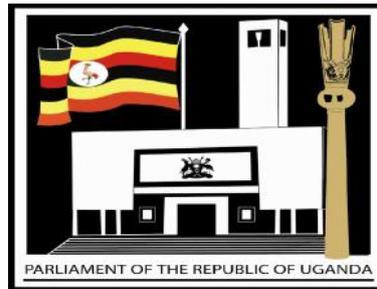


PARLIAMENT OF THE REPUBLIC OF UGANDA



**REPORT OF THE PARLIAMENTARY COMMITTEE ON NATURAL
RESOURCES ON THE PETROLEUM (REFINING, GAS PROCESSING AND
CONVERSION, TRANSPORTATION AND STORAGE) BILL 2012**

AUGUST 2012

1.0 Introduction

The Petroleum (Refining, gas processing and conversion, transportation and storage) bill 2012 was read for the first time on Tuesday February 14, 2012 and in accordance with Rules 117, 118 and 177 of the Rules of Procedure of the Parliament of Uganda, the Bill was referred

2.0 Methodology

In the process of scrutinising the Petroleum (Refining, gas processing and conversion, transportation and storage) Bill, 2012, the Committee;

- 1) Held meetings with and received views from;
 - i). The Ministry of Energy and Mineral Development;
 - ii). Prof. Jenik Radon, Columbia University, New York;
 - iii). His Highness the Omukama of Bunyoro Kitara Kingdom;
 - iv). The Civil Society Coalition for Oil and Gas; comprising Global Rights Alert, Publish What You Pay, Africa Institute for Energy Governance; Pro Diversity Conservationists in Uganda;
 - v). Human Rights Network (HURINET);
 - vi). Westminster Foundation for Democracy;
 - vii). Prof. Kasozi Ephraim of Makerere University;
 - viii). The United Nations Office for the Commissioner for Human Rights;
 - ix). Uganda Chamber of Mines and Petroleum;
 - x). Bunyoro Parliamentary Group;
 - xi). Bunyoro Local Oil and Gas Advocacy Group (BULOGA);
 - xii). Hon. John Ken Lukyamuzi-The Shadow Minister for water and environment

- xiii). Centre for Constitutional Governance
 - xiv). Uganda Wildlife Authority (UWA);
 - xv). National Environment Management Authority (NEMA);
 - xvi). Uganda Women Parliamentary Association (UWOPA);
 - xvii). Parliamentary Forum on Oil and Gas;
 - xviii). Prof. Sempebwa Frederick, Katende and Sempebwa Company Advocates;
 - xix). The Office of the Auditor General;
 - xx). Insurance Regulatory Authority;
 - xxi). Cultural leaders of the Jonam;
 - xxii). Global Witness-an International Non Governmental Organization;
 - xxiii). The Association of Uganda Oil and Gas Services-an umbrella body of local service providers to the petroleum licensees in Uganda;
 - xxiv). Ker Kwaro Acholi
 - xxv). Uganda Revenue Authority
 - xxvi). Inter Religious Council of Uganda;
 - xxvii). Private Sector Foundation
 - xxviii). Local Communities of Buliisa and Kabaale
- 2) Referred to relevant documents namely;
- i). The Constitution of the Republic of Uganda;
 - ii). The Access to Information Act, 2005;
 - iii). The Occupational Health and Safety Act;
 - iv). The National Environment Act;

- v). Petroleum (Exploration and Production) Act 1985 (Ch 150);
- vi). The National Oil and Gas Policy for Uganda, 2008;
- vii). The Petroleum (Exploration and production) Regulations, 1993
- viii). The Public Finance Bill, 2012;
- ix). The Production Sharing Agreements;
 - a) Between the Government of the Republic of Uganda and Tullow Uganda Limited in respect of the Kanywataba prospect area;
 - b) Between the Government of the Republic of Uganda and Tullow Uganda Limited in respect of exploration area 1;
- x). The Bunyoro Agreement of 1955;
- xi). The views of the Members of the Parliamentary Adhoc Committee on the regularization of the Oil and gas sector;
- xii). The Environmental Monitoring Plan for the Albertine Grabben 2012-2016;
- xiii). The Land Act, 2004;
- xiv). The Companies Act, 2010;
- xv). The PPDA Act;
- xvi). The Interpretations Act
- xvii). The Petroleum (Exploration and Production) Act, 1984 of Ghana
- xviii). The Petroleum Commission Act 2011, of Ghana
 - 3) Conducted fact-finding visits to;
 - (i) The Albertine Graben;
 - (ii) Norway;
 - (iii) Australia;

- (iv) United States of America.
- 4) Seminars and workshops

3.0 Objectives of the Bill

The object of the Bill is to give effect to Article 244 of the Constitution of the Republic of Uganda, 1995; to give effect to the National Oil and Gas Policy of Uganda (2008); to regulate petroleum exploration, development and production; to establish the Petroleum Authority of Uganda; to provide for the National Oil Company; to regulate the licensing and participation of commercial entities in petroleum activities; to provide for an open, transparent and competitive process of licensing; to create a conducive environment for the promotion and exploration of Uganda's petroleum potential; to provide for efficient and safe petroleum activities; to provide for the cessation of petroleum activities and decommissioning of infrastructure; to provide for the payment arising from petroleum activities; to provide for the conditions for the restoration of derelict lands; to repeal the Petroleum (Exploration and Production) Act CAP 150; and other related matters.

4.0 Defects in the existing law

The legal framework that currently governs the activities of the petroleum industry includes; the Petroleum Exploration and Production Act, 1985 Cap 150 and the Petroleum Supply Act, 2003. The Petroleum Exploration and Production Act, 1985 Cap 150 which is currently over two decades old is inadequate in effectively governing the oil and gas sector given the new and emerging challenges created by the discovery of commercial quantities of petroleum resources in Uganda. In addition, the National Oil and Gas Policy for Uganda, 2008 requires operationalization. Further, there is need to give effect to Article 244 of the Constitution of the Republic of Uganda, 1995. The culmination of all these is the need to overhaul the existing legal framework so as to enhance the effective handling of petroleum activities.

5.0 Brief Historical perspective to Uganda's oil and gas sector

Much as the history of petroleum exploration in Uganda dates back to the early 1920's when significant oil exploration was done by E.J. Wayland, a government geologist who documented substantial amounts of hydrocarbons in the Albertine Graben¹, consistent oil exploration activities only began in the early 1980s, as evidenced by the acquisition of aeromagnetic data across the entire Albertine Graben in 1983 and the enactment of the Petroleum (Exploration and Production) Act, 1985. In 2006, the announcement of oil discoveries in the Kaiso-Tonya area confirmed the commercial potential of the Albertine Graben area. To date, Oil and Gas Exploration activities in the Albertine Graben have had a 90% drilling success rate, with 58 of the 64 exploration and appraisal wells drilled to date encountering oil and/or gas.²

The establishment of the Petroleum Exploration and Production department within the Ministry of Energy and Mineral Development in 1991, culminated into the enactment of Petroleum (Exploration and Production) Regulations of Uganda 1993 and the grant of exploration licenses to foreign companies.

The discovery of commercial quantities oil and gas in Uganda ushers in unique challenges and opportunities accruing to the discovery of commercial quantities of petroleum in Uganda, the importance of regularizing the oil and gas sector inter-alia through proper and dependable legal, institutional and policy frameworks will enable Uganda to leverage this newly discovered wealth for the betterment of its people. It is noteworthy that the African continent is dotted with many instances of states that missed their opportunity, due to various reasons, to apply petroleum and other natural resource wealth prudently subsequently resulting into conflict, strife and environmental degradation. Averting such

¹ http://www.ugandaoilandgas.com/ugandaoilandgas_003.htm

² <http://www.petroleum.go.ug/page.php?k=curnews&id=12>

a scenario requires rigorous preparation and this report is one of the steps in that direction.

6.0 Observations and Recommendations

The Committee's observations are thematically structured around the core areas of; transparency and accountability, environmental concerns, local content, equity and participation, macro-economic implications of petroleum, institutional arrangements and legislative oversight.

i). Transparency and accountability

The Committee is cognizant of the centrality of openness, transparency and accountability in enhancing the efficacy of institutions tasked with governing Uganda's petroleum sector. In the same vein, the Constitution of the Republic of Uganda 1995, the Access to Information Act 2005 and the National Oil and Gas Policy of Uganda, 2008 all recognise and seek to safeguard openness and access to information. However, it should be noted that since 1993 when the Government of Uganda signed the first Production Sharing Agreement, the secretive manner in which PSAs and their inherent clauses have been kept has raised a lot of consternation in the public. While some concerned citizens have opted to use the courts of law to gain access to these PSAs³, institutions like Parliament continue to grapple with inquests into allegations of gross irregularity in the oil and gas sector.⁴ Much as the Government argued that the disclosure of information in the PSAs would compromise its negotiating position in the allocation of the remaining oil exploration blocks in the Albertine Graben, it goes

³ Refer to Charles Mwanguhya Mpagi and Izama Angelo V Attorney General. Case Number 752 of 2009

⁴ Refer to the debate that characterized the special sitting of the 9th Parliament of Uganda on the 10th and 11th October 2011.

without saying that transparency and accountability is an indicator of good governance and in the absence of which, good governance will always remain a dream. To reinforce the efficacy of transparency and accountability, the Committee adopted a comparative analysis of Uganda and Ghana – a fellow emerging democracy on the African continent. Ghana is one Africa’s leading democracies, with high freedom and anti-corruption rankings. When it discovered offshore oil in 2007, it chose to convene a national discussion involving all stakeholders. Institutions, including the press and civil society, were all able to contribute and play a role in shaping oil policy. Ghana has publicly released its PSAs, and is a leader in complying with the Extractive Industries Transparency Initiative (“EITI”) not only in Africa, but globally.⁵ The Ghana experience is in stark contrast with our own. But more importantly it provides crucial lessons. With transparency and accountability, institutions are strengthened and good governance becomes a reality.

In pursuit of transparency and accountability, the Committee further notes that much as the Access to information Act (ATI), 2005 sets the parameters of accessing information in the possession of Government, the Official Secrets Act of 1964 which provides for secrecy in matters such as security and defence, was not repealed by the ATI Act. This Act creates barriers to citizen access to a broad range of government-held information and its vague and broad formulation inevitably perpetrates the culture of secrecy and confidentiality.

There is need therefore for this law that we are enacting to cascade openness and transparency, provide sufficient checks and balances and mitigate abuse of office and corruption.

