**PARLIAMENT OF THE REPUBLIC OF UGANDA**

# REPORT OF THE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES ON THE PETROLEUM SUPPLY (AMMENDMENT BILL), 2023

**OFFICE OF THE CLERK TO PARLIAMENT**

**PARLIAMENTARY BUILDINGS**

**KAMPALA**

## LIST OF ACRONYMS

| | |
|---|---|
| **AFIEGO** | **African Institute for Energy Governance** |
| **G-to-G** | **Government to Government** |
| **GOU** | **Government of Uganda** |
| **MEMD** | **Ministry of Energy and Mineral Development** |
| **MoFPED** | **Ministry of Finance Planning and Economic Development** |
| **UNOC** | **Uganda National Oil Company** |
| **URSB** | **Uganda Registration Services Bureau** |
| **OMCA** | **Oil Marketing Company Association** |
| **OMCs** | **Oil Marketing Companies** |

## 1.0 INTRODUCTION

**Rt. Hon. Speaker and Hon. Colleagues,**

The Petroleum Supply (Amendment) Bill, 2023 was read for the First Time on the 31st October 2023 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.

## 2.0 BACKGROUND TO THE BILL

The Petroleum Supply Act was enacted in 2003 to provide for, the supervision and monitoring, importation, exportation, transportation, processing, supply, storage, distribution and marketing of petroleum products, establishment of the Minister responsible for the petroleum sector as the regulatory authority, licensing and control of activities and installations, safety and protection of public health and the environment in petroleum supply operations and installations, encourage and protect fair competition in the petroleum supply market, repeal certain related laws and for connected matters.

The Act, however, does not empower the Uganda National Oil Company (UNOC) to solely import and supply all imports to the licensed oil marketing companies of petroleum products for the Ugandan market.

UNOC is a limited liability company owned by the Government of Uganda (GOU). It was established under Section 42 of the Petroleum (Exploration, Development, and Production) Act, and Section 7 of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, both of 2013 and was incorporated under the Companies Act of 2012 as a limited liability company with the shareholders being Ministry of Finance Planning and Economic Development (49% shares) and Ministry of Energy and Mineral Development (51% shares).

The mandate of UNOC among others includes; handling the State's commercial interests in the petroleum sub-sector, managing State participation in petroleum activities, managing the marketing of the country's share of petroleum received in kind, evaluation of new upstream, midstream and downstream ventures, optimizing value for its shareholders and developing in-depth expertise in the oil and gas sector.

The lack of empowerment for UNOC to be the sole importer and supplier of Uganda's petroleum products has contributed to instability of petroleum product supply in Uganda, unpredictable pump prices, and financial stagnation for UNOC which has curtailed its business progress.

It is from this background that the Petroleum Supply Act, 2003 is being amended in order to empower the UNOC to be the importer and supplier of all petroleum products for the Ugandan market. This is intended to ensure security of supply of petroleum products, improve petroleum product stock holding levels within the country and contribute to the competitiveness of retail pump prices.

**3.0. OBJECT OF THE BILL**

The object of this Bill is to amend the Petroleum Supply Act, 2003, to empower the Uganda National Oil Company Limited to be the supplier of all imports to the licensed oil marketing companies of petroleum products for the Ugandan market for purposes of ensuring security of supply of petroleum products, to improve petroleum product stock holding levels within the country, and to contribute to the competitiveness of consumer and retail pump prices.

**4.0. COMPILANCE OF THE BILL TO THE NATIONAL DEVELOPMENT PLAN III (NDP III)**

The NPD III 2020/21-2024/25 is rooted in a vision of a transformed Ugandan society from a peasant to a modern and prosperous country within thirty years. The aim of the sustainable development of petroleum resources under the plan, is to attain equitable value from the petroleum resources and spur economic development in a timely and sustainable manner.

The plan notes that Petroleum Authority of Uganda and the Ugandan National Oil Company were operationalized to regulate the petroleum industry and manage the business/commercial interests respectively. This is in line with vision 2040 which aims to transform the Ugandan society from a peasant to a modern and prosperous society. The Bill therefore intends to actualize the intention of NDP III by enabling the Uganda National Oil Company, manage the business interests of the country by supplying all imports to licensed oil marketing companies of petroleum products for the Ugandan market.

## 5.0. METHODOLOGY

The Committee was guided by the provisions of Rule 129 of the Rules of Procedure of the Parliament to examine the Bill in detail and make all such inquiries in relation to it. As such, the committee;

i. Received submissions and held meetings with the Ministry of Energy and Mineral Development as the sponsors of the Bill;

ii. Received views and interfaced with other key Government Ministries and Agencies;

iii. Received submissions and held meetings with members from the private sector; and

iv. Reviewed literature from other jurisdictions on the subject.

Comprehensively, stakeholders with whom the Committee interacted or received memoranda included; Ministry of Energy and Mineral Development, Office of the Attorney General, Uganda National Oil Company (UNOC), Uganda Law Society, MaerskLine Trade Finance, Mahathi Infra Uganda Limited, Uganda Registration Services Bureau (URSB), and the African Institute for Energy Governance (AFIEGO).

## 6.0. LIMITATIONS

The Committee was unable to physically benchmark countries whose national oil companies have mandate similar to those outlined in the Bill, primarily due to resource constraints. Therefore, the Committee did not undertake comparative assessments through on-site visits or evaluations.

## 7.0 COMMITTEE ANALYSIS, OBSERVATIONS AND RECOMMENDATIONS

This part of the report will examine the proposed clauses of the Bill, their Constitutionality, and relevance in light of existing laws and policies, court decisions, and the mischief they intend to cure.

### 7.1. Amendment of objectives of principal Act

Clause 1 of the bill seeks to amend section 3(f) of the principal Act whose objective is to encourage and promote fair competition within the petroleum supply market, to eliminate discrimination or preferential treatment of any participant and to prevent monopolistic control of any segment of the supply chain.

The clause further proposes to insert a new objective (i) to facilitate the Uganda National Oil Company or such other person nominated by the Minister with cabinet approval to import all Petroleum Products, destined for the Ugandan market.

