



October 25, 2019

UGANDA AND DRC CSOS' COMMUNIQUÉ ON THE EACOP ESIA PUBLIC HEARINGS

PAU failed to comply with laws and to consult affected transboundary communities

1. Introduction

On October 21, 23 and 25 2019, over 15 civil society partners from Uganda and the Democratic Republic of Congo (DRC) participated in the public hearings on the Environmental and Social Impact Assessment (ESIA) report for the East African Crude Oil Pipeline (EACOP) project.

The CSO partners included Africa Institute for Energy Governance (AFIEGO), Dynamique pour la Protection de l'environnement en Ituri, World Voices Uganda (WVU), Centre for Constitutional Governance (CCG), Guild Presidents' Forum on Oil Governance (GPFOG), Green Organisation Africa (GOA), Citizens Concern Africa (CICOA), Oil Refinery Residents Association (ORRA) and others.

The three public hearings were organised by the Petroleum Authority of Uganda (PAU) in consultation with Uganda's National Environment Management Authority (NEMA). They took place in the districts of Kakumiro, Mubende and Rakai respectively.

The public hearings were organised to enable citizens submit their views as required under the 1998 Environmental Impact Assessment (EIA) Regulations to guide NEMA as it makes a decision on whether to issue an environmental certificate of approval or not to the EACOP project developers.

Over 6,000 people participated in the three public hearings.

2. Observations

The undersigned CSO partners observed a number of gaps and failures in the conduct of the public hearings as follows:

- (a) First, as CSOs, we appreciate that in accordance with Regulation 21 of the 1998 EIA Regulations, PAU in consultation with NEMA fulfilled its mandate by conducting public hearings in Kakumiro, Mubende and Rakai districts. It should be noted that regulation

21(2) requires NEMA to call for a mandatory public hearing where a project is controversial or may have transboundary impacts. The 1,443 km-EACOP, which will be the longest heated pipeline in the world, is transboundary in nature. The pipeline will be constructed from Uganda to Tanzania and its impacts will be felt by communities in neighbouring states such as the DRC, Tanzania, Kenya and others. In addition, the EACOP and its sister projects of Kingfisher and Tilenga are some of the most expensive projects to be ever implemented in Uganda. It is estimated that the above three projects will cost the country over \$15 billion. This means that Uganda will accumulate a huge debt before commencing oil production. Huge debts will have far reaching consequences on citizens and the country at large. The EACOP project's cost and location in ecosensitive areas including wetlands, forests, rivers and lakes some of which are shared with countries such as the DRC makes it controversial and of national in addition to regional importance. It is therefore good that NEMA requested PAU to organise public hearings on the EACOP ESIA report.

- (b) While we appreciate NEMA and PAU, we note with concern that PAU failed to organise all the three public hearings in ways that would allow citizens to effectively participate to influence decision making on the EACOP project. Each of the three public hearings brought together people from three or more districts. The people had to walk long distances and incur high costs to participate in the public hearings. This undermined public participation in the public hearings and could undermine good decision making by NEMA.
- (c) The above is evidenced by the fact that despite the fact that the EACOP project will affect more districts (ten in total) than the Tilenga and Kingfisher projects, fewer people participated in the EACOP project's public hearings. While over 9,000 and over 12,000 people participated in the Tilenga and Kingfisher projects' ESIA public hearings respectively, only over 6,000 people participated in the EACOP ESIA public hearings! This is unfortunate.
- (d) Moreover, it should be noted that in organising only three public hearings at which stakeholders from many affected districts were combined, PAU and NEMA shifted from the norm of organising a public hearing in each of the affected districts as happened in the Tilenga and Kingfisher projects. PAU failed to understand that that affected people from the different districts were impacted differently by the same project. As such, the affected people had different views and concerns to present during the public hearings. They also required specific responses from the developer and government.
- (e) Further, the undersigned CSOs observed that while regulation 22(5) of the 1998 EIA Regulations provides that the scope of any public hearing shall be commensurate with the nature and size of the project, the EACOP public hearings were more of public gatherings

than public hearings where people would be given appropriate time to present their views. This was especially observed during the public hearing in Kakumiro on October 21, 2019. At this public hearing, the presiding officer denied the people who wanted to present their views ample time. Each person was given only one minute to speak yet the people were submitting views on a 3,000-page ESIA report! To make matters worse, the public hearing started late yet the people participated in their thousands.

PAU and NEMA failed to consider that because of the scope and nature of the EACOP project, the EACOP ESIA public hearings would attract thousands of people. These people were denied adequate time to submit their views because they were many and they came from various districts. PAU should have organised public hearings in each affected sub-county or at least at each district like it did for the Tilenga and Kingfisher ESIA reports.

