



**REVIEW OF THE NATIONAL OIL AND GAS POLICY FOR UGANDA 2008:
RECOMMENDATIONS BY CIVIL SOCIETY ORGANISATIONS IN THE BUNYORO SUB
REGION.**

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iii. List of abbreviations

No	Abbreviation	Full meaning
1)	BAPENECO	Bunyoro Albertine Petroleum Network on Environmental Conservation
2)	CSOs	Civil Society Organizations
3)	EACOP	East African Crude Oil Pipeline Project
4)	EITI	Extractive Industries Transparency Initiative
5)	ESIA	Environmental and Social Impact Assessment
6)	ESMP	Environmental and Social Management Plans
7)	IOCs	International Oil Companies
8)	KCSON	Kitara Civil Society Organisations' Network
9)	MEMD	Ministry of Energy and Mineral Development
10)	MWE	Ministry of Water and Environment
11)	NEMA	National Environmental Management Authority
12)	NOGP	National Oil and Gas Policy for Uganda 2008
13)	PAPs	Project Affected Persons



14)	PSA	Production Sharing Agreement
15)	SOPs	Standard Operating Procedures
16)	SDGs	Sustainable Development Goals
17)	ToRs	Terms of Reference

1.0 INTRODUCTION

Bunyoro Albertine Petroleum Network on Environmental Conservation (BAPENECO) is a regional network which was founded in 2010 with a mission of; providing a sharing platform for civil society organizations (CSOs) and other institutions across Bunyoro sub region to identify and respond to issues of petroleum and environmental conservation in the mid Albertine region while advocating for effective governance and management of the industry.

BAPENECO's current membership is comprised of 20 CSOs, covering the districts of Masindi, Hoima, Kikuube, Buliisa, Kibaale, Kagadi, Kakumiro, Kiryandongo and Hoima City. These likeminded CSOs serve either in the core component of conservation or petroleum advocacy. BAPENECO's efforts to enhance people's participation in the resource rich region has been through civil society capacity building, engagements with the Local Government and communities.

The activities of the network are coordinated by a competent secretariat that is hosted by Kitara Civil Society Organization Network (KCSON) with physical location in Hoima City.

This position paper has been developed by BAPENECO to offer the views of the CSO stakeholders in the Bunyoro sub-region on the ongoing review of the National Oil and Gas Policy for Uganda 2008 (NOGP). The paper is a product of a consultative process with the CSO stakeholders in the Bunyoro sub-region and aims to inform and enrich the new national oil and gas policy with recommendations from Bunyoro sub-region, a key host community of oil and gas activities.



The policy goal of the NOGP is to use the country's oil and gas resources to contribute to early achievement of poverty eradication and create lasting value to society.

The stakeholders addressed the key policy principles that include;

- i) Using finite resources to create lasting benefits to society;
- ii) Efficient Resource Management;
- iii) Transparency and Accountability;
- iv) Protection of the Environment and Biodiversity
- v) Spirit of Cooperation; and
- vi) Capacity and Institutional Building;

The position paper presents the findings and recommendations following themes derived from the major objectives of the NOGP 2008.

2.0 BACKGROUND

In 2006 presence of commercial oil reserves was confirmed in the Albertine Graben of western Uganda. Current estimates show that 6.5 billion barrels have so far been discovered, of which 2.2 billion barrels are commercially recoverable, with an estimated production capacity of 150,000 barrels per day for 20-25 years¹. The government notes that production at these levels for 20 years would equate to total production of 1,095 million barrels².

To guide the country's aspirations for sustainable exploitation of the oil and gas resources, and optimise value extraction, the NOGP 2008 was adopted with the stated goal of using the country's oil and gas resources to contribute to early achievement of poverty eradication and create lasting value to society. The NOGP 2008 comprehensively articulated the country's

¹ <http://petroleum.go.ug/index.php/who-we-are/who-weare/petroleum-exploration-history> accessed on 27th October 2021. Also, Shepherd Ben: Oil in Uganda: International Lessons for Success; The Royal Institute of International Affairs, (Chatham House), 2013

² <https://www.oilinuganda.org/facts-faqs/uganda-oil-facts-faqs/how-much-oil-and-gas-does-uganda-have-and-where-is-it.html>



vision for management of its oil and gas resources and sought to establish robust legal, fiscal, and institutional frameworks for the purpose.

Efforts by the government of Uganda to operationalise the policy demands of the NOGP 2008 can be described as both commendable and frustrating, with first oil still far from reality. In fact, current government of Uganda projections indicate that production of first oil is not expected to commence until at least 2025³.

Nonetheless, the period between discovery (2006) and first oil can be described as a blessing in disguise as it has afforded the country the best opportunity to lay the ground work for sustainable development and management of its resources.