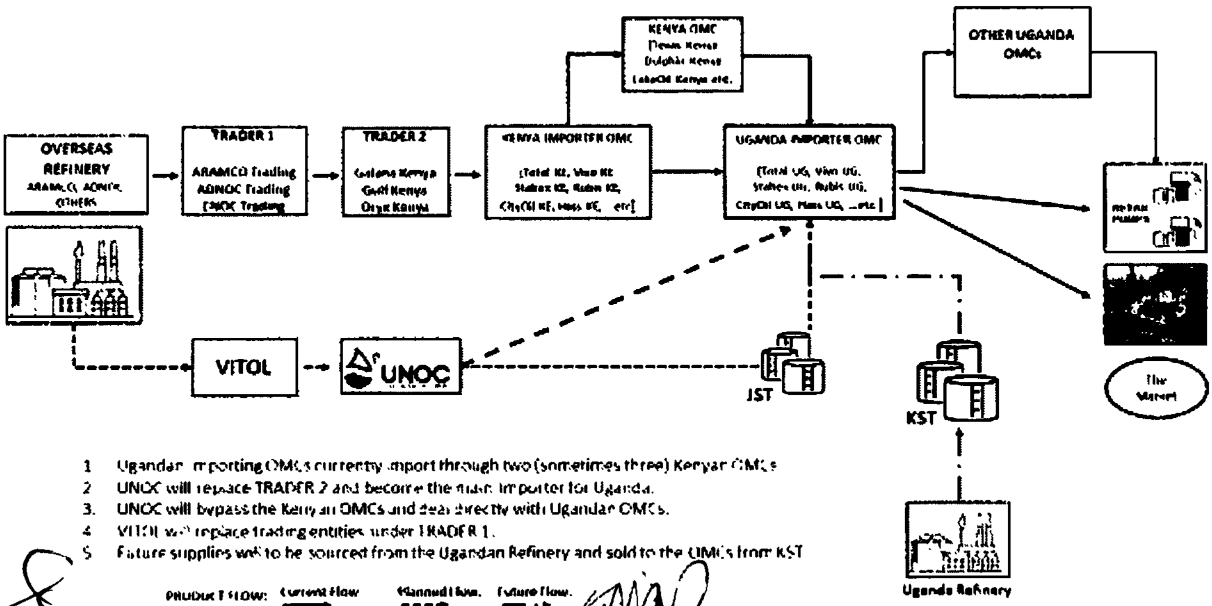
**Committee observations**

The committee noted that currently, Uganda imports 90% of its petroleum products through Kenya, and 10% through Tanzania. The country has an annual consumption of 2.5 billion liters of petrol, diesel, Jet-A1 and kerosene with an annual growth of 7%. On average, Petrol takes the biggest share of imports followed by Diesel, Jet-A1 and Kerosene.

The said petroleum products are purchased by Ugandan companies from Kenyan companies which have been operating under the open tender system (OTS), until April 2023 when Kenya moved from OTS to government to government (G-to-G) dealing directly with countries where they now import their petroleum products. The OTS system was guaranteed by the Ministry of Petroleum and Mining in Kenya which is responsible for regulation of imports of all petroleum products in Kenya. The Ministry of Petroleum and Mining in Kenya instituted the quantities for the Kenyan Domestic Market and for onward transit to neighboring countries at a 60:40 ratio respectively. In essence, 60% of all the fuel imported through Kenya is retained in the Kenyan market and Neighboring countries including Uganda, Rwanda and Democratic Republic of Congo have to share the 40% share allocation.

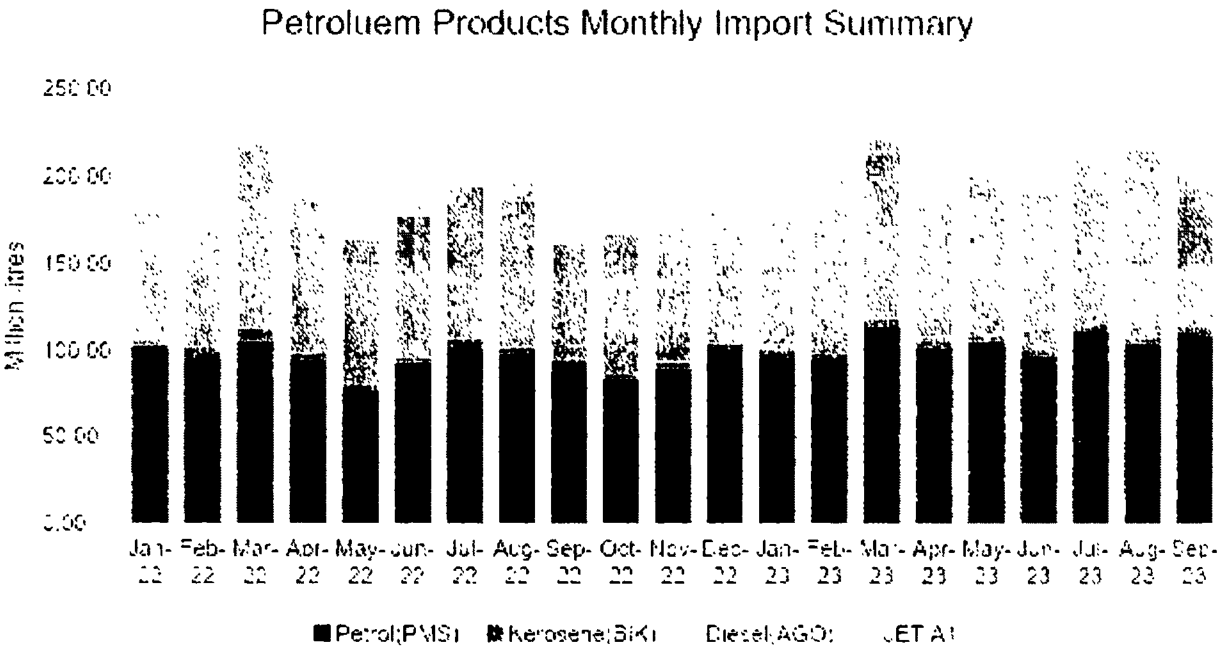
The system currently imposes three layers of middlemen from the overseas refinery to the Ugandan oil marketing companies, with companies including Aramco, Adnoc, and Enoc as the first layer traders from the overseas refineries. Companies that constitute the second layer include Galana, Gulf, and Oryx Kenya. The third layer includes Total, Vivo, Stabex, Rubis, and city oil and Hass, which then supply to the Ugandan Importer oil marketing companies. Each of these companies infuses a profit margin which is ultimately fed into the final pump price.