⁵ Moss, Todd, and Lauren Young. "Saving Ghana from Its Oil: The Case for Direct Cash Distribution - Working Paper 186." *Center for Global Development*. Oct. 2009. Web. 01 June. 2012.

ii). The economic implications of petroleum

As Uganda transits into the 'oil-age', it goes without saying that revenues and other economic benefits accruing to petroleum activity have the potential to hasten her growth and development depending on how it is managed. Experts have predicted that oil is poised to double government revenues from \$2.261 billion once full production is underway.⁶ This implies that with oil revenues, chronic budget deficits will be mitigated and an increase in receipts from exports due to petroleum exports will spur macro-economic growth. However, if such hopes are to materialize, there is need for prudent and sustainable management of oil revenues. The colossal and sudden inflow of revenues accruing to petroleum may expose Uganda to the risk of undermining other sectors thereby ushering in negative macroeconomic effects of resource-funded spending, commonly termed as the "Dutch disease". The resultant effect is vulnerability to the inevitable decline in production once the petroleum resource is exhausted.

In addition, it should be noted that the oil and gas exploration and development if not managed prudently and responsibly can heighten disharmony between those who benefit from its development and those that suffer the disruption and displacement that so often accompany its extraction.

Given the finite nature of the petroleum resource that Uganda has been gifted with, there is need for deliberate and sustained effort to desist from over-reliance on oil revenues, and instead use and distribute the benefits accruing to petroleum equitably and sustainably to enhance national unity and cohesion while at the same time nurturing and developing strong national institutions that

⁶ *Annual Economic Performance Report 2010/11*. Ministry of Finance, Planning and Economic Development.

will transcend the era of petroleum. Further still, it is imperative to align the expenditure of petroleum revenues to local needs that will enable natives to bolster their capability to effectively participate in the oil and gas sector. Considering that the revenue management dimension of the oil and gas sector is enshrined in the Public Finance Bill, 2012, the Committee hopes that those scrutinizing that Bill bear this in mind.

iii). Environmental management

Uganda's oil discoveries have occurred in the ecologically sensitive Albertine and the Murchison Falls area of the River Nile. This calls for adequate safeguards to protect the delicate ecological balance. The Lake Albert for instance is integral in sustaining drainage to most if not all the wetlands and rivers in the Albertine Graben. In acknowledgement of the region's unique biodiversity and potential for eco-tourism, Uganda has established 22 protected areas in the Albertine Graben (75% of all protected areas in Uganda are in the Albertine Graben), including the nation's largest national park, Murchison Falls National Park, which is also the second most visited thanks to its spectacular wildlife viewing and the Victorian Nile Falls, which force the entirety of the Nile through a shoot 6m wide and into the Victorian Nile Delta, home to a vast array of threatened species including the crested crane, cheetah, hippopotamus and giraffe.⁷In addition, the bulk of the natural resources in the Albertine are shared at an international level thereby adding to the sensitivity and importance of the sustainable and responsible management of the environment given that any oil spillages, environmental destruction or safety hazards will have far-reaching local and international effects.

⁷ National Environment Management Authority (NEMA). *Environmental Sensitivity Atlas For the Albertine Graben*. Vol. 2. Government of Uganda, 2010.

In addition, the Committee notes that waste management and disposal is already a challenge yet production is still to commence. Currently the waste from exploration activity is being stored in temporary locations such as bitumen containers and polythene. Actual disposal awaits the requisite waste management regulations from NEMA. This therefore calls for rigorous, timely and sustainable interventions in as far as waste disposal and management is concerned

The Committee also notes the need for institutional safeguards for people affected by oil exploration; production and related activities yet such people are not directly employed in the industry.

The Committee recommends that the National Environment Management Authority, Uganda Wildlife Authority, the Water Resources Management Directorate and other state organs mandated to manage different aspects of the Environment need their capability enhanced and their operations adequately resourced if they are to efficiently and effectively monitor and regulate petroleum exploration and production activity and its ramifications on the environment. This may inevitably require an amendment to the Acts that establish the mandate and govern the operations of the respective agencies that superintend over the various aspects of the environment. This enhances the capacity to handle expanded mandates.

In addition, NEMA in consultation with other relevant Government agencies should efficiently and effectively devise modalities for waste management and disposal.

iv). Local Content and Participation

In the recent past there has been an upsurge in demands by locals in the Albertine Graben for a fair share of the proceeds of petroleum discovered in their vicinity. More prominently, His Highness the Omukama of Bunyoro, the Ker Kwaro Acholi and the traditional chiefs of the Jonam have been vocal in asserting the need for greater transparency, inclusion in decision making and equitably sharing the proceeds of oil and gas discovered in their localities. Amidst all these, it is imperative to note that the extractive industries is generally less-labour intensive and as such local content and participation should not be narrowed to job allocations.

a) It is in this vein that the Committee recommends the establishment of requisite and appropriate institutional frameworks to enhance the capability of local Ugandans to harness the demographic and economic changes that accrue to oil exploration and production activity.

b) The Government should strictly monitor and enforce local content provisions in all production sharing agreements, especially in areas such as labour, training and local goods and services provision and generally facilitate Ugandan natives and local businesses to effectively participate in the oil and gas sector. This needs to be provided for in the law and this Bill provides an opportune moment. In addition, the capability of the state needs to be bolstered in as far as monitoring and enforcing local content provisions is concerned.

v). Institutional arrangements

The institutional framework in the Bill is based on a tripartite model separating government bodies into policy, regulatory and commercial functions. Whereas the Ministry of Energy and Mineral Development is tasked with broad overall policy and supervision, the routine monitoring work is vested in the various centres of competence such as the Petroleum

Authority and the National Oil Company. The Minister retains the role of making regulations and general supervisory role over the Petroleum Authority. The Day to day administration is vested in the Authority because the Minister should not be bogged down with the day to day administration of the sector, while the National Oil Company is the main commercial arm of government in the oil and gas sector.

There is therefore need to clearly spell out the various roles, powers and obligations of the various institutions being established by the law. The volume of work for the regulatory authority is so enormous. Single point accountability where the regulatory authority grants a license monitors the activity of the licensee and takes the decision to revoke the license.

vi). The National Oil Company

The National Oil Company (NOC) as envisaged in the law will be the main commercial arm for state participation in the oil and gas industry. The NOC is usually premised on local expertise, nationalistic fervor, or a myriad of other factors and as a company, it usually develops along several different lines. Traditionally National Oil Companies have been established and nurtured as purely parastatal in nature and they handled their own sales of crude and of products from domestic refineries. Examples of this genre are: Iraq National Oil Company (INOC); Sonatrach (Algeria); Pemex (Mexico); and Petroleos de Venezuela. As may be expected, the relationships of such purely parastatal NOCs with the world oil community are predominantly on an arm's length basis. However over the years, the rigours of the industry in terms of the volume and cost of investment and adaptability to rapid technological changes has impacted on the nature of NOCs. There has been

a realization that the NOC should not only embrace suitable private sector tendencies but also radically shed-off some, if not all, of its pervasive bureaucratic tendencies synonymous with many parastatals. This explains why many NOCs today have been modified to suit this trend and be able to attract private capital and ease technological transfer. Furthermore, the challenge of limited resources in emerging oil economies like Uganda implies that the state alone cannot adequately meet the resource needs of the NOC hence posing a threat to the capability, growth and sustainability of the NOC.

This challenge can be ameliorated by setting up the NOC in a manner that makes it efficient and effective and suitable to attract private capital. As in the case of Uganda, the Companies Act has provisions that can permit the creation of such a NOC.

vii). Land rights and compensation

The Committee notes the need to entrench the categorical principle of compensation prior to acquisition, drawing on the guarantee of the customary and other rights to land laid down in the Constitution of Uganda. The Committee takes cognizance of the prevailing controversies surrounding the compensation of residents of Hoima affected by the construction works on the Hoima-Kaiso-Tonya Road and has already communicated this matter to the Minister of Lands, Housing and Urban Development. Much as the Ministry of Energy and Mineral Development has embraced the Resettlement Action Plan (RAP) as a comprehensive tool of handling matters of compensation in the Graben, there is need to ensure that;

a) In handling compensation, the RAP conforms to the principles of fairness, adequacy, promptness and quick settlement. This

compensation should transcend land per se and cover aspects such as heritage and other livelihoods as well.

b) There is need to define guidelines for prior and informed consent to land acquisition, including the guarantee of an open and transparent public hearing. During these hearings, it is imperative to provide full information in the applicable local languages on the proposed development, its potential benefits and its potential impacts at the local, regional and national levels, as well as the proposed resettlement and compensation measures for affected people. Special emphasis on the involvement of women residents in public hearings, and the incorporation of their perspectives on resettlement and compensation measures.

c) Further, it is important to urgently devise a policy of compensation that upholds the Constitutional guarantees, protects the land rights of persons living in current and prospective oil-rich areas so as to ameliorate the potential ramifications of unfair land alienation and malpractices accruing to oil and gas activity. This is particularly critical since land is not just the primary source of livelihood but also defines the way of life for many rural Ugandans.

A comparative analysis of the other resource-rich nations especially in developing countries reveals that issues of access to land and related resources, and forced displacement are a major reason of conflict. By providing for just and equitable practices around land, Uganda can avert similar problems.

The consideration of land acquisition and compensation in the oil producing areas should take cognizance of the range of customary land ownership patterns and the land rights of the people, which are recognized by the 1995 Constitution, that exist in the affected areas. This should further be translated into physical land surveying on the part of the government and awarding of land titles to people-a

process that remains prohibitive in terms of financial, legal and social resources and therefore cannot be undertaken by the common Ugandan – a significant barrier in protecting himself or herself from exploitation and land alienation and something which the GOU needs to seriously examine and address.

viii). Land use and Physical planning

Considering the infrastructural, commercial and other dimensions of the oil and gas industry and the vast repercussions there-in, there is need to bolster the physical planning of the areas where petroleum has been discovered or is potentially prevalent.

The Committee appreciates that the Albertine Graben has been declared a special planning area but further notes the need to expeditiously effect this plan and accordingly bridge the information gap about it.

ix). Health and safety

It is noteworthy that the oil and gas industry and its attendant activity comes with health and safety risks in as far as contamination, fires and adverse mechanical occurrences, among others are concerned. For the case of Uganda, in addition to the afore-mentioned risks, there also exists the threat of fault rupturing considering the geographical history of the rift valley formation in the area. This requires adequate capacity to not only manage such occurrences but also enable their avoidance.

