

## OPERATIONALIZATION OF UGANDA'S NATIONAL TREE FUND

A Process Audit and Call for Action



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**Cover Photos:** Deforestation and fire ravaged forest in Uganda and Tree planting project around Buikwe (Credits: Paul Hatanga and Global Hand)

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## **List of Abbreviations**

ACODE	Advocates Coalition for Development and Environment
ENR	Environment and Natural Resources
FONERWA	Rwanda National Climate and Environment Fund
FSSD	Forestry Sector Support Department
MFPED	Ministry of Finance, Planning and Economic Development
NFA	National Forestry Authority
NTF	Non-Tax Revenue
NTFSC	National Tree Fund Steering Committee
REDD	Reducing Emissions from Deforestation and Forest Degradation
TFMC	Tree Fund Management Committee

## Acknowledgements

One of the major challenges affecting Government's efforts aimed at restoring forest cover in particular and promoting tree planting generally is inadequate funding. In 2003, the Government of Uganda established a National Tree Fund to promote tree planting and growing in Uganda. For a number of reasons, this Fund has never taken off. This policy briefing paper was prepared as part of ACODE's efforts to ensure the quick operationalization of the National Tree Fund.

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## 1. INTRODUCTION

Uganda is one of the countries losing forest cover at a very alarming rate. It is reported that within a period of 15 years, stretching from 1990, Uganda's forest cover had reduced by approximately 1.3 million hectares.<sup>1</sup> This represents an average annual deforestation rate of 1.8 per cent.<sup>2</sup> This means that in less than twenty years, Uganda has lost about 25 per cent of its forest cover. If this rate of loss of forest cover is not contained, it means that in the next 40 years, Uganda will hardly have any forests left. Given the importance of forests to Uganda's economic development, human well-being and the environment, this spells doom. This has grave implications for the energy sector, tourism, agriculture, food security and the lives and livelihoods of many Ugandans especially the forest-dependent and forest-adjacent communities. A key challenge to efforts aimed at restoring the forest cover and promoting tree planting generally, is the inadequate and lack of appropriate, long term and sustainable funding.



Private forest cleared for crop production in Kizirafumbi, Hoima district  
(Photo: Patrick Byakagaba)

In 2003, concerned about the need to contain and reverse the loss of forest cover in the country and the need to promote the conservation, sustainable management and development of forests for the benefit of Uganda, the Parliament of Uganda enacted the National Forestry and Tree

1 The Republic of Uganda (2013), The National Forest Plan 2011/12-2021/22, Ministry of Water and Environment, Kampala, p. vii.

2 *Ibid.*

Planting Act.<sup>3</sup> This Act came into force on 8th August 2003. One of the key provisions of this Act is Section 40. Section 40 establishes a National Tree Fund to be managed by a body appointed by the Minister responsible for Water and Environment.<sup>4</sup> The Fund is meant to be used “...to promote tree planting and growing at national and local level; and to support tree planting and growing efforts of a non-commercial nature which are of benefit to the public.”<sup>5</sup> The National Tree Fund was established as one of the major ways to ensure predictable and sustainable funding of the forestry sector.

In 2008, Cabinet approved the operationalization of the National Tree Fund. Unfortunately, over ten years since its establishment by the National Forestry and Tree Planting Act, and six years since the Cabinet approval, the National Tree Fund has never been operationalized. Why? What reasons explain the delay/failure to operationalize this Fund? Is it that despite the continued poor funding of the forestry sector, the National Tree Fund is no longer considered important? What are the justifications for the National Tree Fund in the first place? What steps need to be taken to have the National Tree Fund in place and fully operational? This policy briefing paper interrogates these and other questions concerning the establishment and operationalization of the National Tree Fund.

This paper is intended to reignite debate about the National Tree Fund with the major objective of having it operationalized as soon as possible. The paper has three specific objectives.

- a) To interrogate the reasons for the delay or failure to operationalize the National Tree Fund.
- b) To provide the major justifications for the need to operationalize the National Tree Fund.
- c) To provide the important steps that the Ministry of Water and Environment needs to take to have the National Tree Fund fully operational.

The paper is largely based on desk review of relevant documents and laws. To understand how similar funds in other countries work, a review of the laws establishing forest funds in Kenya, Tanzania and Ghana was also made. To inform the paper further, Funds established by law in Uganda like the Road Fund, Land Fund, Wildlife Fund and the National Environment

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3 See the Long Title of the Act.