UNOC POSITIONING IN THE PETROLEUM PRODUCTS SUPPLY CHAIN THROUGH KENYA



**Volume of Monthly Petroleum Imports for Uganda**

The chart below shows volume of petroleum products imported by Uganda monthly.




Source: MEMD

The committee noted that inability to purchase directly from the refineries, leads to an extra markup on Uganda's fuel from Kenyan companies, insecurity in supply for petroleum products, and inability to directly negotiate for petroleum prices with refiners which inevitably contributes to high and unpredictable pump prices.

The committee noted that the Bill, proposes to cure this by making UNOC the sole importer and supplier of all petroleum products destined for the Ugandan market to the licensed oil marketing companies, and thus remove middlemen and their attendant cost and surcharge implications.

The committee however noted the revelation by the Ministry of Energy that UNOC lacks the financial capacity to directly purchase petroleum products from the international refineries and shall thus be buying from an international company Vitol, which shall finance the supply of the petroleum products up to delivery points in Kenya and Tanzania, on a non-immediate cash payment basis, to enable UNOC pay after supplying the oil marketing companies within Uganda.

The committee notes that the proposal in the clause shall go a long way in the eliminating two layers of middlemen from the petroleum supply chain as well as growing the capital base and business capacity of UNOC.

***Committee Recommendation***

***The committee recommends that clause 1stands part of the Bill as proposed.***

### 7.2 Interpretation

Clause 2 seeks to introduce a definition of "licensed oil marketing companies" to mean a person granted a petroleum supply operations licence under section 17 to import petroleum products into Uganda.

The committee noted that whereas it is important to define the term licensed oil marketing companies for clarity of use in the law, section 17(2) of the principal Act prohibits a person from performing petroleum supply operations without having obtained a petroleum operating licence under the Act, but not the petroleum supply operations licence referred to in the clause.

***Committee recommendation***

***The committee recommends that the words "petroleum supply operations licence" be substituted with the words, "petroleum operating licence" for consistency.***

### 7.3 Supply chain of petroleum products

Clause 3 of the Bill seeks to substitute section 29 of the principal Act which allows any person whether Ugandan or foreign to participate in all or any activities of the supply chain by restricting the importation and supply of petroleum products destined for the Ugandan market to the licensed oil marketing companies to be undertaken only by UNOC.

The clause also empowers the Minister, by statutory instrument under exceptional circumstances, with the approval of cabinet, to nominate such other person to import and supply all or a portion of petroleum products. The exceptional circumstances are, where UNOC fails to import and supply petroleum products in any given month or where UNOC becomes insolvent.

The clause further obligates all licensed oil marketing companies to purchase all their petroleum product requirements from UNOC or other nominated person by the Minister.

**Committee observations**

The committee noted that the clause buttresses with clause 1 to ensure protection and capacity building for UNOC to shield it against competition as a Ugandan owned company to import and supply petroleum products for the Ugandan oil marketing companies.

The committee further noted that the clause by empowering the Minister to nominate any other person, is introducing a buffer in case UNOC is unable to import and supply petroleum products or if it becomes bankrupt. This shall ensure continuity of supply so that there is no scarcity of petroleum products at any time in the economy.

***Committee recommendations***

***The committee agrees to the proposal.***

### 7.4 Petroleum products to be imported and supplied by UNOC

Clause 4 introduces a third schedule which lists the petroleum products to be sourced and supplied by UNOC to include premium motor gasoline or super petrol, automotive gasoil or diesel, Jet A-1 and dual purpose kerosene.

The committee noted that the proposal does not include differentiated or specialized petroleum products as well as lubricants, both of which are being imported and supplied into the Ugandan market.

***Committee recommendation***

***The committee recommends that the proposed third schedule be amended to include differentiated or specialized petroleum products***

***and lubricants as shall be specified by the different oil marketing companies.***

## 8.0 GENERAL OBSERVATIONS AND RECOMMENDATIONS

### 8.1 Need for Multiple Suppliers

The Committee observed that in Kenya the G-to-G importation of petroleum products is undertaken with three multinational companies. Whereas it is crucial to build the capacity of UNOC in the interim, this should be followed by Government identifying and entering into partnerships with multiple multinational players in the petroleum supply chain as in Kenya.

The Committee therefore recommends that Government identifies other suitable companies to supply UNOC in the long term.

### 8.2 Funding to UNOC

The Committee observed that since the inception of UNOC, it has lacked sufficient funds to execute its mandate of managing the State's commercial interest in the oil and gas sector, including importation and supply of petroleum products from oil refiners abroad. Although the current endeavor is meant to build capacity of UNOC to import and supply petroleum products to the Ugandan market, it still needs additional resources to be able to deal directly with international refineries.

***Recommendation***

- ***We recommend that Government enhances funding for UNOC to enable it independently execute its mandate.***

### Possible Working Partnerships for UNOC

The Committee was informed that, Oil refineries only deal with big companies of high financial standing. For this reason, even Kenyan companies participating in the Open Tender System (including Vivo Kenya) could not manage to have standalone arrangements with refineries. A typical refinery will require a Standby Letter of Credit/Bank Guarantee issued by one of the 50 top banks in the World for volumes of at least 356 days. In Uganda's case, the current annual import demand of approximately 2.5 billion litres would require a Bank Guarantee of at least US$ 1.5 billion.

***Recommendation***

- ***UNOC should explore possible working partnerships with willing entities that have developed capacity in transportation and storage of petroleum products.***

**8.3 Establishment of the Technical Petroleum Committee**

Section 8 of the Principal Act, 2003 provides for the establishment of the Technical Petroleum Committee that consists of a Chairperson and eight other members who possess qualifications and expertise in respect of petroleum supply and related matters to be appointed by the Minister.

In addition, section 9 of the Principal Act outlines the functions of the Technical Petroleum Committee among others to include advising the Minister on proposed legislation, technical standards and specifications relating to petroleum products and the supply chain, and developing and submitting to the Minister proposals for the improvements of the petroleum supply policies, systems, regulations, technical standards and codes of practice.

The Committee noted with concern that 20 years since the enactment of the Act, the Technical Petroleum Committee has never been setup. The absence of the Committee, indicates a significant gap in the oversight and advisory mechanisms for the petroleum supply and related matters which impedes effective performance of this sub-sector.

***Recommendation***

***The MEMD should operationalize the Technical Petroleum Committee as stipulated in part III of the Principal Act of 2003.***

### 8.4 Elimination of intermediary Oil Marketing Companies

The Committee noted that there is an option of UNOC dealing with oil refineries directly. This would eliminate all middlemen from the supply chain.

