

Special report

WAIVER

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Exemption. A 15-year waiver is one of the conditions set by the institutions the government engaged to refinance Bujagali

Breakthrough as govt accepts Bujagali lenders' waiver demands

Tax exemption. The Finance minister confirms that Bujagali's tax waiver will be extended to 15 years subject to approval from Parliament, writes **Nelson Wesonga**

The government will exempt Bujagali Energy Limited (BEL) from paying corporation tax for the next 15 years.

It committed this three weeks ago in the United States of America, where President Museveni held talks with the International Finance Corporation (IFC) and the African Development Bank (AfDB), which the government engaged to refinance Bujagali Dam.

Mr Museveni, who was in the US for the United Nations General Assembly (UNGA), met the lenders in between his UNGA engagements.

In response to this newspaper's query about extending BEL's corporation tax waiver, Matia Kasajja, the Finance minister, said: "That is correct".

"We have agreed that we extend it [from five] to 15 years. We shall come [to Parliament] and explain. Of course, it will have to be approved by Parliament," Mr Kasajja said. Before moving to Parliament, he will have to brief the Cabinet, though.

Once the Cabinet is on board, the Finance ministry will prepare an Income Tax Amendment Bill to table before the House. Mr Kasajja did not say when exactly he will explain to Parliament why Uganda should extend BEL's corporation tax exemp-

tion. But a source who requested not to be named because they are not the spokesperson of the Energy ministry, said the bill will be in Parliament before the end of October.

A 15-year waiver is one of the conditions set by the institutions the government engaged to refinance Bujagali.

The lenders said since the tenure of their loans will be 15 years, the government should match that with its tax exemption.

Why refinance Bujagali

During the 55th Independence Anniversary celebrations in Bushenyi on Monday, President Museveni was in bullish mood about his government's accomplishments in the energy sector.

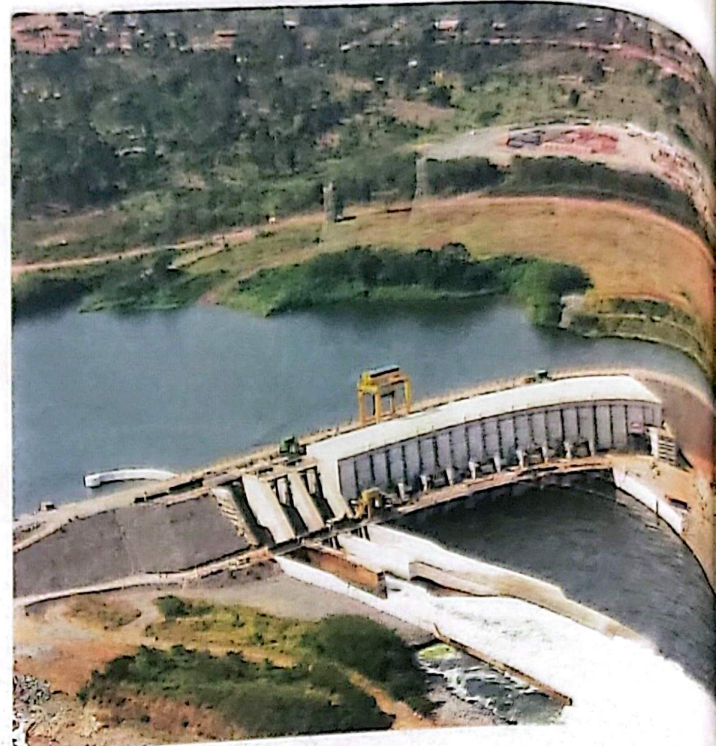
The government has expanded electricity generation from 60 megawatts in 1986 to about 900 megawatts today, which he said will jump further to 2,600 megawatts upon the completion of Isimba, Karuma, Ayago and Aswa power projects.

But the President had a concern. He said: "The only remaining hurdle is to lower the [retail] price of electricity [from \$0.10] to five American cents per unit for manufacturers. The only distortion for the price of electricity is Bujagali [Energy Limited], whose electricity is \$0.11 even when we exempt the enterprise from government tax."

