (UNOC) to hold legal and beneficial title to the crude oil arising from the state participating interest under the Production-Sharing Agreements (PSAs) and 15 % arising from the state participation in the EACOP.

This is to ensure that UNOC can meet its obligations including; the payment of its cash calls under the PSAs, payment of tariff in kind and meeting the Advanced Tariff Requirements under the Tariff and Transportation Agreement (TTA).

The Committee notes that section 57 (5) of the Public Finance Management Act, provides that UNOC is required to receive and record the petroleum received as an asset of the petroleum fund. Furthermore section 58 is to the effect that withdrawals from the Petroleum Fund shall only be made under the Authority granted by an Appropriation Act and warrant of the Auditor General to the Consolidated Fund. This is for purposes of supporting the annual budget and the Petroleum Revenue Investment Reserve for investments that are to be undertaken in accordance with section 63 of the Public Finance Management Act.

Furthermore the Committee took cognizance of the two divergent views of the stakeholder's; the first view in support of this clause was that; without this clause, UNOC is likely to default on its financial obligations under different agreements because the process of appropriation is long and uncertain and that defaults were greatly frowned upon in the oil business.

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The Committee observed that this clause calls for the disapplying of section 57 of the PFMA (Amendment) Bill, 2021 which is already before Parliament. Without disapplying the aforementioned laws, this clause shall not be effective. The committee agrees with the stakeholders' view that the title to Uganda's petroleum accruing from the upstream and stemming from its state participation in the EACOP project was not qualified and might loosely be interpreted to mean Uganda's share of the crude in the pipeline and the upstream.

The Committee noted that it is pertinent to note that Uganda owns more crude oil however UNOC'S title to that oil in the midstream is being limited to 15% for purposes of fulfilling its obligations.

In light of the above, the Committee recommends that clause 7 stands part of the Bill albeit with the recommendation to substitute “notwithstanding the provisions of any Ugandan law with “for purposes of this act”.

In light of the above, the Committee recommends that clause 7 stands part of the Bill albeit with the recommendation to substitute “notwithstanding the provisions of any Ugandan law with “for purposes of this act”.

8.7 PAYMENT -IN-KIND.

The Bill under Clause 8 seeks to propose that Uganda National Oil Company pays the transportation tariff with oil instead of cash.

The Committee was informed that;

UNOC as a shipper has to pay the agreed tariff for transportation of their respective crude oil. This was agreed to under Article 11(9) of the Host Government Agreement. However, the Public Finance Management Act, 2015 has a number of restrictions on the management of petroleum revenues which include; requiring that the revenues from the petroleum are deposited in the Petroleum Fund upon receipt. It also prohibits the encumbering of the assets of the Petroleum Fund.

It is worth noting that although the EACOP project will be project financed, there is need for certainty of repayment to the lenders. The project company had required UNOC to open offshore proceeds accounts with a waterfall mechanism whereby proceeds from the sale of the crude oil of UNOC would first be deposited into this account to enable the project deduct the tariff and any other payments due from UNOC before the money reaches the Petroleum Fund.

It was also proposing to have a charge/security over the oil of the State and UNOC. The approach proposed above was found by the Government of Uganda to be in breach of the PFMA in so far as it required the money from the sale of the State and UNOC crude oil to first be deposited into an offshore account before reaching the petroleum fund, and having a charge or security on government crude oil. It was also considered that an offshore account with government crude oil proceeds would be a high exposure of Government.

It was therefore agreed that UNOC pays the tariff in kind in order to guarantee that the project pays for its transportation services and also safeguard government crude oil and proceeds from attachment and exposure through the escrow/proceeds account mechanism.

Committee Observations:

The Committee noted that this was a term of the Host government Agreement that the Republic of Uganda negotiated to have in the agreement because it was a better and more convenient mode of payment and as thus she is bound by it and cannot be deleted.

The Committee also observed that Clause 8(1) of the bill needs to be read subject to section 57 of the Public Finance Management Act, 2015. This section of the PFMA provides that all oil received in kind is supposed to be sold (or valued based on the oil price of the day) and the funds first deposited in the petroleum fund (or URA notified of the monetary value of the oil received in kind).

The Committee noted that by allowing payment in kind, this clause is creating the fiscal equivalent of spending at source contrary to the PFMA. This circumvents Parliamentary oversight and appropriation mandate. The clause gives the transporter the right to sell to a third party without the state authority minding whether there is a gain or loss.

This may expose the state's oil/petroleum price to fluctuation or even low pricing on the market since there are other people selling the said product at unregulated prices.

The Committee further observed that clause 8 of the EACOP Bill has a bearing on the PFMA (Amendment) Bill, and there is need for consistency between the two Bills.

Committee Recommendations:

In light of the above, the Committee recommends that clause 8 stands part of the bill albeit with amendments to;

- i. Insert a new clause 8(1) (c) to Mandate UNOC to submit a copy of the record of the petroleum received and paid-in-kind to the***

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Minister, Uganda Revenue Authority, the Secretary to the Treasury, the Accountant General and the Auditor General.

- ii. **Guarantee that where payment-in-kind is made, risk should pass with the title and that loss must fall where it is due, but not visited on UNOC.**

8.8. ANTITRUST AND OTHER COMPETITION RELATED MATTERS.

Clause 9 of the bill proposes to make the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 the regime applicable to the EACOP project in relation to anti-trust and other competition matters.

This clause particularly operationalises Article 11(10) of the Host Government Agreement wherein the Project Company undertakes not to engage in any anti-competitive behaviour with regards to the EACOP Project, including entering into anti-competitive agreements or engaging in conduct constituting abuse of a dominant market position; provided that nothing done by the Project Company or any key project party in conformity with the terms of this Agreement, shall constitute a breach of any provision of Ugandan Law related to antitrust, cartel, discriminatory practices or other competition-related matters.

The Committee was also informed that a core objective of antitrust/competition law is to prohibit firms for engaging in conduct which will distort the competitive process and harm competition by; preventing firms from indulging in anti-competitive agreements and preventing firms with a powerful position on a market from abusing their market power.

However with regards to EACOP, the Project Company has been allowed to among others determine the tariff and other conditions of transportation through the EACOP System for purpose of ensuring full project implementation and achievement. It should be noted that the Project Company has also made a contractual undertaking not to engage in any anti-competitive behaviour with regards to the EACOP Project including entering into anti-competitive

agreements or engaging in conduct constituting abuse of a dominant market position.

Committee Observation

The Committee observed that Sections 32 and 35 (a) of the Midstream Act whose application would have prevented the effective operation of the EACOP System have been disapplied in place of the robust anti-competition provision agreed in the HGA.

Committee Recommendation

The Committee recommends that clause 9 stands part of the bill.

8.9 PROJECT AUTHORISARIONS

The Bill proposes under clause 10 that where the project company or a project participant has applied for an extension, renewal or re-issuance of a project authorisation within the period specified under the terms and conditions of the project authorisation and Ugandan law, the project authorisation shall be deemed to continue in force and shall not expire or terminate, until the end of the period during which the relevant state authority is reviewing the application.

The clause further proposes that, the circumstances under which a project authorisation may be terminated, lapse, revoked or suspended are those specified in the Host Government Agreement, the relevant project authorisation or Ugandan law.

It is worth noting that Article 13(1) (a) an (b) of the Host Government Agreement requires the relevant state agencies to issue, grant, maintain or renew or (cause to be issued, maintained or renewed) in a timely manner all the project authorisations required by the project company after satisfying all the necessary project authorisation application requirements in accordance with the agreed regime and to respect the terms and conditions of all project authorisations.

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Committee Observations

The committee noted that Clause 10(8) provides that;

Notwithstanding section 15 (2) of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 and regulation 60 (4) and 82 (l) of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Regulations, 2016-

- (a) any alteration or deviation to the approved pipeline route, which is not of a substantial nature shall not require the approval of the Authority; and
- (b) any change or modification to the pipeline installations, which is not of a substantial nature shall not require the approval of the Minister”.

The Committee observed that this clause allows deviations and modifications of the pipeline, if they are not substantial, without government approval of the authority. The bill does not however define who determines which changes are substantial or not.

The Committee further notes that the clause fails to provide for the impact of gross human and environment rights violation. Precedents from various oil and gas undertakings such as the Social and Economic Rights Action Center & the Center for Economic and Social Rights v. Nigeria (Communication No.155/96)) demand that laws on the sector provide resultant effect of such gross human rights and environmental rights violations.

Furthermore, the Committee observed that clause 10(2) of the bill undermines section 141 of the National Environment Act and Regulation 18 of the National Environment (Waste Management Regulations 2020 which seek to guarantee the citizens the right to a clean and healthy environment and ensure protection against pollution that may arise from the EACOP project activities.