4 See Section 40 (1) and (2).

5 See Section 40 (4).

Fund were also studied. Concerning the National Environment Fund,<sup>6</sup> one may ask whether such a Fund cannot be used to support tree planting and growing activities rather than creating another Fund altogether. Experience around the world shows that while environmental funds could be used to address some forest-related issues, their emphasis is always on forests as providers of environmental services or as biodiversity habitats, rather than on the full range of issues related to sustainable forest management.<sup>7</sup> Besides, as will be argued in Section 4 of this paper, the National Tree Fund is important for resource mobilization from development partners and other donors willing to support forest development activities only through a special fund established for those purposes. Existence of a National Environment Fund cannot therefore be a strong justification not to have a National Tree Fund.

The paper is organized in five sections. Section one is the Introduction. Section two interrogates the reasons that explain the delay/failure to operationalize the National Tree Fund. Section three provides the major justifications for the need to operationalize the National Tree Fund. Section four provides the major steps that the Ministry of Water and Environment has to take to operationalize the National Tree Fund. The conclusion of the paper is presented in Section five.

## **2. INTERROGATING THE REASONS FOR THE DELAY TO OPERATIONALIZE THE TREE FUND**

Over 10 years since its establishment by law, the National Tree Fund is not operational. This section interrogates the major reasons why the Ministry of Water and Environment has taken so long to operationalize the National Tree Fund. There are essentially four major identifiable reasons i.e., restructuring of Government Ministries; the creation of the National Forestry Authority; shifting of goal posts by the Ministry of Finance; and the lack of political leadership and weaknesses in the Ministry of Water and Environment.

### **2.1 The Restructuring of Government Ministries**

Initially, one of the reasons advanced by Government to explain the delay

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6 The National Environment Fund is established by Section 88 of the National Environment Act 1995.

7 Rosenbaum K and Lindsay J (2001), "An Overview of National Forest Funds: Current Approaches and Future Opportunities," p.8. Paper presented at the international workshop of experts on financing sustainable forest management (Oslo, Norway 22 – 25 January 2001). Available at <ftp://ftp.fao.org/docrep/fao/003/X6821e/x6821e00.pdf>. Accessed on 15 July 2014.

to establish and operationalize the Tree Fund was the restructuring of the Ministries in 2006. Queries on the status of the process to operationalize the Tree Fund were first brought up in Parliament in 2008 by Hon John Arimpa Kigyagi.<sup>8</sup> Hon Kigyagi asked the then Minister of State for Environment (Hon. Jesica Eriyo), why Government had taken long to operationalize the Tree Fund as provided for in Section 40 of the National Forestry and Tree Planting Act.<sup>9</sup> In her response, Hon. Eriyo partly blamed the delay on the restructuring of the former Ministry of Water, Lands and Environment that led to the creation of the Ministry of Water and Environment.<sup>10</sup> Explaining the delay, she informed members of Parliament that initially, before the restructuring process, a draft cabinet paper on the National Tree Fund had been prepared by the Ministry of Lands, Water and Environment and sent to relevant institutions and agencies for comments. After the restructuring process, finalization "...of the cabinet paper required resubmission by the new Ministry of Water and Environment and hence fresh requirements for resubmission to Ministry of Finance for clearance as by the law has been done."<sup>11</sup> She also informed Parliament that the Ministry of Water and Environment was also requested to provide additional information concerning funding of tree planting activities which it did, and that subsequently, Cabinet approved the operationalization of the Fund.<sup>12</sup>

While the restructuring of the Government Ministries could have caused some delay in operationalization of the National Tree Fund, it can no longer be a justifiable reason to explain why eight years thereafter, the National Tree Fund is not operational.

## **2.2 The National Forestry Authority and its Financing Mechanism**

Another major reason that may explain the reluctance to operationalize the National Tree Fund is the creation and financing mechanism of the National Forestry Authority (NFA). This is implied in Mr. Keith Muhakanizi's letter to the Permanent Secretary of the Ministry of Water and Environment dated 14 August 2013.<sup>13</sup> The Permanent Secretary, Ministry of Water and Environment had written to Mr. Muhakanizi as Permanent Secretary, Ministry of Finance, Planning and Economic Development

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8 See Question 59/1/08 raised during the Parliamentary sitting on Thursday 25th September 2008, Minute 4.53. (Minute extract on file).

9 *Ibid*, Minute 4.53

10 *Ibid*.