***Recommendation***

***The Committee recommends that in the long-term UNOC should explore opportunities of direct engagement with refineries. This shall minimize costs, and increase stability of petroleum product supply into the economy.***

**Rt. Hon. Speaker**, I beg to Report.

**Proposed Amendments to the Petroleum (Amendment) Bill,2023**

**Clause 1: Amendment of section 3 of Petroleum Supply Act, 2003**

Clause 1 is amended in the proposed paragraph (i) by inserting the words, "and supply" immediately after the word, "import"

**Justification**

For clarity in the proposed object of the Bill, to empower UNOC or such other person nominated by the Minister with cabinet approval to be the sole importer and supplier of all petroleum products destined for the Ugandan market.

**Clause 2: Amendment of section 5 of principal Act**

Clause 2 is amended in the proposed definition of "licensed oil marketing companies" by substituting for the words, "petroleum supply operations licence" the words, "petroleum operating licence"

**Justification**

For harmonization with the principal Act.

**Clause 4: insertion of Third Schedule to principal Act**

Clause 4 is amended in the proposed third schedule by inserting another item number 5, "specialized products or differentiated products and lubricants" immediately after item number 4.

**SIGNATURE SHEET FOR THE REPORT OF THE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES ON PETROLEUM SUPPLY (AMENDMENT) BILL, 2023**

| S/N | NAME | CONSTITUENCY | PARTY | SIGNATURE |
|---|---|---|---|---|
| 1. | **Hon. Otiam Emmanuel Otaala (Chair)** | **West Budama South County** | **NRM** | |
| 2. | **Hon. Igeme Nathan Nabeeta (Deputy)** | **Jinja South Division East County** | **NRM** | |
| 3. | Hon. Acan Joyce Okeny | PWD | NRM | |
| 4. | Hon. Feta Geoffrey | Ayivu West | NRM | |
| 5. | Hon. Ngoya John Bosco | Bokora County | NRM | |
| 6. | Hon. Bagiire Aggrey Henry | Bunya West | NRM | |
| 7. | Hon. Wambede Seth | Northern Division Mbale | NRM | |
| 8. | Hon. Agasha Juliet Bashiisha | DWR Mitooma | NRM | |
| 9. | Hon. Tumwesigye Josephat | Bugangaizi South County | NRM | |
| 10. | Hon. Ssentayi Mohammed | Bukoto West | NRM | |
| 11. | Hon. Ssemwanga Gyavira | Buyamba County | NRM | |
| 12. | Hon. Karubanga David | Kigorobya | NRM | |
| 13. | Hon. Sendawula Christine Bukenya | DWR Kyankwanzi | NRM | |
| 14. | Hon. Akamba Paul | Busiki County | NRM | |
| 15. | Hon. Mugumya Clare | DWR Isingiro | NRM | |
| 16. | Hon. Ruhunda Alex | Fort-portal Central | NRM | |
| 17. | Hon. Dr. Magolo John Faith | Bungokho County | NRM | |

| | | | | |
|---|---|---|---|---|
| 18. | Hon. Orone Derrick | Gogonyo County | NRM | |
| 19. | Hon. Apollo Yeri Ofwono | Tororo Municipality | NRM | |
| 20. | Hon. Twinomujuni Francis Kazini | Buhaguzi County | NRM | |
| 21. | Hon. Kwizera Eddie Wagahungu | Bukimbiri County | NRM | |
| 22. | Hon. Ariko Herbert Edmund | Soroti East Division | NRM | |
| 23. | Hon. Katalihwa Donald Byabazaire | Mwenge County | NRM | |
| 24. | Hon. Ogwari Polycarp | Agule County | NRM | |
| 25. | Hon. Kaaya Christine Nakimwero | Kiboga District | NUP | |
| 26. | Hon. Kanyike Ronald Evans | Bukoto East | NUP | |
| 27. | Hon. Natumanya Flora | DWR Kikuube | NRM | |
| 28. | Hon. Angura Fredrick | Tororo South County | NRM | |
| 29. | Hon. Nalule Asha Aisha K. | DWR Butambala | NUP | |
| 30. | Hon. Tebandeke Charles | Bbale County | NUP | |
| 31. | Hon. Aol Betty Achan | DWR Gulu | FDC | |
| 32. | Hon. Nyakato Asinansi | DWR Hoima | FDC | |
| 33. | Hon. Akena James Jimmy | Lira Municipality | UPC | |
| 34. | Hon. Musila John | Bubulo | INDEP. | |
| 35. | Hon. Adidwa Abdu | Bukooli County South | INDEP. | |
| 36. | Hon. Katenya Isaac | Bulambuli County | INDEP. | |
| 37. | Hon. Kamuntu Moses | Rubanda County | INDEP. | |
| 38. | Hon. Musana Eric | Buyaga East | INDEP. | |
| 39. | Hon. Bahireira T. Sylvia | DWR Kamwenge | INDEP. | |

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## 1.0 INTRODUCTION

**Rt. Hon. Speaker and Hon. Colleagues,**

The Petroleum Supply (Amendment) Bill, 2023 was read for the First Time on the 31st October 2023 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.

## 2.0 BACKGROUND TO THE BILL

The Petroleum Supply Act was enacted in 2003 to provide for, the supervision and monitoring, importation, exportation, transportation, processing, supply, storage, distribution and marketing of petroleum products, establishment of the Minister responsible for the petroleum sector as the regulatory authority, licensing and control of activities and installations, safety and protection of public health and the environment in petroleum supply operations and installations, encourage and protect fair competition in the petroleum supply market, repeal certain related laws and for connected matters.

UNOC is a limited liability company solely owned by the Government of Uganda (GOU). It was established under Section 42 of the Petroleum (Exploration, Development, and Production) Act, 2013 and Section 7 of the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act, both of 2013 and was incorporated under the Companies Act of 2012 as a limited liability company with the shareholders being Ministry of Finance Planning and Economic Development (49% shares) and Ministry of Energy and Mineral Development (51% shares) on June 12th, 2015.

The mandate of UNOC among others includes; handling the State's commercial interests in the petroleum sub-sector, managing State participation in petroleum activities, managing the marketing of the country's share of petroleum received in kind, evaluation of new upstream, midstream and downstream ventures, optimizing value for its shareholders, developing in depth expertise in the oil and gas sector.

