# The ENERGIZER

AFIEGO's Monthly Newsletter

AFIEGO

## September 2019: Issue 9


## TAX DISPUTE BETWEEN GOVERNMENT AND OIL COMPANIES: FAILURE TO COLLECT TAXES WILL WORSEN OIL DANGERS AND DEPRIVE UGANDANS


School-age going children who are out of school because of the oil refinery project. Oil exploitation will worsen oil dangers such as school drop-outs, poor health, environmental degradation and climate change. Companies must pay tax to enable government address these dangers.


Giraffes in Murchison Falls National Park; the park is endagered because of oil activities. While no amount of tax can alleviate the dangers of oil on the park, the taxes being demanded by government from oil companies can fund UWA and NFA's budget with NFA's budget being funded for 37 years!


The chairperson of NEMA's board of directors, Prof. Tickodri Togboa (C), at the public hearing on the Kingfisher ESIA. NEMA is constrained from fulfilling its duties including organising effective public hearings because of limited funds. The taxes can fund NEMA's budget for 41 years!

### In this newsletter:




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On September 4, 2019, Total E&P suspended all of its operations on the East African Crude Oil Pipeline (EACOP) project. This followed Tullow Oil's failure to sell 21.57% of its stake in the Lake Albert licences to Total E&P and CNOOC (U) Ltd. CNOOC (U) Ltd also laid off employees working on the EACOP project.

Tullow failed to sell its stake to its above Joint Venture Partners (JVPs) following a tax dispute with the Ugandan government. While the Ugandan government demanded that Tullow pays the assessed tax including the Capital Gains Tax (CGT) of $ 167 million (over UGX 612 billion) that is due to government, the JVPs wanted the tax bill reduced.

The Ugandan government argued that because Tullow was making a profit on the planned sale to Total and CNOOC, Tullow needed to pay CGT per Sections 18, 49, 51 and 52 of Uganda's Income Act.

On the other hand, the JVPs argued that since Tullow Oil planned on re-investing $700 million of the earnings from the sale of its stake in the Lake Albert project, that money should not be tax deductible. The disagreements between government and the oil companies led to the failed sale by Tullow Oil to Total and CNOOC.

Following the collapse of the sales deal, Total suspended all activities on the EACOP project and CNOOC laid off workers.

On September 5, 2019, AFIEGO and 12 other civil society organisations (CSOs) issued a statement in which we observed that suspension of the EACOP project activities was aimed at pressuring government to benefit oil companies. We also noted that the suspension is an indication that government and oil companies will not work together to safeguard Ugandans and biodiversity from oil dangers.

To make it worse, even the little taxes collected by government are not being used by government to benefit Ugandans in critical areas such as health, education, clean water, food security, environmental conservation, employment opportunities and others.

More so, both companies and government are not being open to Ugandans to disclose that some of the oil projects such as the EACOP will become a big danger to the country. For instance, the EACOP will generate over 34 million metric tons of carbon and this may render the project economically irrelevant. This could be the reason why companies are not willing to pay the right taxes.

In our **Word from CEO and Partners,** we show you the social, economic and environmental impacts that Uganda could suffer should government fail to collect taxes the assessed taxes from Tullow Oil and invest the revenues in the right sectors for citizens' benefit.

In our **pictorial section,** we show you some of the activities AFIEGO and our partners implemented this month. For instance, AFIEGO facilitated the fifth case hearing of the refinery-affected people at the Kampala High Court. The people sued government over violating their land ownership and compensation rights as they are provided for under Article 26 of the 1995 Uganda Constitution.

Further, we organised community sensitisation meetings in the districts of Hoima, Kikuube, Kakumiro and Kyankwanzi to equip youth groups with knowledge to submit comments on the EACOP oil project's Environmental and Social Impact Assessment (ESIA) report. The youth groups submitted written comments to NEMA and will also submit oral comments during the ten EACOP public hearings that are planned to take place between October 17 and 30, 2019 in the EACOP-affected districts.

Further, AFIEGO organised a meeting with the Water and Electricity Consumers' Association (WECA) to map ways in which we can jointly engage government to address electricity sector challenges such as high tariffs, low investments in clean renewable energy and off-grid services among others.

In addition, AFIEGO and our partners also organised the CSOs' positioning workshop in which CSOs' skills in coalition management were strengthened. AFIEGO also coordinated the annual meeting for the Ugandan Shared Resources, Joint Solutions (SRJS) programme partners. During the meeting, AFIEGO and our partners took stock of achievements registered in 2019 and challenges faced. We also planned for the remaining project period of 2019 and 2020. You will read about all the above in the pictorial section.

Finally, **in the lobbying** and **in the media** sections, you will read about the CSOs' statement that we and 12 other CSOs issued following suspension of the EACOP activities. AFIEGO also wrote a letter to the Electricity Regulatory Authority (ERA) in which we objected to plans to renew the license of Jacobsen Uganda thermal power company as this will deny Ugandans access to affordable power.

In the media section, you will see some of the 15 newspaper articles written by our staff and partners in the month of September 2019 to empower the public through information sharing.

We hope you will enjoy the newsletter.

