PRESS STATEMENT

CSO POSITION ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2021

Dated: 8th November 2021 | Venue: CSBAG Offices, Ntinda Kampala |Time: 2:30pm

1. We the members of the Civil Society Budget Advocacy Group (CSBAG) and the Civil Society Coalition on Oil (CSCO), are gathered here today to share our perspectives on the Public Finance Management (Amendment) Bill, 2021 which was laid before Parliament on 27th September 2021 by the Ministry of Finance, Planning and Economic Development. The Bill contains 4 clauses, which seek to allow the Uganda National Oil Company (UNOC) to retain a portion of the proceeds from the sale of petroleum accruing from Government's State participating interest in the Production Sharing Agreements to meet Government of Uganda's (GoU) and UNOC's financial obligations in the Tariff and Transportation Agreement, the PSAs and the Joint Operating Agreements).

2. Justification for the amendment is that, since all the petroleum revenue is deposited into the Petroleum Fund (PF) as per Section 56 of PFMA, 2015: -
   - There is no mechanism provided for UNOC as a licensee to meet its financial obligations under difference contracts
   - Secondly PFMA, 2015 in its current form does not provide payment of tariff obligations under the Host Government Agreement and Tariff and Transportation Agreement before net proceeds can be deposited into the Petroleum Fund.

CSO OBSERVATIONS ON THE IMPLICATIONS OF THE PFMA AMENDMENT BILL, 2021

3. We remind fellow Ugandans that through the PFM Reform Strategy 2018 – 2023, Government of Uganda requires all Government Ministries, Departments and Agencies that collect revenue to declare it through the Consolidated Fund, especially Non-Tax Revenue. These reforms saw the provisions for Appropriation in Aid repealed from all the relevant legal framework. As such, parastatals[1] collect and remit resources to the Consolidated Fund. This allows Government to ascertain its revenue (cash) position in the Treasury Single Account and as such, rationalize its expenditure.

4. We have noted that whereas the Certificate of Financial implications has been presented for this Bill as per section 76 (1) of the PFMA, 2015. There is no information on the impact of this Bill to the economy as required by Section 76 (2) of the PFMA, 2015 as amended. Parliament should call for fulfillment of this Section, which requires estimates of revenue and expenditure, over the period of not less than two years, after the coming into effect of the Bill when passed.

[1] The Uganda Security Printing Company, the Uganda Driving License System, Public Universities, Immigrations and Passports, and the National Identification Registration Authority (NIRA)

Our observations on the specific clauses are outlined below:

5. **CLAUSE 1: THE BILL PROPOSES TO AMEND SEC. 3 OF THE PFMA TO REVISE THE DEFINITION OF "PETROLEUM REVENUE":** Considering that petroleum agreements are treated with utmost secrecy, we are concerned that it might be difficult for the Parliamentary Committees to ascertain the total amount that is arising from the state participating interests. Fellow Ugandans, if this amendment is passed into law, proceeds from the sale of petroleum (Crude Oil) will not form part of petroleum revenue, limiting Uganda's prospects of maximizing revenues from. We ask Members of Parliament as they debate this amendment to maintain the definition of Petroleum Revenue contained in the PFMA, 2015.

   Parliament should also review these amendments to ensure that any commitments embedded in the "confidential" agreements, are always budgeted for normally and releases are made in line with the current PFMA, 2015 and its Regulations.

6. **CLAUSE 2: PROPOSED AMENDMENT OF SECTION 57 TO ALLOW UNOC TO RETAIN REVENUE AND SPEND AT SOURCE:** The Bill seeks to amend Section 57 by inserting a new Clause (5) (a), which authorizes UNOC power to collect revenue and spend it at source without approval or appropriation by Parliament. We find this proposal irrational on grounds that Uganda's annual budget process is sufficient to accommodate any emerging financial needs of all Government agencies/companies like UNOC. Furthermore, there are already existing agencies like the Uganda Revenue Authority (URA) who can spend at source, to enable them to meet their urgent expenditure obligations, but with clear guidelines. **We advise Members of Parliament (MPs) to consider Section 14 of the Uganda Revenue Authority Act, Cap196 (1991), which allows URA to spend at source on authorization of the Minister, an amount not exceeding that appropriated by Parliament in any financial year. If adopted, this can facilitate UNOC to meet its obligations without any interruptions.**

7. **CLAUSE 2: PROPOSES INTRODUCTION OF SECTION 57(5)(B):** This "Clause 5(b)' if passed in its current form, shall give UNOC authority to deposit the balance of the proceeds retained after expending moneys for the purposes of subsection (5a) into the Petroleum Fund. UNOC shall submit a copy of the record to the Minister, the Secretary to the Treasury, Accountant General and the Auditor General.

