

FACT SHEET



EACOP COURT CASE AT THE EAST AFRICAN COURT OF JUSTICE



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1. BACKGROUND AND INTRODUCTION

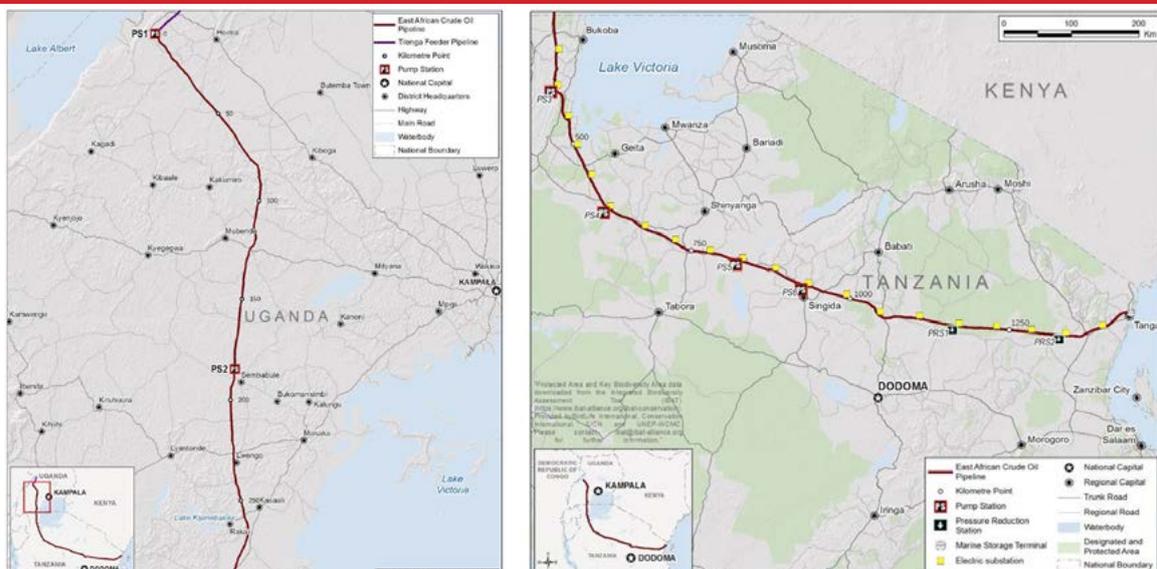
- On November 6, 2020, four civil society entities from Uganda, Kenya and Tanzania filed a court case against some of the East African Crude Oil Pipeline (EACOP) project proponents.
- The court case was filed at the East African Court of Justice (EACJ).
- The applicants are Centre for Food and Adequate Living Rights (CEFROHT)-Uganda, Africa Institute for Energy Governance (AFIEGO) from Uganda, Natural Justice from Kenya and Centre for Strategic Litigation from Tanzania.
- The case was filed against the governments of Uganda and Tanzania as well as the Secretary General of the East African Community (EAC).
- In the case, the applicants argue that, among other things, the EACOP project contravenes the EAC Treaty, Protocol for Sustainable Development of the Lake Victoria basin, Convention on Biological Diversity and the United Nations Framework Convention on Climate Change.
- The applicants further argue that the project violates the African Charter on Human and People's Rights as well as the African Convention on Conservation of Natural Resources, among others.
- The case is aimed at upholding the rule of law as well as protecting the environmental, human and livelihood rights of 177 million East Africans amidst the EACOP project risks.
- The applicants also filed an application for a temporary injunction to stop the EACOP project from commencing or to maintain the status quo until the main application is heard and determined.
- To date, there has been only one hearing, which took place on July 2, 2021. The hearing on the application for a temporary injunction is expected to take place on March 2, 2022. We invite the public to be present at the hearing to show their support for the struggle against oil dangers.





2. ABOUT THE EACOP

- The EACOP is a planned 1,443km pipeline¹ set to be constructed from the Albertine Graben in Western Uganda to the port of Tanga in Tanzania.
- The EACOP project developers include TotalEnergies (62% shareholding), the Ugandan and Tanzanian governments (15% shareholding each) and China National Offshore Oil Corporation (8% shareholding).
- At peak production, the pipeline will transport 216,000 barrels of crude oil per day from the Tilenga and Kingfisher oil fields in Uganda.
- If constructed, the pipeline will be the longest electrically-heated crude oil pipeline in the world. Construction of the pipeline is expected to commence in 2023.



