



# PETITION

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Submitted to the Minister of Energy and Mineral Development on September 4, 2023

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## MEASURES TO ENHANCE TRANSPARENCY, ACCOUNTABILITY, AND EQUITY IN REVENUE MANAGEMENT IN UGANDA'S MINERAL AND PETROLEUM DEVELOPMENT



October 2023

**Disclaimer:**

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Honorable Minister,  
Ministry of Energy and Mineral Development  
(MEMD).

## Preamble

Warm greetings from Advocates Coalition for Development and Environment (ACODE), and Bunyoro Albertine Petroleum Network on Environmental Conservation (BAPENECO).

Your petitioners are the Advocates Coalition for Development and Environment (ACODE) and members of Bunyoro Albertine Petroleum Network on Environmental Conservation (BAPENECO). ACODE is a public policy research and advocacy think tank that undertakes policy research and advocacy, and monitors implementation of public policies. BAPENECO is a loose network of organizations operating in Bunyoro sub-region, which among other things, provides a platform to members to advance a collective mission of *identifying and responding to issues of petroleum and environmental conservation in the mid-Albertine region while advocating for effective governance and management of the industry*. BAPENECO activities cover the districts of Masindi, Hoima, Kikuube, Buliisa, Kibaale, Kagadi, Kakumiro, Kiryandongo, and recently, Hoima City.

Your petitioners wish to salute the Government of Uganda for its commendable work in the extractives sector. In the petroleum sub-sector, your petitioners commend the Government of Uganda for developing a robust policy and legal framework for the exploration and production of petroleum resources. In the mining sub-sector, your petitioners equally commend the Government of Uganda and the Minister's efforts exerted in the enactment of the maiden Mining and Minerals Act (herein "MMA") of 2022. Your petitioners also wish to further commend government of Uganda for subscribing to, and starting on implementation of Extractive Industries Transparency Initiative (EITI) which is a very important process for enhancing transparency and accountability in the extractives sector.

Notwithstanding the above achievements,

your petitioners wish to draw your attention to emerging issues within the mining and petroleum sub-sectors that require action. These issues are majorly centered on delays in operationalization of some provisions of the law to provide clarity. Whereas we are aware that the Minister reserves the duty of making regulations for effective implementation of the policy and legal framework in the extractive's sector, your petitioners wish to highlight the issues;

## ISSUES FOR CONSIDERATION

### a) Delay to operationalize the provisions of Section 75 (1) and (2) of the Public Finance Management Act (herein "PFMA") (2015)

Section 75(2) of the Public Finance Management Act (herein "PFMA") (2015) provides that the minister responsible for petroleum *shall* publish a list of local governments (within petroleum exploration and production areas of Uganda) that are eligible to receive royalties arising from petroleum production.

Delay in publishing local governments eligible to receive royalties from petroleum production, hinders local governments from formulating futuristic development plans that integrate petroleum royalties into their local revenue. For better petroleum royalty planning and management, the list should precede the commencement of production of petroleum.

### b) Delay in making regulations for better determination of the royalty regime in the mining sub-sector categorically for;

- The valuation of minerals to determine the royalty base;
- Rates of prevailing mineral market prices for each mineral;
- Determination of royalties for mineral

samples;

- Conditions and duration of waiver of royalties (in part or whole) and
- Provisional assessments.

The issues earmarked in (b) above, stifle the intended purpose of the extractive's legal framework which is to promote transparency, equity, and accountability in the following ways:

Without regulations as stated in paragraph (b) above, there is a hindrance to the optimal determination of royalties in all the taxable areas of the mining subsector namely; prospecting, exploration, and mining. This is so in the following ways;