11 *Ibid*

12 *Ibid*

13 A copy of the letter is on file with the authors of this paper.

(MFPED) and Secretary to the Treasury requesting for startup financial resources to kick-start the Tree Fund. In his response, Mr. Muhakanizi stated thus: “Following the creation of the National Forestry Authority (NFA), Government has continued to finance its activities from the Consolidated Fund including the use of the NTF at source. The activities hitherto anticipated to be facilitated from the fund are therefore directly under the NFA.”

Mr. Muhakanizi’s argument cannot pass without a challenge. First, the National Tree Fund and the NFA are both established by the same law (i.e., the National Forestry and Tree Planting Act 2003) which clearly lays out activities that the former is to support. If, for any reason, NFA decides to also fund such activities, that should not be a reason not to operationalize the Tree Fund. The National Tree Fund is established by law to support certain activities, and unless the law is amended or repealed, rule of law requires that the Fund should be operationalized to support the activities it was established to promote i.e., to promote tree planting and growing at national and local level; and to support tree planting and growing efforts of a non-commercial nature which are of benefit to the public. Second, and connected to the foregoing point, although under Section 54 (1) (a) of the National Forestry and Tree Planting Act,<sup>14</sup> NFA acceptably has mandate to promote tree planting and growing, its mandate is limited to only central forest reserves. On the other hand, the National Tree Fund was established to promote tree planting and growing generally at the national and local level, whether within or outside the central forest reserves.

In summary, the NFA and its funding from Government cannot be the reason why the Tree Fund should not be operationalized. The Fund should be operationalized and Government should streamline the mandates and funding of the NFA and the National Tree Fund.

### **2.3 Shifting of Goal Posts by the Ministry of Finance, Planning and Economic Development**

In his letter to the Permanent Secretary of the Ministry of Water and Environment referred to above, Mr. Muhakanizi also wrote: *“I wish therefore to inform you that we do not approve the Creation of the Fund in view of the proposals in the Public Finance Bill, 2012 which is before Parliament and its implications on Macroeconomic Management.”*<sup>15</sup> This position is a departure from the Ministry’s earlier position. In 2008, Hon. Jesica

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14 According to this provision, one of the key functions of NFA is “...to develop and manage all central forest reserves.”

15 Emphasis added.

Eriyo told Parliament that the Ministry of Water and Environment had got clearance/approval from MFPED to operationalize the Tree Fund.<sup>16</sup> Six years later, the same ministry says that it does not approve the creation of the National Tree Fund. This change of goal posts is therefore arguably one of the factors that explain the delayed operationalization of the Tree Fund. What explains this shifting of goal posts? According to Mr. Muhakanizi's letter, it is the proposals in the Public Finance Bill 2012. But what are these proposals in the first place?

Unfortunately, Mr. Muhakanizi's letter does not refer to any specific proposal in the said Bill. A critical analysis of the Public Finance Bill 2012 provides no support at all to Mr. Muhakanizi's argument. The Bill does not propose to amend or repeal any section of the National Forestry and Tree Planting Act 2003. In fact, under clause 27, the Bill gives the Minister responsible for Finance power to establish other Special Funds as may be found necessary. The Bill does not affect existing special Funds like the Tree Fund that are established by Parliament.

In his letter, Mr. Muhakanizi also raises the issue of the implications of the National Tree Fund and the Public Finance Bill on macroeconomic management. Having the National Tree Fund per-se cannot lead to macroeconomic mismanagement/ instability. The issue should be about prudent management of not only the Tree Fund but also other Funds established in Uganda. In sum, it is clear that Mr. Muhakanizi is using the Public Finance Bill to shift goal posts. The Bill does not affect in anyway existing special Funds like the National Tree Fund.

## **2.4 Lack of Political Leadership and Weaknesses at the Ministry of Water and Environment**

In 2008, the Minister of State for Environment then, Hon. Jesica Eriyo re-echoed Government commitment to operationalize the National Tree Fund and scale up tree planting activities at the national and local level.<sup>17</sup> This political commitment was initially demonstrated by Cabinet approving the establishment and operationalization of the National Tree Fund; and the MFPED giving clearance to operationalize the same.<sup>18</sup> During the second Drought Resilience Summit in Kampala held in March 2014, President Museveni is quoted to have argued that a fund for forests and wetlands should be set up to deal with the loss of forest cover in

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16 *Supra*, note 8.

17 *Ibid.*

18 *Ibid.*

the country.<sup>19</sup> In April 2014, while officiating at the launch of the tree planting drive organized by the Go-Green Campaign activists, the Speaker of the Parliament of Uganda, Hon. Rebecca Kadaga was also quoted to have promised that the issue of the Tree Fund was going to be raised on the floor of Parliament to have the Fund operationalized.<sup>20</sup> Despite all this good political will, the Ministry has not done enough to have the Tree Fund operational. Arguably, this points to lack of political leadership and weaknesses at the Ministry of Water and Environment.