Committee Recommendation:

The Committee recommends that clause 10 stands part of the bill albeit with amendments to;

- i. Set parameters to determine and specify what amounts to substantial modifications and further clarify in what instances the project company shall seek authorisation from government to make modifications.***
- ii. The Clause should further be amended to have gross human rights and environmental rights violations among the possible reason for termination, lapse, revocation or suspension of project authorisation.***
- iii. Redraft clause 10(2) of the Bill to state that “ A bond ,security, guarantee or other credit support shall not be required for the issuance of any project authorisation, except that in relation to a requirement under section 141 of the National Environment Act,2019 , Regulation 18 of the National Environment (Waste Management) Regulations 2020, an application for the licence to construct and a licence to operate a pipeline under section 10 (6) (a) of the Petroleum (Refining ,Conversion, Transmission and Midstream Storage) Act, 2013, the undertakings by the project comp[any under the Host Government Agreement shall constitute the only form of security or bond required”***
- iv. Delete “after notification by the relevant state authority in clause 10(3).***

9.0 LAND RIGHTS

Clause 11 of the bill proposes to classify the project to constitute public works as defined in the Land Act. This is to enable the Uganda Land Commission or other relevant state authority to grant land rights to enable the project company to undertake all project activities. This clause operationalizes Article 15 (2) (a) of the Host Government Agreement wherein the state undertakes to

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Committee Observations:

The Committee appreciates that this provision guarantees security of tenure of the land for the project Company, and ensures that the project can proceed without interruptions given the nature of the project and the sensitivity in regard to profitability associated with any stoppage of operations.

The Committee noted with concerned that the land acquisitions for the EACOP project has commenced but in breach of the principles of prior, prompt and adequate compensation.

The Committee was informed that the land is currently being acquired by a private Company Total East Africa Midstream (TEAM) BV on behalf of total and the project company but in line with the Land Acquisition Resettlement Framework. The Committee was further informed that Team BV has been responsible for the early works on the pipeline including conducting the requisite preliminary studies, Environment and Social Impact Assessment, and Land Acquisition ahead of the construction of the pipeline.

The Committee learnt that this land shall be owned the by the Uganda Land Commission with the Ministry of Energy and Mineral Development as the user. The project company shall occupy the land for a period of 66 years on leasehold tenure.

The Committee further learnt that the land acquisition cost is catered for by the project company as a project cost and not by the Government of Uganda and that the project is undertaking disclosure of the project affected persons with plans of commencing payment of compensation before close of the year 2021.

That the compensation of the PAPs is dependent upon; the shareholders taking Final Investment Decisions and making the required cash contributions. Final Investment Decisions of the EACOP project will require the EACOP Bill to be enacted.

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i. Make cross-references to the Constitution and land acquisition act on matters pertaining to prior, prompt and adequate compensation of the Project Affected Persons and have the definition of Project Affected Persons included in the interpretations clause in accordance with the Constitution.

The National Content Requirements are covered in PART VIII of the bill that entails clauses 12 to 28. The Committee was keenly interested in these clauses because they guarantee that Ugandans shall benefit from the EACOP project even before first oil.

It is pertinent to note that Part VIII as a whole upholds the principle of giving priority to Ugandans and Ugandan goods and services. It reserves sixteen (16) categories of goods and services for Ugandans, such as transportation, security, hotel accommodation and catering, and civil works.

Committee Observation:

to the United Republic of Tanzania. However, the Republic of Uganda cannot legislate for Tanzania because it is a sovereign state.

Committee Recommendation

The Committee recommends that Part VIII of the bill is redrafted to remove any element of drafting for another sovereign state and instead make reference to the Host Government Agreement.

9.2 PRINCIPLES FOR DEVELOPING AND IMPLEMENTING NATIONAL CONTENTS PLAN

- (1) Clause 14 that is under Part VIII proposes that national content plan shall be developed in accordance with the cross-border nature of the EACOP project and that this Act and shall identify all relevant cross border issues.

Committee Observation:

The Committee observed that; as earlier observed under Part VII, the wording of this clause seems to give the Ugandan Authority power to approve plans for both Uganda and Tanzania.

Committee Recommendations:

The Committee recommends that Clause 14 stands part of the Bill albeit with the following amendments;

- i. Clause 14(4) should be re-drafted to reflect the fact that it refers to annual national content plans for Uganda***
- ii. Clause 14(3) (c) should be deleted. It is a redundant provision and the position therein is already provided in clause 24.***

9.3 REGISTRATION ON THE NATIONAL SUPPLIER DATABASE

Clause 15(1) of the bill proposes that Ugandan entities intending to provide goods, works or services to the project company should be registered on the national supplier database maintained by Petroleum authority of Uganda.

Clause 15(2) of the Bill further seeks to allow the project company to contract a company not registered on the national supplier database if the goods, works or services are not available in Uganda.

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Committee Observations:

The Committee takes cognizance of the fact that it is of great importance that there exists a clause that ring-fences the provision of certain works, goods and services to the project company by Ugandans or Ugandan companies who are registered on the national suppliers' database. However, it is worth noting that clause 15(2) is inconsistent with section 53(4) Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013 which provides that where the goods and services are not available in Uganda, they shall, where possible, be provided by a company which has entered into a joint venture with a Ugandan company. In addition, there are other national priorities (BUBU) and regional priorities (EAC) that need to be taken into consideration in making legislations on national content.

The Committee further took cognizance of stakeholders' views that were to the effect that clause 15 (2) contravenes the spirit behind the National Supplier Database and will be abused by Project companies, and as such should be deleted from the Bill.

Committee Recommendations:

The Committee recommends that clause 15 stands part of the bill albeit with the following amendment;

Clause 15(2) should be deleted.

Justification

If clause 15(2) is left to stand part of the bill, this provision would be a window for non-Uganda Companies to dominate the sector, and defeat the rationale for national content. And besides the mischief that clause 15 (2) intends to cure is already catered for under clause 25 (1).

9.4 SELECTION OF CONTRACTORS DURING THE CONSTRUCTION PHASE.

Clause 16(3) seeks to suspend regulations 9 and 15 of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) (National Content)

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The Committee took note of the fact that the regulations the clause seeks to suspend, are the hallmark of the national content in the procurement process in the midstream project.

- (i) submit the procurement forecasts to Authority,
- (ii) give priority for Ugandan goods and services during procurement,
- (iii) give at least 10% score to national content in evaluation of bids,
- (iv) establish a tender information office,
- (v) and provide quarterly reports to the authority.

The Committee recommends that clause 16(3) be deleted.

The Bill under clause 24 seeks to ensure that the project company reserves contracts for works, goods and services for Ugandan companies.

The Committee learnt that Tanzania has ring-fenced legal services and that; there exists a statement of equal opportunity on National content for Tanzania and Uganda. This statement is to the effect that the National Content Plans of the state parties should mirror each other.

The Committee further learnt that the services provided by professionals were not listed among the services to be provided under the midstream regulations and consequently is not ring-fenced under the Bill.

The Committee recognizes the fact that professional services are not among the ring-fenced services for the EACOP project. This inadvertently denies the legal fraternity and other professions the opportunity to benefit from the national content plan requirements.

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Committee Recommendation

The Committee recommends that clause 24 stands part of the Bill albeit with the following amendments;

- (i) Amend 24(2) to include professional services in order to ensure equality.***
- (ii) The term “professional services” should be defined under the interpretation clause***
- (iii) The Committee recommends that the Minister furnishes Parliament with the cost of the reserved contracts.***

9.6 JOINT VENTURES WITH LOCAL PARTNERS

The Bill under clause 25 seeks to provide for the provision of goods, works or services that are not available in Uganda to the project company by foreign suppliers that has entered into a joint venture with Ugandan companies and subsequently meet the criteria.

The Committee was concerned that the conditions set out in clause 25(2) that Ugandan parties must meet in order to be parties to a joint venture are excessively harsh and restricting. Fulfilling the set-out conditions is equivalent to being capable of supplying the goods, works or services that the project company seeks to procure.

The Committee was further concerned that clause 25(3) which requires the Authority to promptly give mandatory consent to the project company in case it intends to procure goods from the international supplier, is couched in mandatory terms and denies the Authority opportunity to exercise its discretion to withhold consent in cases where it is reasonable to do so.

Committee Observations

The Committee observes that it is important that every Ugandan entity that fulfills the requirements for being registered on the national supplier database be eligible for becoming a partner in a joint venture with a foreign supplier.

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The Committee further observes that it is important for the clause to provide a threshold for the beneficial interest in the joint venture so formed provided that the Ugandan party meets the equity requirements.

Committee Recommendations

The Committee recommends that clause 25 stands part of the bill albeit with the following amendment;

Clause 25(2) should be replaced with; “A Ugandan party that meets the conditions set for registration in the national database of suppliers shall be eligible to serve as a joint venture partner in a Ugandan joint venture for purposes of subsection 1.”

Under clause 25(3)(b), the words “shall promptly” should be replaced with “may promptly” so that the authority to withhold its consent if it has sufficient reasons to do so.