### 3.0. OBJECT OF THE BILL

The object of this Bill is to amend the Petroleum Supply Act, 2003, to empower the Uganda National Oil Company Limited to be the supplier of all imports to the licensed oil marketing companies of petroleum products for the Ugandan market for purposes of ensuring security of supply of petroleum products, to improve petroleum product stock holding levels within the country, and to contribute to the competitiveness of consumer and retail pump prices.

### 4.0. COMPILANCE OF THE BILL TO THE NATIONAL DEVELOPMENT PLAN III (NDP III)

The National Development Plan (NDP) III 2020/21-2024/25, seeks to increase the competitiveness and strength of the private sector to drive sustainable and inclusive growth. As a key national development policy, the NDP III seeks to ensure that the government works with the private sector to ensure that the resource-led industrialization process is both sustainable and beneficial to its citizens. NDPIII advocates for the prevention of non-tariff barriers in regional markets, competition policies and laws that encourage innovations, enforcement of standards and the proliferation of counterfeits. The proposed amendments to the Petroleum Supply (Amendment) Act (2023) are therefore not in conformity with NDP III.

### 5.0. METHODOLOGY

The Committee was guided by the provisions of Rule 129 of the Rules of Procedure of the Parliament to examine the Bill in detail and make all such inquiries in relation to it. As such, the committee;

i. Received submissions and held meetings with the Ministry of Energy and Mineral Development as the sponsors of the Bill;

ii. Received views and interfaced with other key Government Ministries and Parastatals;

iii. Received submissions and held meetings with members from the private sector; and

iv. Reviewed literature from relevant countries.

Comprehensively, stake holders with whom the Committee interacted with or received memorandum included; Ministry of Energy and Mineral Development, Office of the Attorney General, Uganda National Oil Company (UNOC), Uganda Law Society, Maersk Line Trade Finance, Mahathi Infra Uganda Limited, Uganda Registration Services Bureau (URSB), and the African Institute for Energy Governance (AFIEGO) and Hon. Nandala Mafabi, presenting his views as an oil dealer.

## 5.0. LIMITATIONS

The Committee was unable to physically benchmark countries whose national oil companies have mandates similar to those outlined in the Bill, primarily due to resource constraints. Therefore, the Committee did not undertake comparative assessments through on-site visits or evaluations.

## 6.0 COMMITTEE ANALYSIS, OBSERVATIONS AND RECOMMENDATIONS

This part of the report will examine the proposed clauses of the Bill, their Constitutionality, and relevance in light of existing laws and policy, court decisions, and the mischief they intend to cure. The analysis is based on thematic areas as provided for in the Bill as well as new proposals to the Bill.

### 6.1. Amendment of objectives of principal Act

**Clause 1** of the bill seeks to delete section 3(f) of the principal Act whose objective was to encourage and promote fair competition within the petroleum supply market, to eliminate discrimination or preferential treatment of any participant and to prevent monopolistic control of any segment of the supply chain.

The clause further proposes to insert new objective (i) to facilitate the Uganda National Oil Company or such other person nominated by the Minister with cabinet approval to import all Petroleum Products, destined for the Ugandan market.

**Committee observations**

The committee noted that currently, Uganda imports 90% of its petroleum products through Kenya, and 10% through Tanzania. The country has an annual consumption of 2.5billion liters of petrol, diesel, Jet-A1 and kerosene with an annual growth of 7%. On average, Petrol takes the biggest share of imports followed by Diesel, Jet A1 and then Kerosene.

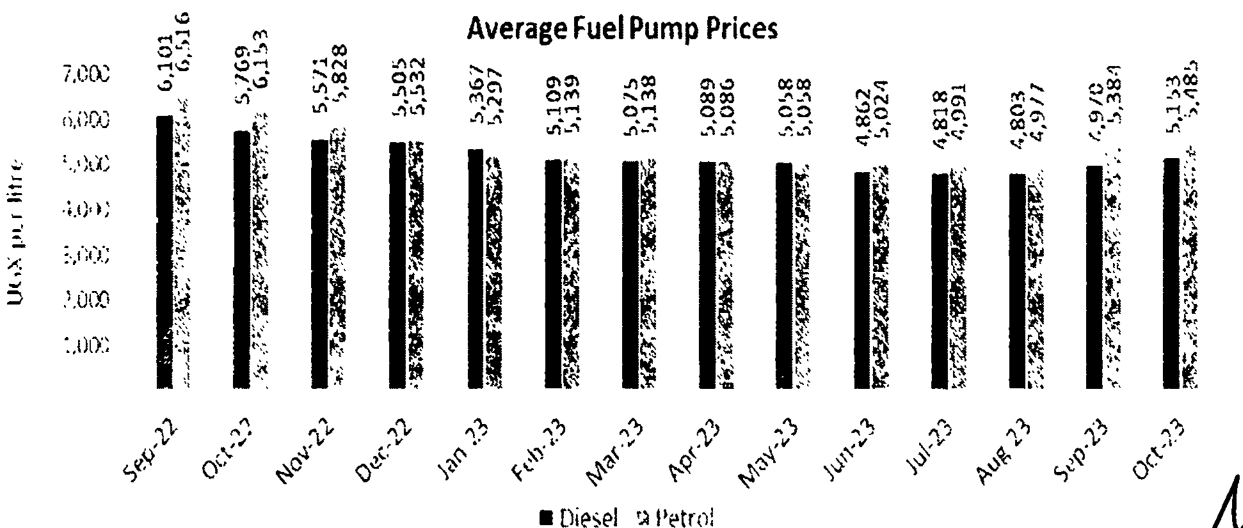
The said petroleum products are purchased by Ugandan companies from Kenyan companies which have been operating under the open tender system (OTS) system until April 2023 when Kenya moved from OTS to government to government (G to G) dealing directly with countries where they now import their petroleum products from. The OTS system was guaranteed by the Ministry of Petroleum and Mining in Kenya which is responsible for regulation of imports of all petroleum products in Kenya.

The committee noted that whereas the proposal in the Bill is to have UNOC as the sole importer and supplier of all petroleum products for the Ugandan market, interaction with the Minister of Energy revealed that UNOC has no financial capacity to sustain the business of importation and supply of petroleum products for the Ugandan market and it has executed an agreement with a Vitol Bahrain EC, an international trading company as the sole supplier of petroleum products for UNOC for five years, locking out all other competitors from the Ugandan market.

