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Lands minister Betty Amongi resurrects government land reform attempts as a pretext to amend the constitution. President Yoweri Museveni (1986- present) wants to amend the constitution to remove presidential age limits. The finance ministry considers bailing out 100 private sector companies despite the opposition of prime minister Ruhakana Rugunda and finance minister Matia Kasaija. The United States (US) threatens Uganda with expulsion from the Africa Growth Opportunity Act (AGOA) due to the continuing crackdown on the opposition. The government changes its strategy towards the opposition, attempting to sow division between opposition parties rather than detaining their leaders.

Government uses land reform as excuse to amend constitution

The government appears to be using land reform as a pretext to build support for constitutional reform to allow President **Yoweri Museveni** (1986-present) to remain in office beyond 2021. Land is becoming increasingly politicised due to a rapidly growing population increasing pressure on land availability. The issue of land in **Uganda** is further complicated because there are four different land tenure systems.¹

*"It's a slow burning process. Popular and political pressure around land ownership is increasing but it can be managed. It's just local politics, no different to any other country with land in short supply. It's not an orchestrated national campaign, just interests of politicians, communities and non-governmental organisations (NGO) not always aligning."*²

The government introduced the **Land Amendment Bill** in 2013 but it appears to have stalled in the parliamentary process. Rather than resurrecting the bill, lands minister **Betty Amongi** is maneuvering to include land reform as part of a broader constitutional reform process. Amongi is advocating a new system that simplifies the process of compulsory government land appropriation for investment promotion.

*"The lands ministry is out to table an amendment that will among other things enable government take anybody's land for development and strategic reasons with ease. She will definitely run into stiff resistance on the floor of parliament."*³

During the initial drafting process, popular and NGO opposition forced the government to drop land appropriation provisions. Resurrecting the provision is likely to encourage political opposition, according to an opposition leader:

"The proposed amendments, to the effect that government can acquire private property and compensate as and when it feels like, are untenable in a civilized society. Passing such a law will be sanctioning government to grab private land. As a leader of a political party I am going to mobilise all opposition MPs in parliament to oppose the proposed amendment and we shall also petition the constitutional court to block the intended amendment because it's intended to deprive Ugandans of their most precious asset (land). We warn Government that such a law is a

¹ US State Department, 2014.

² Source, international forestry executive with interests in Uganda

³ Source, former newspaper editor, Uganda

*precursor for insecurity and they will not like the outcome if they go ahead with it because in Uganda land is a 'no go' zone."*⁴

The opposition has called for a moratorium on land transactions until a full audit of public land can take place to end the practice of land-grabbing.

*"The amendment is a pretext that is being used by the regime cronies to grab hundreds of idle private lands. We are asking for a moratorium to be slapped on the sale of public land until an audit is carried out to find out how many jobs private investors have given locals since land is taken under the pretext of development. The issue of illegal sale of public land is rampant in Uganda and we can't take chances. We have documented all the public land that has been grabbed and it includes **Rwakitura Forest** reserve which Museveni himself grabbed and built his country home on. We challenge him to produce documents on the transaction of that land, if he has any. We also have hospital and school land that has been grabbed by regime insiders and this is where our fear comes from, that these amendments are meant to aid illegal acquisition of private land by investors."*⁵

The government's focus on land reform appears to be primarily designed to justify a constitutional reform process to remove presidential age limits to allow Museveni to stand in 2021.