This problem, Mr Museveni said, "was caused by a mistake of our negotiators who opted for expensive money. We are working on the restructuring of the financing of Bujagali with cheaper money to be paid for longer period."

This is what they have technically referred to as the refinancing

WHY IT IS IMPORTANT. In short, the government will borrow money on friendly terms, pay off the investors in the Bujagali project, lower the tariff, and then repay the new loan over a period of time. This is why it is working to clear the issues that lenders had raised before releasing the money



Green light. President Museveni and His Highness the Aga Khan during the commissioning of the Bujagali Hydropower Project in 2012. FILE PHOTO

of Bujagali. In short, the government will borrow money on friendlier terms, pay off the investors in the Bujagali project, lower the tariff, and then repay the new loan over a period of time. This is why it is working to clear the issues that lenders had raised before releasing the money.

Mind the environment

The other issue the government is addressing is the Kalagala Offset Area (KOA) - parts of Budondo in Jinja District, Nazigo and Wakisi in Buikwe District and Kisozi in Kamuli District - and the Kalagala Falls Site (KFS).

A 2007 study by Power Planning

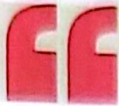
Associates Limited (PPA), an energy consulting firm, had said it would be unwise to build a hydropower plant between the Bujagali and Karuma sites.

Though a pre-feasibility study had indicated a section of stretch between the two was technically and economically attractive, environmentally it was not. PPA's report said the stretch's environmental and social impacts, which would be worsened by Bujagali hydropower plant's, "were...unacceptable".

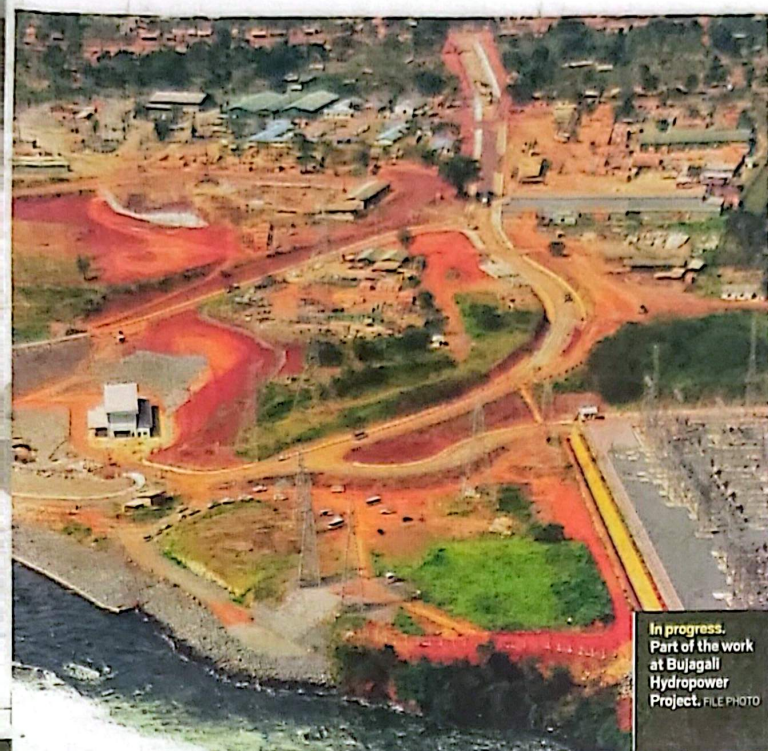
Through the 2007 Bujagali Indemnity Agreement (IA), the government committed to protect the KFS's natural habitat and environmental

OTHER DEMANDS

Costs incurred. Also on the lenders terms, the government will not contest the \$83 million (Shs299 billion) Bujagali Energy Limited incurred as a result of US\$ to shilling exchange rate fluctuations, per counsel from Uganda's Attorney General Chambers.