Two more examples will suffice to illustrate this point further. First, in 2004, the Ministry funded a comprehensive study on the modalities of establishing and operationalizing of the Tree Fund.<sup>21</sup> The study was completed in 2004. To the credit of the consultants who carried out the study, their report made a number of good recommendations on different aspects concerning the operationalization of the Tree Fund. Many of the steps recommended such as appointing a committee to manage the Tree Fund do not require substantial monies to undertake. Unfortunately, to-date, no such committee is known to have ever been established. Not even adopting the rules to govern the operations of the committee. Instead, the Ministry has been asking for financial resources from the MFPED to kick-start the Fund without doing first things first. This points to lack of political leadership in the process of operationalizing the National Tree Fund.

The second example relates to the failure of the Ministry of Water and Environment to make any budgetary allocation towards operationalizing the Tree Fund in the last ten years. Although in the last 3-4 financial years, the Ministry has been listing the operationalization of the National Tree Fund among its priorities, it never makes any budgetary allocation to undertake necessary activities to have the fund operational.<sup>22</sup> Even if the budgetary allocation to the Ministry of Water and Environment is disappointingly very low,<sup>23</sup> to demonstrate the seriousness with which the Ministry considers the issue of operationalizing the National Tree

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19 See “We must get people out of wetlands and forests,” Daily Monitor (1st April 2014).

20 See, Mercy Nalugo, “Speaker pushes for revival of national tree Fund,” Daily Monitor (18th April 2014).

21 Kapalaga I and Tyler G (2004), Establishment and Operations of the National Tree Fund Uganda, Draft Report and Recommendations, Final Draft 23rd January 2004.

22 See the Ministerial Policy Statements for the Ministry of Water and Environment in the last 4 years. Copies are on file with the authors of this paper.

23 For an over-view of the low budgetary allocation to the Environment and Natural Resources Sector in Uganda over the years, see Mugenyi O et al (2011), “Marginalisation of Environment and Natural Resources Sub Sector: Undermining the Economic Base and Entrenching Poverty in Uganda,” ACODE Policy Briefing Paper No.24.

Fund, one would expect it, even within its limited budget to make some budgetary allocation (however small) towards operationalization of the Fund. That this has never been done, points to lack of political leadership and other weaknesses at the Ministry of Water and Environment.

In conclusion, there are no convincing reasons to explain the delay to operationalize the National Tree Fund. The delay is largely attributed to the lack of political leadership and weaknesses at the Ministry of Water and Environment.

### **3. WHY THE NATIONAL TREE FUND IS IMPORTANT FOR UGANDA**

This section gives the major reasons why Uganda needs a National Tree Fund and why the Tree Fund as established by the National Forestry and Planting Act 2003 should be operationalized as soon as possible.

#### **3.1 The Need to Meet the Forestry Sector's Special Needs for Long-Term Investment**

As Rosenbaum and Lindsay rightly argue, one of the major justifications for a forestry fund like the Tree Fund under issue now, is the need to meet the forestry sector's special needs for long-term planning and investment.<sup>24</sup> Tree Planting, growing and afforestation are generally ventures that require long term planning and investment. Short-term planning and investment based on the national budget cycle, which among other things require unspent monies at the end of each financial year to be returned to the Consolidated Fund is unsuitable for most forestry activities. One of the major justifications to have the Tree Fund operationalized is therefore to ensure long-term, predictable and sustainable financial support towards tree planting, growing and afforestation activities.

#### **3.2 The Need to Supplement Government's Poor Funding of the Forestry Sector**

Although the forestry sector is regarded as one of the primary growth sectors in Uganda, it remains one of the least funded sectors in Uganda.<sup>25</sup> The table below indicates the budgetary percentage allocations to various sectors in Uganda over the period 2007/08 to 2014/15.

<sup>24</sup> *Supra*, note 7.

<sup>25</sup> See the Republic of Uganda (2010), The National Development Plan 2010/11-2014/15.