*"All these amendments you are seeing are just a smoke screen but the actual intention is to remove the age limit so that Museveni is eligible to contest again. The attempts that are being made are to amend the constitution, for example, the proposed lifting of the presidential age limit. This is primarily meant to benefit one man and that's president Museveni."*⁶

Justice and constitutional affairs minister **Kahinda Otafiire** has confirmed the government plans to revise the constitution.⁷ The constitution prohibits candidates over 75 years of age from standing for the presidency. Museveni (born in August 1944) would have to amend the constitution should he wish to stand again in 2021. He has already proved willing to revise the constitution to remain in power, controversially removing term limits on the presidency in 2005. Otafiire said government plans to revise the constitution are not limited to the age limits.⁸ Otafiire is a politically influential figure as he is a member of the ruling **National Resistance Movement (NRM)** central executive committee, the NRM's highest policy formulating body. He is forming a **Constitution Review Commission** that will draft and eventually publish a **Constitution Amendment Bill**.⁹ Otafiire did not provide a timeframe for this process. Significant constitutional amendments require both a popular referendum and the backing of two-thirds of members of parliament.¹⁰ Museveni will use the constitutional amendment process to make constitutional changes that suit conservative interests (e.g. religious groups), mollify liberal groups (e.g. development NGOs), or reassure Uganda's foreign aid donors (or all three).¹¹

Government considers bailout for politically-connected companies

A leaked government document shows the finance ministry is considering bailing out 100 private sector companies across a variety of sectors.¹² Slow growth, currency depreciation and high interest rates have resulted in a challenging business environment in Uganda. Political and popular opposition

⁴ Source, opposition leader, Kampala

⁵ Source, youth activist, Kampala

⁶ Source, youth activist, Kampala

⁷ The Observer, 22 Jul 2016.

⁸ The Observer, 22 Jul 2016.

⁹ The Observer, 22 Jul 2016.

¹⁰ 2005 Constitution

¹¹ Source, senior western diplomat, Uganda

¹² Daily Monitor, 22 Jul 2016.

has, however, grown over the potential bailout.¹³ The bailout could cost the government 1.3 trillion Ugandan shillings (USh) (\$386m).¹⁴

There are a number of prominent businessmen on the list including **Simba Group** founder and chairman **Patrick Bitature**.¹⁵ The document claims that Simba Group owes USh200 billion (\$59.3m) to commercial banks.¹⁶ The manufacturing sector is also represented on the government list. **Lalani Sikander**-owned **Roofings Uganda Ltd** owes USh201 billion (\$59.6m) to the **World Bank Group's International Finance Corp** and USh8 billion (\$2.4m) to the **Diamond Trust Bank**.¹⁷ Roofings Uganda is currently operating at 30% capacity due to low demand.¹⁸ **Steel Rolling Bills**, which is currently under receivership, owes **Standard Chartered Bank** USh60 billion (\$17.8m), while **Grapes Construction**, owner of **Freedom City Mall**, owes **Stanbic Bank** USh100 billion (\$29.6m).¹⁹ While none of these companies is 'too big to fail' with regard to its economic significance, the bankruptcy of these construction and metal manufacturing companies would jeopardise government infrastructure projects.²⁰ Standard Chartered and **Sudhir Ruparelia**-owned **Crane Bank** stand to receive USh526 billion (\$156m) as part of the bailout.²¹ Both Standard Chartered and Crane Bank face increasing ratios of non-performing loans.²²

Bitature, Sikander and Ruparelia are all financial backers of Museveni.²³ A perception that the bailout will benefit ruling NRM-connected companies rather than good corporate practices will undermine Uganda's investor risk profile.

*"The whole saga is seen as a joke [due to political connections of beneficiaries]. It is rumoured that the government will target funds from the **National Social Security Fund (NSSF)**. The public is in uproar and demanding the criteria for selection for the bailout."*²⁴

Museveni on 27 July told the NRM central executive committee that he backs the bailout.²⁵ Museveni said the government will consider individual capital injection requests according to whether:

- the company is an exporter, and whether the civil war in **South Sudan** has impacted their business. The majority of companies on the bailout list, however, appear to be non-tradables;²⁶
- the government is in arrears to the company. Museveni claimed that the government has a moral obligation to help companies facing business difficulties due to government cash flow challenges;²⁷
- corporate malpractice in the banking sector has negatively impacted the company. Museveni alleged that commercial banks are involved in aggressive foreclosure practices to grab property. However, it is Crane Bank, an alleged beneficiary of these aggressive practices, which stands to benefit from the bailout.²⁸

Despite Museveni's backing, the government appears divided over the bailout. Prime minister **Ruhakana Rugunda**, finance minister **Matia Kasaija** and treasury secretary **Keith Muhakanizi**

¹³ The Observer, 27 Jul 2016.