The plan. "We should be ready to close financing, God-willing, by the end of October," MATIA KASALIA, MINISTER OF FINANCE



In progress. Part of the work at Bujagali Hydropower Project. FILE PHOTO

and spiritual values. It would do that in conformity with sound social and environmental standards.

Uganda was also to carry out tourism development activities at the KFS in conformity with sound social and environmental standards. Going by the IA, in case the government was to develop any power generation project that would affect KFS, it needed the International Development Association (IDA's) nod.

The IDA and ABSA Bank Limited, as the Agent for the IDA Guarantee Lenders, extended \$115 million (Shs409 billion) to support a portion of the financing of the Bujagali hydropower project.

Also, the government was to protect the Nile Bank Central Forest Reserve (CFR), Mabira CFR and the Kalagala CFR.

As indicated above, the government is moving to make up for the impacts of KFS and KOA.

The 183-megawatt Isimba HPP, which China International Water & Electric Corporation is constructing, will inundate the Nile Bank CFR and four islets. It will 'swallow' eight of the 17 rapids along the Victoria Nile.

Of the eight, two, according to the National Environmental Management Authority (Nema), are within the KFS.

Now on the table is a suggestion by Nema to modify KFS's geographical boundary to include those that are unaffected by Isimba HPP.

One such area that Nema has identified is in the upstream section of the Victoria Nile - just above the southern limits of the section between the remaining KFS and Bujagali Dam.

On the transfer of shares from SGBH to SN Power AS, government and the lenders said 'the transaction should go on so that the buyer is not inconvenienced'.

More tax matters

According to one account, the Uganda Revenue Authority (URA) maintained SGBH should pay Capital Gains Tax (CGT) since section 79 (g) of the Income Tax classifies shares under immovable property.

However, SGBH said shares are movable property.

SGBH anchored its argument on Section 83 of the Company's Act, which describes shares as movable property.

The government and SGBH agreed to open an escrow account and deposit money on it, although it is not clear how much each will deposit.

Either party will forfeit what it deposited should the CGT matter not end in its favour.

To formalise the sale of its 8.8 per cent class A ordinary and 32.8 per cent class B redeemable preference shares to SN Power AS, SGBH will seek the Electricity Regulatory Authority (ERA)'s approval.

Section 11 of BEL's licence provides for that.

In 2016, SGBH skirted ERA - it went straight to State House to notify President Museveni of SGBH's plan.

Apart from SGBH, the other shareholders in BEL are Bujagali Holding Power Company, which owns 8.9 per cent of the class A ordinary shares and 17.11 per cent of the class B redeemable preference shares.

Uganda's minister of Finance owns 17.85 per cent of the class C ordinary shares. 64.28 per cent of the class A ordinary shares and 50 per cent of the class B redeemable preference shares are not allotted.

Still on the lenders terms, the government will not contest the \$83 million (Shs299 billion) BEL incurred as a result of US\$ to shilling exchange rate fluctuations. Uganda's Attorney General Chambers counseled so.

The office said, was the government to contest the amount, it would lead to arbitration.

It seems to suggest Uganda would lose the case, which should be avoided to save money that go to costs.

Regarding excess power, it is still not clear how the government is addressing the lenders' concerns about how it will repay the fresh loans.

When *Saturday Monitor* asked the State minister for Energy, Mr Simon D'Ujunga, about the lenders' conditions, he said: "They [lenders] gave us some paper. Our [government's] technical team is studying the paper. I can't say [the issues the lenders raised]."

What is clear is that Uganda's power generation capacity will increase from 892MW now to 2,000MW by 2020.

However, constrained demand is still comparatively low.

Though the government had said that, among other activities, the Standard Gauge Railway (SGR) construction would consume 300MW, there is information that the SGR will need only 50MW. In any case, it is not clear when the construction of the SGR will commence.

Looking for market

The government must therefore do more to increase the consumption of Uganda's electricity. The government has in the course of the last three months inked Memoranda of Understanding with the Democratic Republic of Congo (DRC) and South Sudan to sell and buy electricity respectively.