**Editorial team:**
**Diana Nabiruma-Communications Expert**
**Sandra Atusinguza – Social and community Expert**
**Doreen Namara –Legal Expert**
**Balach Bakundane –Designer**

# GOVERNMENT FAILURE TO COLLECT OIL TAXES WILL WORSEN OIL DANGERS AND DEPRIVE UGANDANS

**Did you know that the EACOP oil project will generate over 34 million metric tonnes of carbon per year for over 30 years? No amount of taxes can compensate for this risk to our lives and the environment. However oil companies should pay taxes to alleviate some of the impacts of their activities.**

The days June 19, 2019 and June 21, 2019 were like no other for communities in Kikuube Hoima and districts.

On those two days, public hearings on the Environmental and Social Impact Assessment (ESIA) report for the Kingfisher oil project were held at Rwemisanga Primary School and Kabaale Public School in Kikuube and Hoima districts respectively.

Impoverished community members, who are hosts to the oil resource on which Uganda has pegged its hopes for economic transformation, had many pleas to make. They hoped that someone from government or oil companies could listen to them and provide schools, academic scholarships, hospitals, irrigation services and other public services.

"You are telling us to go to school and study so that we can get oil jobs. However, our schools are bad. We also do not have money. CNOOC should provide scholarships," one participant at the public hearing that was held in Kikuube district said.

Another one remarked, "CNOOC, will you only bring us football here? We need schools and scholarships. You need to build schools in Kikuube."

Yet another participant noted, "We are going to get bronchial [respiratory] diseases because of oil activities yet we don't have a hospital. We have to go all the way to Hoima if we need hospital services. Why doesn't CNOOC build us a hospital?"

Another participant told CNOOC, "This oil you are going to get from our community is going to make climate change very bad. Why don't you provide us with irrigation services so that we can continue growing food even when oil makes climate change worse?"

Like the people who participated in the Tilenga public hearings in November 2018, some of the participants in the Kikube and Hoima public hearings in June 2019 were aware of some of the dangers of oil exploitation.

They therefore placed the onus of ensuring that social services and measures to avoid, minimise or mitigate the impacts of oil are provided by oil companies through corporate social responsibility activities, payment of taxes and others.

On September 2, 2019 however, Total suspended activities on the East African Crude Oil Pipeline (EACOP) project. CNOOC also laid off employees for the project. The above happened after a tax dispute between government and oil companies resulted in collapse of a deal in which Tullow sought to sell 21.57% of its stake in the Lake Albert licences to Total and CNOOC.

As noted in our editorial, government avers that Tullow must pay capital gains tax of $167 million (over UGX 612 billion) if it sells its stake in the Lake Albert licences. However, Tullow, Total and CNOOC say that Tullow should not pay the above assessed amount.

Through suspension of the EACOP activities, the oil companies are seeking to pressure government to give in to their demands to pay less tax.

Below is a discussion showing why the oil companies need to pay tax.

**a) Rising national debt:** Government and oil companies have substantially invested in the oil sector. To date, it is estimated that oil companies have invested over $3.5 billion in oil exploration activities; this money is recoverable and will be paid back by Ugandans. In addition, the Ugandan government has invested over $10.5 billion in infrastructure such as the oil roads, Hoima international airport and land acquisitions under the oil refinery, oil roads, Tilenga and Kingfisher oil projects.

Further, more than $ 15 billion will be required by 2024 to invest in oil exploitation infrastructure including an oil refinery, central processing facilities, the EACOP and others.

The money that has been spent and that which is to be invested totals up to $ 29 billion, which is more than Uganda's GDP of $27 billion. This money has also been or will be largely borrowed from banks in China, the United Kingdom and others. This means that investments in the oil sector are adding onto Uganda's high debt stock, standing at over $11.5 billion as at December 2018.

Yet several analyses have shown that Uganda's oil activities including construction of the EACOP, oil refinery and others are not economically viable. In effect, Uganda is borrowing to invest in a sector that is unlikely to result in economic returns. This is dangerous and no amount of tax can alleviate this danger.

Despite the above, Ugandans need to demand that oil companies pay taxes to repay some of Uganda's debt. Ugandans will recall that Uganda's debt, which is being driven because of prospects of oil revenues, has been said to be unsustainable by the Auditor General. In just one year, between June 2017 and June 2018, public debt increased by 22% from UGX 34 trillion to UGX 41.5 trillion!

In the 2019/2020 budget therefore, government allocated the biggest share of the budget to debt repayment with UGX 10.6 trillion being allocated. Ministry of Works and Transport came in second with UGX 6.4 trillion being allocated to the sector.

Debt has been accrued to invest in the sector and oil companies should pay taxes to meet this debt. Ugandans should not be exploited through unfair taxes on mobile money transactions, social media use and others while oil companies are left to avoid some of their tax obligations.

**b) Environmental concerns:** In addition, oil activities in Uganda are taking place in ecosensitive areas such as Murchison Falls National Park, River Nile, Lake Albert, Bugoma, Budongo and other forests. The activities in the above sensitive ecosystems will cause grave damage including pollution of waters on which communities rely, will harm tourism and will cause destruction of habitats for wildlife. While the above is the case, the Ugandan government through the National Environment Management Authority (NEMA) has continued to approve ESIA reports that are lacking in quality and scope.

For instance, the ESIAs for the Tilenga, Kingfisher and EACOP projects highlight many risks on people, wildlife, rivers, forests, lakes, wetlands and others but they lack complete mitigation plans to avoid or at least mitigate those risks. One of the factors that are responsible for NEMA's failure to ensure that only good quality ESIAs are approved includes lack of financial independence by NEMA, which makes NEMA easier to manipulate by powerful entities.