The committee noted that hand picking of Vitol Bahrain EC and creation of a monopoly for it to supply UNOC was not justified. Submissions from entities like HEK International Ltd (representing Maersk Line Limited) and E3 Group asserted their capacity to finance the supply of petroleum products to UNOC. Maersk Line Limited expressed their ability to offer a bank guarantee to UNOC so that UNOC directly deals with oil refineries (Details in the minutes and attachments). Had Government invoked the provisions of the PPDA Act and advertised the offer, a number of entities including UNOC would have expressed interest and the Country would have got the best offers rather than limiting it to only one company. Better still, the Government should have considered Government to Government arrangement. Further, the Committee observed that there is a possibility of Government dealing directly with refineries without involving intermediary Oil Marketing Companies (middlemen) a point in case in Zimbabwe where a Veteran Company (CFS Energy Private Limited) entered into agreement with Laffan Refinery (See attachment in the file).

The committee noted that whereas inability to purchase directly from the refineries, leads to an extra markup on Uganda's fuel from Kenyan companies, insecurity in supply for petroleum products, and inability to directly negotiate for petroleum prices with refiners which inevitably contributes to high and unpredictable pump prices, the proposed monopoly is not a preferable option, since there is no competitiveness in price against a monopolistic player importer and supplier.

**Figure 1: The chart shows the pump price per litre of fuel in recent months.**



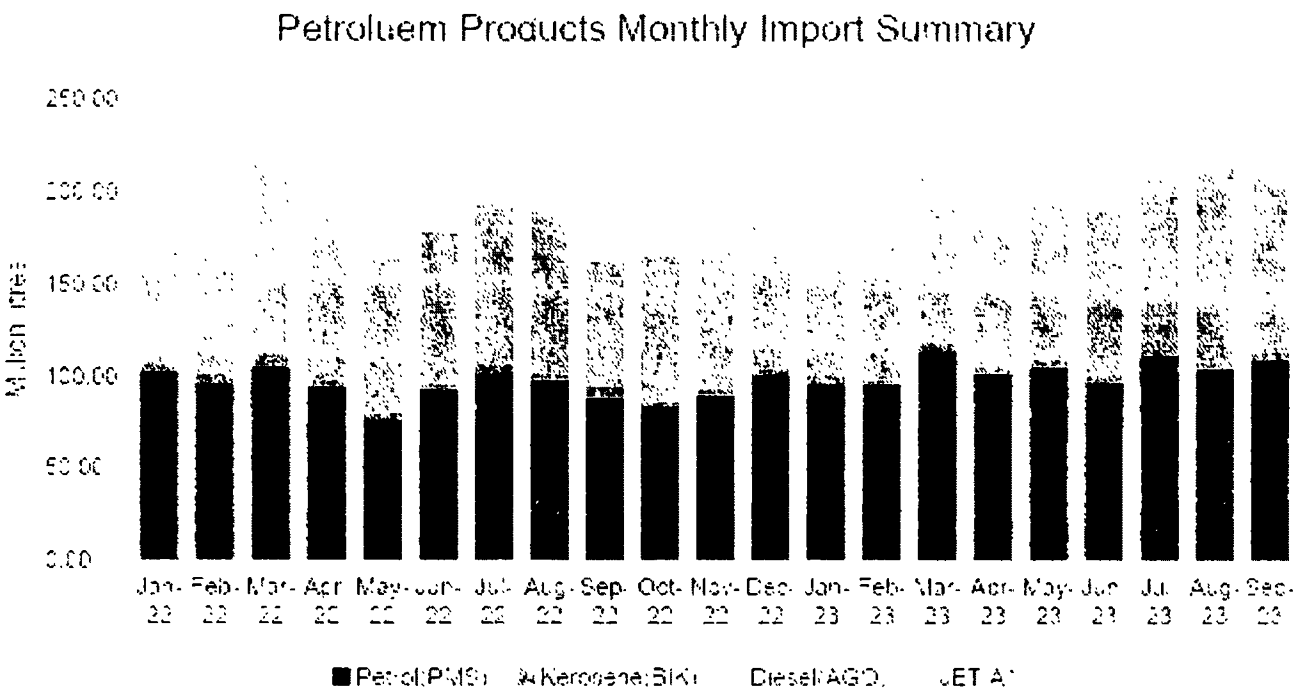

**Source: Based on data from CPI reports from UBOS**

The committee further noted that fluctuation and scarcity of petroleum products in Uganda is not singly attributable to lack of a single national importer and supplier, but rather to number of factors, all of which need to be holistically addressed. These include;

**Fuel stock levels**

Although section 26 of the Petroleum Supply Act, requires, every licensee to maintain minimum working stocks of petroleum products as prescribed by regulations in order to assure continuity of the petroleum supply, these regulations are not in place. The Ugandan fuel market has numerous players with the biggest market share operated by multi-national companies who determine their individual stocking and pricing decisions.

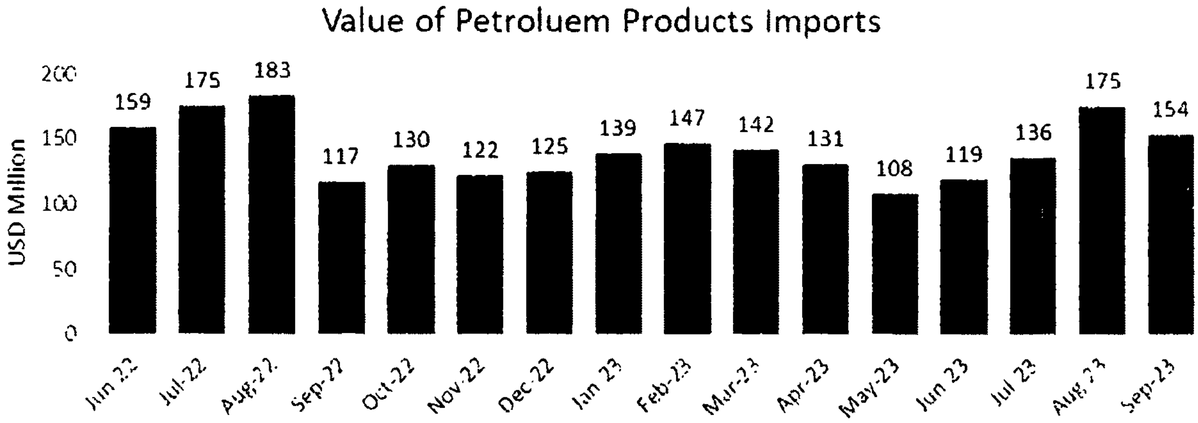
The committee noted that the UNOC's stock levels are thirty million, but UNOC lacks consistency in replenishing the reserves. The charts below show volume and value of petroleum products imported by Uganda monthly.