Responding to *Saturday Monitor's* request for an explanation for exporting electricity, UETCL's senior public relations officer, Mr Kenneth Otim, said it is to ensure it is 'idle'.

Through foreign exchange inflows, Uganda earns from the electricity UETCL exports. Mr Otim did not say how much Uganda will export to each of the aforementioned countries. But as of March 2017, Uganda was exporting just 0.27MW to the DRC.

South Sudan, according to USAID, has the lowest electricity consumption per capita in Sub-Saharan Africa.

The World Bank puts the country's per capita electricity consumption at 40 kilowatt hours, which is half Uganda's. The low consumption is due to South Sudan's under-developed energy infrastructure. Uganda is yet to string a transmission line to the border between the two countries and South Sudan one from, say, Juba to Uganda.

Another suggestion on the table is that the government should pay for the unused power that will be generated by Karuma and Isimba HPPs.

That though will require the Uganda Electricity Generation Company Limited (UEGCL) to apply to ERA for the modification of UEGCL's license to generate and sell electricity to the Uganda Electricity Transmission Company Limited (UETCL).

The Power Purchase Agreement (PPA) between UEGCL and UETCL provides for an energy charge - that is, payment for only the electricity that UETCL will buy from the plants.

With Karuma and Isimba projects

nearing completion, UEGCL is yet to apply for a licence modification.

That can be addressed in no time.

In the meantime, however, there is anxiety that should it not be addressed soon, the lenders will have fears that they might not be repaid as scheduled.

As pointed out in an earlier article, China's Export Import Bank of China has to be repaid within 15 years, starting 2020, for the \$2 billion (Shs7.2 trillion) loans it extended to Uganda to build Karuma and Isimba HPPs.

Since the government also has other loans repayment commitments with other financiers, in the absence of oil revenues not much, will be left to repay the IFC and the AfDB loans.

To sum up, Exempting BEL from corporation tax is one of the measures the government is undertaking to ensure Bujagali's generation tariff does not increase from Shs432.9 a unit to Shs541.2 between now and 2022.

Such an increase would impact on the cost of doing business in Uganda. The government says high electricity prices would keep off foreign industrialists.

Conversely, lower end-user tariffs would encourage investors to set up factories here. The factories they establish will then soak up many of Uganda's unemployed.

The jobs will put money in the workers' pockets, which money they will then use to purchase manufactured products, further boosting industrial production. Government will get tax from the workers and use it to provide social services - thus improve Ugandans quality of life.

Other factors

However, there are other factors that inform investors' decisions to put up factories in particular markets.

One factor is the cost of labour. For labour-intensive activities, cheap labour is a pull factor. Uganda does not have a minimum wage; so labour is cheap. But the Labour ministry is reflecting on instituting a minimum wage. Second, transport is important - be it road, rail, water or air.

Here, roads are more important because they connect most areas in Uganda. However, many roads are potholed, costing haulers time and money on repairing vehicles, or water transport is not fully developed.

Regarding electricity, though there is surplus production, one cannot rule out the likelihood of supply being interrupted by even a drizzle or electrical faults in the networks.

Where the roads are smooth, power supply reliable, railway and water transport functioning, the regulatory framework predictably stable, then Ugandan manufacturers, for whom President Museveni wants low power tariffs, have to compete with Chinese manufacturers who flood the market with cheaper products.

China, whose labour costs are now increasing, is able to charge less for its products because many of its manufacturers dabble in quality fade to reduce their production costs and increase their margins.

POWER OVER THE YEARS

2007. The government through the Bujagali Indemnity Agreement (IA), committed to protect the Kalagala Falls Site's natural habitat and environmental and spiritual values.

2017. Government agrees to extend Bujagali's tax waiver from five to 15 years upon approval from parliament.

2020. It is believed that power generation capacity will increase to 2,000 megawatts from the 892MW it is today.