The $167 million CGT (UGX 612 billion) can fund NEMA's 2019/2020 budget of UGX 14.6 billion for over 41 years! The same amount of money can fund the National Forestry Authority's (NFA) 2019/2020 budget of over UGX 16 billion for over 37 years!

While no amount of taxes will undo the damage oil will cause on cultures, ecosystems and other aspects that will be affected by oil activities, the least that government can do would be to ensure that it gets taxes from oil companies to strengthen environmental agencies to minimise some of the above dangers.

**Table showing what the $167 million (over 612 billion) can do for Uganda**

| |
|---|
| Fund NEMA's budgets for over 41 years and NFA's budget for 37 years |
| Finance the disaster spending budget of three financial years with money being left over |
| Construct 298 out of the 373 secondary seed schools government wants to construct at every sub-county |
| Finance 44% of the $379 million that the Lubowa specialised hospital is set to cost |
| Buy more than 556, 667 baby cots at $300 each for babies born at Mulago Hospital |

**c) Climate change impacts:** In addition, Uganda is experiencing or has experienced climate change disasters including flash floods, mudslides, prolonged droughts, unpredictable weather patterns, deaths especially in the Mt. Elgon region, loss of property and others.

The above events have stretched Uganda's disaster budget so much so that between the 2015/2016 and the 2018/2019 financial years, a total of UGX 79.94 billion was spent on disaster preparedness and management. Between the 2015/2016, 2016/2017 and 2017/2018 financial years, supplementary budgets of UGX 5.21 billion, UGX 23.58 billion and UGX 1.24 billion respectively were requested for from parliament and were used on disaster management including providing relief to communities that suffered climate change impacts.

The tax of $167 million (over UGX 612 billion) is seven and a half times more than the amount spent on disaster preparedness and management in the aforementioned three financial years!

Today, there is evidence that the EACOP project alone will emit over 34 million metric tonnes of carbon emissions that will worsen climate change.

Considering that the oil companies are going to contribute to climate change, it is imperative that they pay taxes to help address the climate change disasters they are going to contribute to even when no amount of tax they will pay will undo the climate impacts they will cause.

**d) Impact on education:** The state of government-owned and other schools in Uganda is so bad that some pupils study under trees. In addition, the school drop-out rate is also high. A study that analysed school enrolment figures as captured in the Education and Sports Sector Annual Performance Reports revealed that 42.6%, or 4.9 million pupils, dropped out of school over a 15-year period.

The above number of pupils is bigger than the 4.6 million combined population sizes of Kampala city and Wakiso district, per September 2019 statistics from Uganda Bureau of Statistics (UBOS).

Some of the factors that are responsible for high school drop-out rates include long distances between pupils' homes and schools, failure to feed pupils at school and poor pay for teachers who abscond from teaching children.

The $167 million (over UGX 612 billion) could be used to construct 298 out of the 373 secondary seed schools that government wants to construct at every sub-county; in October 2018, the Ministry of Education put the indicative construction cost of each seed school at UGX 2,013,789,285 (over 2 billion).

If the oil companies pay tax therefore, government could be able to curb school drop-outs arising from lack of schools within communities.

**e) Impact on health:** Further, it is well-known that oil activities negatively affect health. Indeed, through their ESIA reports for the Tilenga, Kingfisher and EACOP oil projects, the oil companies recognise that communities will experience health risks because of the oil projects. Some of the health risks that are associated with oil exploitation include respiratory illnesses such as asthma, premature births, increased infant mortality, cancers and others.

The above impacts will be experienced amidst an ailing health sector that will be overstretched by an increased disease burden. Available evidence shows that many government health centres and hospitals in Uganda are struggling with poor services due to, among others, limited funds from government to pay electricity, pay doctors, buy medicines, buy necessary equipment such as radiotherapy machines and others.

It is only fair that oil companies whose activities are going to increase the disease burden in Uganda pay taxes to contribute towards development of infrastructure or acquisition of equipment to manage diseases.

Ugandans need to note that the $ 167 million (over UGX 612 billion) tax that government is demanding from Tullow would buy more than 556,667 cots at $300 each. These cots would be more than the about 100 babies that are produced at Mulago Hospital everyday.

Moreover, the assessed tax would finance 44% of the $379 million that the Lubowa specialised hospital is set to cost.

**f) Breed impunity:** Moreover, permitting oil companies to bend tax laws will extend to other sectors such as that of the environment. This will see Uganda's environment be degraded by the so called development activities. Already we have seen rice farms being permitted in Lwera wetland, a Chinese factory in Katonga wetland and a sugarcane plantation threatening Bugoma forest among other degrading activities.

More importantly, we have also already seen NEMA and Petroleum Authority of Uganda (PAU) violating environment laws including the 1998 Environmental Impact Assessment (EIA) Regulations and EIA Public Hearing Guidelines.

For instance, this month (September), NEMA notified the public about the public hearings that will be held in ten districts on the EACOP ESIA report. The notification was made through a notice that ran in the *New Vision* newspaper of September 27, 2019. While Regulation 22(7) of the 1998 EIA Regulations requires that **the dates and venues** of the public hearings are advertised through the mass media, PAU failed to inform the public about the exact dates and venues at which the public hearings will be held.

In addition, AFIEGO has previously highlighted the violations of the law that took place during the Tilenga ESIA public hearings.