¹⁴ The Observer, 27 Jul 2016.

¹⁵ Daily Monitor, 22 Jul 2016.

¹⁶ Daily Monitor, 22 Jul 2016.

¹⁷ Daily Monitor, 22 Jul 2016.

¹⁸ DW, 28 Jul 2016.

¹⁹ Daily Monitor, 22 Jul 2016.

²⁰ Daily Monitor, 22 Jul 2016.

²¹ The Observer, 27 Jul 2016.

²² Daily Monitor, 30 Jul 2016.

²³ DW, 28 Jul 2016.

²⁴ Source, senior banking executive, Kampala

²⁵ The Observer, 27 Jul 2016.

²⁶ DW, 28 Jul 2016.

²⁷ DW, 28 Jul 2016.

²⁸ Source, investigator, Kampala

reportedly oppose it due to the strain it will place on government finances.²⁹ The proposed bailout package amounts to approximately 7% of the current 2016/2017 budget and 10% of government revenue for the year.³⁰ Domestic interest payments account for 10% of the budget.³¹ The public debt stock stands at US\$26.3 trillion (\$7.8 trillion), of which approximately US\$17 trillion (\$4.88 billion) is external and US\$10 trillion (\$2.92 billion) domestic.³² However, current and projected debt levels remain within **East African Monetary Union (EAMU)** thresholds.

Alongside government ministers against the bailout, **Uganda Revenue Authority (URA)** commissioner general **Doris Akol** has blamed the companies for over borrowing through variable interest rate loans.³³ Managing director **Richard Byarugaba** has said the **Uganda Retirement Benefits Regulatory Authority Act 2011** prohibits the state-owned NSSF either from direct lending to businesses or offering securities to facilitate indirect lending as part of any bailout.³⁴ The central **Bank of Uganda (BoU)** has distanced itself from the bailout proposal, but has not specifically discussed whether it is willing to finance it.³⁵ The opposition has said it will oppose the bailout in parliament, but the NRM's parliamentary majority means it is unlikely to succeed.³⁶

The challenging business environment is undermining government revenue. The URA announced on 27 July that it missed its 2015/2016 fiscal year revenue target by US\$400 billion (\$118.5m).³⁷ Tax enforcement and compliance difficulties mean the government will struggle to meet its US\$13.18 trillion (\$4.09 billion) target contained in the current budget. The URA collected US\$11.2 trillion (\$3.3 billion) in 2015/2016.³⁸ This was a 15.6% improvement on the US\$9.7 trillion (\$2.87 billion) collected the previous year.³⁹ However, the URA recorded shortfalls in corporate, VAT, local excise and pay-as-you-earn (PAYE) income tax receipts.⁴⁰ Akol cited slower than expected economic growth for the shortfalls, including investor uncertainty around the February general election, an average 14.2% currency depreciation through the year, and 7.6% inflation compared to a projected 6.6%.⁴¹

United States threatens to expel Uganda from AGOA

The **United States (US)** has warned that the ongoing crackdown on the political opposition may result in Uganda's expulsion from the **Africa Growth Opportunity Act (AGOA)**.⁴² Expulsion from AGOA would exacerbate the sectoral challenges and weak linkages across the value chain that hamper Ugandan manufacturing. AGOA involves an annual review of compliance with political and economic eligibility criteria.⁴³ The US presidency can grant or withdraw AGOA beneficiary status at its own discretion.⁴⁴ President **Barack Obama's** (2009-present) trade adviser, **Michael B.G. Froman**, wrote to Uganda trade minister **Amelia Kyambadde** warning that the US has "*serious concerns related to the government of Uganda's adherence to certain AGOA criteria*".⁴⁵ Froman said continued AGOA membership depends on the government ceasing its harassment of opposition leaders and members; allowing political dissent; and halting the detention and intimidation of journalists critical of the

²⁹ The Observer, 27 Jul 2016.

