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A Supreme Court ruling upholds President Yoweri Museveni's (1986 – present) re-election in the February presidential election. The uncertainty around Museveni's succession will distract the ruling National Resistance Movement (NRM) from its priorities of addressing youth unemployment and poverty. Talks between Kenya and Uganda fail to resolve uncertainty around route of oil export pipeline, as Uganda and Tanzania sign a project implementation plan for a competing route. Finance minister Matia Kasaija plans to amend the Excise Duty Act to increase taxes. Turf wars between the Uganda Electricity Generation Co Ltd and the energy ministry threaten progress at the Isimba and Karuma hydroelectric projects.

Supreme court upholds Museveni's election victory

The **Supreme Court** on 31 March upheld President **Yoweri Museveni's** (1986- present) victory in the 18 February presidential election.¹ The ruling marks the end of the election period and allows the ruling **National Resistance Movement (NRM)** to consider its policy agenda. The ruling was not a surprise as the judiciary is traditionally supportive of the NRM.² The nine Supreme Court justices unanimously rejected opposition **Go Forward** candidate **Amama Mbabazi's** petition that cited delays in delivering ballot materials and improper supervision of voting, and alleged electoral fraud including bribery, ballot stuffing, multiple voting, and security forces' interference in opposition campaigns.

However, delivering the Supreme Court ruling, chief justice **Bart Katureebe** said there was evidence of "non-compliance with the principles of free and fair elections".³ The Supreme Court specifically cited interference of resident district commissioners, the arrest of opposition candidates, and unequal media coverage especially by the state-owned **Uganda Broadcasting Corp.**⁴ The Supreme Court was also critical of the "gross incompetence and inefficiency" of the **Electoral Commission (EC)**.⁵ EC chairman **Badru Kiggundu** acknowledged during the Supreme Court hearings that the EC had faced significant challenges.

The Supreme Court ruled that any electoral issues were insufficient to impact the overall result of the election.⁶ The court ruled that:

- Mbabazi had failed to provide evidence of electoral fraud, and that it found no evidence of multiple voting or illegal vote counting centres;⁷
- the EC had not broken the law when it scrapped the 2011 voter register and used the **National Identity Card** data to compile the new electoral roll;⁸
- the EC did not break the law when it electronically transmitted results from districts to the national tally centre;

¹ New Vision, 31 Mar 2016.

² Source, business consultant, Kampala

³ New Vision, 31 Mar 2016.

⁴ East African, 1 Apr 2016.

⁵ East African, 1 Apr 2016.

⁶ New Vision, 31 Mar 2016.

⁷ East African, 1 Apr 2016.

⁸ Observer, 1 Apr 2016.

- discrepancies between declaration result forms and national tally sheets were not indicative of electoral fraud;⁹
- the **Crime Preventers** (see *ARC Uganda Briefing January 2016*) were a legitimate community policing body and not a pro-NRM militia.¹⁰

Under the **Presidential Elections Act 2005**, the burden is on the individual seeking to nullify the presidential election to prove that irregularities significantly impacted the overall result. The Supreme Court had rejected opposition **Forum for Democratic Change (FDC)** candidate **Kizza Besigye's** similar petitions following the 2001 and 2006 elections on the same grounds.¹¹

Following the Supreme Court ruling, Mbabazi said he would publish evidence of electoral fraud.¹² Mbabazi alleged that unknown individuals had broken into the offices of two law firms working on his petition and had stolen the majority of affidavits and declaration of results forms.¹³ Mbabazi also alleged that security forces have detained individuals – including **Amos Kaheru**, Go Forward coordinator in **Rakai**, who faces treason charges – to stop them testifying.¹⁴ However, Mbabazi appears to have abandoned challenging the election results, saying he will campaign for broader issues of electoral reform, and reforming the judiciary to give petitioners greater time to collect and present evidence.¹⁵ On 31 March, the **Uganda Police Force (UPF)** ended Besigye's house arrest which began following the election.¹⁶ However, the UPF detained Besigye again on 5 April, reportedly as he planned to lead an FDC protest against the election result and Supreme Court ruling.¹⁷ Also on 31 March, the high court issued bail to former intelligence coordinator and opposition figurehead **David Sejusa** after two months' imprisonment.¹⁸

The Supreme Court ruling has allowed the NRM to consider its agenda for its five-year mandate. The NRM has said that it will focus on youth unemployment, which is an issue that decreased its vote share in the February election (see *ARC Briefing Uganda March 2016*).