Should Ugandans fail to stand up and demand that government and oil companies respect laws, our environment will be degraded and oil revenues will continue to be abused. Ugandans will be the ones to suffer the consequences of a degraded environment in the form of long dry spells, floods, food insecurity, increased disaster spending and others.

## RECOMMENDATIONS

In view of the above, the following recommendations are made:

**i. Citizens should task government to collect all the assessed taxes from oil companies in line with the Ugandan laws without any delays.** Any company that fails and/or delays to pay the assessed taxes should have its licence cancelled automatically.

**ii. Further, citizens should pressure government to use all collected oil taxes to protect the environment and provide services for the common good.** If this is not done, the taxes and other oil revenues will be wasted on creating more districts, expanding parliament and appointing more RDCs and presidential advisors to serve the ruling government.

**iii. In addition, citizens should demand for transparency and good governance in the conduct of ESIA and other oil processes such as the signing of Production Sharing Agreements (PSAs).** Without transparency and good governance in the utilisation of taxes in addition to the conduct and compliance with ESIA procedures, the oil sector will destroy our country. Today, Total has an EIA certificate of approval for the Tilenga oil project and yet the majority of over 2,000 people who participated in the Buliisa and Nwoya public hearings on November 12 and 15, 2018 respectively rejected the Tilenga ESIA report. The report lacked mitigation plans and did not have information on trade-offs for allowing oil activities in critical ecosystems such as nationals parks, forests, rivers, lakes and others. It is only good governance that will allow citizens to have a say in protecting biodiversity from oil dangers.

**iv. More so, citizens need to put pressure on the judiciary** to decide cases regarding oil abuses without delays.

**By AFIEGO and CSO Partners**

## AFIEGO SENSITISES COMMUNITIES TO REVIEW, COMPILE AND SUBMIT COMENTS ON EACOP ESIA REPORT

*Between September 13 and 16, 2019, AFIEGO organised community sensitisation meetings in districts that are going to be affected by EACOP project including Hoima Kankumiro, Kikuube and Kyankwazi districts.*

*The objective of the meetings was to equip communities with knowledge and skills to review and submit comments on the EACOP ESIA report through written comments to NEMA and through the upcoming public hearings on the ESIA.*

*AFIEGO will continue to mobilise and sensitise communities in October 2019 so that they can effectively submit comments on the EACOP ESIA during the public hearings in October 2019. AFIEGO will also engage NEMA to account to the public on how their comments were addressed by the EACOP project developers.*

## REFINERY-AFFACTED PEOPLE PIN GOV'T OVER DELAYED, INADEQUATE AND UNFAIR COMPENSATION DURING FIFTH CASE HEARING

*On September 23, 2019, AFIEGO facilitated the fifth case hearing of the refinery-affected people. The case hearing took place at the High Court in Kampala.*

*During the hearing, Mr. Innocent Tumwebaze submitted evidence that showed that government paid him and other refinery-affected people delayed, unfair and inadequate compensation.*

*For instance, he told the judge that government relocated him and other affected people in January 2018, nearly six years after government took their land. This constituted delayed compensation.*

*He also noted that government stopped him and the refinery-affected people from growing cash crops that take over eight months to grow. This denied him and the people their land rights.*

*Mr. Tumwebaze requested the judge to visit the refinery-affected ple who were relocated to Kyakaboga. The judge agreed to visit them.*

*In the top picture are the refinery-affected people, AFIEGO staff and their lawyer after the case hearing. In the bottom picture is Mr. Tumwebaze while taking oath before submitting evidence.*

## AFIEGO AND WECA FORM PARTNERSHIP TO PROTECT ELECTRICITY CONSUMERS' RIGHTS



*On September 17, 2019, AFIEGO and the Water and Consumers' Association (WECA) held a meeting at AFIEGO's office to strategise on how AFIEGO and WECA can work together to address challenges in the electricity sector to realise accessible, reliable and affordable electricity services.*

*Some of the challenges that were identified during the meeting included cheating of electricity consumers through fake metres and inadequate public participation in electricity sector processes such as public hearings.*

*Other challenges that were identified included government failure to put in place policies and laws such as a Solar Energy Policy and amended Electricity Act to address electricity sector challenges.*

*AFIEGO and WECA developed a workplan to address the above challenges.*

*In the photos are AFIEGO and WECA staff members during and after the meeting.*

## AFIEGO AND PARTNERS SUPPORT MEETING TO STRENGTHEN CSO LOBBY AND ADVOCACY EFFORTS FOR ENVIRONMENTAL CONSERVATION



*Between September 26 and 27 2019, the Shared Resources, Joint Solutions (SRJS) Uganda partners under the leadership of AFIEGO, organised a two-day workshop at Essella Country Hotel.*

*The objective of the workshop, which was attended by over 34 civil society organisations (CSOs), was to strengthen CSOs' knowledge and skills to enable them develop joint positions and strategies on key lobby and advocacy issues for environmental conservation amidst oil and forest degradation challenges.*

*Under the guidance of the facilitator, the CSOs identified commonalities and differences they hold on key positions in oil lobby and advocacy. The CSOs also identified challenges faced in their coalition and mapped ways to address them.*

*Further, the CSOs developed a roadmap which will guide joint activities including those aimed at influencing the EACOP ESIA processes.*
*In the pictures are the CSOs during the workshop.*

