



Introduction



Policy aspirations



Institutional framework



Licensing



Fiscal returns



Local content



Environmental protection

What Uganda's oil laws aim to achieve

Giving direction

Cristal Knowledge Series

December 2020

1. Introduction

The business community waits with bated Uganda's crude oil final investment decision ("FID") expected before the end of 2020. At a recent meeting for its investors in Paris, French oil major Total announced that it would sanction 3 oil projects globally including the one in Uganda by the end of the year. The requisite project agreements with the governments of Uganda and Tanzania have now been concluded and the evaluation of major project tenders is ongoing. Investment is expected to ramp up in the second half of 2021 as construction of the necessary infrastructure for crude oil production commences.

Whereas the business community desired expedited exploitation of the crude oil discoveries, the delay has enabled Uganda to put in place a robust regulatory and institutional framework for the oil and gas sector. In 2013, Uganda enacted the Petroleum (Exploration, Development and Production) Act and the Petroleum (Refining, Conversion, Transmission, Midstream and Storage) Act and the regulations thereunder. Tax laws have been amended severally to cater for sector specific issues while the Public Finance Management Act was passed in 2015 providing for amongst others the framework for the utilisation of petroleum revenues.

2. Policy aspirations

Uganda's oil laws aim to implement the country's policy aspirations mindful that a well-run oil and gas sector can significantly boost economic development. Historically, the sector has been characterised by a constant struggle between host countries ("HCs") and the international oil companies ("IOCs") that intrinsically have divergent objectives. IOCs wish to maximise profits for their shareholders while HCs desire to optimise economic and social benefits for their citizens. It is a delicate balance managing these conflicting objectives between these two principal stakeholders for the greater good of the sector.

3. Institutional framework

Uganda's oil laws established the institutional framework for managing the country's petroleum sector. The Ministry of Energy and Mineral Development is vested with the responsibility of policy setting giving direction for the sector. The Petroleum Authority of Uganda oversees the regulation of the oil and gas industry in Uganda. The Uganda National Oil Company handles government's commercial interests in the sector.

4. Licensing

To encourage continuing exploration activities to replenish the crude oil reserves exploited, Uganda's oil laws have streamlined the process of acquisition of oil licenses in Uganda. The licenses were initially acquired on a first come first serve basis meaning that entities that reached out or applied first were the beneficiaries. Greenfield oil licenses are now obtained through a transparent licensing process with interested companies competitively bidding for any available oil acreage.

5. Fiscal returns

To maximise fiscal returns from the exploitation of Uganda's hydrocarbons, the oil laws incorporate a number of fiscal tools for this purpose. These include the levying of royalties, imposition of bonus payments and annual fees among others that enable the government to optimise revenues from the sector. Supplementary tax laws such as the Income and Value Added Tax Act amongst others also help in this respect. To ensure that oil revenues are utilised well to benefit both the current and future generations in accordance with the intergenerational equity principle, the Public Finance Management Act was similarly enacted. It established the petroleum fund with elaborate guidelines on the appropriation and use of funds therefrom that must be sanctioned by Parliament.

6. Local content

Many developing countries have little of enduring value to show from oil production. While they have earned direct revenues from the sale of crude oil and collected the supplementary fiscal levies, there has been minimal if any trickle down impact on their domestic economies. To foster stronger sustainable growth beyond the lifetime of oil production,

resource rich countries Uganda's oil laws place greater emphasis on the use of local content policy instruments to extract more economic value. Some sector opportunities have been reserved for Ugandan enterprises. Oil companies and their subcontractors must not only help Ugandans scale up their capabilities but must equally employ them as well facilitating technology transfer.

7. Environmental protection

Uganda's oil laws do not overlook the sustainable development agenda. Oil exploration and exploitation activities must conform to standards that protect the environment and biodiversity.

8. Conclusion

As Dominique Strauss-Kahn, former Managing Director of the International Monetary Fund once remarked, there are few areas of economic policy making in which the returns to good decisions are so high and the punishment of bad decisions so cruel as in the management of natural resource wealth. Rich endowments of oil have set some countries on courses of sustained and robust prosperity; but they have also left many others riddled with corruption and persistent poverty with little of lasting value to show for squandered wealth. While the current regulatory framework covers all key areas, its effectiveness will be tested when crude development commences and oil revenues start to flow.

Cristal Advocates accepts no responsibility for any loss occasioned to any person acting or refraining from acting as a result of material contained in this publication. Further advice should be taken before relying on the contents of this publication.



Contacts for this Publication



Denis Yekoyasi Kakembo

dkakembo@crystaladvocates.com
+256 751 834 168

Denis is the Managing Partner at Cristal Advocates where he also leads the energy and tax practice. He is qualified both as a Lawyer and Chartered Accountant with vast experience serving various industries in Sub Saharan Africa. Before joining Cristal Advocates, he had worked for close to 10 years with Deloitte and Touche where he started his career and rose to senior managerial positions.

