



Scheduled. Part of River Nile where the Kiba hydropower dam is expected to be constructed. GOOGLE MAP PHOTOS

Energy PS, Chinese in bitter fight as \$700m Kiba dam deal is terminated

The deal: On May 27, 2015 government of Uganda and CAIDC entered into a memorandum of understanding (MoU) for a detailed feasibility study that would lead to a Build, Own, Operate and Transfer (BOOT) agreement for the Kiba Hydroelectric Power Project and the associated transmission line works, writes **Ivan Okuda**.

A thick cloud of unease is hovering at the Ministry of Energy and Mineral Development after the Permanent Secretary, Dr Stephen Isabalija, last week terminated a critical Memorandum of Understanding between Government of Uganda and China Africa Investment and Development Company (CAIDC), putting the construction of Kiba Hydro Power Project across River Nile in jeopardy.

On July 3, Dr Isabalija wrote to Mr Zhao Lionel, the President, China Africa Investment and Development Company (CAIDC), "We note that after more than 25 months, no significant work has been undertaken with respect to the development of the project with key milestones of the MoU not fulfilled. The purpose of this letter is to inform you that in line with section 6.2, the MoU between this ministry and CAIDC regarding your develop-

ment of Kiba Hydropower project is hereby terminated."

On July 4, hours after receiving the letter, Mr Zhao wrote to the State minister for Energy, Mr Simon D'Ujanga, copying in Dr Isabalija, "The ministry is aware our company has been waiting for this permit for over nine months as repeated attempts for assistance and communication over the past 12 months have been made to the ministry by both ERA and our company all without response. The permit application and required pre-feasibility were submitted to ERA on September 29, 2016. The pre-feasibility study cost over \$300,000 and was prepared by an independent consultant for ERA."

The deal

On May 27, 2015 government of Uganda and CAIDC entered into a Memorandum of Understanding (MoU) for a detailed feasibility study that would lead to a Build, Own, Operate and Transfer (BOOT) agreement for the Kiba Hydroelectric Power Project and the associated transmission line works.

Kiba is located in Nwoya District and is one of the three falls (alongside Ayago and Oriang) between Karuma and Murchison falls, about 35 kilometres from the Murchi-

son conservation area. Other candidate projects include Kalagala (330 MW), Oriang (392 MW), Ayago (616 MW), Murchison (655 MW), Isimba (183 MW) and Karuma (600 MW) are nearing completion.

The dam's estimated installed capacity is 295 megawatts and is one of those earmarked by government to increase Uganda's electricity supply.

The 295 megawatt dam will cost an estimated \$700 million (Shs2.5 trillion) considering that the 183 megawatt Isimba dam is projected to cost at least \$570 million (about Shs2 trillion), funded by a loan from the Export-Import Bank of China approved by Parliament in March 2015 at 2 percent annual interest repayable over 20 years, with a five-year grace period.

Before that MoU was signed however, CAIDC suffered setbacks. Even after meeting President Museveni both in Kampala and Beijing, China, bureaucrats in government put in place roadblocks to stifle the company from taking off with the deal, in what sources familiar with the intrigue wars in the energy sector say was a fight over which company takes the Kiba deal.

On September 9, 2012, this newspaper reported that President Museveni had threat-

ened to pull the plug on the Karuma dam deal after energy officials failed to address suspected irregularities in the procurement process. Government would later hand the contract to Synohydro.

In April 2016, the East African Court of Justice ruled against government of Uganda in a suit by Mr Henry Kyarimpa disputing the award of the Karuma Hydro power project deal to Chinese firm Synohydro for violating provisions of the Public Procurement and Disposal of Public Assets Act and contempt of court.