## AFIEGO AND SRJS PARTNERS DISCUSS ACHIVEMENTS AND CHALLENGES UNDER SRJS PROGRAMME


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*On September 19, 2019, AFIEGO organised the annual meeting for the Shared Resources, Joint Solutions (SRJS) partners in Uganda. AFIEGO is the current chair of the SRJS Implementing Committee Uganda (SICU).*

*During the meeting, the partners reflected on the progress made in implementing the programme and achievements registered in 2019. The partners also discussed plans for 2020 based on the remaining challenges.*

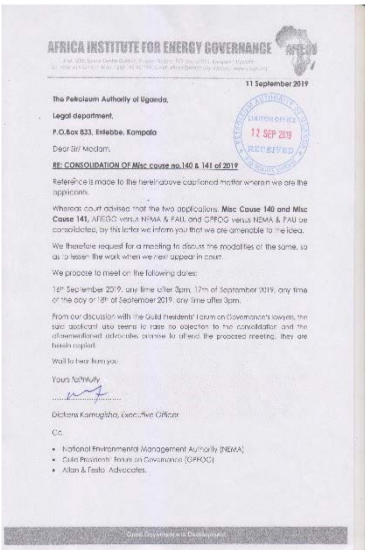
*In the pictures are the partners during and after the meeting that took place in Kampala.*

# Lobbying

**This month, AFIEGO and 12 CSOs issued a statement on suspension of the EACOP activities by Total E&P. We called on government not to bow to pressure by the oil companies aimed at enabling them to avoid paying tax.**

**Further, following a call by the Electricity Regulatory Authority (ERA) to interested stakeholders and the public at large to inspect and submit comments on the application for renewal of Jacobsen thermal powe company's licence, AFIEGO wrote an objection letter to ERA and called on the authority not to renew Jacobsen's licence.**

**AFIEGO also facilitated empowered youth to review and submit written comments on the EACOP ESIA report to NEMA. This followed NEMA extending the deadline for submission of written comments on the ESIA to September 15, 2019.**



AFRICA INSTITUTE FOR ENERGY GOVERNANCE

11 September 2019

The Petroleum Authority of Uganda,

Legal department,

P.O.Box 833, Entebbe, Kampala

Dear Sir/ Madam,

RE: CONSOLIDATION OF Misc cause no.140 & 141 of 2019

Reference is made to the hereinabove captioned matter wherein we are the applicants.

Whereas court advised that the two applications, **Misc Cause 140 and Misc Cause 141,** AFIEGO versus NEMA & PAU, and GPFOG versus NEMA & PAU be consolidated, by this letter we inform you that we are amenable to the idea.

We therefore request for a meeting to discuss the modalities of the same, so as to lessen the work when we next appear in court.

We propose to meet on the following dates:

16th September 2019, any time after 3pm, 17th of September 2019, any time of the day or 18th of September 2019, any time after 3pm.

From our discussion with the Guild Presidents' Forum on Governance's lawyers, the said applicant also seems to raise no objection to the consolidation and the aforementioned advocates promise to attend the proposed meeting. They are herein copied.

Wait to hear from you.

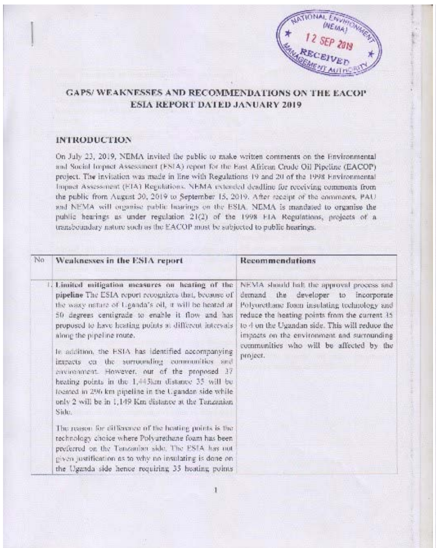
Yours faithfully

Dickens Kamugisha, Executive Officer

Cc.

- National Environmental Management Authority (NEMA)
- Guild Presidents' Forum on Governance (GPFOG)
- Allan & Festo Advocates.

Good Governance is Development



GAPS/ WEAKNESSES AND RECOMMENDATIONS ON THE EACOP ESIA REPORT DATED JANUARY 2019

INTRODUCTION

On July 23, 2019, NEMA invited the public to make written comments on the Environmental and Social Impact Assessment (ESIA) report for the East African Crude Oil Pipeline (EACOP) project. The invitation was made in line with Regulations 19 and 20 of the 1998 Environmental Impact Assessment (EIA) Regulations. NEMA extended deadline for receiving comments from the public from August 30, 2019 to September 15, 2019. After receipt of the comments, PAU and NEMA will organise public hearings on the ESIA. NEMA is mandated to organise the public hearings as under regulation 21(2) of the 1998 EIA Regulations, projects of a transboundary nature such as the EACOP must be subjected to public hearings.

| No | Weaknesses in the ESIA report | Recommendations |
| --- | --- | --- |
| 1. | **Limited mitigation measures on heating of the pipeline** The ESIA report recognizes that, because of the waxy nature of Uganda's oil, it will be heated at 50 degrees centigrade to enable it flow and has proposed to have heating points at different intervals along the pipeline route.<br><br>In addition, the ESIA has identified accompanying impacts on the surrounding communities and environment. However, out of the proposed 37 heating points in the 1,443km distance 35 will be located in 296 km pipeline in the Ugandan side while only 2 will be in 1,149 Km distance at the Tanzanian Side.<br><br>The reason for difference of the heating points is the technology choice where Polyurethane foam has been preferred on the Tanzanian side. The ESIA has not given justification as to why no insulating is done on the Uganda side hence requiring 35 heating points | NEMA should halt the approval process and demand the developer to incorporate Polyurethane foam insulating technology and reduce the heating points from the current 35 to 4 on the Ugandan side. This will reduce the impacts on the environment and surrounding communities who will be affected by the project. |