- (f) We also observed that while the 1998 EIA Regulations provide that any public hearing shall be conducted at a venue which shall be convenient and accessible to persons who are likely to be specifically affected by the project, all the three public hearings in Kakumiro, Mubende and Rakai were not at accessible venues. People from different districts had to move long distances to participate in the public hearings. For instance, people from Hoima had to cover a distance of approximately 80km to participate in the public hearing in Kakumiro. Those from Lwengo had to move distances of over 41km to participate in the public hearing in Rakai. This violated regulation 22(6) of the 1998 EIA Regulations.
- (g) It was also sad to note that the public hearings took place at a time when the developer and the lead agency are already implementing the Resettlement Action Plan (RAP) reports for the EACOP project including placing a cut-off date on the Project Affected Persons' (PAPs) property such as land. This is contrary to regulations 19 and 20 of the 1998 EIA Regulations which require NEMA to call for public comments and work with PAU to conduct public hearings based on a complete ESIA report. Implementing the RAP reports outside of the ESIA process and/or placing a cut-off date on people's property before NEMA issues an environmental and social impact assessment certificate of approval or payment of fair and adequate compensation is a violation of the laws of Uganda, especially Article 26 of the Constitution.
- (h) The undersigned CSOs also observed that the EACOP ESIA public hearings were organised based on an ESIA report that does not have even one complete mitigation plan to avoid or at least mitigate the dangers of oil on the environment and livelihoods. They called on NEMA to reject the EACOP ESIA report in order to avoid acting on insufficient information.
- (i) The CSOs further observed that like it happened in the previous public hearings on the Tilenga and Kingfisher projects, PAU failed to consult affected local communities from the neighboring countries of DRC and Tanzania. This is despite the fact that the water

abstraction activities and oil exploitation efforts on Lake Albert will affect fisheries and water access for communities in the DRC. The carbon emissions from the EACOP project will also affect communities in the DRC. Failure to consult communities in Tanzania and the DRC affects promotion of good governance of natural resources in the Great Lakes region.

- (j) In general, the EACOP ESIA public hearings were all organised in disregard of national environmental laws and regional accords such as the Uganda-DRC Ngurdoto Agreement that lays out procedures to enable harmonious exploitation of oil and gas resources in Uganda and the DRC. In addition, fundamental procedures such as respect for interested parties who apply to make presentations at the public hearings, failure to give affected people sufficient time to present their views and other failures were seen.

3. Recommendations

The Uganda and DRC CSO partners who participated in the EACOP ESIA public hearings make the following recommendations:

- (i) NEMA should use its powers to ensure that PAU complies with the 1998 EIA Regulations especially regulations 21 and 22 that require lead agencies to ensure that every public hearing is commensurate with the scope and nature of the project. The EACOP is a transboundary project. As such, it affects people across borders and across districts.
- (ii) NEMA should therefore direct PAU to organise public hearings in all the ten districts affected by the EACOP to enable the affected people to effectively participate and submit their views. This will enable NEMA to make the right decisions to safeguard our environment and livelihoods amidst oil risks.
- (iii) Further, through PAU and NEMA, government should implement and comply with bilateral and international instruments that were put in place to govern the utilisation of cross-border resources. These instruments include the 2007 Ngurdoto agreement between Uganda and the DRC on sharing transboundary extractive resources. PAU and NEMA should consult cross-border communities that are affected by transboundary projects.
- (iv) In addition, NEMA should use its regulatory powers to stop PAU and the developer from implementing RAPs before approval of the ESIA report. RAPs should and must always be approved as part of ESIA reports.

(v) PAU should also explain to Ugandans how the lead EACOP developer, Total E&P, suspended the EACOP activities and yet the public hearings are on-going. Who is the lead developer in absence of Total? Did Total resume work?

(vi) Finally, NEMA and the Ministry of Water and Environment should urgently consult citizens, finalise and operationalise the 2019 ESIA draft regulations with specific provisions on how public hearings should be conducted in a manner that gives every participant sufficient time to submit to his or her views. The new law should ensure that public hearings are not conducted and managed as public rallies.

Signed by:



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Other signatories

1. World Voices Uganda (WVU)
2. Center for Constitutional Governance (CCG)
3. Guild Presidents' Forum on Oil Governance (GPFOG)
4. Girl Power Foundation, Kasese
5. Green Organisation Africa (GOA)
6. National Association of Professional Environmentalists (NAPE)
7. Oil Refinery Residents Association (ORRA)
8. South Western Institute for Policy and Advocacy (SOWIPA)
9. Kasese Citizens Coalition to Safeguard Biodiversity against Oil and other threats
10. Katwe Sanitation and Clean Energy Women's Club (Kasese)
11. Citizens Concern Africa (CICOA)
12. Action Coalition on Climate Change (ACCC)
13. Kyambogo Students Association on Environment
14. Dynamique pour la Protection de l'environnement en Ituri.
15. Hoima District Youth Forum