



Potential Institutional Structures for Oil Administration in Uganda

The administrative structure proposed in the Ugandan Petroleum (Exploration, Development and Production) Bill, 2012 (the “2012 Bill”) provides for separation of the Ugandan state’s management of petroleum into three entities: the Minister responsible for petroleum activities, the Petroleum Authority of Uganda and a National Oil Company. Setting up such a tri-partite structure can confer significant advantages, but comes with some risk. This note briefly lists the pros and cons of the structure proposed in the Bill, as well as two alternative structures.

1. Structure in 2012 Bill: Tripartite

Description: Under the proposed system, the Minister would design policy and legislation, negotiate agreements, grant/renew/terminate licenses, approve field development. The Authority would advise Ministry, supervise compliance of operators with contractual and legal obligations, approve budgets, ensure protection of health/safety and provide information to tax authorities. The Authority is an independent agency, managed by a Board appointed by the Minister and approved by Cabinet. There are some blurred lines of accountability between Ministry and Authority in the Bill. The National Oil Company is charged with managing the state’s commercial interests, with vaguely defined role and oversight.

Potential Advantages: By creating a strict separation of powers among three distinct bodies, this system can build in checks and balances and can reduce the risk of conflict of interest. This “Norwegian Model” is often touted as a strong mechanism for promoting accountability.

Potential Disadvantages: By spreading human capacity across three institutions, this system can make it difficult to build a critical mass of expertise in a country with limited administrative capacity and oil-sector expertise. Where roles are not clearly defined, and particularly where the National Oil Company does not have a clear mandate, this system can create confusion. The mere creation of separate institutions does not, on its own, ensure accountability; detailed reporting requirements are necessary.

2. Alternative Structure: No National Oil Company Now

Description: Uganda could establish a system in which there is no National Oil Company, at least for the time being. The Ministry and the Authority could play roles similar to those outlined in the 2012 Bill. The state would hold any equity in oil projects directly or through a holding company, rather than through an oil company. The state would not emphasize the development of commercial expertise.

Potential Advantages: The structure would be “lighter,” with two institutions instead of three, increasing the chances that the state can build a critical mass of expertise and regulate effectively. The risk of the Company becoming a “state within a state” would be eliminated, as would the risk of conflict of interest between company and the state. In the short term the commercial role of a National Oil Company in the upstream would likely be limited, and unless there are significant additional oil

discoveries in Uganda the major investment necessary to build domestic commercial capacity may not be worth it.

Potential Disadvantages: National Oil Company can often serve as the engine for the development of domestic expertise in the oil sector, spurring the development of private contractors and the training of national experts. The Authority could play this role but its orientation may not be ideally-suited for such a role. Selling of state production share from PSCs may also be difficult without a company, which may push toward taking cash revenue from international oil companies instead of in-kind oil.

3. Alternative Structure: Regulatory Function Housed in Ministry or National Oil Company

Description: Instead of creating a separate Authority, regulation would be handled by a unit within either the Ministry or the National Oil Company. There would still be specialists with training and focused mandate on monitoring company activity and ensuring compliance with the rules, but it would not be housed in a separate institutional structure. Reporting to the public and Parliament on regulatory activities would need to be extensive, as in the other models.

Potential Advantages: The structure would be “lighter,” with two institutions instead of three, increasing the chances that the state can build a critical mass of expertise and regulate effectively. The risk of confusion of roles between the Authority and the other bodies would be reduced. If the regulatory structure were housed in the National Company, it would give that body a clearer role, particularly in the early stages before there is a clear upstream commercial mandate.

Potential Disadvantages: The risk of conflict of interest is higher, either because the regulator’s activities are politicized through its location within the Ministry, or because there is a confusion of interest between regulation and upstream activities of the National Oil Company.