The EACOP route in Uganda (L) and Tanzania (R)

3. IMPACTS OF THE EACOP

- The EACOP project poses immense social, economic, environmental, biodiversity and climate change risks. These include:
- **Environmental risks:** The EACOP is set to directly and indirectly affect forests, national parks, game reserves, lakes, rivers, wetlands and others in Uganda and Tanzania. In 2017, the World Wildlife Fund (WWF) noted that the EACOP will affect 2,000km² of protected areas and will fragment habitats for elephants, chimpanzees and other endangered animals². Some of the protected areas to be affected by EACOP include Bugoma, Wambabya and Taala forests in Uganda as well as Minziro Nature Forest Reserve and Burigi-Biharamulo Game Reserve in Tanzania.

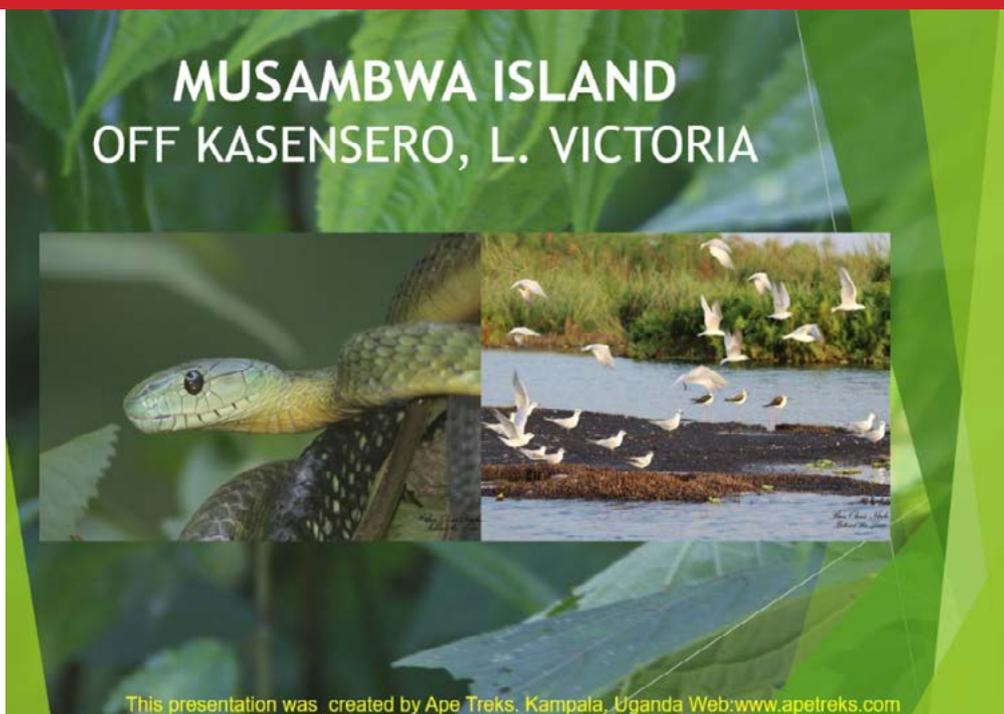
1 About the EACOP. <https://eacop.com>

2 WWF (2017). https://wwf-sight.org/wp-content/uploads/2017/07/Safeguarding-Nature-and-People-Oil-and-Gas-Pipeline_Factsheet.pdf





- **Wetlands:** Further, the EACOP is set to affect wetlands belonging to Lake Victoria, Lake Tanganyika as well as the Wami/Ruvu and Pangani basins among others in Uganda and Tanzania. Notably, in Uganda, the EACOP is set to affect the Sango Bay-Musambwa Island, Nabajjuzi and Lake Nabugabo wetland systems. Other affected wetland systems include the Mabamba Bay, Lutembe bay and others³.
- **Biodiversity risks:** The forests, game reserves, lakes, wetlands and other protected areas that will be affected by the EACOP are habitats for internationally-recognised endangered species. Notably, Bugoma forest hosts over 600 chimpanzees, or 12% of Uganda's chimpanzee population⁴. Further, the wetland systems set to be affected by the EACOP are important bird areas for both migratory and other bird species.