A new sub clause 25(5) should be inserted to provide for the minimum beneficial ownership of a Ugandan party in the Ugandan joint venture provided the Ugandan party meets the equity requirements.

Insert a new clause that requires the Minister to create an oil and gas incubation fund to promote local entrepreneurs and Small and Medium Enterprises in six months

9.7 INSURANCE AND REINSURANCE

Clause 29 on the insurance and reinsurance of the EACOP project seeks to supplement the applicable law on insurance including the Midstream Act and the Insurance Act, 2017.

The Committee was informed that recognizing the magnitude of the project, the Bill introduces a mandatory reinsurance regime which is specific to the project by permitting the mandatory re-insurers under the Insurance Act, 2017 that is to say Uganda Re, Zep Re and Africa Re in accordance with section 74 of the Act to only hold up to 5% of the reinsurance session rather than 30% required under the Insurance Act, 2017. This is because the reinsurance required for

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the EACOP Project should be from credit A rated agency to ensure better management of ensuing losses.

Committee Observation

The Committee observed that the bill does not cover all associated environment liabilities as provided under section 141 of the National Environment Act.

Committee Recommendation:

The Committee recommends that clause 29 stands part of the bill albeit with amendments to;

incorporate the guarantees of the right to a clean and healthy environment enshrined under section 141 of the National Environment Act.

insert a new clause immediately after clause 29 to read as follows;

(1) The Authority may require a developer to take out financial security for a project or activity likely to have a deleterious effect on human health or the environment.

(2) The form of financial security referred to in subsection (1) may include— (a) on-demand bank guarantees; (b) performance bonds; (c) escrow agreements; (d) trust funds; (e) insurance; and (f) any other financial security as the Authority may determine under the National Environment Act 2019.

(3) The purpose of the financial security is to enable the Authority to access the security in the event that—

(a) environmental liability is not covered in general liability policies;

(b) there is need for environmental response action to an emergency occasion by the project or activity;

(c) the cost of environmental remediation is likely to be substantial; (d) the developer fails to comply with an order issued under this Part; or

(e) there is a risk of the developer becoming insolvent.

(4) The type and amount of financial security for each project shall be determined by the Authority.

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(5) For the avoidance of doubt, a financial security does not replace the responsibility and liability of the developer for the project or activity under this Act and any other applicable law.

9.8 NON-INTERRUPTION OF THE PROJECT ACTIVITIES

Clause 30 of the bill seeks to give assurance to the EACOP company that the only crude oil that will be required from the existing oil reserves for domestic purposes will be the 60,000 barrels reserved for the refinery and as such, the Minister will not exercise the powers conferred upon her or him under the existing law specifically sections 76 (2), 121 and 122 of the Upstream Act and sections 42 and 42 of the Midstream Act that require the Upstream Partners to deliver any petroleum from the existing reserves other than what is reserved for the Refinery.

The Committee was informed that the refinery has a right of first call on any crude oil produced. All the remaining oil is to be shipped through the EACOP project.

Due to the project-financed nature of the EACOP Project, there is a requirement to guarantee security of supply of crude oil to be transported through the pipeline. Therefore, the Minister's power under the law to require supply of crude oil by the International Oil Companies or the EACOP Company for Uganda's domestic needs has been limited only to the oil required for the refinery due to its strategic importance to Uganda. This restriction was applied to guarantee security of supply of crude oil to the pipeline and guards against any unforeseen disruptions that could curtail the operations of the EACOP project while ensuring that the refinery receives its agreed entitlement of the produced crude oil.

This clause therefore disapplies sections 76(2), 121 and 122 of the Petroleum Exploration, Development and Production Act, 2013 and sections 41 and 42 of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, 2013 that give the Minister power to direct a licensee to make supplies or deliveries from the licensee's facility to cover Ugandan requirements

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Committee Recommendation

The Committee recommends that clause 30 stands part of the Bill.

9.9 THIRD PARTY ACCESS.

The Bill seeks to provide for a third party access regime applicable to the EACOP project and operationalize Article 24 of the Host Government Agreement. This is provided for under clause 31-34. These clauses allow third parties to access and export their crude oil through the pipeline. It provides for the determination of the tariff to be paid by third parties pursuant to guidelines approved by the government. This is important in ensuring that crude oil from any future discoveries in Uganda can easily be commercialized and is, therefore, an incentive for further exploration in the country.

The Committee is alive to the fact that EACOP project being the only medium for delivering Uganda's crude oil to the international market, it improves the commercial viability of Uganda's future oil discoveries and the country's negotiation stance in future upstream Production Sharing Agreements.

Committee Observation

The Committee noted that a literal interpretation of these clauses shows a possibility of the third parties having a chance to ship at a tariff lower than that provided for in clause 5 since there is room for renegotiation of the tariff by third parties.

Committee Recommendation:

The committee recommends that clauses 31 to 34 stand part of the Bill

9.9.1 DECOMMISSIONING

The Bill proposes under Part XII that contains clauses 35 to 37, to apply the decommissioning provisions contained under the Midstream Act to the EACOP project with necessary modifications. The Bill also seeks to operationalize the decommissioning clause entailed in the Host Government Agreement under Article 37 of the same.

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9.9.2 APPLICABLE REGIME FOR DECOMMISSIONING

Clause 35 seeks to harmonize the Republic of Uganda's responsibility under the decommissioning plan with that of the United Republic of Tanzania. It is worth noting that given the single integrated nature of the Project, there is a requirement to harmonize the decommissioning obligations of the state parties. This is an enhancement of the position in the Midstream Act which only considers decommissioning from a territorial basis.

Committee Recommendation

The Committee recommends that clause 35 stands part of the Bill

9.9.3 DECOMMISSIONING FUND

Clause 36 of bill proposes the establishment of a decommissioning fund. The responsibility to decommission is on the project company and this clause provides for a decommissioning fund into which the monies required for decommissioning will be deposited as well as the intervals upon which payment must be made into the fund.

The Clause further mandates the responsible Minister in Uganda, Tanzania and the project to choose an appropriate bank to hold the decommissioning monies which guarantees that the money can only be applied for the purpose of decommissioning the pipeline.

The clauses also requires the Authority in Uganda to coordinate with the relevant Authority in Tanzania for purposes of ensuring a harmonized decommissioning plan across both states.

Committee Observation

- i) The Committee noted that Clause 36(2) is couched in mandatory terms to the extent that the financial institution to act as an escrow or account bank must be chosen from the institutions indicated in the decommissioning plan.

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- ii) The Committee further noted that this clause provides for the timing of depositing money in the fund but does not indicate the amount to be deposited.
 - iii) The Committee observed that the clause does not provide for any monitoring or oversight exercise over the decommissioning fund.
 - iv) The Committee further observed that payments to the decommissioning fund are not required until five years after first oil. The Committee was informed that this was a middle ground given the fact that the Midstream Act under section 44 requires;
 - a) the operation to begin depositing decommissioning fund in Uganda upon reaching fifty percent of the project agreement life as determined in the licence period and any successive renewals;
 - (b) five years before the expiry of the licence; or
 - (c) on notice of surrender.

The Committee was informed that basing on the above; the current legal regime would require that the project deposits to the fund after 10 years which was found to be a more disfavor able position. The implication of this would therefore mean that there would be no funds ring-fenced for attending to such environmental mitigation measures which are conditional to the Environmental and Social Impact Assessment terms in the license issued by NEMA.

Committee Recommendations

The Committee recommends that clause 36 stands part of the bill albeit with the following amendments;

- i) ***Replace the word "shall" under clause 36(2) with the word "may."***
- ii) ***Add a paragraph on clause 36(3) specifying the percentage of the estimated decommissioning cost that shall be paid to fund and at what intervals.***

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- iii) ***Insert a new clause that provides that Parliament is given a report on the performance of the decommissioning Fund.***
 - iv) ***The Committee recommends that lee way should be given to the project company and the relevant state party authorities to choose a reputable and credible financial institution located in a country of their choice and not limited to financial institutions in the decommissioning plan.***

9.9.4 COMPLETION OF DECOMMISSIONING

Clause 37(1) seeks to allow the project company to contract an independent consulting firm to prepare a post-decommissioning finalization report; confirming completion of decommissioning works to all affected sites

Clause 37(2) proposes a requirement for the Petroleum Authority of Uganda to review and approve the report.

Clause 37(3) proposes that upon approval of the post-decommissioning report, the project company shall be released from any environmental and social impacts resulting from EACOP project.

Committee Observations

- i) The Committee observed that Clause 37(1) gives lee way to the company to contract an independent consulting firm to prepare a post-decommissioning report without prior approval of the authority. The Committee believes that it is imperative that the independent firm so contracted be approved by the Authority and not just listed in the decommissioning report.
- ii) The Committee further observed that clause 37(2) is couched in mandatory terms and consequently, the authority may have limited room not to approve the report as well as limited time.
- iii) Finally under this clause, the Committee observed that clause 37(3) undermines the mandate of the National Environment Management Authority (NEMA) and could easily disregard the primary purpose of

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decommissioning which is associated with several environmental aspects including restoration.