There is therefore need to develop the requisite health and safety capabilities across the various stakeholders operating in the

industry. In addition, the policy and regulatory framework should address matters of health and safety appropriately.

7.0 Recommendations

The Committee recommends that the Petroleum (Exploration, Development and Production) Bill, 2012 be passed into law subject to the proceeding proposed amendments.

PROPOSED DRAFT AMENDMENTS TO THE PETROLEUM (REFINING, GAS PROCESSING AND CONVERSION, TRANSPORTATION AND STORAGE) BILL, 2012, BILL NO.2 OF 2012

- **Clause 2, page 7, Purpose of Act**

Amend clause 2 as follows-

1. Substitute for paragraph (a), the following-

“(a) enabling the development of petroleum refining, gas conversion, transmission pipelines, transit pipelines and midstream storage facilities;”

Justification

To remove activities which belong to the Upstream petroleum value chain and to include more activities that are part of the Midstream operations.

2. In paragraph (b), **substitute** for the words *“petroleum processing, transportation and storage facilities”*, the words *“midstream operations”*

Justification

To separate the upstream and midstream segments of the petroleum industry. The consequence of such a change is that throughout the Bill, most references to “petroleum activities” or “activities” should be substituted with “midstream operations”.

3. Substitute for paragraph (c), the following-

“(c) regulating the planning, preparation, licensing, installation and maintenance of facilities for midstream operations”

Justification

Consequential amendment to separate the segments of the petroleum industry.

4. Substitute for paragraph (d), the following –

“(d) providing for the security of midstream facilities”.

Justification

The security envisaged in this clause is in regard to midstream facilities.

5. Substitute for paragraph (e), the following-

“(e) promoting equitable access to facilities for midstream operations”

Justification

To bring out the fact that the equitable access is to facilities in the midstream petroleum value chain.

6. In paragraph (f), **insert** the words “*relation to*” immediately after the word “*in*” and **delete** the word “*petroleum*” appearing immediately after the word “*midstream*”

Justification

The provision applies to public safety and health and the environment in midstream operations.

7. Substitute for paragraph (g), the following-

“(g) promoting State participation and National content in midstream operations;”

Justification

To promote State participation and National content in the midstream petroleum value chain.

• **Clause 3, page 7- Interpretation**

Amend clause 3 as follows-

(a) **Insert** the following new definition immediately before the definition of “Authority”-

“Act” means the Petroleum (Refining, Conversion, Transmission and Midstream Storage Act), 2012”

Justification

To define the word “Act” as used in the Bill.

(b) **Substitute** for the definition of “authorised person” the following-

“authorised person” means a person authorised to carry out midstream operations under this Act”

Justification

To define the term “authorised person” in the context it is used in the Bill.

(c) **Delete** the definition of “gas processing”

Justification

Gas processing is an activity covered by the Upstream Bill.

(d) **Substitute** for the definition of “best petroleum industry practices” the following-

“best petroleum industry practices” means the use of what is accepted to be the best available and up-to-date methodology or technology applied under comparable conditions in order to carry out safe, transparent and efficient midstream operations, taking into account the environment, securing optimal regularity and output;”

Justification.

To provide for a definition that is appropriate for the midstream petroleum value chain.

(e) **Insert** the following new definition immediately after the definition of the word “code of practice”-

“conversion” means changing the natural gas component, without altering the molecular structure of the natural gas entered into the process through the use of pressure or temperature;

Justification

To define the term as used in the Bill for purposes of the midstream petroleum value chain.

(f) **Substitute** for the definition of “facility” the following-

““facility” means any plant, structure, device or other associated equipment or infrastructure used for midstream operations”

Justification.

For clarity and to remove attributes of the upstream petroleum value chain.

(j) **Substitute** for the definition of “*midstream petroleum operations*” the following-

““midstream operations” means planning, preparation, installation and execution of operations related to refining, conversion, transmission and storage of petroleum products, including cessation of operations and decommissioning of facilities;”

Justification

To provide for a definition that is appropriate to the midstream segment of the petroleum industry.

(k) **Insert** the following new definition immediately after the definition of “*midstream operations*”-

““midstream storage” means the storage of petroleum commodities or petroleum products at a facility for the purposes of refining, conversion or transmission;”

Justification

To define the term as used in the Bill

(l) In the definition of “*Minister*”, **substitute** for the words “*petroleum activities*”, the words “*midstream operations*”

Justification

To make reference to the Minister responsible for midstream operations.

(n) In the definition of “operator”, insert the word “legal” immediately after the word “any” and substitute for the words “petroleum activities”, the words “midstream operations”

Justification

To require an operator in the midstream petroleum value chain to be a legal entity.

(o) **Delete** the definition of “petrochemical”

Justification

The word was only used in the definition of “utilisation” which is also proposed for deletion.

(p) **Delete** the definition of “petroleum activity”

Justification

The term “petroleum activity” is proposed to be replaced with the term “midstream operations” to delineate from the Upstream Bill.

(q) **Substitute** for the definition of “petroleum commodities” the following-

“petroleum commodities” means produced petroleum which is marketable for sale, can be used as a feedstock for refining or conversion to petroleum products or direct consumption, including energy production;”

Justification

To simplify the definition by specifying the items that constitute petroleum commodities.

(r) **Delete** the definition of “petroleum agreement”

Justification

The term is not applicable under the Midstream Bill

(s) **Substitute** for the definition of “petroleum products”, the following-

*“**petroleum products**” means all products resulting from refining or conversion of petroleum commodities;”*

Justification

To provide a precise and concise definition of the term as used in the Bill.

(t) **Delete** the definition of “*petroleum pipelines*”

Justification

The definition is covered under the definition of “*midstream operations*”

(u) **Delete** the definition of “*petroleum processing*”

Justification

Petroleum processing is covered under the Upstream Bill.

(v) **Substitute** for the definition of “*refining*” the following-

*“**refining**” means the transformation of crude oil into finished or partly finished petroleum products using different processes of distillation, cracking and reforming or other methods altering the molecular structure of the crude oil;”*

Justification

To delineate the different segments of the petroleum value chain and for clarity.

(x) **Substitute** for the definition of “*standards*”, the following-

*“**standards**” means standards, specifications and codes of practice which apply to the operation, use, construction, decommissioning and disposal of facilities required for the purpose of carrying out midstream operations including emissions, company standard, compulsory standard specifications, internal standard or national standard issued under the National Bureau of Standards Act but excludes standards on quality of petroleum products for the market;”*

Justification

To differentiate standards issued under this Bill and those under the Petroleum Supply Act, 2003

(y) **Delete** the definition of “*storage facility*”

Justification

The definition is covered under the definition of “*midstream storage*”

(z) In the definition of “*tariff*”, **substitute** for the words “*petroleum pipeline, storage facilities of refining and other processing facilities*”, the words “*relating to midstream operations*”

Justification

To delineate the different segments of the petroleum value chain.

(aa) **Delete** the definition of “*transportation*”

Justification

The term “*transportation*” has been replaced by the term “*transmission*”

(bb) **Insert** the following new definition immediately after the definition of “*tariff*”-

“ **“*transmission*”** means *transportation of petroleum products but not for distribution to consumers or retailers or transportation of petroleum commodities through pipelines, including transit pipelines and pipelines originating from outside Uganda connected to and with its inlet or outlet flange at a refinery or gas conversion facility in Uganda;*”

Justification

To distinguish from transportation under the Upstream Bill and the Petroleum Supply Act, 2003.

(cc) **Delete** the definition of “*unprocessed gas*”

Justification

The gas fed into the midstream petroleum value chain is already processed, that is, cleaned up to remove impurities. It comes to the midstream for conversion into products.

(dd) **Delete** the definition of “*utilization*”

Justification

The resource management aspect of controlling utilization of petroleum in the Upstream is not present to the same extent for the midstream operations to warrant the use of the term. The term applies more under the Upstream Bill.

- **Clause 4, page 12- Compliance with environmental principles**

Amend clause 4 as follows-

(a) In subclause (1), **substitute** for the words “*petroleum activities*”, the words “*midstream operations*” and substitute for the words “*give effect*”, the words “*comply with*”

Justification

To modify the provision to bring it within the scope of the midstream petroleum value chain; and to emphasise compliance.

(b) In subclause (2), **substitute** for the words “oil and gas activities”, the words “midstream operations”

Justification

To refine the provision to limit its scope of application to the midstream segment of the petroleum industry.

(c) **Substitute** for subclause (3) the following-

“(3) The National Environment Management Authority (NEMA) may, in consultation with the Authority grant a licence to different entities referred to in subsection (2), on terms and conditions prescribed in the licence, for the management of transportation, storage, treatment or disposal of waste arising out of midstream operations”

Justification

To redraft the subclause to provide more clarity.

(d) In sub clause (5) –

(i) **Substitute** for the words “*petroleum activities*”, the words “*midstream operations*”

(ii) **Substitute** for the words “*five thousand*”, the words “*one hundred thousand*”, and for the word “*ten*”, the word “*twenty*”.

Justification:

To remove aspects regulated under the upstream Bill; and to provide for a more deterrent penalty.

(d) In sub clause (6), **substitute** for the words “*petroleum activities*”, the words “*midstream operations*”

Justification:

To remove aspects regulated under the upstream Bill;

(e) In sub clause (7), **substitute** for the words “*five thousand*”, the words “*one hundred thousand*”, and for the word “*ten*”, the word “*twenty* ”.

Justification:

To provide for a more deterrent penalty.

(f) In sub clause (8), **substitute** for the words “*petroleum activities*” wherever they appear, the words “*midstream operations*”

Justification

The clause is in specific regard to the midstream petroleum value chain.

PART II- INSTITUTIONAL ARRANGEMENTS.

- **Insert** the following new clause immediately before clause 5-

“5. Functions of the Minister

The Minister shall be responsible for-

- (a) *granting, suspending and revoking licenses;*
- (a) *initiating, developing and implementing policy concerning midstream operations;*
- (b) *submitting draft legislation to Parliament;*
- (c) *stipulating regulations for midstream operations;*
- (d) *promoting and sustaining transparency in the midstream petroleum sector; and*

(e) *any other function incidental or consequential to his or her functions under this Act.*”

Justification

To provide for the functions of the Minister responsible for midstream operations.

• **Clause 6, page 13- Functions of the Authority.**

(a) **Delete** the word “*petroleum*” appearing immediately after the word “*midstream*” and the words “*and activities in Uganda*” appearing after the word “*operations*”;

Justification

To provide for the activities of the Authority in regard to the midstream segment of the petroleum industry.

