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The ruling National Resistance Movement (NRM) confirms it will hold a party conference in October to select presidential and parliamentary candidates. Kampala lord mayor Eric Lukwago threatens legal action against Kampala minister Frank Tumwebaze over appointments to the Kampala District Land Board. The dispute is indicative of wider uncertainty in the land sector, with the government no closer to introducing the Land Amendment Bill to parliament. Total E&P files a request for arbitration before the World Bank's International Center for Settlement of Investment Disputes. Power distributor Umeme Ltd reports that its pre-tax profit fell 11.8%.

NRM confirms election timetable

The ruling **National Resistance Movement (NRM)** party has confirmed that it plans to hold a party conference in October to confirm its candidates for the 2016 elections.¹ President **Yoweri Museveni** (1986-present) is the clear front-runner to be the NRM presidential candidate with no meaningful challenger likely to emerge before then from within the NRM ranks. NRM secretary general **Justine Lumumba** said that the NRM conference would also agree on an election manifesto and programme of primaries to select parliamentary candidates. The NRM will launch a mass recruitment of members between 24 April and 16 May.² Parliamentary primaries will begin in September before nomination in October. Lumumba confirmed that the NRM will allow other party members to challenge Museveni over the NRM presidential candidacy. There is, however, widespread support in the NRM for the March 2014 so-called **Kyankwanzi Resolution**, under which Museveni stands unopposed to become the NRM candidate.

Electoral Commission (EC) chairman **Badru Kiggundu** has warned of delays to the electoral process. Kiggundu told parliament on 21 April that the EC is facing a budget shortfall ahead of the 2016 parliamentary and presidential elections. The petition for additional financing will raise concerns about how effectively and independently the EC will manage polling activities including vote counting. In testimony to the parliamentary affairs committee, Kiggundu said that the EC had budgeted 272 billion shillings (US\$) (\$90.5m) for all electoral activities including the recruitment and training of polling station staff.³ Kiggundu warned that the EC had only secured US\$ 202 billion (\$67m). He warned that if the EC is unable to bridge the financing gap, it will either have to borrow from domestic sources or delay its electoral preparations. The EC is using data collected in 2014 for the issuing of national identity cards and acquiring a Real Time Voter Verification System to reduce the risk of electoral fraud.

Tensions over land increase

Kampala lord mayor **Eric Lukwago** has accused Kampala minister **Frank Tumwebaze** of overstepping his mandate in appointing members of the **Kampala District Land Board**.⁴ The disagreement is indicative of wider regulatory uncertainty about the management of land amid continuing slow progress towards the **Land Amendment Bill**. Lukwago has threatened legal action if Tumwebaze does not rescind the appointments. The Kampala District Land Board has a number of vacancies after the terms of office of several members expired.

¹ Africa Review, 14 Apr 2015.

² Africa Review, 14 Apr 2015.

³ Daily Monitor, 21 Apr 2015.

⁴ Daily Monitor, 20 Apr 2015.

Land is a contentious issue in Uganda, with a raft of 100-year leases expiring.⁵ With the rise of land insecurity across the country, several landlords and/or ‘Kibanja’ holders (Individual hereditary rights stemming from long undisputed occupation, normally 12 years or more) are seeking to take advantage of the regulatory uncertainty to acquire developments on these properties. The law grants the landlord or ‘Kibanja’ holder the right to repossess the land, including any developments of the land, in the event that the lease is not renewed.

“With several investors ignorant of the multiple land tenure systems coupled with the increasing knowledge of land, owners in collusion with lawyers are using land uncertainty as an opportunity for a quick buck.”⁶

This new development will further complicate land acquisition even as the government is seeking to amend the current land bill. The reform is unlikely to happen soon and will face stiff opposition from various NGOs and pressure groups.⁷ Land acquisition is especially contentious in the north and north-east areas of **West Nile**, **Acholi** and **Lango** sub-regions as well as many parts of **Karamoja** where land is deemed communal. Tension has increased as communities have returned from the 20-year long insurgency. There have been several localised conflicts with potential investors as seen in the recent protests in **Apaa** in **Acholi Region** over forceful land evictions from customary and ancestral land.

The government is working to improve the situation with the digitisation of the land registry. The test phase in Kampala, **Wakiso** and **Mukono** is complete and trials are now covering **Gulu** in **Northern Uganda** and **Mbarara** in **Western Uganda**. There is little obligation on investors beyond conducting due diligence checks on land including record searches within the lands office to ascertain ownership, and then a physical visit to the relevant piece of land before negotiation with both landlord and Kibanja owners who both have the legal right to land and must be compensated.

Total seeks international arbitration

France-based **Total SA** has confirmed that its subsidiary **Total E&P** has filed a request for arbitration before the **World Bank’s International Center for Settlement of Investment Disputes (ICSID)**.⁸ The arbitration will further raise international oil company concerns about the oil sector’s commercial viability and increase the risk of further delays to commercial production. The dispute relates to the **Uganda Revenue Authority (URA)** imposing stamp duty on Total’s acquisition of **Block 2** from **Tullow Oil** in 2012. The acquisition was part of a wider \$2.9 billion deal in which Total and the state-owned **China National Offshore Oil Corp (CNOOC)** acquired stakes in three exploration blocks. Total E&P reportedly claims that the Block 2 production-sharing agreement includes a tax waiver.⁹ Total E&P has not published the amount of tax in dispute.