The Committee was informed by stake holders that save for the resource reserve, all other aspects on the EACOP Project facility will be environmental in nature hence the responsibility of NEMA.

Committee Recommendations

The Committee recommends that clause 37 stands part of the bill albeit with the following amendments;

- i. Amend clause 37(1) to provide for prior approval by the Petroleum Authority of the independent consulting firm contracted to prepare a post-decommissioning report.***
- ii. Delete the phrase "which approval shall not be unreasonably withheld or delayed" from clause 37 (2).***
- iii. Insert a new sub clause immediately after clause 37(2) to provide that the decision of the Authority with regards to the decommissioning report shall be communicated to the project company within 90 days, and in case of denial, grounds for the denial shall be attached to the decision.***
- iv. Redraft clause 37 (3) to read as follows;***
- v. "The post-decommissioning finalization report shall be reviewed by the Authority in consultation with the National Environment Management Authority in accordance with the provisions of the National Environment Act, 2019 and Petroleum (Refining, Conversion, Transmission and Midstream Storage Act 2013."***

9.9.5 EARLY PROJECT ACTIVITIES

Clause 38 of the bill seeks to bring the activities that were undertaken by the project company to kick start the EACOP project under the bill. This clause recognizes that some project activities have already been undertaken by the sponsors of the project. These include the Front-End Engineering Design

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(FEED) study, Environmental Social Impact Assessment (ESIA) and land acquisition processes.

The Committee learnt that the parties agreed to this position under Article 1(2) (c) of the IGA and Article 1 of the HGA which defines early project activities. Under the IGA it was agreed that the IGA, the HGA and the enabling legislation shall apply to all project activities including those undertaken prior to the effectiveness of the IGA and the HGA.

The purpose of this provision is to ensure that early project activities are brought under the EACOP Act so that they are deemed to have been lawfully undertaken under the law. This will also enable the activities to benefit from the incentives to the project

Committee Observation

The Committee was provided the cost implication of the early cost activities and this is attached and labeled annex II.

Committee Recommendation

The Committee recommends that clause 38 stands part of the bill albeit with amendments to insert a schedule that lists the early project activities.

9.9.6 IMPORT AND EXPORT

Clause 39 of the bill seeks to remove restrictions imposed under the External Trade Act on import, export, re -import, re-export or movement of goods ,including petroleum ,materials ,supplies, technology and equipment without restriction based on the origin of those items or the persons contracted to provide them for the EACOP project.

Section 3 of the Act prohibits the imports of certain goods and section 4(1) empowers the Minister by statutory order to prohibit the export of any class of goods without a licence granted under this Act.

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- ### Committee Recommendation

9.9.7 TRANSFER OF RIGHTS AND OBLIGATIONS

In furtherance of Article 45 of the Host Government Agreement, the clause permits the transfer of ownership interests in the project which leads to change in the decisive control only with the written consent of the Minister.

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Committee Observations

The Committee made the following observations;

- i. This clause disapplies sections 25(5) and (6) of the Midstream Act which contain a different application of the concept of decisive control. The committee learnt that these sections were applied because the concept of decisive control is in circumstances not applicable for the EACOP project because these matters are exhaustively addressed in the Host Government Agreement.
- ii. The clause does not provide for the circumstances the Minister can deny approval for the transfer, as well as for the requirement to provide reasons for the refusal and it is imperative that is are specified in the regulations.

Committee Recommendations

The Committee recommends that clause 41 stands part of the bill

9.9.8 PROVISION OF ELECTRICITY.

The Bill under clause 42 proposes that the EACOP project be allowed to receive electricity from the upstream and construct the required transmission infrastructure for pumping, heating and operational purposes, under arrangements agreed with the Electricity Regulatory Authority.

The Committee was informed that the purpose of this clause was to enable the project company to receive the electricity for the EACOP project and construct the required infrastructure without going through the elaborate process of obtaining a licence under the Electricity Act, 1999.

The Committee was further informed that this clause operationalizes Article 11(11) (a) (ii) & (iii) of the HGA (Miscellaneous) wherein the parties acknowledge and agree that in accordance with the applicable agreements for Transport of Petroleum entered into between the Project Company and the Shippers from time to time:

The Project Company shall have the right to receive and use electrical power generated from excess associated gas by the upstream Project at Tilenga and/or

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Kingfisher for pumping, heating and other operational purposes solely in connection with the Transport of Petroleum through the EACOP System, including the right to construct and operate any necessary infrastructure.

Committee Observation:

The Committee observed that the Bill does not specifically stipulate that the project company shall be required to pay for the excess associated gas at market price.

Committee Recommendations:

The Committee recommends that clause 42 stands part of the bill albeit with the following amendments;

- i. Clause 42 (a) should be amended to provide that the excess associated gas shall be received by the project company at market price.***
- ii. The phrase “on terms and conditions to be agreed with the shippers” should be deleted from clause 42(b).***

9.9.9 FIBER OPTIC NETWORK.

Clause 43 of the bill proposes to enable the EACOP Project to make its excess capacity fiber optic network available to third parties at no cost to the user and no liability for the project company. This clause further seeks to exempt the Project Company from requiring a licence under the Uganda Communications Act, 2013 for the above purpose.

The Committee learnt that in respect of the free access to excess capacity of the fiber optic network to third parties, the Government agreed to waive the legal requirement for the EACOP Company to obtain a license for telecommunications under Section 22 of the Uganda Communications Act, 2013 which provides that;

A person shall not, establish a telecommunications station, provide telecommunications services or construct, maintain or operate telecommunications apparatus without a licence issued by the Commission.

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The EACOP Company will instead only be required to agree on the arrangements with the relevant state authority (i.e. Uganda Communications Commission) in order to execute this.

The Committee further learnt that once this clause is implemented, the project will make available a substantial amount of fiber optic cables to government to enable end-to end connectivity. The end-to-end connectivity involves the upstream connection where the country is connected to:

- a) The undersea cables at the coastline;
- b) The national backbone infrastructure in which the entire country is interconnected- from border to border; and
- c) The last mile connectivity where Households/offices are connected to national Fiber Backbone infrastructure

The Committee took note of the following stakeholders views that were to the effect that;

- i. The planned communications infrastructure (optical fiber cables) proposed to be laid along the pipeline under the EACOP project can be leveraged to enhance the country's backbone communications connectivity.
- ii. The Act mandates the Commission to license communications service providers in Uganda as well as encourage and promote infrastructure sharing.
- iii. In line with Uganda Communications Act and the National Broadband Policy 2018, it is desirable for operators to share communications infrastructure in order to attain the Country's strategic goals of ensuring connectivity across the country and lowering the cost of communications services.
- iv. The Uganda Communications Act does not permit a Person to establish a telecommunications station, provide telecommunications services or construct, maintain or operate telecommunications apparatus without a licence issued by the Uganda Communications Commission.

- Amend*
- v. The Uganda Communications Act provides exemptions but the Project Company does not fall within the categories specified in the Act for exemption.
 - vi. The amount (compensation/levy) that the communications infrastructure owners charge telecommunications operators for the use of their communications infrastructure directly affects the cost of infrastructure and in turn, the price to users of the telecommunication services offered over or through such infrastructure.
 - vii. The Uganda Communications Commission is mandated to ensure that any communications infrastructure sharing arrangements do not result in market distortion and should instead foster fair competition.

Committee Observation:

The Committee agrees with the views expressed by the stakeholders but however recognizes that regulatory requirements such as having to obtain an additional licence outside its core petroleum business in order to provide infrastructure services to the telecom sector, could discourage and/or unnecessarily delay the Project company's vision and planned project works.

Committee Recommendations

The Committee recommends that clause 43 stands part of the bill albeit with the following amendments;

- i. ***Section 43 (1) should be amended to ensure that Government of the Republic of Uganda takes ownership and operation of the installed fiber cables and not to any other third party. The clause should therefore be redrafted to read as follows;***

"The project company shall make available to the state at least 50% of the installed fiber optic capacity in the EACOP project at no cost and no liability for the project company in accordance with the arrangements (terms and conditions) agreed upon with the line Ministry responsible for ICT Infrastructure".

- ii. ***A new clause 43(3) should be inserted to ensure that the fiber optic cable made available to government is added onto the national fiber backbone infrastructure. This new clause should be to the effect that;***

“The fiber optic cables in Section 43 (1) shall constitute, in part, the national Fiber backbone Infrastructure of the state”

10.0 FISCAL REGIME.

The fiscal regime (Clause 44 and schedule 2)

Clause 44 and the subsequent schedule 2 seek to set out the fiscal regime applicable to the project company based on the incentives agreed upon by the states of Uganda and Tanzania to facilitate the project at the least cost.

Some of the aspects provided for include the following: a 10 year exemption of corporate income tax (CIT), withholding tax of 5% on payments to non-residents for supply of technical and others services provided directly and exclusively for the EACOP project, VAT shall not be an economic cost to the EACOP project among others.