(b) **Amend sub clause (2) as follows-**

(i) in paragraph (a) **substitute** for the words “*petroleum refining, gas processing and conversion, transportation and storage*” the words “*midstream operations*”;

Justification

To modify the provision to restrict its application to the midstream segment of the petroleum industry.

(ii) in paragraph (b), **substitute** for the words “*petroleum processing transportation and storage facilities*” the words “*midstream operations and facilities*”;

Justification

To modify the provision to restrict its application to the midstream segment of the petroleum industry.

(iii) **insert** the following new paragraph immediately after paragraph (b) and renumber accordingly-

“(c) *advise the Minister in the negotiation of agreements regarding*

midstream operations and in the granting, suspending and revoking of licenses;

Justification

To include among the functions of the Authority the rendering of advice to the Minister in the negotiation of agreements, granting, suspending and revoking of licences in the midstream segment.

(iv) in the former paragraph (c), **insert** the words *“pertaining to midstream operations”* immediately after the word *“plans”*.

Justification

The plans relate to midstream operations.

(v) in paragraph (d), insert the words *“and other applicable terms”* immediately before the word *“rules”* and **delete** the words *“and contract terms”*;

Justification: To accommodate other terms the licensees may be required to uphold beyond those in contracts, for example those under the licence or issued in directives.

(vi) **substitute** for paragraph (e), the following-

“(e) administer any agreements and contracts between the Government and the licensee related to midstream operations.”

Justification

To reflect that the agreements or contracts referred to in the provision relate only to midstream operations.

(vii) in paragraph (f), **substitute** for the word *“utilisation”*, the word *“use”*

Justification

The term utilisation has been proposed for deletion as the resource management aspect of controlling utilisation of petroleum in the upstream segment is not present to the same extent for midstream operations.

(viii) **substitute** for paragraph (h), the following-

“(h) promote, regulate, enforce and monitor standards of operations and code of practice for midstream operations;”

Justification

To relate and restrict the provision to midstream operations; and apply a more suitable word *“promotion”* instead of *“encouraging”*.

(ix) **Substitute** in paragraph (j), the words “gas processing” the word “conversion”

Justification

To remove gas processing from the midstream petroleum value chain and introduce the relevant midstream term “conversion”.

(x) in paragraph (k) **insert** the words “in cooperation with other Government agencies” at the beginning of the provision, and **substitute** for the words, “*petroleum activities*” the words “*midstream operations*”.

Justification

To require the authority to cooperate with other Government agencies to ensure compliance with health, safety and environmental requirements in midstream operations.

(xi) **Substitute** for paragraph (l), the following-

“(l) ensure, monitor and facilitate access to and use of facilities by third parties;”

Justification

There is need to regulate competition to keep facilities within required numbers that make economic sense, especially that they are too expensive to construct and costs can only be recovered when only the required number of facilities is put up; and to provide for ensuring, monitoring and facilitating access to and use of facilities by third parties.

(xii) in paragraph (n), **substitute** for the words “*petroleum activities*”, the words “*midstream operations*”

Justification

The information required here is in regard to collection of taxes and fees from midstream operations.

(xiii) **delete** paragraph (p)

Justification

The role of developing regulations is a policy role to be performed by the Minister.

- **Clause 7, page 15- National Oil Company**

Substitute for sub clause (2), the following –

“(2) The Minister may, with the approval of Cabinet, decide that the National Oil Company shall participate in midstream operations in accordance with the functions attributed to the National Oil Company under the Petroleum Exploration, Development and Production) Act, 2012.”

Justification:

To empower the National Oil Company to participate in midstream operations.

- Part III, page 15- Licensing, **substitute** for the cross reference, the following-

“Licensing of Midstream Operations”

Justification

This part applies only to midstream operations.

- **Clause 8, page 15- Agreements with Government**

Substitute for clause 8, the following-

“8. Agreements with Government

The Government may enter into an agreement relating to midstream operations and facilities in accordance with this Act with any person relating to the following matters-

- (a) the grant of a licence;*
- (b) the conditions for granting or renewing of a licence;*
- (c) any ownership share of Government or other ownership arrangements;*
- and*
- (d) any other matter incidental or connected to the matters in paragraphs (a), up to (c).”*

Justification

To allow the Government to open a competitive bidding for investors to compete for a contract to construct or operate a facility; and also to empower Government to decide that investors in the upstream petroleum activities must also (for the duration of the upstream licence) invest in a corresponding share in the midstream facilities required.

- **Clause 9, page 16- Activities relating to crude oil and gas**

Amend clause 9 as follows-

(a) **Substitute** for the headnote the following-

“Midstream Operations requiring a licence”

Justification

The licence envisaged under clause 9 is for mid stream operations.

(b) **Substitute** for subclause (1) the following-

“9. Midstream operations requiring a licence

(1) *A person shall not construct or operate the following without a licence issued by the Minister under this Act-*

- (a) *a facility for refining crude oil;*
- (b) *a facility for conversion of natural gas;*
- (c) *a transmission pipeline;*
- (d) *a midstream storage facility; or*
- (e) *any other facility for the purpose of midstream operations subject to this Act or any regulations prescribed under this Act.*

(2) *A person who contravenes subsection (1) commits an offence and is liable on conviction-*

(a) *if an individual, to a fine not exceeding one hundred thousand currency points or imprisonment not exceeding ten years or both; and*

(b) *if a body corporate, to a fine not exceeding two hundred thousand currency points.”*

Justification

For clarity; and to provide for a more deterrent penalty.

• **Clause 10, page 16- Application for a licence**

Amend clause 10 as follows-

(a) In sub clause (1), **substitute** for the words “section 9”, the words “this Act”;

Justification:

To use an appropriate all – embracing term since the whole Act affects the licence and therefore applications for the licence.

(b) **Insert** the following new subclause immediately after subclause (2)-

“(3) Any agreements regarding joint operation arrangement shall be in accordance with this Act and subject to approval by the Minister.”

Justification:

To ensure that all joint operation agreements comply with the Act and are executed must be approved by the Minister.

c) **Insert** the following new subclause immediately after subclause (3)-

“(4) Where the applicant is a licensee under the Petroleum (Exploration, Development and Production) Act, 2012 or the Petroleum Supply Act, 2003 the Minister may require the applicant to furnish additional information.”

Justification

To ensure that the authorities understand the plan the investor has across the petroleum value chain. This information may also serve a purpose of stipulating conditions and planning for efficient use of both upstream and midstream facilities.

(d) In sub clause (5) **delete** the words “two or more” appearing immediately after the word “in” and **insert** the words “each phase and on” immediately after the word “on”.

Justification:

To require the applicant to furnish information to the Authority on each phase and on the full development of the facility, where its development is planned in phases.

(e) In sub clause (6) **substitute** for the words -

“may”, the word “shall” in paragraph (a) ;

“licensee”, the word “applicant” in paragraph (a).

Justification:

To make it mandatory for the Minister to require an applicant to make arrangements for satisfactory security/ performance bond and to take out necessary insurance policies; at this stage there is no licensee, yet but there is only an applicant to provide for; and the provision applies to mid stream operations.

(f) In sub clause (6) (b)-

(i) **substitute** for the word “*licensee*” the word “*applicant*”;

Justification:

There is no licensee at this stage. There is an applicant seeking to become a licensee.

(ii) **substitute** for the words “*activities done under the licence*” the words “*midstream operations carried out under a licence*”;

Justification:

The provisions is in regard to midstream operations carried out under a licence but not petroleum exploration and development activities as catered for under the upstream Bill.

(iii) **substitute** in sub clause (7), for the word “*ninety*”, the words “*one hundred eighty*”

Justification

To increase the time limit for reviewing the applications. Both pipelines and refineries are complex construction projects with many issues to consider.

• **Clause 11, page 20- Activities not requiring a licence**

Amend clause 11 as follows-

(a) **Substitute** for the headnote, the following-

“*Operations not requiring a licence*”

Justification

This provision caters for midstream operations.

(b) In subclause (1)-

(i) **delete** the words “*a pipeline or storage*” and insert the words “*used for midstream operations*” immediately after the word “*facility*”

Justification:

The facility referred to in the provision is one for midstream storage.

(ii) **delete** paragraph (a).

Justification

The pipelines covered by the provision belong to the Upstream petroleum value chain.

(c) **Delete** sub clause (2)

Justification

This situation is regulated under the Petroleum Supply Act, 2003; is not part of the midstream but belongs to the downstream petroleum value chain.

(d) In sub clause (3) **substitute** for the word “*activity*”, the word “*operation*” wherever it appears and **delete** the words “*and (2)*”.

Justification:

The appropriate term under the midstream is “operation”, activity is applied in the upstream.

• Clause 12, page 21- Publication of notice of applications

1. In sub clause (1) **insert** the words “*for a licence*” immediately before the word “*cause a notice*”.

Justification

To specifically bring out the fact that the application is for a licence.

2. In sub clause (2), (c), **insert** the words “*the laws governing intellectual property rights and*” immediately before the words “*commercial confidentiality*”.

Justification:

To protect intellectual property rights and confidentiality of commercial information of the applicant;

• Clause 13, page 21- Requirements for granting a licence

In sub clause (2), **substitute** for the words “*decommissioning plan*”, the words “*description of the planned decommissioning and disposal of the facility.*”

Justification:

To emphasise that the applicant must as a matter of importance arrange for appropriate insurance policy protection; and a full decommissioning plan will not be prepared at this time but a cessation strategy should be required at this stage.

- **Clause 14, page 22- Objection to application.**

(a) In sub clause (1), **insert** at the end the words “*within the time specified in the notice of application, being not less than thirty days after the notice*”.

Justification:

To provide for adequate time of thirty days for the public to view the notice and prepare and submit their objections.

Delete sub clauses (3), (4), (5) and (6).

Justification

These are procedural details that should be covered under regulations.

- **Clause 15, page 22- Approval of application for licence**

Amend clause 15 as follows-

(a) **substitute** for the headnote, the following-

“*Consideration of an application for a licence*”

(b) In subclause (1) **substitute** for the words “*in the prescribed manner within sixty days*” the words “*for a licence in a manner prescribed by regulations*”

Justification

To empower the Minister to prescribe the manner of determining an application for a licence by regulations.

(c) **Delete** sub clauses (2), (3).

Justification:

These details are to be covered under regulations.

Justification:

(d) Substitute in sub clause (4) for the word “*inform*” immediately after the words “*licensee shall*” the words “*seek approval of the Minister*”

Justification:

To require the licensee to seek approval of the Minister in case any significant changes are made to: the application as submitted or approved; or to the facility or use of the facility.