*“For us, the priority in the next five years will be to solve the problem of unemployment and we have already designed a strategy for it as indicated in our 2016 election manifesto. We will focus on industrialisation and increasing the skills of the youth so that they can become self-reliant. Another key area will be on fighting poverty and this we are already doing through **Operation Wealth Creation**. Under Operation Wealth Creation we will fight poverty at household levels. We shall also focus on rural electrification throughout Uganda in order to boost small scale industries.”¹⁹*

There is concern about whether the government currently has the capacity to implement employment and poverty programmes.

“The government should sort out the problem of youth unemployment which has exploded and is becoming a time bomb for insecurity. To solve this the government must invest in both agriculture and industries. The youth will then work in the industries where agricultural products are processed.

⁹ Observer, 1 Apr 2016.

¹⁰ Observer, 1 Apr 2016.

¹¹ Observer, 1 Apr 2016.

¹² The Observer, 1 Apr 2016.

¹³ The Observer, 1 Apr 2016.

¹⁴ The Observer, 1 Apr 2016.

¹⁵ AFP, 2 Apr 2016.

¹⁶ Observer, 5 Apr 2016.

¹⁷ Observer, 5 Apr 2016.

¹⁸ AFP, 31 Mar 2016.

¹⁹ Source, senior NRM official, Kampala

*[This, however,] needs the government to spend the next five years working on proper service delivery, mostly at district level. The government must reform public administration by introducing contracts, so that employees who fail to deliver are fired."*²⁰

The private sector has also warned that the government's planned **Ugandan People's Defence Force**-led agriculture wealth creation projects will have little effect.

*"The government should spend the next five years trying hard to put money in people's pockets by supporting small businesses. It should also stop its bogus wealth creation campaign and instead focus on offering funding to the agriculture ministry to carry out agricultural extension work. This is because leaving agriculture in the hands of soldiers under a pseudo wealth creation campaign is suicidal because they (soldiers) lack technical knowledge, a necessity for the provision of agricultural extension services."*²¹

The private sector has called for the government instead to focus on revising its privatisation policy and decreasing power tariffs to encourage business activity.²²

However, Museveni's succession will increasingly distract the NRM from its policy agenda over the next five years. Museveni must either stand down before the 2021 election or amend the constitutional presidential age limit of 75 (see *ARC Uganda Briefing March 2015*). The uncertainty is detrimental to investment and other economic activity.

*"The most important thing in the next five years is for Museveni to create an atmosphere of certainty in the country by coming clear on the issue of age limit. Museveni needs to create certainty otherwise it will affect foreign investments in the country in the next two years and besides he needs just to come out openly and state whether he will contest or not. This will rest the case and Ugandans will get back to doing their economic activities because as it is today, people are spending too much time politicking and not engaged in any economic activity."*²³

According to an opposition politician, failure to address uncertainty about succession raises the risk of political violence.

*"In the next five years, transition is the most important thing. An atmosphere should be created to assure people that there will be a peaceful change of power from one group to another. Currently people are not sure of the future of the country. If they are assured, people will not waste time and spend sleepless nights thinking about how to remove Museveni from power. Failure to carry out a smooth transition may force some Ugandans to resort to violent change of power given Uganda's past history of coups."*²⁴

Uncertainty continues over oil export pipeline route

Talks between Museveni and **Kenyan** counterpart president **Uhuru Kenyatta** (2013- present) in **Nairobi** (Kenya) failed to reach consensus on the route of the planned oil export pipeline.²⁵ The delay in determining the route is delaying the development of **East Africa's** upstream sector.