The purpose of this provision is to legalise the incentives agreed upon by the project company and the State in the Host Government Agreement to facilitate the project at least cost.

The Committee learnt that the proposals in the fiscal regime do not vary materially from the relevant provisions that have been negotiated in the various project agreements including but not limited to the Intergovernmental Agreement (“IGA”), the Host Government Agreements (“HGA”), the Shareholders Agreement and the Transport and Tariff Agreement (“TTA”).

The Committee is of the opinion that with regards to the fiscal regime provided for under the Bill, several tax exemptions and reliefs provided for under the Bill were made because of the desire to achieve least cost for the EACOP Project.

It suffices to say that despite the frustrations that the oil industry in Uganda has suffered over the past 15 years, Uganda’s oil discoveries were made in a period of rising oil prices and this gave hope about the future of the Upstream

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industry in East Africa. However, the picture has changed because of the economic impact of COVID and the uncertain future of the oil and gas industry in the face of increasing concern over climate change as a result of continued use of fossil fuels amidst agitation for a shift to cleaner sources of energy.

It is therefore not surprising that the Government had to make significant concessions to the industry to ensure Uganda attracted investors to the oil project.

Committee Recommendation

The Committee recommends that clause 44 stands part of the Bill.

10.1 SUPREMACY OF THE BILL

Clause 46 of the Bill proposes to give the Bill and the subsequent Act supremacy over other laws, other than the Constitution, on the specific matters dealt with in the EACOP Bill. This is meant to provide legal and regulatory certainty and recognize that all other aspects of the project have been agreed upon between Uganda, Tanzania and the Project.

Committee Observation

The Committee is concerned that the phrasing of the clause appears to give the bill blanket supremacy over other laws of the Republic of Uganda save for the Constitution.

Committee Recommendation:

The Committee recommends that Clause 46 be redrafted to state as follows;

This Act takes precedence over all existing laws relating to any matter under this Act, and where there is a conflict between this Acts and any other, this Act shall prevail.

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10.2 GENERAL COMMENTS, OBSERVATIONS AND RECOMMENDATIONS

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This part of the bill entails the analysis, observations and recommendations that the Committee arrived at generally; in relation to the bill as well as the oil and sector gas, but are not attached to a particular clause on the bill.

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a) Financial Implications of the project

The committee observes that the EACOP project will have financial implications on the national budget. These implications are highlighted below:

Total project cost: The committee notes that EACOP will be built at an estimated cost of USD3.5 billion. 60% percent project financing will be debt while 40% will be equity injection. Negotiations to conclude debt project financing are in advanced stages with various commercial and sovereign export credit agencies involved in these deliberations.

Equity Share of the EACOP: The Committee observes that Government of Uganda through UNOC will hold a 15% (USD 213 Million) equity share in the EACOP. Total Holdings International B.V. will hold 62%, Tanzania through its national oil company, TPDC 15%, and CNOOC 8%. Uganda could acquire more shares if need be.

Equity contribution by UNOC: The Committee further notes that out of USD 213 million equity contribution required by UNOC to participate in the EACOP project, USD 130 million has been availed. Additional domestically sourced resources will be required to provide the outstanding balance of USD 83 million to UNOC in order to meet its cash call obligations.

The Ministry of Energy and Mineral Development (MEMD) and Petroleum Authority of Uganda (PAU) will require funds for supervision and monitoring. However, the budget for this has not been provided.

b) Volatility and impact of Crude Oil Prices on Revenue

The committee notes that the implementation of the pipeline project provides access to the international oil market and therefore brings in revenue. Figure 1 below shows the projected profile of oil revenue to government in 25 years from the start year of production.

Historically, crude oil prices have always been volatile and fluctuate because of changes to supply and demand in the international market (See figure2). The chart demonstrates how volatile crude oil prices can be. For instance, crude oil prices per barrel dropped from \$80.75 in January 2018 to \$ 38.5 in April 2020.

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These sudden changes in crude prices can affect oil revenue. If crude oil prices rise, revenue will increase and if prices fall, revenue will reduce. Sudden negative or positive shocks to the oil prices in future could significantly affect oil revenues which in turn impacts expenditure.

Committee Recommendations

The committee recommends that;

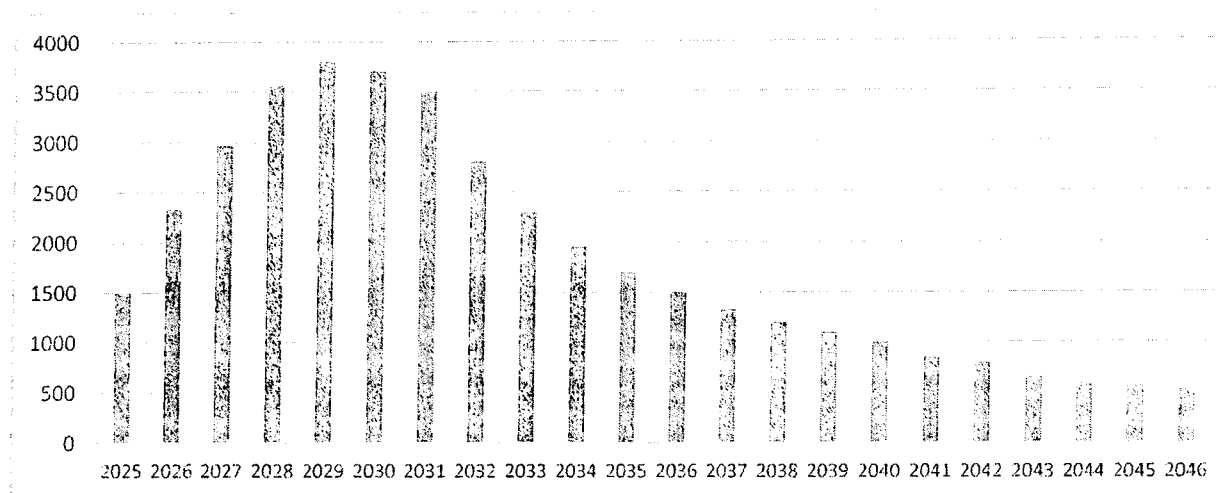
- i. Given the volatility in crude oil prices, government needs not to make Uganda's economy oil dependent, but should rather pursue economic diversification by investing in non-oil critical sectors such as agriculture and tourism. This strategy will buttress the economy against any shocks that could arise from the international oil markets.***
- ii. Although oil revenues represent a significant new source of income for government, oil is a finite resource that requires careful management to ensure that the population that ultimately owns the oil benefits from it. Therefore, government should use petroleum revenue for the financing of infrastructure and development projects and not the recurrent expenditure of Government.***
- iii. Oil should help government to realize development plans that it already has and not to dream up new ones. The Government must not only spend oil revenue wisely in order to prevent macroeconomic instability, but it also needs to put aside some of the oil wealth to meet the needs of future generations.***

Figure 1: Projected Annual Government Revenue at \$80/bbl in million USD

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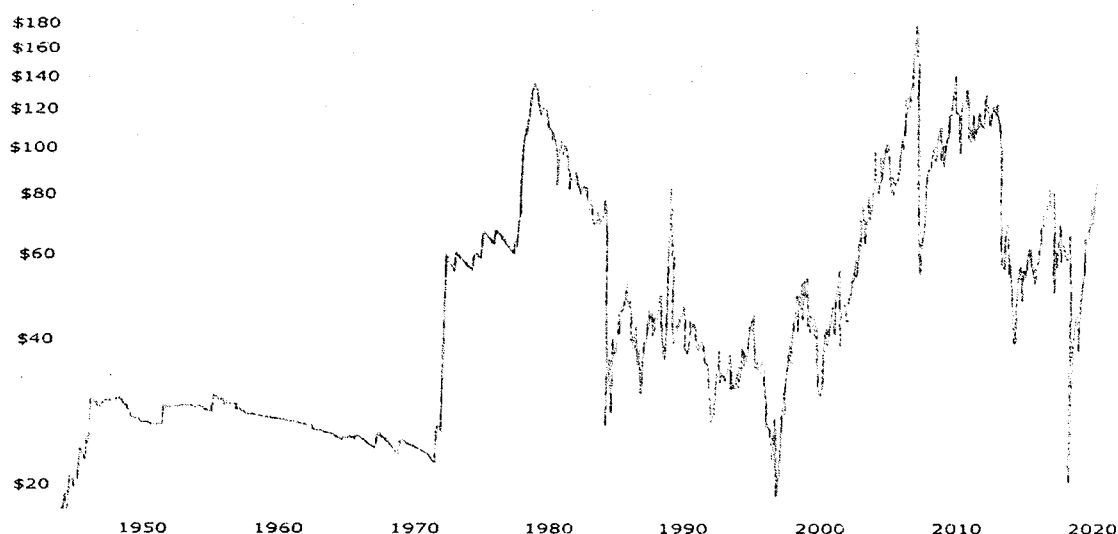
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- Bottom center: A signature that looks like "M. S."
- Right: A signature that looks like "L. S. S."
- Bottom right: A signature that looks like "A. S."
- Far right: A signature that looks like "H."



