



August 29, 2022

## **CSO COMMUNIQUE CALLING ON MINISTER OF ENERGY TO HALT PROCESSING OF EACOP CONSTRUCTION LICENSE**

**The Minister must comply with the law!**

### **1. Introduction**

Between July and August 2022, Africa Institute for Energy Governance (AFIEGO) held discussions with oil host communities, their leaders and our partner civil society organisations (CSOs) working in the oil and gas sector. Among others, we discussed the application made by the East African Crude Oil Pipeline (EACOP) Company Ltd for a construction license. The Ministry of Energy [announced](#) on July 3, 2022 that it had received the said application on July 1, 2022.

During the discussions, oil host communities, their leaders and our civil society partners made the following observations.

### **2. Observations**

- (a) The aforementioned groups took note of the fact that the 2013 Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act or Midstream Act empowers the Minister of Energy to issue a construction or operational licence for persons or entities that are seeking to construct or operate a refining, transmission pipeline and other midstream facilities.**
- (b) Specifically, they took note of Section 9(1) of the aforementioned law** which provides that “A person shall not construct or operate the following without a licence issued by the Minister under this Act— (a) a facility for refining crude oil; (b) a facility for conversion of natural gas; (c) a transmission pipeline; (d) a midstream storage facility; or (e) any other facility for the purpose of midstream operations”.
- (c) The aforementioned groups observed that in applying for the construction licence, the EACOP Company had complied with the law. However, the events thereafter demonstrated an unfortunate trend that has come to characterise Uganda’s oil sector: that of wanton and gross violation of oil sector and other relevant laws.**
- (d) In relation to the above, our partners observed that Section 12 (1) of Uganda’s 2013 Midstream Act provides that “The Minister shall, within forty-five days after receiving**

the application for a licence, cause a notice of the application to be published in the Gazette and in at least one national newspaper of wide circulation in Uganda.”

- (e) **Our partners reminded themselves that Section 12 (2) provides that** “A notice published under subsection (1) shall— (a) indicate the receipt of the application for a licence; (b) contain a description of the nature and location of the proposed operation or facility; (c) inform members of the public that the application may, within the limits of the laws governing intellectual property rights and commercial confidentiality be inspected at the offices of the Minister; and **(d) invite directly affected parties and local authorities** in areas affected by the project who object to the granting of the licence, whether on personal, environmental or other grounds, to lodge with the Minister an objection within a specified time, being not less than thirty days after the notice.”
- (f) **Our partners and oil host communities, including those from the EACOP-**affected districts, observed that as at August 25, 2022, 55 days had elapsed since the Ministry of Energy received the application for a construction licence from the EACOP Company. The above groups noted that the Minister of Energy had not caused a notice to be published in any national newspaper inviting for public comments on the application for a construction licence by the EACOP Company. This is a violation of Section 12(1) of the Midstream Act, they said.
- (g) **Our partners and oil host communities further observed that Section 14 (1)** of the Midstream Act provides that, “An aggrieved party may lodge with the Minister an objection to the grant of a license, setting out the grounds for the objection within the time specified in the notice of application, being not less than thirty days after the notice.” They also recalled that Section 14(3) of the same act provides that “The Minister shall consider the objection raised under subsection (1) and make a decision within thirty days”.
- (h) **The aforementioned groups reminded themselves that Section 15(1)** of Uganda’s 2013 Midstream Act provides that “The Minister shall consider and determine an application for a licence in a manner prescribed by [the] regulations— (a) after the expiration of the period stated in section 12(2)(d), if no objection has been received; and (b) after receiving the response of the applicant to objections.” By denying stakeholders an opportunity to submit objections to the licence, the Minister was effectively locking Ugandans, who own the country’s oil and gas resources, from deciding how the resource is developed.
- (i) **Notably, the aforementioned groups observed that a number of environmental,** climate change, human rights and economic concerns over the EACOP project remain. For instance, they noted that though the EACOP project developers were issued with an Environmental and Social Impact Assessment (ESIA) certificate of approval by the National Environment Management Authority (NEMA) in 2020, key matters were outstanding.
- (j) **For instance, the EACOP project developers failed to ensure adequate stakeholder** sensitisation to ensure that citizens fully understood the potential environmental and

climate change impacts of their project prior to the developers being issued with an ESIA certificate of approval. Today, many citizens do not know the grave danger posed by the EACOP project to the countries' forests, lakes, rivers and the climate, which the majority of citizens rely on to make a living. Such a project should not proceed, they said.

- (k) **Furthermore, our partners and oil host communities said**, despite the existence of an approved ESIA, the project developers had failed to manage challenges such as payment of persons whose land is being acquired for the EACOP project prompt, fair and adequate compensation as provided for by the 1995 Uganda Constitution. They noted that perhaps the EACOP ESIA was meant to be used to fulfill financing conditions, instead of helping the country to avoid, minimise or mitigate the project impacts.
- (l) **The CSOs also observed that the oil companies have continued** to aid and abet the violation of Ugandan laws.
- (m) **Our civil society partners and oil host communities** also questioned why Uganda is proceeding with investments of over \$15 billion in the oil and gas sector amidst global energy transition risks. They noted that a poor country should not allow multinationals to push it to invest in the EACOP while giving the multinationals huge tax holidays at a time when it remains uncertain how long the oil sector will remain profitable.

### 3. Recommendations

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

- i. **The Minister of Energy must halt** the ongoing processing of a construction license for the EACOP Company. In a press statement issued on July 3, 2022, the ministry observed that the licence will be processed within 180 days after receipt of the application.
- ii. **Further, in conformity with the 2013 Midstream Act**, the Minister of Energy must invite the public to submit their views on the application for a construction licence by the EACOP Company.
- iii. **In addition, parliament must task the Minister of Energy** to explain why her ministry and other government officials have consistently violated oil sector laws.
- iv. **Further, civil society groups should work together** to sue government for consistently violating oil sector laws. The judiciary must stand strong and penalise government for violating laws.
- v. **Finally, the oil companies operating in Uganda** must avoid aiding and abetting the Ugandan government to break Ugandan laws. The companies should not operate in a country where the rule of law is not respected.

### SIGNATORIES

1. Africa Institute for Energy Governance (AFIEGO)
2. African Initiative on Food Security and Environment (AIFE)
3. Be Empowered Uganda-Kyotera
4. Centre for Citizens Conserving Environment management (CECIC)

5. Centre for Environmental Research and Agriculture (CERAI)
6. East African Crude Oil Pipeline Host Communities (EACOPHC)
7. Environment Governance Institute (EGI)
8. South Western Institute for Policy and Advocacy (SOWIPA)
9. Strategic Response on Environment Conservation (STREC)
10. Tasha Research Institute Africa
11. Oil and Gas Residents' Association (ORGA)
12. Oil Refinery Residents Association (ORRA)
13. Oil-affected youth
14. Women for Green Economy Movement Uganda (WoGEM)
15. Youth for Green Communities (YGC)