**Table 1: Trends in National Budget allocations (share in percentages)**

Sectors	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15 (Projections)
Security	9.3%	8.1%	6.7%	8.6%	8.1%	9.4%	8%	7.1%
Works and Transport	13.2%	18.5%	16.7%	13.8%	12.8%	16.4%	19.2%	18.1%
Agriculture	4.3%	3.8%	4.3%	4.8%	4.5%	3.8%	2.9%	3.1%
Education	16.1%	15.4%	14.9%	16.5%	15.4%	15.8%	13.5%	11.9%
Health	9.0%	10.7%	10.1%	8.7%	8.2%	8.5%	8.6%	8.4%
Water & Environment	3.3%	2.6%	2.4%	3.3%	3.1%	3.5%	2.9	3.1%
Justice, Law & Order	4.9%	4.8%	5.0%	7.1%	6.5%	5.3%	4.8%	5.5%
Accountability	7.1%	7.1%	6.4%	6.5%	6.1%	5.8%	5.3%	5%
Energy and Mineral Dev't	9.5%	7.9%	9.6%	5.2%	15.3%	14.7%	12.8%	12%
Tourism, Trade and Industry	0.9%	0.5%	0.7%	0.7%	0.6%	0.7%	0.4%	0.5%
Lands, Housing & Urban Dev't	0.2%	0.2%	0.3%	0.3%	0.3%	0.3%	0.2%	0.7%
Social Development	0.5%	0.4%	0.4%	0.4%	0.4%	0.6%	0.3%	0.4%
ICT	0.1%	0.1%	0.1%	0.2%	0.2%	0.2%	0.1%	0.1%
Public Sector Management	10.2%	9.1%	9.7%	11.1%	10.3%	10.3%	8.4%	7.5%
Public Administration	3.7%	2.3%	3.0%	4.0%	2.8%	2.4%	3%	3.5%
Legislature	1.7%	1.9%	1.7%	2.2%	2.1%	2.3%	1.8%	1.7%
Interest Payments	6.1%	6.5%	8.0%	6.7%	3.3%	7.2%	7.5%	7.8%
Total	100%	100%	100%	100.0%	100.0%	100.0%	100%	100%

**Source:** Civil society position paper on the National Budget Framework Paper FY 2011/12 – FY 2015/16. Calculations based on the MFPED data

From Table 1, it is evident that the Water and Environment sector has been underfunded over the years. Even within the Ministry of Water and Environment, the environmental sub sector receives the least monies, which constrains the implementation of many activities in the sub sector including tree planting and growing. For instance, in 2010, the forestry sector set out to restore forest cover from 3,604,176 hectares to 4,933,745 hectares by 2015.<sup>26</sup> However, due to limited funding among other things, it is doubtful that much has been accomplished in achieving this objective. Operationalization of the Tree Fund is therefore important to supplement the Government funding of the forestry sector to effectively carry out its mandate.

Besides Government funding, the Tree Fund is expected to raise money from other sources like the private sector and development partners. For one reason or another, a number of development partners and private sector players may not be willing to put their money in the central government coffers but are ready to put it in a Fund dedicated to promote specific activities that are of interest to them. Operationalization of the Tree Fund is therefore important in leveraging additional sources of funding to supplement the small budgetary allocation to the forestry sector.

### **3.3 The Need to Enhance Greater Transparency and Accountability in the Forestry Sector**

Poor governance of the forestry sector characterized by poor accountability and non-transparent methods of work is one of the factors constraining the growth and development of the sector in Uganda. For instance, in 2010, Norway, which had supported Uganda's forestry sector for many years, withdrew its support citing management irregularities at the NFA. It consequently indicated that it would resume support to the sector, "only when an acceptable level of governance was re-established in the key forest sector institutions."<sup>27</sup> With proper financial rules and policies in place, a Tree Fund independently managed has great potential to enhance transparency and accountability in the forestry sector.

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<sup>26</sup> *Ibid*, para 268.

<sup>27</sup> First Secretary of the Norwegian Embassy at a Workshop on Governance held in Kampala in June 2010 quoted in World Bank (2012), Uganda: Environment and its Governance in Crisis, Country Environmental Analysis. Draft Report dated 6 January 2012, pp 115-116. A copy of this report is on file with the authors of this paper.

### **3.4 Access to Existing and Emerging International Financing Mechanisms**

The other major reason why the National Tree Fund should be operationalized is that it is important as a catalyst for easy access to existing and emerging international financing mechanisms. Increasingly, many special financing mechanisms like REDD+ are more comfortable with isolating their funds from others and placing them under independent bodies which makes accountability, monitoring and evaluation much easier.