More than a decade later, the NOGP is being reviewed amidst numerous challenges, disappointments and unrealized dreams of many not least in the Bunyoro sub region. In particular, the host communities especially the Bunyoro Sub-region are facing the brunt of the ongoing activities. In this context, the revised policy has to be carefully drafted through a consultative process which addresses the concerns of all stakeholders.

3.0 METHODOLOGY

The paper was prepared using a qualitative approach. Secondary data was collected by desk review of key policy documents and legislation while primary data was collected through two consultative stakeholder meetings held on Friday 01st October 2021 and Friday 08th October 2021. Both meetings were held on Zoom due to the prevailing regulations and government of Uganda Standard Operating Procedures (SOPs) to combat the spread of Covid 19 pandemic in the country. Secondary data was collected through desk review and analysis of the key policy documents and legislation including the National Oil and Gas Policy for Uganda 2008, the Progress of Implementation of the National Oil and Gas Policy for Uganda (2017) (hereafter the NOGP Implementation Progress Report 2017) , the National Oil and Gas Revenue

³ Frederic Musisi 'We are committed to first oil by 2025 – Total' Daily Monitor, available at <https://www.monitor.co.ug/uganda/business/markets/we-are-committed-to-first-oil-by-2025-total-3486818> accessed on 27th October 2021



Management Policy 2012, the Petroleum (Exploration, Development and Production) Act 2013 (the Upstream Act), the Petroleum (Refining, Conversion, Transmission and Midstream Storage) Act 2013 (the Midstream Act), and the subsequent regulations, the Public Management Act 2015, and related materials. These were scrutinized for the key issues relating to the oil and gas industry as envisaged under the NOGP 2008.

The key issues identified were presented to a selected stakeholders at the first meeting held on 1st October 2021 during which they were considered, discussed and recommendations made. A draft paper incorporating the stakeholders input was prepared and presented for validation at the second stakeholders meeting which was held on 8th October 2021. During the stakeholders meetings, consensus on the agreed positions and recommendations was generated and the final version of this paper prepared.

4.0 FINDINGS AND RECOMMENDATIONS

4.1 EFFICIENT PRODUCTION OF THE COUNTRY'S OIL AND GAS RESOURCES AND ACHIEVEMENT OF EARLY POVERTY ERADICATION

Objective No. 3 of the NOGP advocates for efficiently producing the country's oil and gas resources. The NOGP specifically calls for undertaking of the early production scheme. In its status report entitled "Progress of implementation of the National Oil and Gas Policy for Uganda, 2008", the Ministry of Energy and Mineral Development concedes that commercial production has not yet commenced as previously projected. The NOGP implementation progress report 2017 notes other significant developments which have been registered



including the issuing of eight development licensees over 13 discoveries in blocks operated by Tullow, Total and CNOOC on 30th August 2016⁴.

However, the stakeholders expressed deep concern about the delay to proceed to development and commercial production especially in light of the World's imminent shift to the green energy.

Recommendation

- It was recommended that the new policy focus should be placed on accelerating the oil and gas industry to development and production.

4.2 VALUABLE UTILISATION

The NOGP 2008 recommended refining the discovered oil in-country to supply the national and regional petroleum product demand before consideration of exportation. It also calls for off shoot industries utilizing the refinery by-products to make products such as soap, plastics, pesticides, paints, medicine, asphalt, petrochemicals and polymers among others.

Subsequently, the Midstream law 2013 and regulations 2016 were enacted to lay the foundation for refining, transportation and storage of petroleum products in Uganda.

According to the NOGP implementation progress report 2017, in 2009 the government contracted Foster Wheeler to carry out a feasibility study on the proposed refinery as a result of which plans are underway for a 60,000 barrels per day greenfield refinery in Kabaale, Hoima district⁵. Land acquisition for the refinery is complete and a developer, the Albertine Graben Refinery Consortium, was selected through a competitive bidding process⁶. The Uganda Refinery Holding Company also incorporated. The progress report also shows that the government agreed to an alternative commercialisation plan by entering into a memorandum of understanding with the international oil companies (IOCs) for the export of crude oil through a

⁴ MEMD, Progress of Implementation of the National Oil and Gas Policy for Uganda 2008, 2017 page 11

⁵ <https://www.pau.go.ug/the-uganda-refinery-project/> visited on 27th October 2021

⁶ Ibid



pipeline. Consequently, a 1445km long, 24-inch diameter, heated East Africa Crude Oil Pipeline (EACOP), is being developed to transport crude oil from Uganda to Tanga port in Tanzania, led by the IOCs in partnership with the Governments of Uganda and Tanzania

In spite of these efforts, the stakeholders expressed concern that there is an apparent change of priority as attention has shifted from refining the resource to transporting the crude through the East African Crude Oil pipeline (EACOP). Currently, the refinery project has been overshadowed by the EACOP and it is in danger of dying out altogether.