- **Clause 16, page 23- Grant of licence**

Substitute for sub clause (2), the following -

“(2) The Minister may grant a licence for the construction, placement, operation and use of the following facilities to one or more applicants-

- (a) a facility for refining of crude oil;*
- (b) a facility for the conversion of natural gas;*
- (c) a transmission pipeline;*
- (d) a midstream storage facility; or*
- (e) any other facility for the purpose of midstream operations subject to this Act or regulations issued under this Act.”*

Justification

To empower the Minister to grant a licence to operate a midstream facility to one or more applicants.

- **Clause 17, page 24- Activities authorised by licence**

(a) **Substitute** for the headnote the following-

“Operations authorised by licence”

(b) **Merge** paragraphs (a) and (b) to read as follows-

“A licence shall authorise the licensee to construct, place, operate and use a facility for midstream operations subject to this Act.”

Justification

Modified to keep the provision within the realm of the midstream petroleum value chain.

- **Clause 18, page 24- Grounds for rejection of application for licence**

In subclause (2), **insert** the words *“within thirty days after the rejection stating the grounds for the rejection”* immediately after the word *“writing”*.

Justification

To require the Minister to communicate to applicants as soon as an application is rejected, the grounds for the rejection.

- **Clause 19, page 24- Conditions for a licence**

Amend clause 19 as follows-

1. **Substitute** for paragraph (c), the following-

“(c) the access to a facility used for midstream operations by third parties other than licensees, including terms and conditions in contractual arrangements that regulate access, pricing and tariffs;”

Justification

To allow the Minister to set as a condition for a licence the use of facility owned by the licensee by third parties.

2. In paragraph (d)-

(i) **insert** the word *“commodities”* immediately after the word *“petroleum”* and **delete** the word *“processing”*;

(iii) in subparagraph (ii), **substitute** for the words *“crude oil and raw gas”* with the words *“petroleum commodities”*;

(iii) in subparagraph (iii), **substitute** for the words *“crude oil and raw gas”* with the words *“petroleum commodities”*;

3. In paragraph (e), **substitute** for the words *“oil and gas”* the word *“petroleum”*

4. In paragraph (h), **substitute** for the words *“the petroleum refining, gas processing and conversion, transportation or storage activities”* the words *“midstream operations”*

5. **substitute** for paragraph (i), the following-

“(i) to the interconnections of the licensee’ facility to the facilities of other licences”

6. **Substitute** for paragraph (j), the following-

“(j) access to available capacity in the facility by third parties on commercially acceptable terms and on the basis that the capacity is shared among all users in proportion to their needs, provided that such use would not constitute any unreasonable detriment to the licensee’s own needs for capacity or to the needs of someone who has already been assured the right of use”

7. In paragraph (k)-

(i) **insert** the word *“transmission”* immediately before the word *“pipeline”* wherever it appears;

(ii) **insert** the word *“midstream”* immediately after the word *“storage”*

8. **insert** a new paragraph (m) as follows -

In paragraph (m) **insert** the words *“necessary under any relevant law or as may be”* between the words *“as may be”* and the word *“prescribed”*

Justification

To empower the Minister to stipulate conditions for licensing midstream operations under different circumstances; enhance the requirement for insurance protection; and to simplify the language of the clause.

• **Clause 21, page 26- Duration of a licence to construct or operate the petroleum refining, transportation or gas facility.**

Amend clause 21 as follows-

(a) **Substitute** for the headnote, the following-

“Duration of a licence for midstream operations”

Justification

To bring out the fact that the licence is for midstream operations.

(b) In sub clause (1) -

(i) **insert** the words *“and operate”* immediately after the word *“construct”*;

(ii) **substitute** for the words *“petroleum refining, gas processing and conversion, transportation and storage”* with the words *“midstream operation”*;

(iii) **delete** the word *“initially”*;

(iv) **substitute** for the word “*five*”, the word “*thirty*”

Justification

To separate midstream operations under this Midstream Bill from petroleum activities under the Upstream; and to increase the duration of a facility licence. The short duration would discourage investors because it introduces a risk of losing the asset after construction.

(c) **Substitute** for subclause (2), the following-

“(2) On completion of construction or substantial modification of a facility, the Authority may grant the licensee an operation permit allowing the licensee to commence operation of the facility and the operation permit shall not be for a duration longer than the licence.”

Justification

To empower the Minister to grant operation permits as a way of checking on compliance.

(d) **Delete** sub clause (3).

Justification

Consequential upon the amendment of sub clause (1).

• **Clause 24, page 27- Renewal of a licence**

In sub clause (1), insert the words “*for five years at a time*” at the end of the subclause.

Justifications

To establish a clear and predictable monitoring framework to ensure efficiency of operations.

• **Clause 25, page 28- Disclosure of co-operation agreements by applicants**

(a) In subclause (1), **insert** the words “*in accordance with this Act*” at the end of the clause.

(b) **Substitute** for subclause (2), the following-

“(2) The Minister may require alterations referred to under subsection (1) where the contractual arrangements directly or indirectly affect -

- (a) *the operations of the facility;*
- (b) *the rights pertaining to the access or use of the facilities; or*
- (c) *applicable tariffs or pricing of purchased petroleum commodities or sale of petroleum products.”*

Justification

To be clearly state the circumstances under which the Minister may require alterations in the cooperation agreements.

- **Clause 27, page 30- Work practices for licensees.**

Amend clause 27 as follows-

(a) In sub clause (1), **substitute** for the words “*petroleum activities*”, the words “*midstream operations*” and **insert** the word “*industry*” between the words “*petroleum*” and “*practices*”

Justification:

Consequential amendment to separate upstream activities from midstream operations; and to apply the word “best petroleum industry practices as defined in the Bill.

(b) In sub clause (2) -

(i) **substitute** for the words “*petroleum activities*” the words “*midstream operations*”;

Justification:

Consequential amendment to separate upstream activities from midstream operations.

(ii) **substitute** for paragraph (a), the following-

“(a) controlling the flow and preventing the waste, emission or discharge of petroleum commodities or petroleum products into the environment;”

Justification:

To make reference to the proper subject matter of the flow, waste or discharge intended; and to apply the word environment in its broad word sense.

(iii) In paragraph (b), **delete** the word “*or*” appearing immediately after the word “*water*”.

Justification:

To achieve clarity.

(iv) **Substitute** for paragraph (c), the following-

“(c) preventing the pollution of any water well, spring, stream, river or lake by the escape of petroleum commodities or petroleum products, chemicals or any other waste products, discharges or effluent;”

Justification:

To clearly state potential pollutants to water sources within the midstream.

(v) In paragraph (d) **substitute** for the word “it” the words “*the pollutant*”

Justification:

To clarify that what is meant for treatment or discharge is the pollutant.

(vi) In paragraph (e), **substitute** for the word “*activity*”, the words “*midstream operations*”

Justification

To separate midstream operations under the midstream Bill form petroleum activities under the upstream law.

(c) In sub clause (3), **substitute** for the number 46(3) the number 39 (3).

Justification:

To correct a wrong reference.

• **Clause 28, page 31- Processing, transportation, transmission or storage of unauthorised substance.**

Amend clause 28 as follows-

(a) **Substitute** for the headnote the following-

“Refining, conversion, transmission or midstream storage of unauthorised substance”

Justification

To delineate the midstream operations from upstream petroleum activities.

(b) In subclause (1), **substitute** for the words “*processing, transportation*” the words “*refining, conversion*” and insert the word “*midstream*” immediately before the word “*storage*”

Justification

Consequential amendment to separate the midstream operations from upstream petroleum activities.

(c) In subclause (2) **substitute** for the words “*processing, transportation*” the words “*refining, conversion*” and insert the word “*midstream*” immediately before the word “*storage*”

Justification

Consequential amendment to separate midstream operations from upstream petroleum activities.

(d) **Clause 28, page 31** is amended in sub clause (3) **substitute** for the word “*five*”, the word “*ten*”.

Justification:

To provide for a more deterrent penalty.

• **Clause 29, page 31- Notice to cease operation**

Amend clause 29 as follows-

(a) In subclause (1), **substitute** for the word “*operator*”, the word “*licensee*” where it appears and **substitute** for the words “*petroleum or gas activity*” the words “*midstream operations*”

Justification

Consequential amendment to separate midstream operations from upstream petroleum activities and to ensure that the regulator deals directly with the licensee.

(b) **Substitute** for subclause (2), the following-

“(2) *Where a direction given under this section is not complied with, the Authority may enter any site or facility where the midstream operations are conducted and cause the direction to be carried out.*”

Justification

Consequential amendment to separate midstream operations from upstream petroleum activities and for further clarity.

(c) **Substitute** for subclause (3), the following-

“(3) The cost to the Authority of any action under subsection (2) may be recovered by the Authority from the licensee, as a debt due to the Authority and within a time period prescribed by regulation or by an order of a court of competent jurisdiction.”

Justification

To redraft the sub clause for clarity.

- **Clause 30, page 32- Surrender of licence**

In subclause (2), **substitute** for the words “*the obligations*”, the words “*terms and conditions*” ; **insert** the words “*and disposal*” after the word “*decommissioning*” and **delete** the words “*and the conditions on which it has been granted*”

Justification

In the Midstream emphasis is put on terms and conditions as contained in the licence; and to delete redundant words.

- **Clause 31, page 32, is amended by inserting a new sub clause (2) as follows –**

“(2) The Minister shall inform Parliament of the suspension or cancellation of the licence within fourteen days of service of the notice in sub section (1).

Justification:

To up-date Parliament on this development.

- **Clause 32, page 35- Consequences of cancellation, surrender of rights or lapse for other reasons**

Substitute for subclause (2), the following-

“(2) Where a condition of the licence, which may include decommissioning and disposal costs has not been fulfilled, the licensee shall pay the amount which fulfilment of such condition would have cost the licensee if the work

had been completed.”

Justification

The midstream licence contain terms and conditions and the provision should reflect this.

- **Clause 33, page 35- Formation of cartels and monopolies**

Amend clause 33 as follows

(a) In subclause (1) **substitute** for the words “*petroleum refining, gas processing and conversion, transportation and storage*” the words “*midstream operations.*”

(b) In subclause (2) **substitute** for the words “*petroleum refining, gas processing and conversion, transportation and storage*” the words “*midstream operations*” and *midstream storage*”.

(c) In subclause (3) **substitute** for the words “*petroleum refining, gas processing and conversion, transportation and storage*” the words *midstream operations and midstream storage*”.