Source: Petroleum Authority of Uganda

Figure 2: Crude Oil Prices per Barrel- 70 Year Historical Chart



(c) Crude oil for the Refinery

The Committee was informed that out of total crude production per day, 60,000 barrels will be reserved for the Refinery when it starts operations in 2030. The remainder of the barrels will then be transported using the EACOP. However, implementation of both the refinery project and the EACOP at the projected crude oil production profile might not be possible unless more

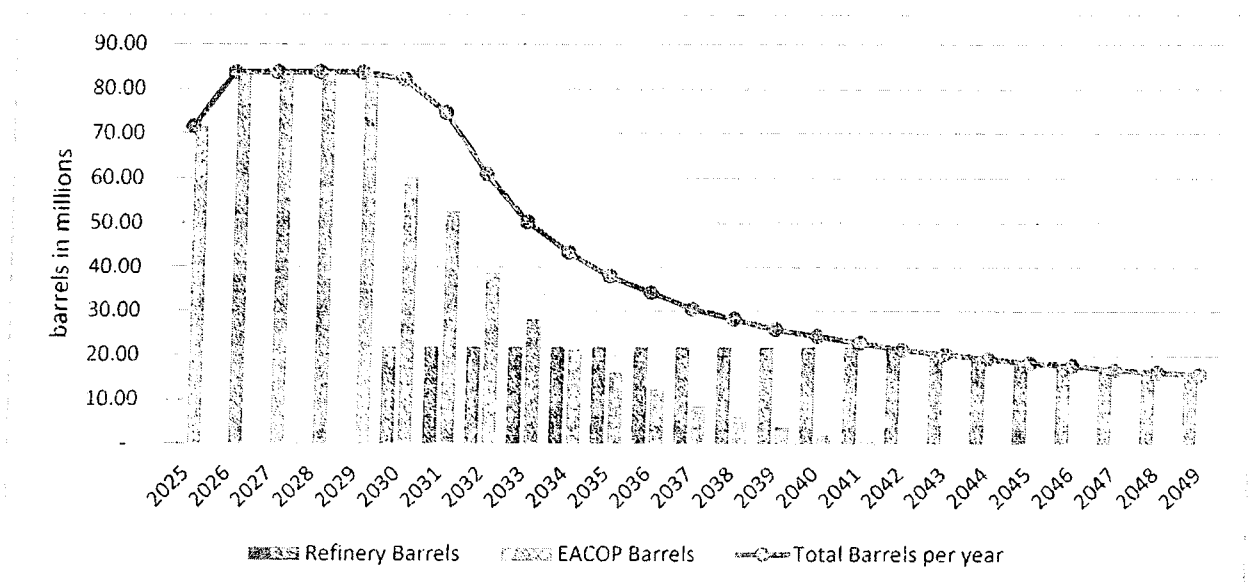
reserves are discovered. Projections indicate that total production will be less than 60,000 by 2042 meaning that no crude will be shipped in the EACOP at that time (see figure 3). In addition, this means the Pipeline will operate for 17 years.

On the other hand, all the crude oil could be exported using the pipeline if the Refinery project is not fast tracked. The pipeline project is ahead of the refinery in terms of implementation.

Committee Recommendation

The Committee recommends that refinery project should be fast tracked if it is to be feasible given the crude oil production profiles.

Figure 3: Crude Oil Production profiles for the Refinery and EACOP



Source: Based on data from PAU

c) Ten year tax exemptions justification

The Committee has established that the construction and operation of the EACOP is not profitable business but extremely necessary in order for our country to benefit from the resource that is still underground. Commercial viability of the pipeline has been made available by the Peoples Republic of Tanzania waiving all transportation tariffs, Corporate Income Tax, Withholding

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In the first ten years, projections indicate that the pipeline company will generate \$9.9 billion from transporting crude oil (see table 1). Of this, \$3.5 billion will go to CAPEX leaving a balance of \$6.4 billion to cater for other tariff components that include Opex, Interest, and taxes on dividends. Therefore, it is necessary that the EACOP system gets tax exemption for the first 10 years in order to recoup the initial investment. Levying taxes in the first ten years would increase the project cost.

When the refinery comes online, the revenue of the pipeline becomes even lower than the scenario generated by the committee in the table below. If the refinery begins production at full capacity in 2030, it would imply that the EACOP project would operate for not more than 15 years.

The Committee recommends that government reviews the double taxation agreement to ensure that they protect tax sovereign rights to mitigate revenue flight.

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Table 1: Estimated Pipeline Company Revenue per year

Sn	Year	Projected barrels per day	Projected barrels per year(365days)	Tariff (at 2% increment)	Projected Company Revenue from tariff in USD
	A	B	C=365*B	D	F=C*D
1	2025	195,833	71,479,167	12.77	912,788,958
2	2026	229,167	83,645,833	13.03	1,089,520,438
3	2027	229,167	83,645,833	13.29	1,111,310,846
4	2028	229,167	83,645,833	13.55	1,133,537,063
5	2029	229,167	83,645,833	13.82	1,156,207,804
6	2030	225,000	82,125,000	14.10	1,157,889,561
7	2031	204,167	74,520,833	14.38	1,071,691,116
8	2032	166,667	60,833,333	14.67	892,346,889
9	2033	137,500	50,187,500	14.96	750,909,907
10	2034	118,750	43,343,750	15.26	661,483,363
11	2035	104,167	38,020,833	15.57	591,853,536
12	2036	93,750	34,218,750	15.88	543,321,546
13	2037	83,333	30,416,667	16.20	492,611,535
14	2038	77,083	28,135,417	16.52	464,778,983
15	2039	70,833	25,854,167	16.85	435,636,085
16	2040	66,667	24,333,333	17.19	418,210,641
17	2041	62,500	22,812,500	17.53	399,913,926
18	2042	58,333	21,291,667	17.88	380,718,057
19	2043	55,556	20,277,778	18.24	369,840,398
20	2044	52,778	19,263,889	18.60	358,375,346
21	2045	50,000	18,250,000	18.98	346,303,756
22	2046	48,611	17,743,056	19.36	343,417,891
23	2047	45,833	16,729,167	19.74	330,269,892
24	2048	44,444	16,222,222	20.14	326,666,947
25	2049	43,056	15,715,278	20.54	322,787,777
			1,066,357,639		16,062,392,260

Source: Computations Based on data from PAU

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The Committee noted that the EACOP Project will positively impact various sectors of the Republic of Uganda in various ways and these include;

- ### **E (ii) Negative Impacts of the Pipeline Project**

E (ii) Negative Impacts of the Pipeline Project

On the other hand, the Committee deemed it fit to recognise the negative impact of the pipe line of the EACOP project. The negative impact includes;

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- i. Permanent loss of habitat from operational Right of Way
- ii. Stress or mortality to flora and fauna,
- iii. Loss of chimpanzee habitat and disturbance to chimpanzee
- iv. Reduced primary productivity in watercourse
- v. Soil contamination
- vi. Contamination of surface and groundwater
- vii. Deterioration of water quality
- viii. Dissatisfaction arising from unmet expectations over the scale and duration of project local employment opportunities
- ix. Permanent loss of private land due to project land acquisition
- x. Oil spills
- xi. Sabotage
- xii. Geophysical hazards etc.

Committee Recommendations

In light of the above impacts, the Committee recommends as follows;

- i. ***The Committee recognizes that risk assessment has been undertaken to inform the design process, the ESIA process and the development of mitigation measures. It is therefore imperative that the identified mitigation measures and the conditions specified in the permits awarded by NEMA be strictly adhered to as a means of preserving the environment, social, health and safety integrity of the project.***
- ii. ***Additional Risk assessment and mitigation measures should be implemented during the detailed engineering and construction planning***
- iii. ***An emergency response plan should be prepared to clearly identify possible emergency scenarios, set out actions to be taken in the event of an emergency, and also defines resources that will be made available to respond to an emergency event.***

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F. ACCESS TO INFORMATION

The Committee took cognizance of the fact that the access to the relevant agreements was restricted and thus hindered the appreciation of the clauses contained in the bill that meant to operationalize these agreements.

The Committee further noted that the lack of access to these documents was a resounding challenge faced by the entire stakeholder who claimed that their request to the relevant Ministry and the Attorney General to access these documents in order to aid and enrich their analysis and appreciation of the bill was denied.

The Committee further noted that Access to information in possession of the State is a right guaranteed under the Constitution of the Republic of Uganda. This right is guaranteed under Article 41 which states that;

“Every citizen has a right of access to information in the possession of the State or any other organ or agency of the State except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy.”

This right is operationalized by the Access to Information Act 2005 and the Access to Information Regulations, 2011. Section 5 of the Access to Information Act, 2005 allows a citizen the right to access information and records in the possession of the State or any public body, except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person.