At Deloitte, he lived and worked in Uganda, Kenya, Tanzania and the United Kingdom for over 6 years and subsequently became the firm's chief of staff for the Energy and Resources Industry Group seeing him play a lead advisory role in Uganda, Kenya, Tanzania, Mozambique, South Sudan, Somalia and Ethiopia.

Denis is widely published and a regular commentator in the local, regional and international media and speaker at various forums regarding the taxation and financing of energy projects as well as the protection of large capital projects within the framework of international investment law.

He holds a Master of Laws degree in Petroleum Taxation and Finance from the University of Dundee in the United Kingdom, a Post Graduate Diploma in Legal Practice and a Bachelor of Laws degree from Makerere University. ■



Bill Page

bp@crystaladvocates.com

Bill is a Senior Advisor with Cristal Advocates. He has concentrated on working with energy companies with a particular focus on cross border transactions and M&A since 1989 and is a leading global energy and tax practitioner with wide international experience. Between 1986 and 1998, he worked in London with the UK tax authorities and Big Four accounting firms. From 1998 to 2004, he was based in Kazakhstan working across the Caspian region with Deloitte. He was in the region at the time it was developing its infrastructure for crude oil production with international investment following the collapse of the Soviet Union.

From 2004 to 2008, he worked in Russia where he led Deloitte's oil and gas industry group and established Deloitte's office in Sakhalin. He moved to East Africa in 2009 leading Deloitte's energy and resources industry group in Uganda, Kenya, Tanzania, Rwanda, Ethiopia and Mozambique. He was initially based in Kampala, Uganda later relocating to Dar es Salaam, Tanzania. Bill returned to the UK in 2014 supporting Deloitte UK teams working on outbound projects investing in Africa and was a key member of Deloitte UK's energy and resource practice until his retirement from the firm in September, 2018.

Bill is a graduate of Oxford University and completed his inspectors' training with the UK Inland Revenue in 1989. ■



John Teira

jteira@crystaladvocates.com
+256 704 493 997

John leads the public policy and advocacy practice at the firm and combines unique public and private sector experience.

Prior to joining Cristal Advocates, he had worked as a Private Secretary to the President of the Republic of Uganda. During this time, he participated in several public and private sector engagements that included advising and coordinating activities relating to oil and gas as well as infrastructural projects of national significance. John had earlier worked with the Post Bank Uganda Limited and Shonubi Musoke and Co. Advocates.

He holds a Bachelor of Laws degree from Makerere University and a Post Graduate Diploma in Legal Practice from the Law Development Centre and various other qualifications. ■



Dickens Asimwe Katta

dasiimwe@crystaladvocates.com
+256 772 370 021

Dickens leads the oil and gas practice at Cristal Advocates. He has an in depth appreciation of Uganda's oil and gas sector having served as the maiden Company Secretary of the Uganda National Oil Company (UNOC) and the Uganda Refinery Holding Company Limited (URHC). UNOC represents the Government of Uganda commercial interests in the oil and gas sector while URHC represents government interests in the refinery project as well as managing the petrol based industrial park.

Dickens was instrumental in UNOC's formation and initial period of operation and also served as its head of Contracts, Negotiations and Advisory until May 2018. Prior to joining UNOC, Dickens was Legal Counsel at the Petroleum Directorate of the Ministry of Energy playing key legal advisory roles on the negotiation and implementation of PSAs, Joint venture and other oil and gas agreements. He was also part of the team that shepherded the process of enacting the current Ugandan oil and gas Legislations and Regulations including the local content requirements.

He is a certified project control specialist (IFP) and holds a Master of Laws Degree in Petroleum Law and Policy from the University of Dundee in the United Kingdom, a Post Graduate Diploma in Legal Practice and a Bachelor of Laws degree from Makerere University. ■



Francis Tumwesige Ateenyi

ftumwesige@crystaladvocates.com
+256 702 540 936

Francis leads the litigation and dispute resolution practice at the firm. He is an Advocate of the High Court of Uganda with expertise in oil and gas, infrastructure and dispute resolution. He has been part of teams advising on projects in Uganda, Tanzania, Mozambique and South Africa. He specializes in regulatory compliance, national content, health and safety and dispute resolution.

He joined Cristal Advocates from Kizza, Tumwesige, and Ssemambo Advocates. He previously worked with the Advocates Coalition for Development and Environment (ACODE). He also undertook a traineeship with the oil and gas division of Webber Wetzel in Johannesburg, South Africa.

He holds a Master of Laws degree in Petroleum Law and Policy from the University of Dundee in the United Kingdom and various other qualifications. ■



- Energy & Infrastructure
- Business support
- Employment
- Banking & Finance
- School of Professional Excellence
- Tax
- Company Secretarial & Trustee Services
- Public Law & Policy Advocacy
- Dispute Resolution
- Corporate and Commercial

Contact us

Cristal Advocates
32 Lumumba Avenue
4th Floor, Padre Pio House
Lumumba Avenue

P.O. Box 1769 Kampala, Uganda
Tel: +256 (414) 671 274
Email; admin@cristaladvocates.com
www.cristaladvocates.com