³⁰ Daily Monitor, 30 Jul 2016.

³¹ The Observer, 27 Jul 2016.

³² The Observer, 27 Jul 2016.

³³ DW, 28 Jul 2016.

³⁴ The Observer, 28 Jul 2016.

³⁵ The Observer, 28 Jul 2016.

³⁶ DW, 28 Jul 2016.

³⁷ The Independent, 27 Jul 2016.

³⁸ The Independent, 27 Jul 2016.

³⁹ The Independent, 27 Jul 2016.

⁴⁰ The Independent, 27 Jul 2016.

⁴¹ The Independent, 27 Jul 2016.

⁴² Daily Monitor, 24 Jul 2016.

⁴³ www.agoa.info

⁴⁴ www.agoa.info

⁴⁵ www.agoa.info

government.⁴⁶ Uganda is not a major beneficiary of AGOA. According to the government, exports under the programme declined in value from \$3.3m in 2010 to \$1.1m in 2014.⁴⁷

The government crackdown on the opposition appears to be easing. In July, **Kizza Besigye**, leader of the opposition **Forum for Democratic Change (FDC)** secured bail.⁴⁸ Besigye's release is unlikely to change Museveni's strategy of making overtures to opposition parties excluding the FDC. Authorities charged Besigye with treason in May after he refused to recognise Museveni's victory in the February general election and held his own inauguration ceremony.⁴⁹ Museveni told NRM officials in July that the government had evidence that Besigye had acted in concert with senior FDC politician **Michael Kabaziguruka**, also charged with treason, and former intelligence coordinator **David Sejusa** to undermine Uganda's stability.⁵⁰ Museveni has adopted a conciliatory stance towards smaller opposition parties other than the FDC. Museveni included opposition members in the cabinet reshuffle in June, but did not appoint FDC members. The president in July met opposition leaders within the framework of the **Inter-Party Organisation for Dialogue (IPOD)**, a forum which the NRM has largely ignored since its formation in 2010, but the FDC did not attend.⁵¹ Party leaders at the IPOD reportedly lobbied Museveni to release Besigye, despite Besigye previously saying he does not approve of petitioning Museveni for concessions. Museveni has pledged to hold another IPOD meeting in August.

Implications

The NRM's two-thirds majority in parliament will facilitate the constitutional amendment process. However, it is likely to be politically contentious both inside and outside the NRM. A younger generation of NRM leaders is increasingly keen for political change out of concern that a Museveni-managed succession to a family member would lock them out of the process. While land is becoming increasingly politicised in Uganda, investors can mitigate associated risks through effective community liaison and engagement strategies.

It is uncertain whether the government will complete the bailout of politically connected companies. The bailout is deeply unpopular, with the Ugandan public questioning the use of public funds to finance the debts of prominent businessmen. There is also little political logic behind the bailout, as the companies are probably not 'too big to fail'. It does, however, draw attention to the poor outlook for the business sector amid subdued private sector borrowing and low growth.

Structural challenges, including expensive inputs, means the Ugandan manufacturing has not been able to take advantage of AGOA membership. The threatened expulsion, however, is indicative of strained relationships between Uganda and donor governments. Uganda's regional security role will limit donor sanctions even as the Museveni government becomes more authoritarian. However, Museveni's strategy of encouraging division in the opposition rather than a more forceful crackdown suggests he is conscious of international sentiment.

⁴⁶ www.agoa.info

⁴⁷ Daily Monitor, 24 Jul 2016.

⁴⁸ Daily Monitor, 12 Jul 2016.

⁴⁹ Daily Monitor, 12 Jul 2016.

⁵⁰ Daily Monitor, 12 Jul 2016.

⁵¹ Daily Monitor, 12 Jul 2016.

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