A brief statement following the meeting between Museveni and Kenyatta said Ugandan and Kenyan technical teams had provided presentations on three potential routes: **Hoima** (Uganda) north to **Lamu** (Kenya) through the **Lokichar** oil fields; Hoima south to **Mombasa** (Kenya) with a loop through Lokichar; and Hoima to **Tanga (Tanzania)**.²⁶ The Kenyan government prefers the northern route to Lamu as it looks to maximise revenue potential, while members of Kenyatta's ethnic **Kikuyu**

²⁰ Source, Ugandan executive at international company, Kampala

²¹ Source, businesswoman, Kampala

²² Source, businesswoman, Kampala

²³ Source, Ugandan executive at international company, Kampala

²⁴ Source, opposition politician, Eastern Uganda

²⁵ Energy Monitor Worldwide, 22 Mar 2016.

²⁶ Energy Monitor Worldwide, 22 Mar 2016.

group have acquired tracts of land in the Lamu area to benefit from increased property values resulting from the port and the pipeline (see *ARC Briefing Uganda August 2015*).²⁷

However, Uganda and Tanzania on 19 January signed a project implementation plan (PIP) for the Tanga route.²⁸ The PIP followed meetings between Uganda energy ministry officials and their **Tanzania Petroleum Development Corp** counterparts over the funding, transport tariffs, and how to accelerate construction of the Tanga pipeline. Uganda energy minister **Irene Muloni** said construction on the Tanga pipeline could begin as early as August.²⁹ In a sign of increasing regional tension over the issue, the Tanzanian government reportedly seized the diplomatic passports of Kenyan officials attempting to inspect the **Port of Tanga**.³⁰ The Kenyan officials included energy cabinet secretary **Charles Keter**, petroleum private secretary **Andrew Kamau** and **Lamu Port Southern Sudan-Ethiopia Transport (Lapsset) Corridor** CEO **Sylvester Kasuku**.³¹

The Uganda-Tanzania talks included executives of **Total E&P Uganda**, **Tullow Oil Plc** and **China National Offshore Oil Corp (CNOOC)**, all of which have interests in Uganda. Tullow prefers the northern route to Lamu, as it wants it to connect with a pipeline from the Lokichar fields where it and partner **Africa Oil** also have interests.³² Tullow has warned that “*politics*” are getting in the way of the northern route.³³ Total prefers the Tanzania route, and is party to the Tanga PIP.³⁴ CNOOC has not commented on the issue.³⁵

Talks between the Kenya and Uganda governments will resume in **Kampala** (Uganda) on 23 April. The technical teams agreed a framework for future discussions: ensuring a least-cost option for a regional integrated pipeline; addressing constructability issues along all routes existing and planned infrastructure, terrain and elevations; assessing and confirming the current proven reserves, which will have an impact on the size of the pipeline; and determining the viability of the ports of Lamu, Mombasa and Tanga as the export options. These factors will determine the final decision.

Government unveils new taxes

Finance minister **Matia Kasaija** on 16 March detailed a series of amendments to the **Excise Duty Act** to increase taxes.³⁶ Even with the revisions, it is unlikely that the **Uganda Revenue Authority (URA)** will meet its ambitious draft 2016/2017 fiscal framework target of increasing revenue 20% year on year. The government did not mention any tax increases when it presented the draft fiscal framework to parliament in January. Following the completion of the elections, the government seems more willing to introduce unpopular economic measures. The new taxes cover a range of products including

- tobacco, 200%;
- petroleum products, USh1,100 (\$0.33) per litre of gasoline;
- cement, USh1,000 (\$0,30) per 50 kg bag;
- second-hand clothes, 20%.³⁷

The business community has criticised the increases – especially on cement, which is particularly price sensitive, and petrol, which in landlocked Uganda is a significant business expense – and warned that it will need to pass on the cost to consumers, increasing market prices. The government forecasts

²⁷ www.africaintelligence.com

²⁸ *Energy Monitor Worldwide*, 22 Mar 2016.