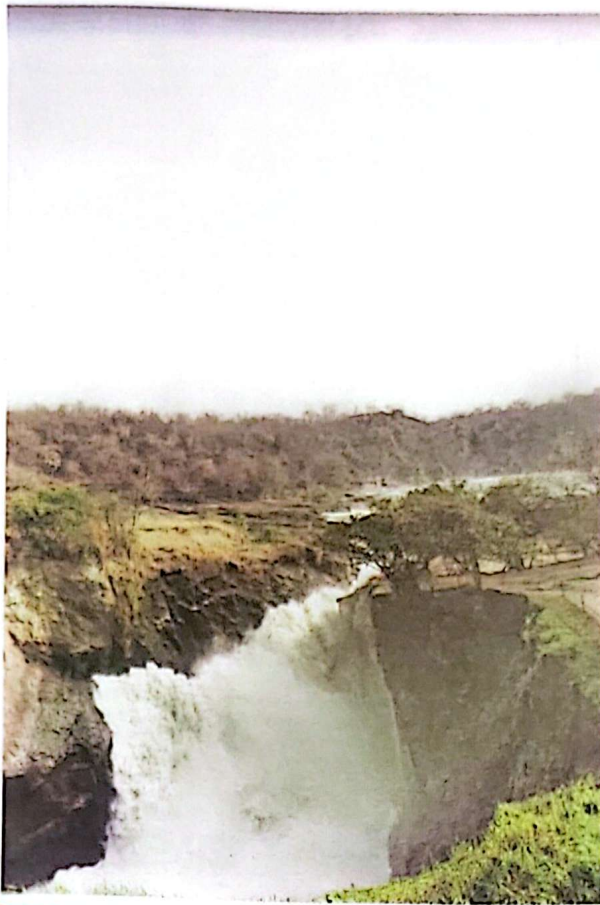
On May 8, 2015 Mr Zhao wrote to President Museveni following up on meetings between the President, energy officials and the company in July 2014 in Kampala and Beijing. After those series of meetings the President gave the ministry the greenlight to enter into an MOU with the company.

Zhao's letter to Museveni reads, "We have now been informed by the ministry of Energy that the signing of the MoU cannot take place ostensibly because the Inspector General of Government and Public Procurement and Disposal of Public Assets Authority are investigating misplaced allegations that the Kiba HPP engineering, procurement and construction has been awarded illegally to



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DR STEPHEN ISABALIJA, THE PERMANENT SECRETARY, MINISTRY OF ENERGY AND MINERAL DEVELOPMENT.



Dam site. One of the waterfalls on the River Nile section in Nwoya District. GOOGLE MAP PHOTOS

CAIDC. As you well know we have committed resources and sent a delegation to Kampala as agreed in Beijing and we find this delay most unfortunate given the fact that this investigation has no basis because it is a private investment and not a government contract."

With CAIDC reaching out to the President over back and forth queries between PPDA and IGG, the MoU, with Mr Museveni's intervention, was signed two weeks later.

What the MoU provided for

The MOU intended to establish a framework for CAIDC to undertake an exclusive detailed feasibility study for the project on which basis the government would enter into a BOOT contract. A BOOT contract (Build, Own, Operate, Transfer) is a public-private partnership (PPP), project model in which a private organisation conducts a large development project under contract to a public-sector partner, such as a government agency. This means that rather than borrow millions of dollars as with the other hydropower projects, the Chinese firm would invest at least \$700 million, build, own, operate and transfer the dam to government after approximately 25 years.

The MoU provided that the company was to apply to Electricity Regulatory Authority (ERA) for a permit for the feasibility study and complete it 12 months after obtaining the permit then submit to government 30 days after the study, the implementation proposal for the BOOT contract and 45 days later sign a contract. It would then negotiate and enter into a power purchase agreement with Uganda Electricity Transmission Company Lim-

project and the tariff would not exceed \$8 cents once production starts.

The MoU also required the company to send Ugandan engineers, technicians and operators during the construction period for training in the areas of hydropower and transmission line operation and maintenance so as to ensure the operation of the power plant after completion in a bid to transfer skills to Uganda.

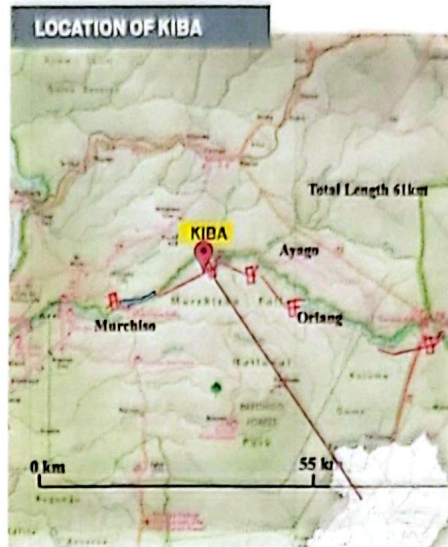
For the objects of the MoU to be achieved however, CAIDC needed a permit from ERA upon which it would kick off the comprehensive feasibility study, submit a project implementation plan to government and enter into a contract so the construction of the project starts.

The hurdle for the Chinese firm was now about the permit with ERA delaying it for over nine months, hence the termination of the MoU last week by Dr Isabalija on grounds of inactivity.