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AFRICA INSTITUTE FOR ENERGY GOVERNANCE

11 September 2019

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Legal department,Kampala

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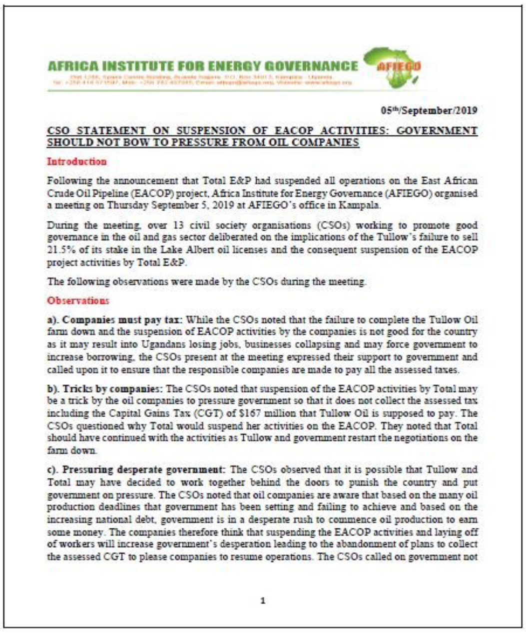
Good Governance is Development



AFRICA INSTITUTE FOR ENERGY GOVERNANCE

05th/September/2019

**CSO STATEMENT ON SUSPENSION OF EACOP ACTIVITIES: GOVERNMENT SHOULD NOT BOW TO PRESSURE FROM OIL COMPANIES**

**Introduction**

Following the announcement that Total E&P had suspended all operations on the East African Crude Oil Pipeline (EACOP) project, Africa Institute for Energy Governance (AFIEGO) organised a meeting on Thursday September 5, 2019 at AFIEGO's office in Kampala.

During the meeting, over 13 civil society organisations (CSOs) working to promote good governance in the oil and gas sector deliberated on the implications of the Tullow's failure to sell 21.5% of its stake in the Lake Albert oil licenses and the consequent suspension of the EACOP project activities by Total E&P.

The following observations were made by the CSOs during the meeting.

**Observations**

**a). Companies must pay tax:** While the CSOs noted that the failure to complete the Tullow Oil farm down and the suspension of EACOP activities by the companies is not good for the country as it may result into Ugandans losing jobs, businesses collapsing and may force government to increase borrowing, the CSOs present at the meeting expressed their support to government and called upon it to ensure that the responsible companies are made to pay all the assessed taxes.

**b). Tricks by companies:** The CSOs noted that suspension of the EACOP activities by Total may be a trick by the oil companies to pressure government so that it does not collect the assessed tax including the Capital Gains Tax (CGT) of $167 million that Tullow Oil is supposed to pay. The CSOs questioned why Total would suspend her activities on the EACOP. They noted that Total should have continued with the activities as Tullow and government restart the negotiations on the farm down.

**c). Pressuring desperate government:** The CSOs observed that it is possible that Tullow and Total may have decided to work together behind the doors to punish the country and put government on pressure. The CSOs noted that oil companies are aware that based on the many oil production deadlines that government has been setting and failing to achieve and based on the increasing national debt, government is in a desperate rush to commence oil production to earn some money. The companies therefore think that suspending the EACOP activities and laying off of workers will increase government's desperation leading to the abandonment of plans to collect the assessed CGT to please companies to resume operations. The CSOs called on government not

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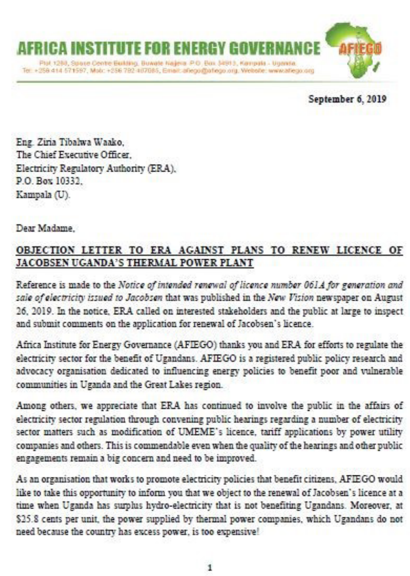

AFRICA INSTITUTE FOR ENERGY GOVERNANCE

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**September 6, 2019**

Eng. Ziria Tibalwa Waako,
The Chief Executive Officer,
Electricity Regulatory Authority (ERA),
P.O. Box 10332,
Kampala (U).

Dear Madame,

**OBJECTION LETTER TO ERA AGAINST PLANS TO RENEW LICENCE OF JACOBSEN UGANDA'S THERMAL POWER PLANT**

Reference is made to the *Notice of intended renewal of licence number 061A for generation and sale of electricity issued to Jacobsen* that was published in the *New Vision* newspaper on August 26, 2019. In the notice, ERA called on interested stakeholders and the public at large to inspect and submit comments on the application for renewal of Jacobsen's licence.