(d) In subclause (4) **substitute** for the words “*petroleum refining, gas processing and conversion, transportation and storage*” the words *midstream operations and midstream storage*”.

(e) In sub clause (5), **substitute** for the words “*fifteen thousand*” the words “*five hundred thousand*”, and for the word “*ten*” the word “*twenty*”.

Justification:

To provide for a more deterrent penalty.

(f) In sub clause (6) **substitute** for the words “*petroleum refining, gas processing and conversion, transportation and storage*” the words *midstream operations and midstream storage*”.

Justification.

Consequential amendment to separate the segments of the petroleum value chain.

- **Clause 35, page 37- Methods and practices for storage of petroleum**

Amend clause 35 as follows-

(a) **Substitute** for the headnote, the following-

“Methods and practices for midstream storage”

Justification

To use the word “midstream storage” which is defined and differentiate from the storage covered under the upstream Bill.

(b) In subclause (1) **substitute** for the word “*petroleum*”, the word “*midstream*”

Justification

To use the word “midstream storage” which is defined and differentiate from the storage covered under the upstream Bill.

(c) In subclause (1) (d), **substitute** for the words “*charges for services rendered*”, the words “*tariffs charged*”

Justification

To use the word “tariffs” as defined in the Bill.

(d) In subclause (2), **substitute** for the words “*charges*”, the word “*tariffs*” and **insert** the word “*midstream*” before the word “*storage*”

Justification

To delineate the midstream operations from upstream petroleum activities and to ensure that the regulator deals directly with the licensee and to use the word “tariff” which is defined in the Bill.

(e) In subclause (3), **insert** the words “*commodities or products*” at the end of the clause.

Justification

To use the words as defined in the Bill.

- **Clause 36, page 37- Methods and practices for transportation or transmission of petroleum**

Amend clause 36 as follows-

(a) **Substitute** for the headnote the following-

“Methods and practices for transmission of petroleum commodities or products”

Justification

Consequential amendment to separate the midstream transmission covered under this Bill from transportation in the upstream Bill.

(b) **Delete** the words “transportation or”;

Justification:

Transportation only applies in the upstream and downstream and not in the midstream.

(c) In paragraph (b), **delete** the words “*transportation or*” and **insert** the words “*commodities or products*” after the word “*petroleum*”

Justification:

Consequential upon the separation of the upstream from the midstream petroleum value chain.

(d) In paragraph (c) **substitute** for the words “*charges of*” the words “*tariffs for*”

Justification:

To apply appropriate word “tariff” as defined in the Bill.

(e) In paragraph (d), **substitute** for the word “*charges*” the word “*tariffs*” and **delete** “*transportation or*”

Justification

Consequential amendment to separate the midstream transmission covered under this Bill from transportation in the upstream law.

• **Clause 37, page 38- Meetings of Authority with Licensees**

(a) In subclause (1), **delete** the word “*petroleum*”

Justification:

Consequential amendment to separate midstream operations from upstream activities.

(b) In subclause (2), **substitute** for the words “*extra ordinary*”, the word “*extraordinary*”

Justification

To apply the proper word “extraordinary” instead of the words “extra ordinary”.

- **Clause 38, page 38- Register of licences**

Substitute for the word “*petroleum*”, the words “*midstream operations*”

Justification

To distinguish the midstream register from the register established under the upstream Bill.

- **Clause 39, page 38- Restriction on flaring and venting**

(a) In sub clause (3) (a), **substitute** for the word “*petroleum*”, the word “*midstream*”

(b) In sub clause (6), substitute for the word “*one*” the words “*three hundred*”.

Justification:

To provide for a more deterrent penalty.

- **PART V- PETROLEUM ACQUISITION AND PRICING**

Amend Part V as follows-

(a) **Substitute** for the cross heading, the following-

“ACQUISITION OF PETROLEUM COMMODITIES AND PRICING OF PETROLEUM COMMODITIES AND PRODUCTS”

Justification

To bring out the distinction between midstream operations and upstream petroleum activities.

(b) In clause 40-

(i) **substitute** for the headnote, the following-

“Acquisition and pricing of petroleum commodities”

(ii) **substitute** for subclause (1), the following-

“(1) Whenever available, a refinery or conversion plant in Uganda shall give priority to petroleum commodities produced in Uganda.”

Justification

To drop redundant words.

(iii) **Delete** subclause (2).

Justification

It is covered under sub clause (1).

(iv) **Substitute** for subclause (3), the following-

“(3) The pricing of petroleum produced shall be in accordance with the method prescribed by regulations and shall take into account world market pricing based on arm’s length principles.”

Justification

To mandate the Minister to prescribe the pricing of petroleum produced in the midstream.

• **Clause 42, page 40- Supplies or deliveries to cover Uganda’s requirements**

(a) In subclause (1), **insert** the words *“for petroleum commodities and products and may further direct”* immediately after the word *“requirements”* and insert the word *“commodities or”* immediately after the word *“petroleum”*.

Justification

To ensure security of domestic supplies and widen the scope to cover petroleum commodities.

(b) In subclause (3), insert the words *“commodities or products”* immediately after the word *“petroleum”* and insert *“(1) and”* immediately after *“40”*

Justification

To use the term “petroleum products” as defined in the Bill.

- **Clause 43, page 40- Supplies or deliveries in case of war, threat of wars and other crisis**

In subclause (1), **insert** the words “*commodities or products*” immediately after the word “*petroleum*”.

Justification

To use the term “petroleum products” as defined in the Bill.

- **PART VI- CESSATION OF PETROLEUM ACTIVITIES**

Part VI is amended as follows-

(a) **Substitute** for the heading, the following-

“*CESSATION OF MIDSTREAM OPERATIONS*”

Justification

This part deals with cessation midstream operations.

(b) Clause 44 is amended as follows –

(i) In sub clause (1) (a), **substitute** for the words “*operate a*” the words “*construct or operate a midstream*”

(ii) In sub clause (1) (b), **insert** the word “*midstream*” immediately before the word “*facility*”

(iii) In sub clause (2), **insert** the word “*midstream*” immediately before the word “*facility*” and **insert** the words “*including disposal, where applicable*” at the end of the subclause.

(iv) In sub clause (3), **substitute** for the words “*petroleum activities*” the words “*midstream operations, other use*”

(v) In sub clause 6(a), **insert** the word “*midstream*” immediately before the word “*facilities*”

(vi) In sub clause (6)(b), **substitute** for the words “*techniques for the*” the words “*technologies for such*”

(vii) In sub clause (6) (c), **substitute** for the words “*techniques*” the words “*technologies*”

(viii) In sub clause (d) **substitute** for the words “*the time*” the words “*a reasonable time limit*”

Justification

To delineate the midstream operations from upstream petroleum activities.

- **Clause 45, page 41- Decommissioning Fund**

(a) **Substitute** for sub clause (1), the following-

“(1) The Minister may stipulate in regulation that a decommissioning fund shall be established for one or several types of facilities used for midstream operation or midstream storage.”

(b) **Insert** the following new subclause (2) immediately after subclause (1)-

“(2) The purpose of the fund is to ensure that sufficient funds are allocated for costs related to the implementation of a decommissioning plan.”

Justification

The fund established under this Bill is different from the fund under upstream.

The purpose of the clause is to delineate the different segment.

- **Clause 47, page 42- Disposal of decommissioned facilities**

(a) In subclause (4) **delete** the words “*and the owner of a facility*” and insert the words “*of a facility*” after the word “*disposal*”

(b) In subclause (7) **substitute** for the words “*petroleum activities*”, the words “*midstream operations*”

(c) **Substitute** for sub clause (9) the following-

“(9) Where the decommissioning fund does not cover the costs of implementation of the decommissioning plan, the licensee shall cover the additional costs and expenses.”

Justification

The redraft is for clarity and delineation of the different segments of the petroleum value chain.

- **Clause 48, page 43- Removal of property by licensee**

(a) In subclause (1), **insert** the word “*shall*” immediately after the word “*Authority*”

Justification:

For clarity

(b) In subclause (1) (b), **delete** the words “*to plug or*”

Justification

The term plug is used under the upstream segment.

(c) In subclause (1) (c), **substitute** for the words “*natural resources in that area*” the words “*environment*”

Justification

For clarity

(d) In sub clause (3), **substitute** for the word “*one*”, the word “*five*”

Justification:

To provide for a more deterrent penalty.

• **Clause 49, page 44- Removal and sale of petroleum by the Authority**

(a) In subclause (3) (a), **substitute** for the words “*owner of the property*” with the word “*licensee*”

Justification

The contract is between the government and the licensee and not the owner the property

(b) In subclause (3) (b) **insert** the words “*responsible for the disposal*” immediately after the word “*licensee*”

Justification

For clarity

• **Clause 50, page 46- Liability for damages for disposal of decommissioned facility**

(a) In subclause (1) **substitute** for the words “*person under obligation*” the word “*licensee obliged*”

Justification

For clarity

(b) In subclause (2), **delete** the words “*or owner*” wherever it appears”

Justification

The licensee will be responsible to the government.

(c) In subclause (4), **substitute** for the words “*the owner and the state*” with the word “*minister*” and the for the word “*State*” the word “*government*”

• **Clause 53, page 47- State participation in petroleum activities**

(a) **Substitute** for the headnote, the following-

“*State participation in midstream operation*”

Justification

To delineate the midstream operations from upstream petroleum activities.

(b) In subclause (1), **substitute** for the words “*petroleum activities*” the words “*midstream operations*”

Justification

To delineate the midstream operations from upstream petroleum activities.

• **Clause 54, page 47- provision of goods and services by Uganda entrepreneurs.**

(a) In sub clause (1), substitute for the word “*it*”, the word “*their*”

Justification:

To modify the provision to accommodate human beings as well.

(b) In sub clause (2) (a), **substitute** for the word “*petroleum*”, the word “*midstream*”

Justification

To delineate the midstream operations from upstream petroleum activities.

(c) In sub clause (5), **Delete** the words “for a” and **substitute** for the word “one”, the words “ten thousand”

Justification:

To correct language; and provide for a more deterrent penalty.

• **Clause 55, page 48- Training and employment of Ugandans**

(a) In subclause (1), **insert** the words “under this Act” immediately after the word “licence” and delete the words “petroleum” appearing after the word “midstream” on the last line.

Justification

To delineate the midstream operations from upstream petroleum activities.

(b) **Delete** subclause (2) and **insert** the following new subclauses immediately after the current subclause (2)-

“(2) The Authority shall with the approval of the Minister provide guidelines to the licensees in regard to the training and recruitment of Ugandans in mid stream operations”.