A long-standing dispute with Total E&P would slow the development of Uganda’s oil and gas sector. Total E&P currently holds 33% of four licences and is the operator of two of them. Total has downstream interests: it is involved in the development of key infrastructure including as a signatory to the February 2013 memorandum of understanding regarding the development of the **Hoima Refinery** and export pipeline. Total E&P also has a significant share in the domestic marketing of fuel.

The dispute highlights the regulatory challenges facing international oil companies in Uganda. In February, a **London**-based court, convened under **United Nations Commission on International Trade Law**, ruled in the Ugandan government’s favour in a dispute between the URA and **Heritage Oil** over the application of capital gains tax on the sale of its interests in **Blocks 1** and **3A** in July 2010.¹⁰ Tullow Oil has a separate ongoing case at the ICSID over the enforcement of a July 2014 tax appeals tribunal ruling over a \$407m

⁵ Source, journalist, Kampala

⁶ Source, journalist, Kampala

⁷ Source, journalist, Kampala

⁸ Reuters, 31 Mar 2015.

⁹ Reuters, 31 Mar 2015.

¹⁰ Daily Monitor, 26 Feb 2015.

capital gains tax liability from the 2012 farm-down to CNOOC and Total.¹¹ Total is becoming increasingly frustrated over regulatory uncertainty and delays to the approval of field development plans and the development of key infrastructure.¹² **Francois Rafin**, Total E&P's general manager in Uganda, left his post in January after only six months in Kampala in an apparent signal that Uganda is no longer a corporate priority.¹³ The government, however, considers it more likely that Tullow will divest or farm out its assets.¹⁴ The government is relatively unperturbed about a possible Tullow withdrawal, banking on the other two joint venture partners – CNOOC and Total – absorbing its stake.¹⁵ Tullow's growing disenchantment raises questions about the government's relaxed stance.¹⁶

The government has moved to improve its regulatory environment for oil companies. On 12 April it exempted upstream investments in the oil and gas sector from VAT.¹⁷ The exemption will appease oil companies frustrated at infrastructure delays and regulatory uncertainty. The VAT exemption means a potential \$2.7 billion saving for the joint venture partners who plan to invest between \$12 - \$15 billion on production infrastructure including the Hoima Refinery.¹⁸ This will reassure oil companies about profit margins that are a particular concern due to the decline in crude oil prices. Oil companies had criticised the VAT as contrary to their production sharing agreements that state that governments will only earn revenue from royalties, share capital and income tax once commercial production begins. The waiver brings Ugandan regulations in line with **Kenya** where the government does not charge VAT on upstream activities but since 1 January imposes a withholding tax on interest payments of between 10 - 15% and 10% on dividends.

Umeme reports decline in profits

Power distributor **Umeme Ltd** reported on 30 March that its 2014 pre-tax profit fell 11.8% from the previous year.¹⁹ The loss shows how the weak Uganda shilling is increasing foreign exchange losses for companies and raises concerns about whether Umeme will carry out necessary investments in dilapidated infrastructure. Umeme said its profit for 2014 was US\$101.67 billion (\$34m). Foreign exchange losses have disproportionately hit Umeme as it purchases power in **United States (US)** dollars and sells electricity to its customers in local currency. The shilling has declined 6.6% to the US dollar in 2015 due to the globally strong US currency, and companies and importers buying dollars.

Umeme's performance improved in 2014 with power losses declining to 21.3% in 2014 from 24.3% in 2013.²⁰ In January, Umeme successfully applied to the **Energy Regulatory Authority (ERA)** to increase electricity prices from US\$518 (\$0.182) per unit to US\$520.7 (\$0.183).²¹ While Umeme factors the price of oil into its price setting, it claims that the weaker shilling offsets the benefits of cheaper oil. In May 2014, **United Kingdom (UK)**-based private equity company **Actis** divested some of its share in Umeme to major institutional investors including **South Africa**-based **Investec Asset Management** and the state-run private sector pension fund **National Social Security Fund (NSSF)**.

Implications

No meaningful challenge to Museveni is likely to emerge before the October NRM conference. Political infighting will distract the NRM from effective governance and economic policy-making.

¹¹ Tullow Oil 2014 half year report

¹² Source, oil analyst, Kampala

¹³ UGO, 22 Jan 2015.

¹⁴ Source, oil analyst, Kampala

¹⁵ UGO, 22 Jan 2015.

¹⁶ UGO, 22 Jan 2015.

¹⁷ The East African, 12 Apr 2015.

¹⁸ The East African, 12 Apr 2015.

¹⁹ Daily Monitor, 30 Mar 2015.

²⁰ Daily Monitor, 30 Mar 2015.

²¹ Daily Monitor, 13 Jan 2015.

The new land law will tighten rules for investors and may require searches to go beyond just title deeds to include historical ownership. The government may include retrospective provisions, allowing for the nullification of current agreements in the case of fraud or corruption.

Total's request for international arbitration has wider implications than delays to commercial oil production. It signals the reluctance of investors to seek domestic recourse in disputes over Uganda's opaque tax regulations and over contract enforceability. This is the result of concerns about political influence in Uganda's commercial justice system, and the preference shown to local interests.

Umeme's declining profits will raise concerns about whether it will make the necessary investments to address theft and loss across Uganda's distribution network. Power constraints act as a bottleneck to Uganda's oil and gas and infrastructure sectors.

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