**Source: Based on data from Ministry of Energy and Mineral Development**

The chart below shows value in million USD for of petroleum products imported by Uganda quarterly. The chart shows that the value of petroleum imports has been increasing steadily over time.

**Figure 2: Value of petroleum products imports**




Source: Based on Data from BOU.
Note: Value is based free on board (fob) estimates

**Delays in transportation due to reliance on road transport**

The absence of bulk and efficient transportation means leaves Oil Marketing Companies with the only option of picking products from Kenya by trucks.

Although UNOC has utilized railway transport to bring products to Jinja Storage Terminal (JST) via the lake, the current lake transport facility (ferry) can only ship a maximum of 900,000 litres of diesel in 5 days.

The transport notwithstanding, UNOC does not possess the financial muscle to facilitate trading activities. It was noted that in October 31st, 2022, UNOC had a trading stocking level of 6,701,604 litres of both petrol and diesel at the Jinja Storage Terminal and instead rents the premises out to other oil marketing companies. There is no evidence that UNOC currently fully utilizes the Jinja Storage Terminal.

**The Tax regime**

In Uganda, gasoline (petrol), diesel, aviation fuel and kerosene attract an excise duty in form of a fixed fuel levy by category per litre imported. For each litre of fuel, there is an excise duty of UGX 1,444 ($0.38) for petrol and UGX 1,140 ($0.30) for diesel.

**Table 1: Tax per litre of Petrol (Gasoline) and Tax per litre of diesel**

| Country | Tax per litre of Petrol (Gasoline) | Tax per litre of diesel |
|---|---|---|
| Kenya | UShs 646 ($0.17) | UShs 228 ($0.06) |
| Rwanda | UShs 684 ($0.18) | UShs 570 ($0.15) |
| Tanzania | UShs 646 ($0.17) | UShs 353 ($0.09) |
| Uganda | UShs 1,444 ($0.38) | UShs 1,140 ($0.30) |

**Source: EAC Tariff Regime**

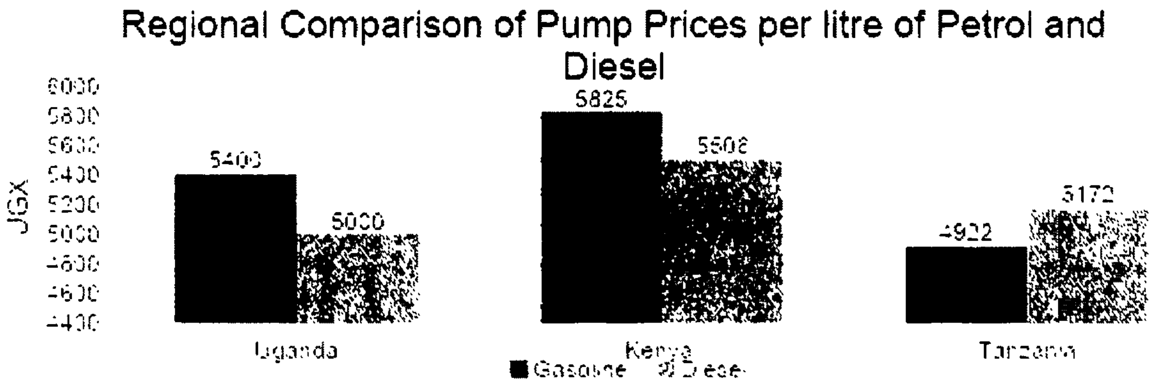
The cost of taxation is inevitably transmitted to the final pump price, contributing to the fluctuation in price.

The committee noted that the lack of a sole importer to supply UNOC is not the sole ground upon which the scarcity, fluctuation in prices and non-direct participation by UNOC in the petroleum business, and thus is not direct justification for amendment to facilitate UNOC as a sole importer for all petroleum products destined for the Ugandan market.

**Regional Comparison of Retail Pump Prices**

The figure below shows the average prices per liter of petrol and diesel in three East African Countries. These are retail (pump) level prices, including all taxes and fees as of 25th October 2023. Comparatively, retail pump prices for both diesel and petrol were highest in Kenya followed by Uganda and the Tanzania. Currently, Uganda is a liberalized economy whose fuel pricing is determined by the market forces of demand and supply with little or no involvement of Government.

**Figure 3: Regional comparison of pump prices per litre of petrol and diesel**




**Source: Based on data from MEMD**

The committee notes that although the proposal in the clause shall eliminate two layers of middlemen from the petroleum supply chain, the introduction of Vitol Bahrain EC still creates a layer of middleman who shall still buy from a refinery and sell to UNOC at a markup.

**The committee further noted Uganda's commitments and obligations to equality and nondiscrimination embedded in Constitutional provisions, judicial decisions, policy, regional and international legal obligations, as well its policy on a liberalized free market economy;**

The committee noted that the Bill offends The Constitution of the Republic of Uganda, 1995 under whose Objective IX of The National Objectives and Directive Principles of State Policy provides that the State shall encourage private initiative and self-reliance in order to facilitate rapid and equitable development. This objective is in line with Section 2 of the Public Enterprises Reform and Divestiture Act 1993 the objectives of which in part provides for the reduction of government equity holding in public enterprises and promotion of local entrepreneurship.

Further, The Bill violates Article 21 of the Constitution which provides for a right to equality and freedom from discrimination wherein all persons are equal before and under the law in all spheres of political, ***economic***, social and cultural life and in every other respect and shall enjoy equal protection of the law.

Subsection (2) provides that without prejudice to clause (1) of this article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or ***economic standing,*** political opinion or disability.

Article 40 (2) entitles Every person in Uganda to the right to practice his or her profession and to carry on any lawful occupation, trade or business.

The only exception to the enjoyment of these rights and freedoms is under Article 43 under which prohibits a person shall not from prejudicing the fundamental or other human rights and freedoms of others or the public interest which shall not permit—

(a) political persecution;
(b) detention without trial;
(c) any limitation of the enjoyment of the rights and freedoms prescribed beyond what is acceptable and demonstrably justifiable in a free and democratic society, or what is provided in the Constitution.