- **Valuation of minerals for royalty liability (section 185 MMA):** Minerals' royalty liability is computed ad valorem. Contrary to this section 185, there are no Regulations prescribing the manner of determining the value of each mineral produced for export or domestic consumption.
- **Rates of prevailing market price per mineral (Section 180 (1) MMA):** Considering that the prevailing market price of a mineral is factored into the computation of royalties, there is a need for regulations prescribing the rates (foreign/domestic) per mineral. Without Regulations in this regard, the Government (central/local) stands or continues to lose out in royalty remittances that are globally competitive;
- **Mineral samples as a royalty base (Section 180 (3) MMA):** Ordinarily, mineral samples and/or mineral samples removed for testing are not subject to royalties save for the extent that they exceed a certain maximum value or threshold. There are no regulations prescribing the said threshold or maximum value beyond which mineral samples would be subjected to a royalty charge by the amount exceeded. This means that for the time being, there is no set threshold and mineral samples in excess of what would be a threshold, remain an untapped royalty base.

- **Conditions and duration of waiver of royalties in part or whole (Section 183 MMA):** There is a need for regulations prescribing pre-conditions for royalty waivers namely; whether a waiver is for part or whole amount of royalties and the duration for a waiver. Such parameters would go a long way in holding the minister to account for the rationale of extending waivers in light of national expenditure obligations and the legislature would be allowed to exercise oversight in the form of moratoriums on ministerial royalty waivers.
- **Provisional assessments of royalty (Section 184 MMA):** More likely than not, the assessment of royalties may prove impracticable. However, there are no regulations prescribing the manner of assessing a provisional royalty, in the event that assessment of royalties is impracticable. The government continues to lose out on royalty remittances for the time being because there are no regulations in this regard.

### **c) Lack of regulations for the optimal utilization of royalties transferred to local governments**

The implication of lack of Regulations for the optimal utilization of mining royalties transferred to local government is that there is a risk of beneficiary local governments using the mineral royalties arbitrarily hence causing wastage. Given the fact that minerals are finite resources, regulations should be developed that guide utilization of these funds. Benchmarking can be done from the wildlife sector.

### **d) Minimal or non-disclosure of information to the beneficiary local governments regarding;**

- Determination of royalties i.e.; valuation of minerals being extracted; the volume of minerals; licensee returns to MEMD and/or Uganda Revenue Authority (URA);

volumes of mineral and/or petroleum being extracted and any waivers that may be granted to licensees in the mineral sub-sector.

- Central Government remittances of mineral/petroleum royalties to Local Government Councils.

With minimal or non-disclosure of information on beneficiary local governments regarding the determination of royalties and central government remittances of mineral/petroleum royalties to local governments, citizens are unable to hold government accountable and the local governments to demand rightful royalties due to them.

## PETITIONERS PRAYER

With the foregoing demonstration of the grounds of our petition, your petitioners pray that the following measures be taken by the Minister for petroleum in collaboration with relevant ministries, to enhance transparency and accountability in the mineral and petroleum sectors;

- a) That the Minister duly exercises the powers conferred by section 75 (1) and (2) of the Public Finance Management Act (2015), to publish the local governments within the petroleum exploration and production areas of Uganda that are eligible to receive royalties arising from petroleum production;
- b) That the Minister develops and publishes the Regulations under Sections 180 (1), 180 (3), 183, 184, and 185 to enable the optimal determination of mineral royalties;
- c) That the minister develops and publishes Regulations for the optimal utilization of mineral royalties transferred to local governments, preferably restricting their appropriation for development purposes.
- d) That the Minister discloses and publishes information with respect to;
  - Determination of royalties specifically; the volumes of mineral and/or petroleum being extracted; valuation of minerals being extracted; licensee returns to MEMD and/or Uganda Revenue Authority

(URA) and any waivers that may be granted to licensees in the mineral sub-sector to enhance transparency and accountability in the management of minerals revenue.

- Remittances of mineral/petroleum royalties to local governments.

So, we pray.

DATED this 4th of September, 2023.







Effective revenue management in the extractive industry is not just about maximizing profits; it's about sustainable practices that benefit both the industry and the communities and environments it operates in.



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