The firm however contends that, "It is perplexing that the PS has cited inactivity when the ministry is well aware of the causes and responsibility for the delay. Our company has not breached the MoU in anyway. There are developmental milestones that come into effect once the ERA permit has been issued. Since no ERA permit has been issued none of the conditions can be breached. We request the minister to inform the President of Uganda of any irregularities in the handling of this case that might affect the progress of the national energy sector."

The estimated time frame for issuance of the permit is usually 30 to 40 days however after 278 days, the firm has still not received this permit preventing any progress.

Mr Zhao argues in his letter, "We have had engineers and technicians on



WHO IS CAIDC?

According to the MoU, CAIDC is an investment consortium owned by Poly Group China (PGC) with 55% shares and the China Development Bank (CDB) with 45% shares having invested in medium and mega size electricity generation power stations in Africa up to 350 MW, and over 40 power projects globally under the auspices of its mother company Poly Group Projects. It also invests in toll roads, hydro and thermal electricity plants, mining concerns, oil exploration, bridge construction and real estate.

Uganda waiting for the permit and permission to start work."

Following the delay in issuance of the permit, the company appealed to Energy minister Irene Muloni and President Museveni to expedite the stalled process in vain.

On February 8, Mr Zhao wrote to Ms Muloni, requesting for assistance from the ministry on the progress and issuance of the ERA Permit and begged her to, "expedite it and issue a letter of extension of the MoU term length."

A comprehensive pre-feasibility report was commissioned and submitted to ERA on September 29, 2016 and the company now awaited release of the permit for completion of the detailed feasibility report. On the same day Mr Museveni got a progress update and Mr Zhao enclosed his letter to Ms Muloni in his communication to the president, as though to subtly bring to his attention the delays by ERA and the need for him to help place a call to have the process of issuance of the permit accelerated.

On June 7, 2017 state minister for energy Simon D'Ujanga wrote a letter of no objection recommending CAIDC for the permit, "I have no objection in recommending you for the issuance of a permit to conduct the feasibility study as outlined in the MOU."

Even with the minister's letter of no objection, and reminders to Muloni and the president to expedite the issuance of the permit to enable the company undertake the prerequisite feasibility study for the dam, the permit didn't come through.

On its part, correspondences from ERA throw back blame at the ministry for delayed issuance of the permit. In a May 12, 2017 letter to Ms Muloni, Mr Fabian Rwamwema Tibeita, writing for the chairman ERA asserts, "a preliminary review of the application (for the permit) established that the MoU creates certain obligations for the government concerning the project which we highlighted in our previous correspondence."

Section 30 (3) of the Electricity Act, 1999, mandates ERA to invite directly affected parties and public agencies to make comments in respect of the application. The authority is also required to consider government policy, when processing applications for allocation of hydropower project sites. ERA needed, according to the letter, guidance from

interest to develop the project with the said developer and adopted policy for Kiba considering that more than 21 months had passed since the signing of the MoU. The ministry didn't avail ERA the guidance it asked for.

In an interview with this newspaper last Thursday, it was apparent that minister D'Ujanga and his PS were reading from different scripts on termination of the MoU with sources close to the deal saying whereas the former is vouching for the Chinese firm, the latter wants to shop for another investor.

Mr D'Ujanga told this reporter in an interview last week, "I have not discussed that matter with the PS. I need to discuss with him. He is the one who runs the ministry."

When this writer contacted Dr Isabalija, he, contrary to what the minister had said, claimed he had held talks with D'Ujanga who agreed to the termination.

Mr Isabalija said CAIDC had failed to deliver on the MoU, "What is the purpose of an MoU if for two years you are not delivering on it? These are national assets and we cannot leave matters of strategic importance of Uganda to speculators. The era of speculators in the energy sector is over, you can quote me, we have cleaned up the system from speculators. We are not here for a cup of tea. I talked with the Energy minister and she agrees with me we cannot continue with that company."

Asked what happens to the dam, he said, "We shall develop the dam and we don't have to tag it to a non performing individual. The gestation period of a dam is seven to 10 years so if we wait for two years because an investor is not moving when shall we get the dam? We are not short of investors."

He also faulted CAIDC for sleeping on its pursuit of the permit from ERA, "The guidelines to get a permit are clear but let's assume it is correct they had been delayed by ERA, how do they explain signing the MoU in May 2015 and applying for the permit one and half years later? Are they serious investors? May be they were not even fit for the permit but that is not my case. All I want are results not speculative investors."

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