Africa Institute for Energy Governance (AFIEGO) thanks you and ERA for efforts to regulate the electricity sector for the benefit of Ugandans. AFIEGO is a registered public policy research and advocacy organisation dedicated to influencing energy policies to benefit poor and vulnerable communities in Uganda and the Great Lakes region.

Among others, we appreciate that ERA has continued to involve the public in the affairs of electricity sector regulation through convening public hearings regarding a number of electricity sector matters such as modification of UMEME's licence, tariff applications by power utility companies and others. This is commendable even when the quality of the hearings and other public engagements remain a big concern and need to be improved.

As an organisation that works to promote electricity policies that benefit citizens, AFIEGO would like to take this opportunity to inform you that we object to the renewal of Jacobsen's licence at a time when Uganda has surplus hydro-electricity that is not benefiting Ugandans. Moreover, at $25.8 cents per unit, the power supplied by thermal power companies, which Ugandans do not need because the country has excess power, is too expensive!

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# In the media

**This month, staff and research associates wrote over 15 newspaper articles which were published in the leading newspapers including the *New Vision* and *Daily Monitor*. Some of the published articles are captured below.**

## Oil developments will increase grave impacts on climate

The developments in Uganda's oil and gas industry have since transitioned from exploration and appraisal phase in 2006, to the development phase this year, with production expected to start in 2023. Already, the Government has signed production licences with oil companies and is in negotiations for the Final Investment Decisions (FID) for different oil projects.

The The East African Crude Oil Pipeline (EACOP) project is one of the key projects being fast tracked by government to commence oil exploitation in Uganda.

Under the project, a 1,443km pipeline will transport Uganda's crude oil from Hoima in Uganda to Tanga in Tanzania. The Ugandan government is jointly developing the project with the Tanzanian government. The estimated cost of the project is over $3.5b, which will be borrowed.

For capital and the distance covered, the EACOP is the biggest project to be undertaken by the Government. The project will, therefore, have grave implications on Ugandans' indebtedness.

Also, the project poses grave environmental, climatic and social threats.

It will negatively affect forest reserves, rivers, wetlands, lakes, agricultural land, fisheries, community livelihoods, cultures and others.

An understanding of the EACOP must begin with the fact that the world's temperature has increased by an estimated 0.9°C as atmospheric levels of carbon dioxide (CO2) have risen from 290 parts per million (ppm) in pre-industrial times to more than 415 ppm this year.

Patrick Edema

The Intergovernmental Panel on Climate Change (IPCC) warned countries that a further increase of the world's temperature by more than another 0.6°C, a consequence of CO2 levels exceeding 450 ppm, would have far-ranging catastrophic consequences on humanity, including food security and livability of cities.

Because of the waxy nature of Uganda's oil, EACOP will be heated at 50°C to enable crude oil to flow and the Environmental and Social Impact Assessment (ESIA) report proposed to have heating points at different intervals on the pipeline route.

However, out of the proposed 37 heating points in the 1,445km distance, 35 will be located in 296km pipeline in the Ugandan side, while only two will be in 1,149km distance at the Tanzanian Side.

The indirect CO2 emissions of the EACOP project would have immense environmental, social, economic, and moral dimensions.

Approval of the ESIA for the project without scrutiny of the consequences of its indirect CO2 emissions should be set aside as irrational.

The National Environment Management Authority should, therefore, halt the approval and demand the developer to incorporate Polyurethane foam insulating technology and reduce the heating points from the current 35 to 4 on the Ugandan side.

This will reduce the impacts on the environment and surrounding communities who will be affected by the project.

**The writer is the environmental engineer at African Institute for Energy Governance**

## Ensure transparency when signing agreements with oil companies

DOREEN NAMARA > OIL TAX

**Table Bill in Parliament.**

[illegible]

... sure that the oil companies pay taxes, Uganda should not succumb to oil company's pressure. Maybe because we are so desperate for oil to be produced by 2022, the government is acting well within the law to demand that Tullow Oil (U) ...

Ms Namara is a legal assistant AFIEGO
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## Oil pipeline: Do not ignore environmental concerns

EDITOR: The developments in Uganda's oil and gas industry have since transitioned from exploration and appraisal to development phase, with production expected to start in 2023.

The Government and oil companies have signed production licences and are in negotiations for the Final Investment Decisions for different oil projects.

The East African Crude Oil Pipeline (EACOP) project is one of the key ventures being fast-tracked by the Government to commence oil exploitation.

Under the project, a 1,443km pipeline will transport Uganda's crude oil from Hoima in Uganda to Tanga in Tanzania. The Government is jointly developing the project with Tanzania.

The pipeline project poses grave environmental and social threats. It is likely to affect forest reserves, rivers, wetlands, lakes, agricultural land, fisheries, community livelihoods, cultures and others.

An understanding of the EACOP must begin with the fact that world's temperature has increased by an estimated 0.9°C as atmospheric levels of carbon dioxide (CO2) have risen from 290 parts per million (ppm) in pre-industrial times to more than 415ppm in 2019.

The Intergovernmental Panel on Climate Change warned countries that a further increase of the world's temperature by more than another 0.6°C, a consequence of CO2 levels exceeding 450ppm, would have catastrophic consequences on humanity, including food security and livability of cities.

Because of the waxy nature of Uganda's oil, EACOP will be heated at 50°C to enable crude oil to flow.

The Environmental and Social Impact Assessment (ESIA) report proposed to have heating points at different intervals along the pipeline route.