The training and recruitment programme shall provide for the training of Ugandans in all phases of midstream operation.

(3) Where a programme or a scholarship proposed to be awarded under this section has been approved by the Authority, it may not be varied without the permission of the Authority.

(4) The licensee shall submit to the Authority a report on the execution of the recruitment and training programme under this section.”

Justification

To modify the training programme for purposes of the midstream operations.

• **Clause 56, page 48- Training and technology transfer**

(a) In subclause (3), **insert** the words “and transfer” immediately after the word “transfer” and delete the word “petroleum” appearing on the last line.

Justification

To bring out clearly transfer of knowledge in the midstream segment of the petroleum industry.

(b) **Delete** subclause (4).

Justification

To avoid putting responsibility on government.

- **Clause 57, page 49- Use of licence as security**

(a) In subclause (1), **substitute** for the word “activities” the word “operations”

Justification

To restrict application of the clause to midstream operations.

(b) **Delete** subclause (2).

Justification

This provision can be easily abused.

- **Clause 58, page 49- Meaning of pollution damage**

Substitute for clause 58 the following-

“In this Part-

“pollution” means any direct or indirect alteration of the physical, thermal, chemical or biological properties of any part of the environment by discharging, emitting or depositing wastes so as to affect any beneficial use adversely, to cause a condition which is hazardous or potentially hazardous to land, public health, safety or welfare, or to fauna and flora, or to cause a contravention of any condition, limitation or restriction which is subject to a licence under this Act; and

“pollution damage” means damage or loss caused by pollution as a consequence of effluence or discharge of any substance from a facility.”

Justification

To clearly define the term pollution damage as used in the Act to minimise reference to the Upstream Act in this Bill.

- **Clause 59, page 49- Application of Part**

(a) In subclause (1), **insert** the words “, *vehicle, locomotive or craft*” immediately after the word “*vessel*”

(b) In subclause (2) **substitute** for the words “*issue rules*” the words “*prescribe regulations*” and for the words “*petroleum activities*” the words “*midstream operations*”

(c) In subclause (3), **substitute** for the word “*rules*” appearing at the beginning of the subclause, the word “*regulations*”

Justification

To empower the Minister to prescribe regulations in the mid stream petroleum segment.

- **Clause 60, page 50- Liability of licensee for pollution damage**

In subclause (1) **substitute** for the words “*in petroleum activities*” the words “*from midstream operation*”

Justification

To clarify that the liability for pollution in this clause is in regard to mid stream operations.

- **Clause 61, page 50- Liability for pollution damage caused without a licence**

(a) In subclause (1)-

(i) **substitute** for the words “*petroleum activity*” wherever it appears, the words “*midstream operations*”

(ii) **substitute** for the word “*activity*” the word “*operation*”

(b) In subclause (2)-

(i) **substitute** for the words “*petroleum activity*” wherever it appears,

the words “*midstream operations*”

(ii) **substitute** for the word “*activity*” the word “*operation*”

Justification

To clarify that the damage envisaged in this clause is in regard to midstream operations.

- **Clause 62, page 50- Claiming of damages**

In subclause (2) (a), (b) and (c), substitute for the words “*petroleum activities*” the words “*midstream operations*”

Justification

The damages to be claimed under this clause are in regard to midstream operations.

- **Clause 64, page 52- Jurisdiction**

Delete the words “*of petroleum*” appearing on the last line.

Justification:

To accommodate other potential causes of pollution damage.

- **Clause 65, page 52- Safety**

(a) In subclause (1), substitute for the words “*Petroleum activities*” the words “*Midstream operations*”

(b) In subclause (2) (a), substitute for the words “*Petroleum activities*” the words “*Midstream operations*”

Justification

The safety aspects under this clause are in regard to midstream operations.

(c) insert the words “*and evaluate risk*” immediately after the word “*identify*”

Delete the words “*evaluate the*” immediately before the words “*risks associated*”.

Justification:

To provide for evaluation of both hazards and risks in the midstream operations.

- **Clause 66, page 53- Safety precautions**

(a) **Insert** the word “*shall*” immediately after the word “*operator*”

Justification:

To apply the word to paragraph (b) as well making it a mandatory requirement.

(b) In paragraph (a) (i), **substitute** for the word “*installation*”, with the word “*facility*”

(c) In paragraph (a) (ii), **insert** the words “*facilities, the*” immediately before the word “*environment*”

Justification

To use an appropriate word facility which is defined in the Bill; and to include protection of the facilities by the operator.

• **Clause 67, page 53- general requirements for emergency preparedness**

(a) In subclause (1), **substitute** for the words “*petroleum activities*” the words “*midstream operations*”

(b) In subclause (2), **insert** the words “*or emergency*” after the word “*accident*”

Justification

Consequential amendment to separate the midstream and upstream petroleum value chain; and to widen to include emergency situations.

• **Clause 69, page 54- Safety zones**

In subclause (1) **substitute** for the words “*petroleum activities*” the words “*midstream operations*”

Justification

To delineate the midstream operations from upstream petroleum activities.

• **Clause 70, page 54- Suspension of petroleum activities etc.**

(a) **Substitute** for the headnote, the following-

“Suspension of midstream operations”

(b) In subclause (1) **substitute** for the words *“petroleum activities”* the words *“midstream operations”*

(c) In subclause (2) **substitute** for the words *“petroleum activities”* the words *“midstream operations”* *“and substitute* for the word *“activities”* the words *“operations”*

Justification

Consequential amendment to separate the midstream operations from upstream petroleum activities.

- **Clause 72, page 55- Qualifications**

(a) In subclause (1) **substitute** for the words *“petroleum activities”* the words *“midstream operations”*

Justification

The qualifications in this clause apply to midstream operations.

(b) **Insert** the following new subclause immediately after subclause (2)-

“(2) The Minister may by regulations prescribe the qualifications required for different types of midstream operations”

Justification

To empower the Minister to prescribe qualifications for the midstream operations and to ensure that the licensee employs adequately qualified personnel.

- **Clause 73, page 55- Commission of Inquiry**

(a) In subclause (1) **substitute** for the words *“petroleum activities comprised”* the words *“midstream operations”*

Justification

Consequential amendment to separate the midstream operations from upstream petroleum activities.

(b) In subclause (2) **delete** the words *“in an activity”*

(c) **Insert** a new sub clause (3) as follows -

“(3) *The Minister shall lay before Parliament the report of the inquiry made under subsection (1).*”

Justification:

- **Clause 74, page 55- Information, data, reports and records etc.**

Amend clause 74 as follows-

1. **Substitute** for the words “*holder of a licence in, crude oil, refining, gas processing, transportation and storage*” appearing on line 1, the word “*licensee*” and insert the words “*which shall be*” immediately after the word “*Uganda*”.

Justification

To simplify the provision.

2. **Substitute** for paragraphs (a), (b), (c), (d), (e) and (f), the following-

(a) *updated information regarding ownership of the licence;*

(b) *the inventory and volumes of petroleum commodities refined, converted, traded, transmitted or stored;*

(c) *use of petroleum commodities and products;*

(d) *the tariff structure and rates for third party use of the facility;*

(e) *capacity and efficiency of the facility;*

(f) *specifications of petroleum commodities and products having been refined or converted in the facility;”*

3. In paragraph (g), **substitute** for the word “*race*”, the word “*nationality*”

Justification

To apply appropriate term; and for simplicity and clarity.

- **Clause 75, page 56- Duties on termination of licence.**

(a) **Substitute** for the word “*revoked*” the word “*cancelled*” and for the word “*revocation*” the word “*cancellation*”

Justification:

The term cancellation is the term applied in the Bill, but not revocation.

(b) In paragraph (b), **substitute** for the words “*licence area*” the word “*facilities*”

Justification

Under the midstream licensing regime, a licence is granted in regard to a facility, not a licence area as used in the upstream Bill.

- **Clause 76, page 57- Availability of information to the public**

Delete subclause (1) (c).

Justification

This is covered under paragraph (a).

- **Clause 77, page 57- Confidentiality of data**

(a) In subclause (1), **substitute** for the word “*Government*”, the word “*Authority*” wherever it appears.

Justification

The Authority is mandated under this Bill to receive data.

(b) **Merge** subclause (3) and (4) as follows-

“(3) The provisions of subsection (1) shall not prevent disclosure-

(a) by the licensee- –

(i) to a licensee affiliated company, its home Government or any department, agency or as required by law;

(ii) to a recognised stock exchange on which shares of the licensee or its

affiliated companies are traded;

(iii) to financial institutions, professional advisers, arbitrators or experts appointed under this Act;

(iv) to a bona fide prospective assignees of a participating interest;

(v) to a corporation with which the licensee is conducting bona fide negotiations directed towards commercial engagements, upon fifteen days prior written notice to the Authority identifying the parties to which disclosure will be made.

(b) by the Authority-

(i) to another agency of the Government;

(ii) to a financial institution or person acting as a consultant or professional adviser to the Government;

(iii) to arbitrators and experts appointed under this Act or under an agreement made under this Act;

(iv) for statistical purposes; or

(v) by a Government order, decree, regulation or rule of any recognized stock exchange on which it or its affiliated company's shares are listed."

Justification

The merger is to avoid confusion since subclauses (3) and (4) were both dealing with disclosure of information; and to enable disclosure by the Authority without a veto requirement.

(c) In subclause (5), **substitute** for the word "Government", the word "Authority" wherever it appears.

Justification

The Authority is mandated under the Bill to receive data.

• Clause 78, page 59- Prohibition against disclosure of information

(a) In subclause (2) (d), **substitute** for the words "petroleum", the words "midstream operations"

(b) In subclause (2) (e) and (f), **substitute** for the word "petroleum", the word "midstream"

Justification

The prohibition against disclosure in this clause is in regard to midstream operations.

(c) **Insert** the following new subclause immediately after subclause (2) and renumber accordingly-

“(3) A person shall not while still in the public service or, when he or she ceases to be a public servant, for a period of ten years disclose any information which he or she may have obtained in the course of his or her employment.”

Justification

To protect the disclosure of confidential information.

(d) In sub clause (3), substitute for the word *“five hundred”*, the words *“ten thousand”*

Justification:

To provide for a more deterrent penalty.

• **Clause 79, page 60- Obstruction of employee of Authority.**

Amend clause 79 as follows-

(a) **Substitute** for the headnote, the following-

“Obstruction of authorised officer”

Justification

To widen the scope of the provision. The term authorised officer is defined.