²⁹ www.platts.com

³⁰ *Daily Nation*, 29 Mar 2016.

³¹ *Daily Nation*, 29 Mar 2016.

³² www.platts.com

³³ www.platts.com

³⁴ www.platts.com

³⁵ www.platts.com

³⁶ *Daily Monitor*, 18 Mar 2016.

³⁷ *East African*, 22 Mar 2016.

total budget expenditure for 2016/2017 of 21.2 trillion Ugandan shillings (USh) (\$6.2 billion) compared to USh 18 trillion (\$5.3 billion) for 2015/2016.³⁸ Domestic revenues are forecast to increase from USh 11 trillion (\$3.2 billion) in 2015/2016 to USh 14.4 trillion (\$4.2 billion) in 2016/2017 increasing the pressure on the URA.³⁹

Political infighting undermines Isimba and Karuma hydroelectric projects

The **Uganda Electricity Generation Co Ltd (UEGCL)** has warned that substandard construction work at the 183MW **Isimba** and 600MW **Karuma** hydroelectric projects will negatively impact the operation and lifespan of the dams.⁴⁰ The development of large-scale hydropower projects will help end Uganda's electricity shortages. UEGCL officials have reportedly told President Museveni of their concerns that energy ministry officials have allegedly accepted bribes to disregard poor work at the **China-based Sinohydro Corp**-constructed and **Export Import Bank of China**-financed projects. **India-based Energy Infratech PVT Ltd** is the supervising consultant for the project and is answerable to the energy ministry.⁴¹ UEGCL, which will manage the plants once online in 2018, has contracted **Australia-based SMEC Holdings Ltd** and **Switzerland-based AF Consults** to undertake similar supervisory work.⁴² SMEC and AF Consults lost the original contract to Energy Infratech in 2013. This has resulted in rival reports about progress at the hydroelectric projects. UEGCL CEO **Harrison Mutikanga** in March called on Museveni to investigate quality issues and contractor failings.⁴³

Implications

Despite the finality of the Supreme Court ruling, Uganda and the NRM now enter a period of increased political uncertainty. Museveni must either amend the constitution or usher in his chosen successor, most likely his son Brigadier **Muhoozi Kainerugaba Museveni ('MKM')**. Both have risks; amending the constitution would attract domestic and international criticism. It would also require the backing of senior NRM officials who will demand concessions if they are to defer their own political ambitions and support Museveni remaining in office. If Museveni were to move too early to usher in MKM, he might trigger high-level defections from the NRM as unsuccessful potential successors sought to further their careers with the opposition. Either way, internal NRM discussions and maneuvering will distract from effective governance.

The southern route through Tanzania would reduce security risks around the pipeline, making securing financing and insurance easier. However, low oil prices will make it hard for companies to secure the requisite capital investment. Kenyatta and Museveni are key regional allies, mitigating the risk of regional fallout should Uganda pursue the Tanzania route.

Even with the new taxes, the URA is unlikely to meet its revenue targets as business activity remains subdued, productivity low, and revenue collection inefficient. The new taxes are likely to decrease consumer demand. If the URA fails to secure sufficient revenue, the government will continue to depend upon supplementary budgets.

Political infighting over the Isimba and Karuma hydroelectric projects highlights the political risk for investors in Uganda. Corruption and inefficient institutions will continue to deter investment in the energy sector, complicating the implementation of projects.

³⁸ East African, 22 Mar 2016.

³⁹ East African, 22 Mar 2016.

⁴⁰ Daily Monitor, 30 Mar 2016.

⁴¹ Daily Monitor, 30 Mar 2016.

⁴² Daily Monitor, 30 Mar 2016.

⁴³ Daily Monitor, 30 Mar 2016.

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