However, out of the proposed 37 heating points in the 1,445km distance, 35 will be on the Ugandan side, while only two will be on the Tanzanian side.

The indirect CO2 emissions of the EACOP project would have immense environmental, social, economic and moral dimensions. Approval of the ESIA for the project without scrutiny of the consequences of its indirect CO2 emissions should be set aside as irrational.

The National Environment Management Authority should, therefore, halt the approval process and demand the developer to incorporate polyurethane foam insulating technology and reduce the heating points from the current 35 to 4 on the Ugandan side. This will reduce the impact on the environment.

***Patrick Edema***
***environmental engineer***

## Stop secrecy on oil project compensation

The East African Crude Oil Pipeline project (EACOP) is of a trans-boundary nature with crossboarder social and environmental impacts between Uganda and Tanzania.

Many internal issues and concerns about the project were observed during AFIEGO's contestant engagements with the projects-affected persons in the EACOP corridor in Kikuube, Hoima, Kakumiro, Mubende, Sembabule, Mityana and other districts.

The communities have fears that loss of property, especially land, where the project-affected persons (PAPs) practice farming may put them at a risk of hunger, as it has been the practice.

There are difficulties in reading and understanding assessment forms compiled in English along the EACOP corridor yet most PAPs are illiterate. Communities have not been able to properly understand how much their property is worth.

There is limited information about the EACOP project areas. There is information gap on project impacts and its related aspects such as on land and compensation processes. Information shared is simply about the maps/GPS display dates and venues, amount of land required but not the project's potential impacts on the environment, social-cultural, economic and others.

For instance, the subcontractors refused to compensate crops affected by surveys during the first phase of the project while conducting feasibility studies. The land acquisition and compensation process is characterized by secrecy; PAPs are not provided with copies of compensation rates alongside the assessment forms.

I would recommend that a member of the district land board (the secretary or district valuer), a community leader such as local council chairperson move along with sub-contractors undertaking compensation for oil and gas projects in different areas whenever they are to move into communities.

As more land for related oil and gas infrastructure is being acquired, developers and governments' regulatory frameworks and policies such as the Land Acquisition and Resettlement Framework for oil and gas projects should be comprehensively implemented alongside other laws and regulations on compensation and land acquisition. Multiple re-displacements by similar oil and gas projects in different communities should be addressed by prior planning, marking and gazzetting areas most likely to be affected by any infrastructures.

Finally, information about the EACOP must be made public, and in the languages the communities understand best.

*Sandra Atusinguza*
*atusinguzasandra@afiego.org*

## Parliament has oversight powers to curb misuse of funds

Parliament's Natural Resources Committee called for an amendment of the Public Finance Management Act on how oil revenues can be withdrawn from the Petroleum Fund. The proposal is captured in the report of the Parliamentary Sectoral Committee on Natural Resources on the Ministerial Policy Statements and budget estimates for 2019/2020 dated April 2019.

It is clear that in November 2017 and March 2019, government withdrew Shs125b and Shs200b oil revenues from the Petroleum Fund without parliamentary approval, which is contrary to Section 58 of the Public Finance Management Act (PFMA) 2015. The money was used to finance deficits of the 2017/2018 and 2018/2019 budgets. This was violation of Section 59(3) of the PFMA, which provides that oil revenue will only be used for infrastructure and other development purposes only. This non-compliance of binding laws creates suspicion that government has no respect for its own laws. Besides, on August 2016, the President ordered the payment of Shs6b oil revenue to 42 government officials as a reward for winning a Capital Gains Tax (CGT) case against Tullow Oil in London, which violated Section 59 of the PFMA.

Patrick Edema,
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# Upcoming events

**October 3, 2019: Petition NEMA to stop violating laws in EACOP ESIA public review processes and involve affected transboundary communities in EACOP ESIA public hearings**

**October 4, 2019; Kampala: Meeting of AFIEGO board members to prepare for development of AFIEGO's 2020-2025 Strategic Plan**

**October 7, 2019; Kampala: Petition ERA to hold public hearings on an application to renew Jacobsen thermal power company's licence**

**October 8-11, 2019; Amsterdam: International conference with partners to address obstacles to community access to clean energy**

**October 10, 2019; Kakumiro, Mubende and Hoima: Organise radio talkshows on gaps in the EACOP ESIA**

**October 11, 2019; Rakai, Lwengo, Kyotera: Organise a radio talkshow on gaps in the EACOP ESIA**

**October 14-16, 2019; Kakumiro, Mubende, Hoima, Rakai: Organise EACOP pre-public hearing sensitisation activities for affected communities and DRC partners**

**October 17-30; EACOP-affected districts: Support affected communities, DRC partners and staff to participate in the EACOP ESIA public hearings**

## About Africa Institute for Energy Governance (AFIEGO)

Africa Institute for Energy Governance (AFIEGO) is a public policy research and advocacy NGO dedicated to influencing energy policies to benefit the poor and vulnerable. Based in Kampala, Uganda, the organisation was born out of the need to contribute to efforts to turn Africa's energy potential into reality and to ensure that the common man and woman benefits from this energy boom. Through lobbying, research and community education, AFIEGO works with communities and leaders to ensure that energy resources are utilised in a way that promotes equitable development, environmental conservation and respect for human rights.

Our Vision
A society that equitably uses energy resources for socio-economic development

Our Mission
To promote energy policies that benefit poor and vulnerable communities