The committee notes that the proposed limitation to the enjoyment of economic rights through the creation of a monopoly is not justifiable in a free and democratic society.

The committee noted that the clause contradicts sections 6 (2) (a) and(b) as well as section 7(f) of the principal Act, which obligate the Minister to make legislation and regulations to secure adequate supply of petroleum products at competitive cost for all consumers, promote the increase of opportunities for regional petroleum trade and encourage a diversity of supply sources, as well as the observance of the principles of free market economy and fair competition.

The clause further offends section 30 of the principal Act which prohibits activities against fair competition.

The committee further noted that The Competition Bill, 2023 as passed by Parliament though not yet assented to by the president, was a Government Bill, whose policy objective was to promote and sustain fair competition in Uganda and prohibit anti-competitive agreements which have an adverse effect on competition in the market. It is important to take cognizance of its intended principles which received cabinet approval before it was tabled in Parliament.

The committee noted that Ugandan courts have struck out provisions of law that grant the Government preferential treatment over private parties for instance in the case of ***Attorney General vs Osotraco Ltd,*** *Civil Appeal No. 32 of 2002*, and ***Uganda National Roads Authority vs Vivo Energy Uganda Limited,*** *HCMA No. 209 of 2014* and ***Spedag Interfreight Uganda Limited & 3 Ors Vs. Attorney General & another*** Constitutional Petition No. 85 of 2011.

Further, the committee noted that the Bill violates of international instruments including the COMESA Competition Regulations 2004 and the EAC Competition Act 2006. The COMESA Competition Regulations 2004 prohibit member states, from anti-competitive practices.

Similarly, the EAC Competition Act 2006 stipulates as some of its objectives:

(i) *protecting all market participants' freedom to compete by prohibiting anti-competitive practices*

(ii) *protecting the opening of Partner States' markets against the creation of barriers interstate trade and economic transactions by market participants*

(iii) *guaranteeing equal opportunities in the Community to all market participants in the Community, and especially to small and medium-sized enterprises*

(iv) *guaranteeing a level playing field for all market participants in the Community by eliminating any discrimination by Partner States on the basis of nationality or residence.*

The committee noted through interactions with stakeholders showed that there are other players who can either work directly with UNOC or work alongside it, to ensure competitiveness in pump price, and guarantee security of supply of petroleum products.

The committee also noted that past experiences of monopolies including UMEME, the Enrico agreement, the Iron Ore agreement, the Dura cement agreement have cost the country money and set a bad precedence for monopolies in Uganda, thus the committee's decision against creation of a monopoly for the petroleum sector.

***Committee Recommendation***

***The committee recommends that clause 1 be deleted from the Bill.***

### 6.2 Interpretation

**Clause 2** seeks to introduce a definition of "licensed oil marketing companies" to mean a person granted a petroleum supply operations license under section 17 to import petroleum products into Uganda.

***Committee recommendation***

***The committee recommends that as a consequential of a rejection of clause 3, clause 2 be deleted as well.***

### 6.3 Supply chain of petroleum products

**Clause 3** of the Bill seeks to substitute section 29 of the principal Act which allows any person whether Ugandan or foreign to participate in all or any activities of the supply chain by restricting the importation and supply of petroleum products destined for the Ugandan market to the licensed oil marketing companies to be undertaken only by UNOC.

The clause however empowers the Minister, by statutory instrument under exceptional circumstances, with the approval of cabinet to nominate such other person to import and supply all or a portion of petroleum products. The exceptional circumstances are where UNOC fails to import and supply petroleum products in any given months or where UNOC becomes insolvent.

The clause further obligates all licensed oil marketing companies to purchase all their petroleum product requirements from UNOC or other nominated person by the Minister.

**Committee observations**

The committee noted that UNOC is incorporated as a limited liability company solely owned by the Government of Uganda with its functions set out in section 43 of the Petroleum (Exploration, Development and Production) Act, 2013, to include;

a) to handle the state's commercial interests in the petroleum sub-sector;
b) to manage state participation in petroleum activities; and
c) to manage the business aspects of state participation.

The committee further noted that under UNOC's memorandum of association, the objects of the company include;

a) to manage the state's commercial interests in the petroleum subsector on behalf of the Republic of Uganda; and
b) to manage state participation in petroleum activities including its business aspects;

The committee therefore noted that there is no legal deterrence to UNOC's participation in business in the petroleum subsector, it should trade alongside other players, but perhaps offer more competitive prices that shall outcompete other players to create for it a natural monopoly.

***Committee recommendations***

***The committee recommends that the clause be deleted for buttressing the already rejected monopoly proposal, but also for providing for UNOC's right to engage in petroleum trade, a position that is already provided for in other legislation.***

### 6.4 Petroleum products to be imported and supplied by UNOC

**Clause 4** introduces a third schedule which lists the petroleum products to be sourced and supplied by UNOC to include premium motor gasoline or super petrol, automatic gasoil or diesel, Jet A-1 and dual-purpose kerosene.

***Committee recommendation***

***The committee recommends that the proposed third schedule be deleted consequential to the rejection of the Bill.***

**Rt. Hon. Speaker**, I beg to report.

**SIGNATURE SHEET FOR THE REPORT OF THE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES ON PETROLEUM SUPPLY (AMENDMENT) BILL, 2023**

| S/N | NAME | CONSTITUENCY | PARTY | SIGNATURE |
|---|---|---|---|---|
| 1. | **Hon. Otiam Emmanuel Otaala (Chair)** | **West Budama South County** | **NRM** | |
| 2. | **Hon. Igeme Nathan Nabeeta (Deputy)** | **Jinja South Division East County** | **NRM** | |
| 3. | Hon. Acan Joyce Okeny | PWD | NRM | |
| 4. | Hon. Feta Geoffrey | Ayivu ~~West~~ East | NRM | |
| 5. | Hon. Ngoya John Bosco | Bokora County | NRM | |
| 6. | Hon. Bagiire Aggrey Henry | Bunya West | NRM | |
| 7. | Hon. Wambede Seth | Northern Division Mbale | NRM | |
| 8. | Hon. Agasha Juliet Bashiisha | DWR Mitooma | NRM | |
| 9. | Hon. Tumwesigye Josephat | Bugangaizi South County | NRM | |
| 10. | Hon. Ssentayi Mohammed | Bukoto West | NRM | |
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