CIVIL SOCIETY BUDGET ADVOCACY GROUP (CSBAG)

CSO POSITION PAPER ON THE ENERGY AND MINERAL DEVELOPMENT SECTOR BASED ON NBFP FY2020/2021.

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About CSBAG

Civil Society Budget Advocacy Group (CSBAG) is a coalition formed in 2004 to bring together civil society actors at national and district levels to influence Government decisions on resources mobilization and utilization for equitable, gender responsive and sustainable development. Since 2004, CSOs under the umbrella of CSBAG have engaged Government in influencing the budget process to ensure that both the local and national budgets address the needs and aspirations of the poor and marginalized groups of people in Uganda.

Acknowledgement

The culmination of this CSO position paper has been a rigorous participatory process involving various civil society organizations including: the Water Governance Institute (WGI), Citizens’ Concern Africa, Publish What You Pay (PWYP) with technical guidance and stewardship from CSBAG secretariat.

We appreciate the Government of Uganda through the respective organs such as Parliament of Uganda, Ministry of Finance Planning and Economic Development (MoFPED), Ministry of Energy and Mineral Development (MEMD) including key institutions such as National Oil Company (NOC), Petroleum Authority Uganda (PAU), Rural Electrification Agency (REA) for having created space for Civil Society Organisations (CSOs) to actively engage in this process as well as upholding voices concerning budget from the wider citizenry from time to time. Going forward CSBAG and partners is committed to upholding constructive engagement strategy as a way of ensuring budgets are inclusive for they reflect aspiration of the poor and marginalized groups in Uganda.

1.0 INTRODUCTION

In mid-December 2019, minister of finance planning and economic development (MoFPED) presented NBFP FY2020/2021 to Parliament of Uganda indicating the budget proposals for the various sectors. It should be noted CSOs under the umbrella of the Civil Society Budget Advocacy Group (CSBAG), also made budget proposals to the during the
countrywide regional national budget consultative meetings as a way of raising citizens voice and concerns to the budget. It is therefore important to review the NBFP that is before parliament, document key budget concerns and make input to NBFP at this stage. Civil Society Organizations (CSOs) are thus optimistic that engaging at all levels of the budget process (local and national) ensures that central issues regarding resource mobilization, allocation and utilization, are properly handled and most importantly they respond to the actual and felt needs of the people and in return, translates into social-economic transformation.

OVERVIEW OF THE ENERGY AND MINERALS SUB-SECTOR

1.1 Sector Mandate

The mandate of the Ministry of Energy and Mineral Development (MEMD) is "To Establish, promote the Development, Strategically Manage and Safeguard the Rational and Sustainable Exploitation and Utilization of Energy and Mineral Resources for Social and Economic Development". The ministry’s mandate is shared among the different institutions under it. For operational purposes institutions covered under the BFP include the Ministry of Energy and Mineral Development, Petroleum Authority of Uganda (PAU), Uganda National Oil Company (UNOC) and Rural Electrification Agency (REA).


The Petroleum Authority of Uganda (PAU) is charged with monitoring and regulating the exploration, development and production, together with the refining, gas conversion, transportation and storage of petroleum in Uganda. The Uganda National Oil Company (UNOC) is charged with handling the commercial interests in the oil & gas sector on behalf of the Government of Uganda. UNOC vision is to be an innovative and profitable company that operates across the petroleum value chain for the benefits of all Ugandans.

Meanwhile Rural Electrification Agency (REA) charged with rural Electrification mainly to promote equitable rural electrification access. Others include Uganda Electricity Generation Company Limited (UEGCL) which manages generation concessions e.g. Eskom Limited, Uganda Electricity Transmission Company (UETCL), Uganda Electricity Distribution Company Limited (UEDCL) which manages distribution concessions like UMEME. The players in petroleum sector include Oil and Gas Exploration and Production Companies like Tullow Oil Limited, Total E&P Uganda Limited and CNOOC Uganda Limited.
1.2 Sector goals
In order to realize this mandate, the energy and mineral sector has developed Midterm sector policy objectives, outcomes, indicators and corresponding sector investment plans. This is intended to ensure effective contribution to the national objectives as envisioned in the National Development Plan. Sector goals are to:

i) Meet the energy needs of Uganda's population for social and economic development in an environmentally sustainable manner.

ii) Use the county's oil and gas resources to contribute to early achievement of poverty eradication and create lasting value to society.

iii) Develop the mineral sector for it to contribute significantly to sustainable national economic and social growth.