Musambwa island, an important bird area which will be affected by the EACOP, is the only known breeding ground for four bird species.

These include the Grey-headed Gull, Little Egret, Long-tailed Cormorant and others (Source: UNDP Small Grants Programme).

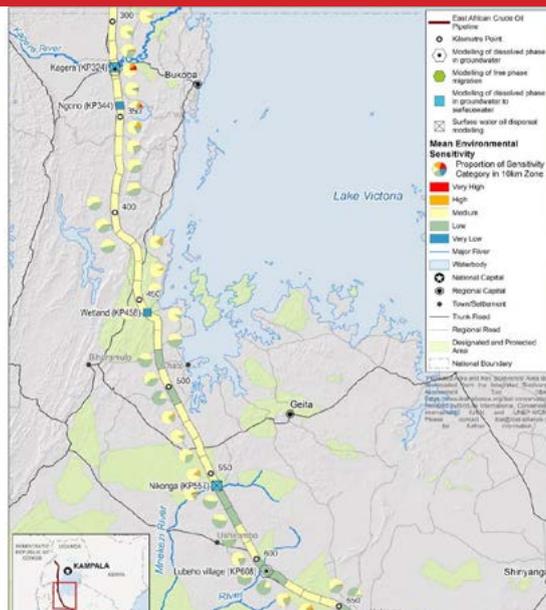
Over 2,000 snakes also live on the island, which is also of cultural importance.

- **Lake Victoria and ground water risks:** Nearly a third of the EACOP will lie within the Lake Victoria basin. The Tanzanian EACOP Environmental and Social Impact Assessment (ESIA) report also indicates that at kilometre posts (KP) 455-470, the pipeline will come to within five kilometres of Lake Victoria. Experts have pointed out that a failure of the pipeline at multiple points – KP300 to 520 – would impact the water quality of Lake Victoria. Up to 40 million people in East Africa rely on Lake Victoria. Ground water in the districts affected by the EACOP is also at risk of contamination in case of oil spills.

3 The East African Crude Oil Pipeline – EACOP a spatial risk perspective. <https://mapforenvironment.org/story/The-East-African-Crude-Oil-Pipeline-EACOP-a-spatial-risk-perspective/111>

4 Genetic censusing identifies an unexpectedly sizeable population of an endangered large mammal in a fragmented forest landscape. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4549125/>





The EACOP comes within five (5) kilometres of Lake Victoria at certain points, putting the lake at risk of oil pollution

- Climate change:** All the East African states have experienced climatic changes. For instance, Uganda's Ministry of Water and Environment says that mean annual temperatures in Uganda have risen by 1.3°C and annual and seasonal rainfall has decreased considerably across Uganda since 1960. Tanzania's climate has also changed and further change is predicted.

With the EACOP, the climate crisis in Uganda and Tanzania stands to worsen as the full value chain emission estimates over the EACOP's 25-year lifetime are 377.6 million metric tonnes. These include the carbon emissions from the construction phase (0.24 MtCO₂ -Uganda only), operational emissions (6.55 MtCO₂e), refining emissions (34.52 MtCO₂), and product use emissions (330.71 MtCO₂)⁵.

- Economic risks from debt:** Constructing and operating EACOP will be expensive, and there's no guarantee that revenues from the sale of oil will cover the costs. The project's construction costs stand at \$5 billion. Additional costs will be incurred to operate the pipeline. The risk that the EACOP will generate less than expected revenues is real.
- Countries around the world have made commitments to reduce their oil consumption, which could hamper demand for the oil transported by the EACOP. Notably, the International Energy Agency predicts that oil prices will drop by one-third over the next two decades. The stark reality is that there is a high probability that Uganda and Tanzania will borrow money to build the EACOP and then have little revenues to pay off the debt. If that happens, the governments will have to repay the debt by diverting money meant for other priorities such as building schools, health centres, roads, and others. This could make ordinary Ugandans and Tanzanians economically worse off.
- Social impacts:** A total of 13,000 households⁶ have been affected by the EACOP project in Uganda and Tanzania. These households' land is being compulsorily acquired for the project. Because of the over three-years' delay in compensating the