Recommendation

- The revised policy needs to clearly articulate the government policy on refining and value addition vis avis export of crude and the EACOP project.
- The revised policy should further expound on and clarify the government's vision for the crude export commercialization option.

4.3 UTILISATION OF GAS

The framers of the 2008 policy did not develop a comprehensive and clear policy position on the utilization of the discovered Natural Gas resources. The NOGP 2008 does contain references to gas utilization and envisions industrialization spurred on by gas utilization including mineral processing industries, like smelting iron ore, agro-processing, natural gas conversion to liquids (GTL), manufacture of fertilizers, production of Condensed Natural Gas (CNG), production of carbon black used in tyre manufacturing and others. But such gas related assertions are isolated and not part of a coherent vision.

Subsequently, the Upstream Act makes provision for flaring of the discovered gas by the licensees. Moreover, the Environmental and Social Impact Assessments (ESIAs) developed by the licensees and approved by the government do provide for moderate flaring of gas during filed development and production.

Recommendation



- It was recommended that the government should develop a standalone gas policy which comprehensively and exhaustively deals with the unique issues of efficiently managing natural gas utilization.

4.4 REVENUE COLLECTION AND USE TO CREATE LASTING VALUE FOR THE NATION

The NOGP 2008 not only envisioned putting in place mechanisms and systems for optimum identification, collection and use oil and gas revenues, but also sought to entrench principles of transparency, fairness and equity in revenue management so as to create lasting value to Uganda⁷. MEMD reports that in the pursuit of this objective, the Petroleum Revenue Management Policy 2012 was adopted and the Public Finance Management Act 2015 passed into law. The government also successfully collected capital gains tax from Heritage Oil and Tullow and lately Tullow/Total. By 2017, a total of UGX2.4bn trillion had been collected from taxes, non-tax revenue and fines.

In accordance with the NOGP 2008's recommendations, in 2020 Uganda joined the Extractives Industries Transparency Initiative (EITI) as the 54th member to further boost transparency in the sector⁸.

The stakeholders expressed worry over the protracted tax disputes between the government and IOCs which have not only derailed progress of the oil and gas industry but also negatively affected the reputation of the country as an ideal oil and gas investment destination. They called upon authors of the new policy to provide for the establishment of the smooth dispute management and resolution avenues between the government and the IOCs.

Further concerns were raised about the reported withdrawals from the Petroleum Fund to finance recurrent government expenditure as opposed to the financing development and infrastructure projects as required by the Public Finance Management Act 2015⁹.

⁷ Objective 6 of the NOGP 2008

⁸ <http://petroleum.go.ug/index.php/who-we-are/who-we-are/petroleum-exploration-history> visited 27th October 2021



Recommendations

- It is therefore important that the new policy should be strong on utilization of revenues accruing from the petroleum resource and Parliament should ensure the protection of the same fund.
- Since the EITI was well spelt out in the NOGP 2008 as one of the key pillars of transparent and sustainable management of the oil and gas resources, the revised policy should make emphasis on transparency and accountability in revenue management and contracting.

4.5 CONSERVATION OF THE ENVIRONMENT AND BIODIVERSITY

Conservation of the environment and biodiversity was to be achieved through legislation, institutional capacity building, development of physical masterplans, sensitivity atlases and oil spill contingency plans. The Ministry of Water and Environment (MWE) and National Environmental Management Authority (NEMA) are the designated lead agencies. It is reported that ESIA's are conducted for all projects with stakeholder consultations. Also, an Environment Sensitivity Atlas (ESA) for the Albertine Graben was developed in 2009 and updated in 2011, the Environment Monitoring Plan (2012 to 2017) for the Albertine Graben was adopted as well as the National Oil Spill Contingency Plan.

However, concerns remain about the manner in which consultations for ESIA's are done without demonstrating a full commitment to get stakeholder views as well as the lack of monitoring avenues by non-state actors such as CSOs.

Recommendation

⁹ In 2020 several reports indicated that money had been channelled from the Petroleum Fund to the consolidated Fund to plug budgetary gaps; See "How Ugshs700bn Oil Fund was blown" Daily Monitor 11th January 2020 available at <https://www.monitor.co.ug/uganda/news/national/how-shs700b-oil-fund-was-blown-quietly--1869036> accessed on 27th October 2021



- The revised policy should emphasize the need to effect Monitoring of environmental control Measures to ensure effective implementation of the ESIA's and the Environmental and Social Management Plans (ESMP).
- It should comprehensively define stakeholder consultations both in terms of identifying the key stakeholders required and listing the requirements and steps of the consultative processes.

4.6 THE ROLE OF THE CULTURAL INSTITUTION AND THE CIVIL SOCIETY ORGANIZATIONS

Objective 10 of the NOGP 2008 sought to ensure mutually beneficial relationships between the different stakeholders in the development of a desirable oil and gas sector for Uganda. A key part of this objective was to promote the spirit of stakeholder consultations including the oversight role of non-state actors such as civil society and traditional and cultural institutions.