   We observe that the drafters of the Bill carefully chose ''MAY" rather than 'SHALL" and this will constrain the role of Parliament in dealing with residual monies, if any. 'MAY' is optional and as such, it is possible that money from the Petroleum Fund can be expensed without Parliamentary approval. This amendment shall also weaken the existing accountability mechanisms. It shall undermine the oversight role and power of the Parliament, to supervise Government parastatals and state enterprises such as UNOC in their planning and expenditure. **For avoidance of doubt and for purposes of clarity, we call on Parliament to recommend the application of the model of URA under Section 14 of the Uganda Revenue Authority Act, Cap196 (1991) should be applied**

8. **CLAUSE 3: PROPOSED INTRODUCTION OF SECTION 57(5)(C) FOR UNOC INVESTMENTS WITHOUT PARLIAMENTARY APPROVAL:** Sec. 5(c) provides that notwithstanding Sections 58 and 59, the proceeds retained after expending

money for the purposes of sub section (a) shall be deposited into the Petroleum Fund and a portion of those proceeds may be appropriated to fund approved investments of the National Oil Company. **Our position is that Sec. 58 and 59 of the PFMA, 2015 should not be compromised. Parliament should maintain its oversight and supervisory role over Government entities as provided for in the PFMA, 2015 and the Constitution of Uganda.**

9. **CLAUSE 4: PROPOSES INTRODUCTION OF SECTION 57(5)(D) ON GOVERNANCE OVER UNOC INVESTMENTS:** The Bill seeks to clarify under 5(d) that approved investments referred to in 5(c) means investments approved by the Board of Directors and Cabinet to be implemented in a specified financial year. We observe that the framers of the Bill prefer to have the Board handle all affairs without any supervision. We note that Cabinet is necessary but not sufficient for oversight over UNOC. We reiterate that our PFM processes provide the sufficient checks to buttress Cabinet's necessary oversight. **We strongly recommend that Parliament should maintain that all budgets, workplans, processes and reports of UNOC remain subject to Parliament's approval and not only Cabinet and Board of Directors. Should UNOC have any shortfalls, these can be planned for in a supplementary budget as provided for in the PFMA, 2015.**

PROPOSED AVENUES TO SUPPORT UNOC OBLIGATIONS

10. Notwithstanding our earlier recommendation in Section 2.2.2, on using the URA Model as guided by Sec 14 of the URA Act to attend to UNOC's operations, we would like to provide more alternatives below to resource UNOC without diluting the safeguards on the PFMA, 2015.
    - Amend Sec 58 of the PFMA to add …(c) Uganda National Oil Company. This would allow UNOC access funds directly from the Petroleum Fund for their approved operations.
    - Amend Sec 59 (3) of the PFMA to allow for recurrent expenditure. This will inherently support and meet UNOC's financial obligations arising from applicable petroleum agreements and JOAs in each financial year, based on the approved workplans and budgets for the financial year which was proposed in 2 (5)(a) and (b) of the bill
    - Develop a Memorandum of Understanding (MoU) between MoFPED, UNOC and Bank of Uganda (BoU) to access funds on call based on UNOC's approved investment workplans and budgets

CONCLUSION

As CSOs, we call upon Members of Parliament to reject the proposed amendment to the Public Finance Management Act, 2015 in line with UNOC interest, based on the concerns and recommendations above. The bill is likely to undermine the good strides already registered by the country in the management of public funds. Further still, the amendment, when passed is likely to undermine the original intention of passing the Public Finance Management Act, 2015.

……………………………………..Because everything counts

CSO opinions on the PFMA Amendment Bill, 2021 were developed jointly Civil Society Budget Advocacy Group (CSBAG) and Advocates Coalition for Development and Environment (ACODE) in consultation with National Resources Governance Institute, Center for Budget and Tax Policy, OXFAM Uganda, and Water Governance Institute (WGI) and Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI). It highlights key issues contained in the Public Finance Management (Amendment) Bill, 2021 that Parliament to must consider, when debating the Bill