1.3 The sector outcomes
i. Transparency in the oil and gas sector

ii. Increased evacuation of power to the national grid

iii. Increased Investments in the Mineral Sector

iv. Increased amount of revenue from Oil and Gas production

v. Increased energy generation for economic development

vi. Vibrant and effective institutional framework to increase productivity

vii. Increased access to power from the national grid

1.4 The Energy Sub-Sector
Uganda currently has 850 Megawatts (MW) of installed capacity (with effective generation of approximately 710 MW), of which approximately 645 MW is hydro and 101.5 MW is thermal generating capacity. The Government of Ugandan is building additional large hydropower facilities, such as the 600MW Karuma hydro and the 183MW Isimba Falls hydro project which was commissioned last year. Uganda has approximately 1500 kilometers of transmission lines (over 33kV), which the government aims to double; there are plans to upgrade existing transmission lines and develop a 220kV “ring” around Lake Victoria in conjunction with Kenya and Tanzania. In 1999, the power sector underwent extensive sector reforms that led to the un-bundling of generation transmission and distribution.

Under the Electricity Act of 1999, the Electricity Regulatory Authority (ERA) was established as an independent sector regulator; the resulting enabling environment opened up the sector to private sector investment and participation. Today, distribution is regulated and cost-reflective tariffs are utilized, with 54 percent of power generation coming from independent power producers (IPPs).
1.5 Oil and Gas Sub-Sector

After the initial exploration that ended in 2014, Ugandan government has embarked on the development phase and has finalized plans to invest $800million (about shs.2.9 trillion) in the East African Crude oil pipeline (EACOP) and refinery projects which will guarantee realization of first oil. In February 2019, Ugandan government decided to join Extractives Industry Transparency Initiative (EITI) and went on to appoint a National Champion to guide this process and is currently established the National Multi-Stakeholder Group that will steer this process in line with the EITI standard 2019 which provides for the establishment and governance of the Mult-Stakeholder Group (MSG). In each of the 51 implementing countries, the EITI is supported by a coalition of government, companies, and civil society.

1.6 The mineral sub-sector

Also the mineral subsector is still under developed though with rich mineral potential. Most areas have not been properly explored for the purposes of commercial mining. This shows the great potential that this country offers since there is so much country yet to be surveyed by competent geologists. Therefore, informal and unregulated mining operations (ASM) are common throughout Uganda which has limited earnings from the minerals extracted in the country.

2.0 ENERGY SECTOR PERFORMANCE AND BUDGET ALLOCATIONS

For the FY 2020/2021, the energy sector will experience a decrease in its budget from UGX 3,007 billion in FY 2019/20 to a proposed UGX 2,468 billion in FY 2020/21.

2.1 Budget trends analysis for 4 years in billion shillings
2.2 Sub-Sector Allocations

Source: Computed and analyzed from NBFPs, 2019/2020 and 2020/21

The current NBFP is summarized, not broken down by interventions and therefore does not offer opportunity to internalize the appropriateness of the proposals in realizing the targets. Below are CSOs comments and proposals on the NBFP 2020/21.
General Observations.
REA budget allocation has halved from the previous year’s allocation. It is not clear why this is so. The overall allocation has been the same for the other agencies of the ministry. We also observed that UNOC is allocated policy, planning and support services budget a responsibility that is supposed to be for PAU. There is need to clarify this.

Absorption of money is below target for all agencies, except UNOC. MEMD was allocated 1864.672bn in 2019/20, but only utilized 1,277.629bn constituting 68.5% of the budget. REA was allocated 1,060.843bn, but consumed 401.67bn constituting 37.85%. UNOC was allocated 31.47bn, but used 29.92bn constituting 95%, while PAU was allocated 50.199bn, but spent 30.01bn constituting 59.78% absorption. There is need to rationalize budget allocations.

Source: Author’s compilation.

2.3 ALIGNMENT OF NBFP TO NATIONAL BUDGET STRATEGY 2020/2021

The budget strategy for FY2020/21 will be anchored on the medium-term growth and development objectives of the third National Development Plan. The plan seeks to consolidate the development gains, with a central focus on increasing household incomes through are source-d industrialization drive.

Special focus will also be on promoting equity, an efficient public sector and a vibrant private sector to support this growth agenda. The FY2020/21 budget, under the theme
Industrialization for Job Creation and Shared Prosperity’ will therefore focus on the following strategic areas: -

i) Efficient and sustained exploitation of the productive sectors;
ii) Consolidating and increasing the stock and quality of productive infrastructure to support trade, industrialization, exports and efficient urbanization;
iii) Increasing the productivity, inclusiveness and well-being of the population;
iv) Strengthening the private sector to drive growth;
v) Enhancing the effectiveness of both fiscal and administrative governance.

The energy and mineral sector with the proposed budget of UGX 2.468 trillion FY 2020/2021 need to be harnessed as appropriate to help Uganda achieve the strategic budget objectives of 2020/2021 by setting proposals in NBFP that are well positioned to do so.