5 Richard Heede (2021). Affidavit in support of the EACOP case at the EACJ

6 Daily Monitor; Construction of the EACOP to start in 2023.



affected people and use of 2018 and 2019 cut-off dates to stop the families from using their land to grow perennial food and cash crops, the households have suffered reduced family incomes, food scarcity, psychosocial distress, school drop-outs, abuse of their cultural rights and others. In the long-term, community and public expenditure on health, climate change crises and others could increase because of the EACOP. Air pollution, oil spills and others will worsen community health.



The rights of local communities have been violated because of the EACOP project

4. LAWS AND TREATIES VIOLATED BY THE EACOP PROJECT

The above-discussed potential and existing impacts constitute a violation of several East African and international laws, conventions or treaties to which Uganda and Tanzania are signatory. These include:

- a) The East African Community Treaty
- b) Protocol for Sustainable Development of the Lake Victoria basin
- c) Convention on Biological Diversity (CBD)
- d) United Nations Framework Convention on Climate Change
- e) African Charter on Human and People's Rights
- f) African Convention on Conservation of Natural Resources

5. APPLICANTS' ARGUMENTS

In their suit at the EACJ, the civil society applicants make the following arguments:



- a) That the signing of the Host Government Agreements (HGAs) by Uganda and Tanzania for the development of a pipeline through protected areas, with adverse impacts on livelihoods, biodiversity, climate and socio-economic aspects, violates the provisions of the EAC Treaty. The HGAs were initiated in 2020 and signed in 2021 by the governments of Uganda and Tanzania as well as the EACOP project developers.
- b) That signing of the HGAs and intergovernmental agreement (IGA) between Uganda and Tanzania before the approval of the Ugandan EACOP ESIA report was a violation of the EAC Treaty. The IGA was signed in 2017 between the governments of Uganda and Tanzania. The EACOP Ugandan ESIA report was approved in 2020.
- c) That the signing of the HGA by Uganda and Tanzania without notification, submission and approval of the Environmental and Social Impact Assessment for the EACOP project by the EAC Secretary General and Council of Ministers violated provisions of the EAC law.
- d) That the implementation of the EACOP project would have irreparable and irreversible damage to several delicate and protected ecosystems.



An elderly man fishes on Lake Albert. Fishing grounds will be lost because of the EACOP and its related Tilenga and Kingfisher oil projects

PROVISIONS OF LAWS OR TREATIES VIOLATED BY THE EACOP PROJECT

- Articles 5 (3) (c), 8(1) (c), 111 (1) (b) and others of the Treaty for the Establishment of the East African Community (EAC) on the protection of the environment. The above articles obligate the EAC partner states to mutually cooperate in the environmental field.
- Articles 4,5,12, 13 and 14 of the Protocol for Sustainable Development of Lake Victoria, projects. The articles provide that projects which are likely to have a significant impact on the Lake Victoria basin must undertake environmental impact assessments through a process of public participation by the EAC Secretariat, and approved by the EAC Council.
- The EACOP project will cause permanent loss of habitats, stress and mortality to flora and fauna, loss of chimpanzee habitats and permanent loss of breeding and foraging habitats for other animals among others, contrary to articles 10, 14(c) and others in the CBD.
- The project will cause permanent loss of land used for crop farming and grazing, permanent loss of access to fishing grounds (rivers, Lake Albert, dams and ponds) and increased risk of vector-related diseases among the local workforce among others. The project will also cause noise and air pollution. These impacts will contravene the African Charter on Human and People's Rights.

6. RELIEF SOUGHT

- A declaration that the signing of the HGA and IGA by Uganda and Tanzania violates both national and international laws.
- A declaration that the execution of the EACOP project in legally protected areas contravenes the EAC Treaty.
- A permanent injunction against the respondents from constructing the pipeline in protected areas in Uganda and Tanzania.
- An order that the respondents compensate all the project-affected persons (PAPs) for the loss already incurred due to the restrictions issued on their property by the EACOP project developers.



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