The Committee appreciated the importance of access to the agreements and is of the opinion that it is important that information that will enable stakeholders the effect of the bill on their interests be disclosed. This is because section 5.1.3 of the Oil and Gas Policy of Uganda, provides for openness and access to information on activities that positively or negatively impact individuals, communities and state as a fundamental right.

Consequently, the policy seeks to promote high standards of transparency and accountability in licensing, procurement, exploration, development and production operations as well as management of revenues from oil and gas.

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Transparency and accountability are core principles of good legislation and that is main reason as to why Parliament engages in public review of Bills presented to it. The EACOP Bill makes reference to the IGA, HGA and other agreements but these are not easily accessible to Ugandans for scrutiny which defeats the spirit enshrined in the National Oil and Gas Policy and hinders effective participation of citizens in scrutiny of Bills.

Committee Recommendations

The Committee recommends that the HGA, IGA, TTA and SHA should be made publically available to enable effective interpretation and application of the EACOP Bill. Physical copies should be placed at public libraries, key Government MDAs and district headquarters of host communities to the oil projects.

G. Development of the National Refinery.

The Committee notes that the National Development III envisages construction of a Greenfield refinery with a capacity of 60,000 Barrels of Oil Per day in Kabaale, Hoima District.

UNOC reports that, to date, a number of activities towards the development of the Refinery have been completed. These include Front End Engineering design of a Residue Fluid Catalytic Cracker refinery at 95% completion; Environmental and Social Impact Assessment studies at 75%.

The completion of the FEED and ESIA will be preceded by the Detailed Engineering, Procurement and Construction Phase. The Ministry approximates the Commissioning date as 2028.

The Committee however notes with concern that whereas preliminary works on the pipeline have commenced; the refinery project will lag behind the pipeline. Peak production volumes are expected from the 4th to 8th year after first oil. It is therefore imperative for the refinery project to be commissioned before peak production so as to optimise its designated share of the produced volumes of crude oil and for it to have a longer lifespan. A longer lifespan of the refinery

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ensures that the spin-off benefits of this project are experienced for an extended duration before the oil fields are decommissioned.

The Committee also notes that the Residue Fluid Catalytic Cracker (RFCC) Configuration of the proposed refinery will mainly produce Liquefied Petroleum Gas (LPG), premium and regular gasoline, jet fuel, diesel, and low-sulphur fuel oil. Whereas these products are key in meeting the automotive and fuel needs of the country, it is important that the refinery also produces such products so as to spur the proposed petrochemicals industry. The configuration of the refinery should be adjusted to also produce xylene, toluene and benzene that are key drivers for the petrochemicals industry.

Committee Recommendations:

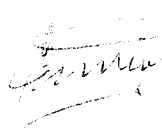
The Committee recommends that;

- i. The Refinery project should be fast tracked to come on board in not later than four years after first oil so as to optimise its share of crude oil.**
- ii. The FEED and detailed designs should take into consideration the envisaged petrochemicals industry and cater for production of such products as are key for the development of the petrochemicals industry.**

H. Local Content

Differences in requirements of the Construction Phase and Operation Phase National Content Plans (Retrospective application of national content provisions for the construction Phase)

The Committee notes that the HGA provides for provision of Local Content Plans for both the construction and operation phases of the pipeline project. The requirements therein differ in detail, which may perhaps be attributed to the duration of the two phases, with the construction phase lasting up to the point of first oil (3 years, envisaged to end by 2025) and the operations phase to last to the end of life of the existing oil fields (at least 25 years).





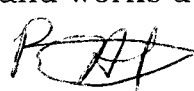

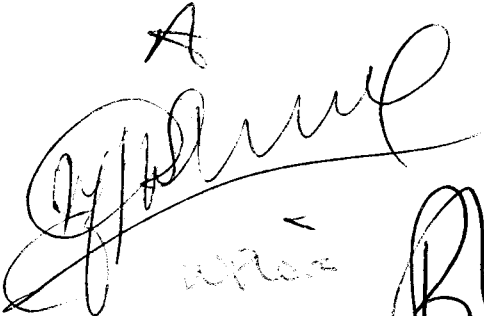
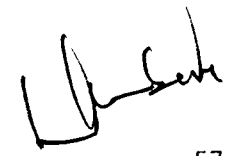


For instance the requirements of the national content plan for construction phase provided for in the HGA give no explicit targets for the different skilling levels at the inception of the project while those of the operation phase spells out the percentage of skills at managerial, technical, and other levels at the inception of the phase, and after a period of 5 and 10 years of operation.

Appendix IV (4.1.2) on local content indicates that PAU's approval of the Construction Phase National Content Plan is a prerequisite for the Project Company to take Final Investment Decision. Whereas the FID is yet to be taken, the Committee is cognizant that this is in its final stages. Consequently, a Construction Phase National Content Plan is already in the offing and should be furnished to Parliament as the earliest possible opportunity. This is to cross- check that the interests of Ugandan companies/ Ugandans to provide goods, works and services for the construction phase are taken care of.

Further the requirements for the Company to submit procurement forecasts and quarterly reports are disapplied in the HGA for the construction phase. The importance of submitting procurement forecasts and providing quarterly reports to the authority cannot be over emphasized. This ensures that Ugandans tap into the economic benefits of the project, right from its inception and throughout operation; aligns with the "*Buy Uganda, Build Uganda*" Policy; and contributes to the aspirations of the National Development Plan for transformation of Uganda's peasant society.

Although committee observes that the construction phase is short-lived, it attracts the bulk of the opportunities and has the highest potential for Ugandans to accrue the benefits of Local Content. This phase is also important for building the experience of the locals.

Therefore, notwithstanding the provisions of the HGA it is paramount that Ugandans are aware and given opportunity to apply for all available tenders for goods, services and works during the lifetime of the entire project.

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Committee Recommendations

The Committee recommends that;

- i. *The Petroleum Authority of Uganda should provide to Parliament a copy of the Construction Phase National Content Plan within one month of signing the FID.*
- ii. *Where the interests of national content are not adequately catered for, PAU shall find means with HGA to make such adjustments for the consideration of National Content requirements (Evoke 4.2.3 of Appendix IV on local content that requires the project company to submit an addendum to the construction phase National Content Plan)*
- iii. *As earlier proposed, the clauses for disapplying the requirements of issuing procurement forests and reports be deleted.*

I. Skilling needs for the two phases

The Committee observes that whereas the HGA has identified the importance and provided for the employment, training and technology transfer for the two phases of the project, it falls short on harmonising the National Content Plans for the two phases. The Agreement gives incentives to the project company to mobilise and bring to the territory experienced staff to expedite the execution of EACOP, while at the same time allowing for parallel training of Ugandans (13.1.2 of appendix 4). While this is a well- intentioned principle, its benefits are negated in 13.2.1 where such staff is trained to prepare them for positions in the Operations phase. The Committee notes that there have been skilling initiatives under different programmes of the Ministry of Energy and Mineral Development since 2016, Level IV skills as identified in the Workforce Skills Development Strategy and Plan for the Oil & Gas Sub- Sector in Uganda; of the Ministry are majorly Engineering Graduates that perhaps would require less than a year's additional target training particular to the sector so as to be eligible for such roles.

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The Committee further noted that the construction phase of the pipeline project provides more job opportunities overall as compared to the operation phase where the project has stabilised.

The HGA under 13.2.3 further allows for management staff to be mobilised directly, which hinders the principle of free and fair competition for positions. Also, no targets for skills at construction phase are made while the Operations Phase provides targets.

Committee Recommendations

The Committee recommends that;

- i. Petroleum Authority of Uganda should monitor and evaluate recruitment plans, and routinely recommend for the recruitment of Ugandans at every stage of the project, preferably revised on an annual basis.*
- ii. Petroleum Authority of Uganda should make use of its skills register to identify and adequately skill already qualified Ugandans with the view of early uptake of managerial positions in the country.*
- iii. Jobs in the sector should be equitably accessed and fair for all Ugandans to benefit from.*
- iv. Petroleum Authority of Uganda should report to Parliament on the status of skilling programmes that have been on-going, explaining the gaps and strategies within two weeks of approval of this law.*

J. Trans-boundary nature of Local Content

The Committee recognises the fact that despite the fact that schedule 4 of the Appendix on Local Content gives a list of procurement and supply of goods, works and services earmarked for Ugandans, these might not be matched with those earmarked for the Tanzanian Company.

For instance Tanzanian companies can offer professional services including legal services unlike Ugandans. This will disadvantage Ugandan companies.

Committee Recommendation

The Committee recommends that earmarked goods, works and services should be harmonised with the Tanzanian territory without losing sight of what was already provided for in the earlier sector legislation.

