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Uganda: Regulations Should Address Gaps in Public Finance Management Act

By Gerald Byarugaba

In February 2015, President Yoweri Museveni signed the Public Finance Management Act, 2015 (PFMA) into law which among other things repealed the Public Finance and Accountability Act, 2003.

Part VIII of this law provides for collection, deposit, management, investment and expenditure of revenue accruing to government from the exploitation of Uganda's petroleum resources.

However, Regulations for this Act have not been issued, presenting challenges with its operationalization. Indeed, the law is laden with a number of ambiguities that should be clarified in the regulations when they are eventually released.

Firstly, it is not clear what the objectives of the Petroleum Fund as established by the law are. While the provisions of the Act allude to certain objectives, the law fails to outrightly mention what the Fund is set up to achieve. Although the Act seems to say that the Fund will help in supporting budget stability as well as providing heritage for future generations, neither of these is clearly stated as its objective. This failure to clarify objectives leaves ambiguity as to what sort of assets the savings can be invested in as well as the nature of restrictions that should be put in place for government to access the Fund.

If on one hand the Fund is to play a stabilising role, a significant chunk of that money should be invested in liquid assets that can easily be accessed in case of budget shortfalls, like bonds. On the other hand, if the Fund is to serve as heritage for future generations, restrictions for accessing it have to be made tighter, for example by requiring that the money is invested in long term assets like real estate. Where the Fund has a dual function, then regulations would need to be made accordingly. There is therefore need for regulations to clarify the objectives of the Petroleum Fund in order to overcome any implementation challenges.

Secondly, the blanket provision that petroleum revenues will be used for the financing of 'infrastructure and development projects of government... 'stated in Sect. 59 (3) is not sufficient. It remains unclear what constitutes 'infrastructure and development projects of government' and what criteria will be used in determining the projects that government should invest in.

The experience of Azerbaijan, where for a long time oil revenues were wasted on the military, engaging in an arms race with neighbouring Armenia as well as construction of huge stadiums just for national pride, is a stark reminder of the need to be methodical in spending oil revenues. Regulations for the Act should restrict these revenues to financing those projects that are defined and prioritised in the country's development frameworks, such as the periodic National Development Plans or the capital expenditures listed in the Medium Term Expenditure Framework. This will also prevent the Petroleum Fund from acting as a second budget for wasteful projects that may be 'politically correct' but non-viable in all other ways.

Thirdly, the Act falls short on clarifying, in terms of jurisdiction, where funds in the Petroleum Revenue Investment Reserve shall be invested. Although Section 63(2) mentions that the money shall be invested in internationally convertible currency deposit or a debt instrument denominated in internationally convertible currency, it remains silent on whether these investments are to be made in the domestic economy or abroad. Lessons from the Management of the Government Pension Fund of Norway show that investing petroleum revenues internationally protects domestic industries (and economy), diversifies risk and maximises returns. Thus, although some of the petroleum revenues which will be transferred to the consolidated fund can be spent domestically, investment should only be made internationally, to fetch the country better returns from developed international financial markets but also avoid harming the domestic economy.

In addition, good management of Petroleum revenues can only be achieved where there is full transparency in the way the funds are managed. Although Section 61 (1) and (2) of the PFMA requires the Minister for Finance to report to Parliament on estimated petroleum revenue for the financial year, including publishing the reports in newspapers of wide circulation as well as on the Ministry's website, these do not satisfy the need for complete transparency. There's still need for disaggregated disclosure of revenues entering the Petroleum Fund by type and source in order to enable actual tracking of petroleum revenues.

Finally, the Petroleum Fund cannot be a substitute for sound fiscal management. The fund will only be useful as long as Uganda maintains a sustainable fiscal strategy. There's need to continuously build competence, transparency and accountability among the institutions managing public finances, beyond just petroleum revenues. Only then can we talk of minimizing the risk of bad governance and therefore ensuring sustainability of investments made out of our natural resources.

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The Ministry of Finance has applied to amend eight clauses in the Public Finance Management Act 2015. Parliament is expected to discuss the proposals and pass the amendments by the end of the year-ED.