## **4. IMPORTANT STEPS TOWARDS OPERATIONALIZING THE TREE FUND**

This section provides the important steps that the Ministry of Water and Environment should take towards operationalizing the National Tree Fund. Some of the steps highlighted hereafter were also recommended in the Kapalaga report.<sup>28</sup>

### **4.1 Deciding the Nature of the Tree Fund to Establish**

Although the National Forestry and Tree Planting Act 2003 establishes a National Tree Fund, it does not define the nature that the Fund should take. One of the most important steps therefore that the Ministry of Water and Environment has to take is to formally decide the nature that the National Tree Fund should take. There are many types of Funds that can be established.<sup>29</sup> Kapalaga and Geoff rightly recommended establishment of an autonomous Fund, where monies would be held outside of the government system and control.

To ensure the independence of the Fund, the management team of the Fund should be multi-stakeholder including representation of civil society organizations, development partners, Government, private sector, and tree growers' associations. The independence of the management team in decision making should also be guaranteed. For instance, there should not be unnecessary requirements to get approvals from the line Ministry or Government. The line Ministry can however give advice. To strengthen the independence of the Fund further, it may also be important for Secretariat of the Fund to be outside Government establishment. For these purposes, Government can enter into a Memorandum of Understanding with a respectable independent organization to house the secretariat.

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28 *Supra*, note 21

29 For a summary discussion of the types of tree/forestry funds that can be established, see Rosenbaum et al, *supra* note 7, pp. 4-7. See also Kapalaga, *supra* note 21, pp. 13-15.

While Government should have an upper hand in appointing the managers of the Fund, the Fund should operate independently of government and should be managed by independent persons.

To secure some minimum level of independence, the Kenya Forest Conservation and Management Fund and the Tanzania Forest Fund are managed by Board of Trustees.<sup>30</sup> In the case of Tanzania, the Board is appointed by the Minister of Natural Resources and Tourism while in the Case of Kenya, the Board is appointed by the Cabinet Secretary. As Rosenbaum notes, the trust nature of a forestry fund gives it a certain flexibility and independence from Government bureaucratic requirements. With proper rules in place and appointment of the right people in management, the autonomous nature would facilitate efficient operation and give confidence to potential donors and beneficiaries.

## **4.2 The Institutional Framework for the Tree Fund**

In 2008, Cabinet approved the institutional arrangement of the National Tree Fund to comprise of a National Tree Fund Steering Committee (NTFSC) or the National Tree Fund Management Committee (TFMC), the Technical Advisory Committee and a Secretariat. To minimise the costs of operation and promote efficiency, the Technical Advisory Committee should not constitute part of the institutional framework of the Fund. Instead, members of the NTFSC or TFMC should be purposively and carefully chosen to ensure that the Committee has all relevant technical competences to carry on its functions minus a technical advisory committee.

As already pointed out above, the management team of the National Tree Fund should have representation of all major stakeholders including Government, private sector, civil society organizations, development partners, individuals and potential beneficiaries. It is proposed that the NTFSC or TFMC should be comprised of nine members as follows: A representative of the Ministry responsible for forests, a representative of the Ministry responsible for lands, a representative of the Ministry responsible for finance, a representative of CSOs, a representative of the private sector, a representative of the tree growers' association, a representative of timber dealers, a representative of the development partners and a representative from the local government association. At least one third of the members should be women. Members of the NTFSC or TFMC should be appointed by the Minister responsible for forests, in consultation with the relevant constituencies. The members should hold

<sup>30</sup> See Section 30 (1) of the Kenya Forest Conservation and Management Act 2014 and Section 81 (1) of the Tanzania Forest Act 2002 respectively.

office for four years; eligible for re-appointment for only one more term.

The NTFSC or TFMC should be supported by a small Secretariat of not more than six staff including the Coordinator who should be an ex-officio member and secretary of the NTFSC. The other key staff of should include an accountant, and at least two programme assistants.

### **4.3 Forms of Support from the Tree Fund and the Criteria to Access the Support**

From the objectives of the Tree Fund as provided for in the National Forestry and Tree Planting Act, the Ministry of Water and Environment has to also formally decide the activities/projects that the Fund will support. Kapalaga et al recommended some activities that can be supported including subsidising inputs like seeds and seedlings, subsidizing technical services like advice on tree planting, and providing grants for tree planting and maintenance. With respect to grants, Kapalaga et al recommended that grants should be provided to intermediaries who in turn would use them to subsidise inputs and technical services to tree planters.

Relatedly, the Ministry of Water and Environment has to also decide and put in place the eligibility criteria for accessing support from the National Tree Fund. From Section 40 (4) of the National Forestry and Tree Planting Act, it is apparent that part of the criteria is that for an activity to be supported; it must be of a non-commercial nature and should be of benefit to the public.

