



REPUBLIC OF UGANDA

THE PARLIAMENT OF UGANDA

**RESOLUTION OF PARLIAMENT IN RESPECT OF REGULARIZATION OF THE OIL SECTOR AND
OTHER MATTERS INCIDENTAL THERETO**

(Moved under Rule 43 of the Procedure of Parliament)

WHEREAS under Article 95 (5) of the Constitution of the Republic of Uganda the Speaker of Parliament is mandatorily obliged to summon Parliament when one third of the Members of Parliament request him or her to do so.

AND WHEREAS on the 20th day of September, 2011 one third of Members of Parliament requested the Speaker in writing to summon Parliament to deliberate on matters related on the oil sector.

AND WHEREAS in spite of the existence of the Oil Policy, Government has not presented to Parliament Bills for enactment into law to address various crucial aspects of the oil sector and to put into effect the Oil Policy and in particular.

- i. Revenue collection and management
- ii. Participation of Ugandans and their empowerment in as far as benefiting from the oil industry is concerned.
- iii. Social, environmental and economic aspects related to the sector and how they will be regulated together with other incidental matters related thereto

AND WHEREAS since 2004 or thereabout Government has executed Production Sharing Agreements with various Companies relating to Oil Exploration and Production particularly Heritage Oil and Gas Ltd, Tullow (U) Limited interalia and the Production Sharing Agreements so signed remain largely unknown to the people of Uganda and a big number of their representatives in Parliament.

AWARE that the terms of the Production Sharing Agreements so signed have a direct bearing on revenue to be collected, retained and applied by Government for the

benefit of Ugandans continue to be in force and applicable to revenues in spite of the absence of enabling laws

AWARE that the secretive nature of Government transactions in the oil sector may in future not augur well for the country in its quest for wholesome development.

IN RECOGNITION of the Importance of Parliament to make laws for the peace, order, development and good governance of Uganda.

AND AWARE that laws in the oil sector are a sine quo non for proper utilization of the oil wealth for the country's economic development.

NOW, THEREFORE, be it RESOLVED by Parliament as follows:

1. A moratorium on executing oil contracts and /or transactions be put on the Executive arm of Government until the necessary laws have been passed by Parliament to put into effect the Oil and Gas Policy.
2. That Government comes up with the necessary laws and tables the same in Parliament within 30 days from the date of this Resolution.
3. That Government produces to Parliament all agreements it has executed with all companies in the oil industry including the Memorandum of Understanding executed with Uganda Revenue Authority and Tullow (U) Limited in March 2011 in Uganda and that it takes note of the decision of the High Court of Uganda Civil Appeal No 14 of 2011 (Commercial Court Division) between Heritage Oil and Gas Limited (Appellant) versus Uganda Revenue Authority (Respondent) to the effect that there shall be no arbitration on any tax dispute more so outside Uganda.
4. That Government reviews all Production Sharing Agreements already executed for purposes of harmonizing them with the law and the decision of Court and in particular the principles that:-
 - i. Tax disputes are outside the arena of arbitration as they are Statutory and non contractual.
 - ii. Discards clauses such as the one under clause 33.2 of the Production Sharing Agreement between Heritage Oil and Gas Limited and Government of Uganda signed in 2004 which states thus

"If following the effective date, there is any change, or series of changes, in the laws or regulations of Uganda which materially reduces the economic benefits derived or to be derived by Licensee hereunder, Licensee may notify the Government accordingly and thereafter the Parties shall meet to negotiate in good faith and agree upon the necessary modifications to this agreement to restore Licensee to substantially the same

overall economic position as prevailed hereunder prior to such change (s). In the event that the Parties are unable to agree that Licensee's economic benefits have been materially affected and /or unable to agree on the modifications required to restore to Licensee the same economic positions as prevailed prior to such change within ninety (90) days of the receipt of the notice referred to hereinabove, then either Party may refer the matter for determination pursuant to paragraph 26.1 "

This is because such clauses oust unconstitutionally the powers of Parliament to make laws for the development of Uganda and put the profit making motive of companies superior to the interest of Ugandans.

5. An account of all revenues so far received by Government from the oil industry be made to Parliament within 7 day showing how much has been received, from who, for which areas (blocks) and where it is kept and in particular the following revenues
 - a) Licence fees
 - b) Signatures bonuses
 - c) Taxes
 - d) Royalties
 - e) State participation
 - f) Penalty for late payments
6. Government Accounts for expenditures (if any) made from Oil revenues within seven(7) days, and a moratorium be put on Government to stop any further expenditure on oil revenue without the laws on revenue collection and management being first put in place, and further that Government produces up to date financial report(s) and upstream investment costs.
7. Government, as a matter of transparency, joins the Extractive Industries Transparency Initiative and a report to that effect confirming such entry be made to Parliament.
8. Subject to Article 41 of the Constitution, Government shall desist from executing any contract in the oil industry with a provision/clause for confidentiality.
9. That;
 - a) Parliament sets up an Ad hoc Committee to investigate claims and allegations of bribery in the oil sector, and report back to Parliament within three months.
 - b) Members to be named on the Ad hoc Committee observe high moral standards while considering the above assignment.

c) Government Ministers namely Hon. Amama Mbabazi, Hon. Sam Kutesa and Hon. Hillary Onek who were named during the debate step aside from their Offices with immediate effect, pending investigations and report by the Ad hoc Committee to Parliament.

10. Government withholds the consent to the transaction between Tullow Oil (U) Limited and Total and CNOOC, until the necessary laws are put in place.

I certify that this Resolution was passed by Parliament on the **11th** day of **October 2011**.

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A.M Tandekwire

CLERK TO PARLIAMENT