3.0 SPECIFIC SECTOR ISSUES AND THEIR RECOMMENDATIONS

Issue 1. Delayed Financial Investment Decision (FID) for the oil & gas sector specifically.
The oil and gas developments are largely financed by external borrowing. For instance, the proposed external finance required FY2020/21 is UGX 1.8trillion compared to UGX 476 billion that will be contributed by government. This presents a risk since government is front-loading expenditure with the anticipation of revenues from oil that is yet to be realized. The continued delay of the FID by oil companies affects Uganda’s economy by impacting heavily on interest payments now amounting to UGX 9.8trillion that depletes the entire budget that would be utilized for improving the socio-economic conditions of Ugandans.

Recommendation

- Government should collaborate with JVP to expedite the FID so as to realize first oil in the nearest future to avoid continued loss of revenues to interest payments of loans.
- Care should be taken by government to minimize external borrowing in anticipation of oil revenues that are not yet forth coming.

Issue 2: Gaps in Petroleum Fund Management:

PFMA, 2015 stipulates that petroleum resources will be used for infrastructure and development projects and not recurrent expenditure. However, the government has
been withdrawing funds from the Petroleum Fund since the FY2016 and there is no
evidence that revenues have all along been invested in infrastructural and development
projects. For instance, government does not specify, before the withdrawal from the
Petroleum Fund, the infrastructural projects for which funding is sought; the actual
amounts that will be allocated to those projects; as well as the nature of work to be
financed for each project. This creates a gap that can be exploited to use the funds for
recurrent financing contrary to PFMA intentions.

Also all petroleum funds so far have been appropriated to the Consolidated Fund and
nothing has been allocated to the Investment Reserve contrary to the requirements of
section 58 & 59 of the PFMA, 2015 that provides for the establishment of the Petroleum
Revenue Investment Reserve to safeguard benefits of future generations. This expansive
spending behavior is aggravated by lack of a cap/ceiling or any form of guidance on how
much should be appropriated to Consolidated Fund or allocated PRIR in the PFMA.

Finally lack of Petroleum revenue expenditure plan encourages adhoc spending of
petroleum revenues considering that oil revenues normally come in as a wind fall. The
fact that PFMA doesn’t provide for a utilization plan, temptations to overspend
petroleum revenues are eminent and a recipe for a worst-case scenario of a ‘resource
curse’ as was the case for Nigeria, Equatorial Guinea and Chad among others

Recommendations

- Review PFMA, 2015 to create an expenditure cap/ceiling on the petroleum
  revenues transferred into the UCF, so as to avoid two issues: (a) overdrawning
  the petroleum fund; and, (b) appropriating huge sums of money that would
  end up in the economy and cause inflationary tendencies.
- Review of the legal framework to establish an independent, multi-stakeholder
  oversight body to supervise transfers and disbursements from the Petroleum
  fund; supporting framework for Uganda’s Extractives Industry Transparency
  Initiative (EITI) candidacy; and ministry of finance should always formulate
  petroleum revenue expenditure plans.

Issues 3: Resettlement Action Plan (RAP) for the oil infrastructure riddled with rights
violations

Oil and gas developments as well as energy infrastructure take significant land triggering
compulsory land acquisition and displacement of landowners requiring compensation
and resettlement of Project Affected Persons (PAPs). There are number of unresolved
grievances related to compensation and resettlement for all RAPs in Tilenga and
Kingfisher projects including Central Processing Facility, Feeder Pipelines, Roads, well-pads and safety zones RAP II for well-pads. A number of cases have been registered in court and district grievance committees. For example, the case of the refinery affected people’s settlement in Kyakaboga in court. There is also delayed and inadequate compensation that is affecting PAPs livelihoods.

Recommendations

- Government needs to comply with RAP provisions
- Government needs to expedite compensation and resettlement of PAPs
- RAPs need to be focused on improving the livelihoods of the PAPs in accordance to international best practice.

Issue 4: Continued high power tariff.

High power tariffs are attributed to a number of factors including inflated investment costs of constructing dams and transmission infrastructure; power dams producing below installed capacity; power corruption; and limited transmission coverage resulting in high interest payments on loans. The 2020/21 NBFP proposes a 46.6% reduction in REA’s previous year’s (2019/2020) budget allocation from 1.060trillion to 566bn this financial year, yet this year’s NBFP proposes extension of the power grid to last-mile user and free connections in 545 sub-counties. Also, there are a number of incomplete rural electrification interventions that may require additional funding. This reduction may undermine the objective of reaching the last mile user.

Recommendations.

- Rationalize power investment costs and reduce power tariffs to make it affordable
- Implement electricity distribution and connections to the last-mile users as well as the free connection policy and other rural electrification interventions.
- Address power corruption, profit-shifting, illicit financial flows, tax evasion and avoidance.