### **4.4 Operational Regulations and Action Plan**

Unlike other laws like the Tanzania Forest Act 2002 that establishes the Tanzania Forest Fund and the Forests and Plantation Development Fund Act 2000 that establishes Ghana's Forest Plantation Development Fund, Uganda National Forestry and Tree Planting Act does not provide adequate provisions for the effective operation and management of the Tree Fund. For instance, in terms of management of the fund, Section 40 of the National Forestry and Tree Planting merely provides that the relevant Minister shall appoint a body to manage the fund. It is quiet about the nature of the body, its composition and rules of procedure. The law is also quiet about many other operational aspects of the Fund.

The Ministry of Water and Environment should therefore fast track the development of the National Tree Fund regulations and have them gazetted as soon as possible. The process of developing the National Tree Fund regulations should be transparent and participatory. The

regulations should be clear and comprehensive. They should among other things cover the establishment, composition and the rules of procedure of the tree fund management committee; the functions, qualifications, tenure, and remuneration of members of the management committee; meetings of the management committee; the fundable activities, criteria for applying for funding from the Fund; accounting rules and procedure; reporting requirements; and secretarial services for the Fund. Unless and until the National Tree Fund regulations are adopted and duly gazetted, the Fund cannot take-off.

The Ministry of Water and Environment has to also develop an action plan for the Fund with clear targets, outputs and timelines. The development of this action plan, like the regulations, should also be participatory and involve the major stakeholders.

#### **4.5 National Stakeholders' Workshop on the National Tree Fund**

For purposes of promoting national ownership, it is important for the Ministry of Water and Environment to involve stakeholders in shaping the direction that the National Tree Fund should take. Once the Ministry of Water and Environment develops the relevant draft instruments, guidelines, action plans and implementation frameworks, it should consult/ sensitise key stakeholders including relevant Government agencies, development partners, civil society organisations and academia. This can be through a workshop organised for that purpose. Experience from other Funds like the Road Fund point to the great need to have orientation and sensitisation workshops with stakeholders to ensure that the Fund is understood.<sup>31</sup> It is understood that like most Government of Uganda Ministries, the Ministry of Water and Environment is resource constrained but efforts can be made to mobilise resources. Organisations working in the Environment and Natural Resources (ENR) sector like ACODE are ready and willing to partner with the Ministry in mobilising the necessary resources and organising the workshop.

#### **4.6 Rationalization of Budgetary Allocations within the Ministry of Water and Environment**

That the ENR sector to which forestry belongs remains one of the least funded sectors is not a debatable issue.<sup>32</sup> The issue for this paper though is that, even within the sector itself, the budgetary allocations to the different units is apparently not fair and equitable. The table below shows the Ministry of Water and Environment budget allocations for the period

31 Uganda Road Fund Annual Report 2009/2010 p.8

32 See Mugenyi, *supra*, note 23

2009 to 2014.

**Table 2: Ministry of Water and Environment Sub-sectoral Budget Allocations 2009-2014 Aggregate of Non-Wage and Domestic Development (US\$ Billion)**

WATER AND ENVIRONMENT SECTOR	2009/10		2010/11		2011/12		2012/2013		2013/2014	
	Approved budget	Outturn								
Water	49.14	47.77	59.59	52.04	59.2	55.14	51.35	29.32	58.76	44.21
Environment	3.97	4.32	8.34	7.58	10.19	11.43	10.50	12.67	8.10	7.56
NFA	1.2	1.17	1.2	0.57	1.2	5.87	1.87	1.40	1.59	1.41
NEMA	3.55	2.91	3.76	2.77	3.63	0.54	9.01	7.91	4.42	4.40
Local Governments	58.45	55.91	58.92	53.93	60.19	53.6	46.78	46.78		

**Source:** ACODE Library compilations from MFPED publications.

From Table 2, it is evident that the Water sub-sector takes most of the funds, leaving very little to the Environment and NFA where the question of the Tree Fund falls. Moreover, the fact that in the last 3 - 4 years, the Water sub sector always has unspent monies at the end of the financial year<sup>33</sup> shows incapacity of that sub - sector to absorb the funds that are allocated to it.<sup>34</sup> There is therefore urgent need for the Ministry of Water and Environment to rationalize its budgetary allocations to ensure that even within the budgetary constraints, the environmental sub - sector gets a fair share to carry out its mandate.