(b) In paragraph (a) **delete** the words *“employee of the Authority or an”*

(c) In paragraph (b), **delete** the words *“employ of the Authority or”*

Justification:

To widen the scope of the provision to include persons acting under authority of the Minister; and to use a term authorised officer which is defined.

(d) **Substitute** for the word “one hundred”, the words “ten thousand”

Justification:

To provide for a more deterrent penalty.

• **Clause 80, page 61- Powers of Inspectors**

(a) **Insert** the following new subclause immediately before subclause (1) and renumber accordingly-

“(1) The Minister may, by notice in the Gazette designate inspectors for purposes of this Act.”

Justification

To provide for designation of inspectors.

(b) In the current subclause (1), **substitute** for the words “petroleum activity” with the words “midstream operations”

Justification

To separate midstream operations from the petroleum activities under the upstream Bill.

(c) substitute for sub clause (5) (d) the following-

“(d) inspect any areas subject to a licence, facilities, and used for midstream operations;”

Justification

For clarity

• **Clause 81, page 62- Obstruction of Inspector**

(a) **Substitute** for the words “shall be guilty of”, the word “commits”

Justification

To conform to the principle of the presumption of innocence as provided in the Constitution.

(b) Substitute for the word “one hundred”, the words “ten thousand”

Justification:

To provide for a more deterrent penalty.

- **Clause 82, page 62, substitute** for the word “one”, the word “five”

Justification:

To provide for a more deterrent penalty.

- **Clause 84, page 62- Orders for forfeiture**

(a) **Substitute** for subclause (1) (b), the following-

“(b) an order-

(i) for the forfeiture of petroleum commodities or products converted, transmitted or stored in the course of the commission of the offence;

(ii) for the payment by that person to the Government of an amount equal to the proceeds received from midstream operations carried out.

Justification:

Clause 84 applies to forfeiture in case of offences in the midstream petroleum value chain.

- **Clause 85, page 64 - Contravention of decisions and orders issued under this Act**

(i) **Substitute** for the word “five hundred”, in paragraphs (a), the words “ten thousand”

(ii) **Substitute** for the word “five” in paragraph (b), the words “one hundred”,

Justification:

To provide for a more deterrent penalty.

- **Clause 86, page 64- Right of complaint**

(a) In subclause (1)-

(i) **substitute** for the word “provision” the word “construction”;

(ii) **delete** the word “petroleum” appearing before the word “facility”; and

(iii) **substitute** for the words “a petroleum activity”, the word “of a midstream operation”

Justification:

To apply the appropriate word “construction”

(b) In subclause (5), **substitute** for the word “*thirty*” the word “*ninety*”

Justification

Thirty days may not be sufficient for the Minister to investigate and conclude a complaint.

• **Clause 87, page 65- Settlement of disputes**

Substitute for clause 87, the following-

“(1) A licensee shall negotiate in good faith to reach an amicable settlement of a dispute concerning a contractual matter that arises with respect to;

(a) facility tariffs ;

(b) margins set by traders;

(c) freight rates for transmission of petroleum commodities or products; and”

(d) any matter designated by the Authority.”

(2) Where the dispute cannot be amicably settled through negotiation, the aggrieved party may submit the dispute to the Authority”

Justification

To provide for mandatory resolution of disputes through negotiations first, with an option to refer the dispute to the Authority should negotiations fail to resolve it.

• **Clause 88, page 66- Maintenance of property**

(a) In sub clause (1) (c), **substitute** for the word “*activities*”, the word “*operations*”

Justification

The term operation falls under midstream while activities are covered under upstream.

(b) In sub clause (2), **substitute** for the word “one”, the word “ten”.

Justification:

To provide for a more deterrent penalty.

• **Clause 89, page 66- Agreements between affiliated companies**

In subclause (1), **substitute** for the word “activities”, the words “*midstream operations*”

Justification

The term operation falls under midstream while activities are covered under upstream.

• **Clause 90, page 66- Security for fulfilment of obligations**

Delete clause 90.

Justification

This is covered under clause 10(6) (page 19 of the Bill).

• **Clause 91, page 67- Responsibility for commitments.**

Substitute for the words “*petroleum activities*” the words “*midstream operations*”

Justification

To delineate the midstream operations from upstream petroleum activities.

• **Clause 93, page 67- Information required by Minister or Authority**

(a) In subclause (1) **substitute** for the words “*petroleum activities or the petroleum processed, transported or stored or to the value of the petroleum*” with the words “*midstream operations*”

(b) In subclause (1) (b), **substitute** for the words “*petroleum activities or to the value of the petroleum*” with the words “*midstream operations*”

(c) In subclause (1) (c) **substitute** for the words “*those activities or the petroleum processed, transported or stored or to the value of the petroleum*” with the words “*midstream operations*”

Justification

To simplify the provisions. The term midstream operation is defined in the Bill.

(d) In sub clause (5), substitute for the word “*exceeding*” wherever it appears

the words “*less than*”

Justification:

To provide for a more deterrent penalty.

- **Clause 94, page 68- Powers of Authority and authorised officers**

(a) In subclause (1) (a) **substitute** for the words “*petroleum activity*” the words “*midstream operations*”

Justification

To delineate the Midstream segment from the Upstream.

(b) **Substitute** for subclause (1) (b) (i), the following-

“(i) the suspension of midstream operations and the withdrawal of all persons from any facility that is being used in connection with any midstream operations; or”

Justification

To replace the word “cessation” with the word “suspension” to clearly indicate that the stop order for the operation in question does not have to be permanent.

(c) In subclause (3)-

(i) **substitute** for the words “*building, structure or place, or a person in charge of any vehicle, vessel, aircraft, machinery or equipment*” with the word “*facility*”

(ii) **insert** the words “*or machinery, equipment or chemical referred to in subsection (2)*” immediately before the word “*shall*” in line 4; and

(iii) **delete** the words “*facilities and*” before the word “*assistance*”.

Justification

For simplicity and clarity.

- **Clause 96, page 70- Indemnity of the Republic of Uganda**

Substitute for the word “*Government*”, the word “*Republic of Uganda*” appearing in line 1.

Justification:

Indemnity should be made to the Republic of Uganda.

- **Clause 97, page 71- Right to place, facilities, etc.**

(a) In subclause (1), **insert** the word “*transmission*” immediately before the word “pipeline” in line 1 and delete the words “*petroleum operations or activities under the*”.

(b) In subclause (2), **insert** the words “*midstream operations of the existing*” immediately before the word “*licensee*”

Justification

Clause 97 applies to midstream operations.

- **Clause 98, page 71, Regulations**

Amend clause 98 (2) as follows-

(a) in paragraph (b), **insert** the words “*commodities to a facility*” at the end of the paragraph;

(b) in paragraph (d), **substitute** for the words “*activities*”, the words “*midstream operations*”;

(c) in paragraph (e) **delete** the words “*and the carrying out of environmental impact assessment for that purpose;*”

(d) *Inserting a new paragraph (ag) as follows -*

“(ag) the taking out of appropriate insurance protection in regard to midstream operations as well as health and safety of employees.”

Justification

A requirement for an environmental impact assessment must be set in relation to a specific operation such as construction or decommissioning of a facility; and to enhance the requirement for insurance.

(e) in paragraph (g), **substitute** for the words “*installations or equipment*” the word “*facilities*”;

Justification

To use the appropriate term facility as used and defined in the Bill.

(f) in paragraph (h) **delete** the word “*petroleum*”;

(g) in paragraph (i), **insert** the words “*commodities and products*” at the end of the paragraph;

(h) **substitute** for paragraph (j), the following-

“(j) *transmission of petroleum commodities and products*”

(i) **insert** the following new paragraph immediately after paragraph (j)-

“(k) *pricing the petroleum commodities and products at the refinery gate.*”

(j) in paragraph (k), **insert** the words “*commodities and products*” after the word “*petroleum*” and **substitute** for the word “*utilities*” the word “*substances*”

(k) in paragraph (l), **substitute** for the word “*transportation*” the word “*transmission*”

(l) in paragraph (m), **substitute** for the words “*pipeline and storage*” the words “*midstream operation*”;

(m) in paragraph (o), **delete** the word “*petroleum*” appearing before the word “*facilities*”;

(n) in paragraph (p), **substitute** for the words “*production to the Authority of*” the words “*obligation to submit*” and **insert** the words “*to the Authority*” at the end of the paragraph;

(o) in paragraph (r), **substitute** for the words “*petroleum information*”, the words “*midstream register*”;

(p) in paragraph (y), **substitute** for the words “*the sharing of*” the words “*third party access to*”;

(q) **insert** the following new paragraph immediately after paragraph (z)-

“(aa) *the surveying of midstream pipeline routes*”

(r) in paragraph (aa), **insert** the word “**midstream**” before the word “*pipeline*”;

(s) in paragraph (ab) **delete** the words “*charges and*”;

(t) in paragraph (ag), **delete** the words “*and the prescription of anything required or authorised to be prescribed under this Act*”

- **Clause 99, page 74- Codes of practice**

Delete the word “petroleum” appearing before the word “facilities” and substitute for the words “processing, transportation, storage and refining of” with the words “performance of midstream operations”

Justification

To delineate the midstream operations from petroleum activities.

- **Clause 101, page 74- Obligations to comply with this Act**

In subclause (1), **substitute** for the words “petroleum activities”, the words “midstream operations”.

- **Clause 102, page 74- Application of this Act**

Substitute for the words “petroleum refining, gas processing and conversion, transportation and storage of petroleum” the words “midstream operations”

- **Clause 106, page 131, Continuation of offices**

Substitute for clause 106, the following-

“109 Continuation of offices

All persons who, immediately before the date of commencement of this Act were employed in the Ministry of Energy and Mineral Development and responsible for midstream operations shall continue to be so employed.”

Justification

The redraft is for clarity.

- **Short Title**

Substitute for the short title, the following-

“The Petroleum (Refining, Conversion, Transmission and Midstream storage) Bill, 2012.”

- **Long Title.**

Substitute for the Long Title, the following –

“An Act to give effect to article 244 of the Constitution; to regulate, manage, coordinate and monitor midstream operations; to enable construction, placement and ownership of facilities; to provide for third party access to facilities, to regulate tariffs for facilities; to provide for an open, transparent and competitive process for licensing by the Minister responsible for midstream operations; to provide for additional and particular health, safety and

environment regulation not sufficiently regulated in other laws; to provide for cessation of midstream operations and decommissioning of facilities; and to regulate any other matters related to midstream operations.”