Issue 5: Lack of government prioritization in cheap, safe and clean energy alternatives (e.g. solar, wind, biogas, geothermal) to reduce dependency on biomass which is depleting the natural and planted forest estates and worsening environmental consequences.

Uganda has solar power potential due to its geographical location, but only 40MW accrue from solar power; 95% of households rely heavily on biomass for energy, which is responsible for the current high rate of deforestation and forest degradation of
106,307.4 hectares per year or 291.3 hectares per day. This is worsening climate change effects on the economy.

Recommendations

- Deliberate government investment in solar energy
- Subsidize LPG to make it affordable and supplement energy needs
- Phased approach to reduce power tariffs as power corruption, investment cost rationalization, profit-shifting, illicit financial flows, tax avoidance and evasion in the power sub-sector is being addressed.
- Deliberate government intervention in planting and restoration of degraded forest estates.

Issue 6: No local content emphasis in the mining sector.

In the past mining licenses were issued on “a first come first serve basis” which resulted in high net-worth and politically connected individuals to acquire the licenses in speculation of transferring the licenses to higher bidders. Consequently, many licenses remained dormant. NBFP 2020/21 focuses on increasing private sector investment in the mineral sector. However, there is no clear indication on how local content will be addressed in the sector. The current requirement for online registration of miners and delivery of hard copy registration forms to the nearest Cadastre office (in this case Entebbe) risks disenfranchising artisan and small-scale miners. Artisans and small-scale miners are being displaced and infringed upon by affluent local and foreign investors. There has been unmatched reporting of mineral exports by different government agencies including reports of exports that exceed the country’s mineral production capacity, which spells possibility of mineral smuggling and/or trafficking.

Recommendations:

- Implement local content policy in the mining sector similar to that already implemented in the petroleum sector.
- The MEMD should embrace open bidding and award of mining licenses. Artisan and small-scale miner be allowed to be registered at local government level. This will enhance local government monitoring of artisan and small-scale mining operations as well as generate local revenue.

Cross-cutting Issues

Issue 7: Gender Dimensions remain outstanding in the sector

Key gender concerns in the sector
• There is little or no gender dis-aggregated data to inform gender planning in the sector.
• Women are largely employed in less skilled labour and often earn less than their male counterparts, which labour exposes them to hazardous materials.
• Youth and Child-labour force is common in mining operations, escalating dropping out of school.
• Women and youth are marginalized in the decision-making processes in mining such as mine opening, use of revenues earned from mining, etc.

Recommendations

• Build capacity to undertake gender analysis and decision-making in the sector
• Generate gender dis-aggregated data in the sector
• Deliberate government and company training on health, safety and environmental safeguards

Issues 8: Limited capacity of government agencies to ensure Transparency and Accountability in the sector

Government has institutions mandated with promoting transparency and accountability. However, these are challenged in many aspects including technical, technological and financial capacities as well as legislative gaps and implementation challenge and duplication of institutional roles. Uganda took a decision to join the Extractive Industry’s Transparency Initiative (EITI) that requires transparency and accountability in the petroleum and mining sectors. However, the EITI application has not been submitted yet. This is delaying quest for transparency and accountability especially in the mining sector.

Also, Uganda Government is a signatory to the International Conference on Great Lakes Region (ICGR) - an intergovernmental organization of 12 African countries in the Africa Great Lakes region and 7 co-opted countries aimed at contributing to peace building and sustainable development in the region. However key issues such as Regional Certification Mechanisms of key minerals has not been undertaken by Uganda. This hampers transparency in the mineral trade such as Gold, Tantalum and Tungsten.

Recommendations

• Address the technical, technological and financial challenges of public institutions as well as the legal gaps.
• Implement Mineral Certification and fast track Extractive Industry Transparency Initiatives (EITI) application. Offer institutional support to the EITI and ICGR secretariats/ Focal Points;

• All government entities should expedite responses to recommendations made by the transparency and accountability institutions of government.

4.0 CONCLUSION
The government is applauded for the close attention to the energy and minerals sector by meeting the propositions of the FY 2019/20 especially having commissioned Isimba dam and being on course to complete Karuma hydropower project. However, the uncertainty surrounding the announcement of the Final Investment Decision (FID) by oil companies ended hopes of having historical first oil by 2020/2021 and steps towards construction of East African Crude Oil Pipeline were halted by Total citing tax disputes in Tullow farm down. We hope that the standoff between government and oil companies is resolved sooner than later and resumption of EACOP project as desired by Ugandans. As CSOs, we are moved by desire and aspirations of a well-developed energy and mineral sector that can transform Uganda’s economy. We are grateful to Parliamentary Committee on Natural Resources and hereby request that the above discussed budget issues be adopted henceforth taken forward by this committee for the benefit of Ugandans at large.

5.0 References


6. https://www.umeme.co.ug/tariff

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