#### **4.7 Prioritization of the Tree Fund by the Ministry of Water and Environment**

As earlier observed, for the last three years, the Ministry of Water and Environment has been listing operationalization of the National Tree Fund among its priorities.<sup>35</sup> However, the Ministry has never allocated any financial resources towards the operationalization of the Fund. This is a

33 See the Annual Budget Performance Reports for the last three years.

34 Although the Water sub-sector advances a number of reasons why it is unable to spend all the monies allocated to it in a given year e.g., late releases, changes in procurement rules, and delays in getting necessary approvals on spending, these factors equally affect other sub sectors in the Ministry.

35 See the Ministerial Policy Statements of the Ministry of Water and Environment for the last 3-4 years

contradiction on the part of the Ministry. To demonstrate how important the Ministry considers the issue of operationalization of the Tree Fund, it should go beyond mere listing it among its priorities, and allocate a reasonable percentage of its budget towards activities considered important in having the Fund operational.

Even after operationalization of the National Tree Fund, Government and the Ministry should allocate reasonable financial resources to the Fund. Development partners and other potential donors will find it difficult to invest in the Fund when there is no commitment from the line Ministry to contribute towards its financial resources. The case of Rwanda's National Climate and Environment Fund (FONERWA) is instructive. In 2013, the Government of Rwanda approved 22.5 million USD to the Fund. As a result of this gesture from the Government of Rwanda, FONERWA has attracted a lot of funding from different donors and has been catalytic in bringing on board commercial banks to leverage resources with FONERWA to fund loan products like solar to citizens.

#### **4.8 Provision of a Dependable Source of Revenue for the Tree Fund**

Under Section 40 (3) of the National Forestry and Tree Planting Act, it is provided that the monies of the Tree Fund shall consist of: monies appropriated by Parliament; loans obtained by Government; grants, gifts and donations; any monies required to be paid into the Fund; and monies from any other source approved by the Minister in consultation with the Minister of Finance. In 2008, when approving the operationalization of the National Tree Fund, Cabinet also commendably approved that a levy of a small tax of 0.005 per cent of the market value of resources generated out of hydro-electricity and production of hydrocarbons should be paid into the Fund. Although these sources of funds are good, the government needs to consider broader and more sustainable revenue sources. The Tanzania Forest Act for example provides for innovative sources of funds and mechanisms to ensure the sustainability of the Tanzania Forest Fund such as a levy of 2 per cent of every fees prescribed under that Act,<sup>36</sup> a levy of 3 per cent of any royalty payable under the Tanzania Forest Act,<sup>37</sup> and any sums realised by the sale of any forest produce confiscated under the provisions of that Act.<sup>38</sup> Besides, the Tanzania Forest Fund is exempted from paying taxes in respect of its operations.<sup>39</sup>

36 See the Tanzania Forest Act (2002), Section 79 (2) a.

37 *Ibid*, Section 79 (2) b.

38 *Ibid*, Section 79 (2) d.

39 *Ibid*, Section 83 (1).

To ensure sustainability of the National Tree Fund, Government has to provide the Fund with additional dependable sources of revenue. For a start, four sources may be considered. First, Government should consider a small levy of about 1 per cent on fuel, since once burnt; fuel emits carbon dioxide which trees have to absorb. Countries like Costa Rica took a similar approach to capitalize their forest fund. Second, Government should also consider levying a small tax of at least 1 per cent of the oil revenues. The major justification for this tax lies in the fact that the oil refinery activities emit a lot of carbon dioxide in the air which the forests/trees absorb. Third, given the importance of forests to water supply, a small levy of about 1 per cent should also be made on water consumption. Finally, some non-tax revenue from the NFA should be paid to the Tree Fund. We recommend that all revenue from the sale of illegal timber and charcoal should be paid into the National Tree Fund. If approved, these sources of funding would go a long way in ensuring the sustainability of the Fund.

## **5. CONCLUSION**

This paper has interrogated the factors behind the delayed operationalization of the National Tree Fund and provided the major justifications why the Fund should be operationalized soonest. Lack of political leadership at the Ministry of Water and Environment stands out as the major reason for the delayed operationalization of the National Tree Fund.

Containing and reversing the rate of loss of forest cover through planting and growing more trees is a goal that requires predictable, stable and sustainable financing. If properly operationalized and supported, the National Tree Fund provides one of the best suitable and sustainable financial mechanisms for promoting tree planting and growing in Uganda.

The paper has provided the important steps that the Ministry of Water and Environment needs to take towards operationalization of the Fund. The Ministry should take advantage of the existing political will to have this Fund operationalized in the shortest time possible.

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