However, it was noted with concern that the NOGP 2008 did lump together the roles of local governments, cultural institutions and the civil society by broadly recognizing "*the role Local Governments, Civil Society Organisations (CSO's) and Cultural Institutions can play through advocacy, mobilization and dialogue with communities*"¹⁰. The three institutions were also expected to contribute to holding the different players accountable with regard to oil and gas issues and participate in getting the voices of the poor into designing, monitoring and implementation of programs in the oil and gas sector¹¹. It was also envisaged that CSOs would be contracted to delivery services in host communities¹².

This mix up has remained apparent during the implementation of the policy and to date there is no clarity on the roles of the two institutions.

¹⁰ NOGP 2008 page 53

¹¹ Ibid

¹² Ibid



It was proposed that the revised policy should consider clearly defining and delineating the roles of the two institutions for them to fully pursue and realize their assigned mandates.

It was also noted with great concern that in the run up to the development phase of the oil and gas industry, government has been shrinking the civic space, particularly on the right of association and access to information through clamping down on CSOs engaged in natural resources advocacy, especially those engaged in advocacy for transparency, fairness in land acquisition, biodiversity protection and the impact of oil and gas activities on PAPs in the Bunyoro sub-region.

Recommendations

- The revised policy needs to not only clearly articulate the role of civil society but also guarantee the protection of CSOs to operate and carry out their mandate without interference from state agencies.
- It should further promote civic space with clear mandates while advocating for strengthening of the role of the civil society and civil society organizations be involved in monitoring oil and gas activities as well as integration of Sustainable Development Goals (SDGs) especially SDG 1 and SDG 13 during petroleum development.
- It was also noted that the NOGP does not cater for the protection and preservation of the cultural heritage yet oil and gas activities have tremendously affected the physiological and the cultural heritage of the host communities and the existing cultural institutions. It is therefore suggested that the new policy be made strong in advocating for the promotion, development and preservation of the cultural heritage.

4.7 LAND ACQUISITION

Implementation of the various objectives of the NOGP 2008 has necessitated acquisition of land in the project host communities especially in the Bunyoro sub-region. However, the land acquisition exercise has been marred by numerous controversies and complaints by PAPs



ranging from inadequate compensation, inconsistent rates and valuations, delayed payment for PAPs who opted for cash compensation, unfairness of cut off dates, among others.

It was also noted that the NOGP did not envisage the creation of mechanisms dispute resolution to speedily and effectively address disputes arising from resettlement of the project affected persons.

Recommendations

- The revised policy should seek to create an atmosphere and a robust framework for conducting land acquisition in accordance with the constitutional principles of fair and adequate compensation prior to taking the land.
- It was therefore proposed that the revised policy should provide for the creation of adequate dispute resolution mechanisms for PAPs to access speedy and effective remedies in respect of disputes arising from land acquisition, resettlement action plans and livelihood restoration initiatives.

4.8 OPTIMUM NATIONAL PARTICIPATION AND SKILLS DEVELOPMENT

The NOGP 2008 through objectives 7 and 8, sought to promote participation of Ugandans in the oil and gas industry by among others, ensuring utilization of Ugandan goods and services, creating opportunities for Ugandan entrepreneurs and businesses, training and skilling initiatives, employment in the sector and value extraction through participation of a national oil company in the PSAs.

A number of initiatives have been undertaken including enacting of extensive national content legislations in both the Upstream and Midstream laws of 2013 and the accompanying national content regulations of 2016.

During the stakeholder engagements it was noted that there are dominant companies which have become near monopolies which are awarded all the available business opportunities.



Recruitment in the oil and gas industry, for both the IOCs and the national institutions, also remained opaque with individuals recruiting their close associates in disregard of merit and affirmative action for host communities like the Bunyoro sub-region.

Recommendations

- The members recommended that the revised policy needs to place a major focus on ensuring transparency and equity in awarding contracts and employment.
- Further, the policy should place emphasis on ways how the national talent register and the National supplier database can be harnessed to benefit the locals especially the host communities.

5.0 CONCLUSION

The NOGP 2008 set out an ambitious vision for the exploration, development and production of Uganda's Oil and Gas, to achieve an early eradication of poverty. After more than years of its existence, the Policy is being reviewed amidst numerous challenges, disappointments and unrealized dreams of many not least in the Bunyoro sub region. Whereas significant progress has been made in the establishment of the relevant institutions, passing of the governing legislations, and award of development licenses, the much anticipated first oil is yet to happen. Yet, the host communities especially the Bunyoro Sub-region continue to battle several oil related challenges and harbour complaints. In this context, the revised policy has to be carefully drafted to pave the way for sustainable development and production of oil and gas in Uganda.