K. Shortcomings in the Skilling Programme in the country

The Committee notes that although several skilling programmes have been on-going in the country since 2016, they fall short of the requirements for the industry. The construction phase of this project naturally attracts more jobs than the operations phase. However, with delays in completion, accreditation of key programmes to industry standards and limitations in enrolment at key institutions like Uganda Petroleum Institute Kigumba, the number of professional that can be adequately trained for the industry is hampered.

Further, skilling programmes under the Ministry have been underfunded, which has an implication for skills uptake for the petroleum, now that the country is advancing towards development and production.

Committee Recommendations

The Committee recommends that;

- i. Adequate funding should be provided for completion of training facilities at UPIK**
- ii. International Oil Companies should sign Memoranda of Understanding with the training institutions to facilitate uptake of trained Ugandans and also guide curriculum and quality of programmes taught at the institutes.**
- iii. Parliament should expeditiously provide funding for the strategic training of Ugandans as provided for in the skilling programmes of the country.**

L. Future Re-negotiations of the HGA

The Committee notes the current terms of the HGA apply to the existing oil fields in the country. With only 40% of the Albertine Graben explored and a success rate of at least 88%, there is possibility that more recoverable oil

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reserves will be found. The new discoveries should therefore not be subject to this HGA and other agreements negotiated but rather should be renegotiated. This is premised on their being new discoveries as well as the fact that the project companies and investors would have recovered their capital expenditure and will not necessitate incentives to make the project viable.

Committee Recommendation

The Committee recommends that future discoveries should not be tagged to the current HGA but call for future negotiations of the same.

10.3 CONCLUSION

Uganda has been waiting for oil for more than 15 years since commercially viable quantities of crude oil were confirmed in the country. Efforts to source willing investors into this highly capital-intensive industry have over the years met so many obstacles, many of which hindered the opportunity for this country to benefit from a resource whose usefulness globally is beginning to be challenged by the push for transition to use of clean renewable energy sources. Rt. Hon. Speaker, the Committee held many discussions and reviewed documents that majorly led to supporting the domestication of all agreements signed by the Ugandan Authorities to support establishment and operation of the transboundary East African Crude Oil Pipeline. All the milestones required to commence production of oil and gas in Uganda have been completed pending passing of this Bill into law.

Accordingly, the Committee has proposed amendments to the Bill which we now invite this House to consider for approval to enable its passing into law.

Rt.Hon. Speaker, I beg to report.

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List of Stakeholders (Annex I)

1. The Ministry of Energy and Mineral Development
2. The Petroleum Authority Uganda
3. Uganda National Oil Company
4. Attorney General of Uganda
5. National Planning Authority
6. National Environment Management Authority
7. Uganda Revenue Authority
8. Electricity Regulatory Authority
9. Insurance Regulatory Authority
10. Uganda Land Commission
11. Ministry of ICT and National Development
12. Uganda Communications Commission
13. Uganda Law Society
14. CSO BAPENECO
15. Uganda Consortium on Corporate Accountability
16. Publish What You Pay
17. Africa Institute for Energy Governance, with the following signatories:
 - Africa Institute for Energy Governance (AFIEGO)
 - African Initiative on Food Security and Environment (AIFE)
 - Center for Constitutional Governance (CCG)
 - Community Transformation Foundation Network (COTFONE)
 - Centre for Citizens Conserving (CECIC)
 - Centre for Energy Governance (CEG)
 - Citizens Concern Africa (CICOA)
 - Environment Governance Institute (EGI)
 - Guild Presidents Forum on Energy Governance (GPFOG)
 - Oil Refinery Residents Association (ORRA)
 - Oil and Gas Region Human Rights Defenders Association (OGRHA)
 - Women for a Green Economy Movement (WoGEM)
 - World Voices Uganda (WVU)
 - Youth for Green Communities
 - Association for oil-affected youth

- 18. Civil Society Organisation; generated by member organizations of the Civil Society Coalition on Oil and gas (CSCO) and Civil Society Budget Advocacy Group (CSBAG), Oxfam and Natural Resource Governance Institute .
- 19. FIDA Uganda and the Uganda Consortium on Corporate Accountability of Uganda; representing 23 organisations
- 20. PricewaterhouseCoopers (Uganda) Limited

APPENDIX II: BREAKDOWN OF EARLY PROJECT ACTIVITIES FOR THE EACOP PROJECT

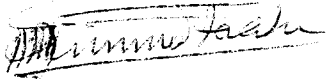
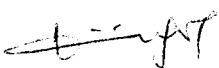
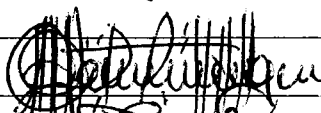
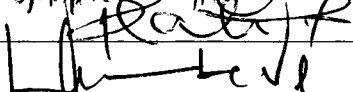
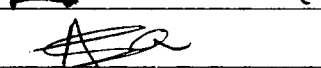

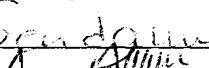
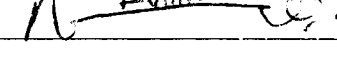

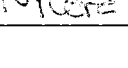
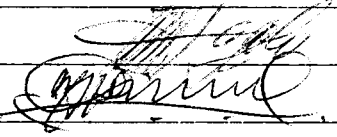




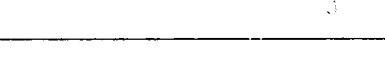
The EACOP has incurred a total of USD 428,190,000 on early project activities as shown in the table below.

SN.	Description	2016 USD ('000)	2017 USD ('000)	2018 USD ('000)	2019 USD ('000)	2020 USD ('000)	Realized Jan. to October 2021 USD ('000)	TOTAL USD ('000)
1.	Integrated Project Group Project Management Team	3,914	23,757	34,360	44,508	12,881	23,801	143,221
2.	Commercial & Legal	1,776	3,868	7,188	4,600	3,782	8,271	29,485
3.	Health Safety Social Security Environment	64	4,867	9,463	5,605	458	349	20,806
4.	Land & Social	0	3,034	20,513	36,658	1,498	8,847	70,550
5.	Surveys	799	13,069	14,434	11,674	62	385	40,423
6.	Pre-Feed & Feed	8,371	19,713	11,517	1,350	0	0	40,951
7.	Main Contracts	0	111	5,768	14,832	4,031	24,258	49,000
8.	Other Contracts	0	0	0	5,952	2,664	5,198	13,814
9.	EACOP General & Administrative	1,133	3,613	6,041	4,466	2,829	1,857	19,939
	ANNUAL SUB-TOTALS	16,057	72,031	109,284	129,645	28,206	72,966	
							GRAND TOTAL	428,190

NOTES

1. The Activity that has incurred that largest amount is the Integrated project group/project management. This is followed by land.
2. The costs are not split between Uganda and Tanzania because these are reported together. However, EACOP has been asked to make the split.

**SIGNATURE SHEET FOR MEMBERS OF THE COMMITTEE ON
ENVIRONMENT AND NATURAL RESOURCES - EAST AFRICAN CRUDE OIL
PIPELINE (EACOP) (SPECIAL PROVISIONS) BILL, 2021**

No.	NAME	PARTY	SIGNATURE
1.	Hon. Dr. Otiam Emmanuel Otaala (Chair)	NRM	
2.	Hon. Dr. Kugonza Emely (Deputy)	NRM	
3.	Hon. Biyika Lawrence Songa	NRM	
4.	Hon. Kateshumbwa Dicksons	NRM	
5.	Hon. Wambede Seth	NRM	
6.	Hon. Agasha Juliet Bashisha	NRM	
7.	Hon. Tumwesigye Josephat	NRM	
8.	Hon. Sendawula Christine Bukenya	NRM	
9.	Hon. Akamba Paul	NRM	
10.	Hon. Mugumya Claire	NRM	
11.	Hon. Natumanya Flora	NRM	
12.	Hon. Alion York Odria	NRM	
13.	Hon. Ruhunda Alex	NRM	
14.	Hon. John Faith Magolo	NRM	
15.	Hon. Angura Fredrick	NRM	
16.	Hon. Orone Derick	NRM	
17.	Hon. Apollo Yeri Ofwono	NRM	
18.	Hon. Twinomujuni Francis Kazini	NRM	
19.	Hon. Otukol Sam	NRM	
20.	Hon. Kwizera Eddie Wa-Gahungu	NRM	
21.	Hon. Kaaya Christine Nakimwero	NUP	
22.	Hon. Kanyike Ronald Evans	NUP	



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23.	Hon. Nalule Asha Aisha Kabanda	NUP	
24.	Hon. Tebandeke Charles	NUP	
25.	Hon. Aol Betty Acan	FDC	<i>REF</i>
26.	Hon. Nyakato Asinansi	FDC	
27.	Hon. Kayondo Fred	DP	
28.	Hon. Akena James Jimmy	UPC	<i>Henry</i>
29.	Hon. Adidwa Abdu	INDEP.	
30.	Hon. Kamuntu Moses	INDEP.	
31.	Hon. Auma Linda Agnes	INDEP.	
32.	Hon. Musana Eric	INDEP.	

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