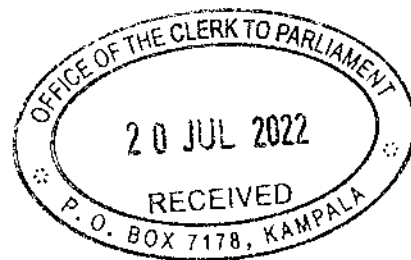


Tabled by
Hon. Otalo on
20.07.2022
Barungi
C-4-7



PARLIAMENT OF THE REPUBLIC OF UGANDA



**REPORT OF THE COMMITTEE ON ENVIRONMENT AND NATURAL
RESOURCES ON RECONSIDERATION OF THE MINING AND MINERALS
BILL, 2021**

OFFICE OF THE CLERK TO PARLIAMENT
JULY, 2022

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Rt. Hon. Speaker and Hon. Colleagues,

It is against this background that the Rt. Hon Speaker of Parliament on 19th of July, 2022, in accordance with Article 91 (3) b and 91 (4) of the Constitution of the Republic of Uganda, referred the Bill for reconsideration by the Committee on Environment and Natural Resources. The said Articles require Parliament to reconsider a Bill that has been returned to Parliament by the President with a request that the Bill or a particular provision thereof be reconsidered by Parliament.

The Committee considered the Bill in accordance with Rule 143(2) of the Rules of Procedure of Parliament, and hereby reports as follows.

2.0 GENERAL OBSERVATIONS ABOUT THE IMPUGNED CLAUSES OF THE MINING AND MINERALS BILL, 2021

2.1 DEFINITION OF LARGE SCALE MINING

Clause 8 of the Bill defines “Large Scale Mining” to mean “the intentional mining of minerals in mechanized operations, involving the excavations of large surface pits, sinking of shafts, driving of adits or other underground opening with limitations to the extents of the mining operations dictated by the extent of the ore body and annual ore production volumes or throughput exceeding one million tons”.

H.E the President of Uganda argues that the current definition, if maintained, has the effect of excluding projects such as Kilembe Mines, Makutu Rare Earth Element, Rubanda and Muko Iron Ore which are complex and capital intensive

Element, Rubanda and Muko Iron Ore which are complex and capital intensive

but may not meet the annual ore production or throughput exceeding one million tonnes. He recommends that this definition should be deleted and instead a new provision numbered 59 (Threshold for Large Scale Mining) be inserted under cross heading: Large Scale Mining. That this would give the Minister powers to prescribe the threshold for Large Scale Mining under the Act for different minerals.

The Committee considered the Presidents' submission justifying the deletion and agreed that the current definition if maintained would indeed have the effect of excluding projects such as Kilembe Mines, Makutu Rare Earth Element, Rubanda and Muko Iron Ore since what may be considered as large scale mining in terms of quantity may not be not be same for another mineral in terms of quality or even in terms of capital investment.

Committee Recommendation:

The Committee recommends that;

- 1. The definition of Large Scale Mining be deleted in clause 8.***
- 2. A new provision numbered 59 (Threshold for Large Scale Mining Licence) be inserted under cross heading: Large Scale Mining Licence.***

2.2. ANNOUNCEMENT OF AREAS FOR EXPLORATION, MEDIUM SCALE OR LARGE SCALE MINING LICENCE

Clause 31 (1) provided that "Notwithstanding section 30, the Minister may in a manner prescribed by regulations, announce areas open for bidding for exploration licences, medium scale mining licences or large scale mining licences under this Act". Clause 31 (7) provided that "For the avoidance of doubt competitive bidding shall not apply to areas under a mineral right."

H.E the President argues that this exemption would prevent government from using competitive bidding for licences in the control of government, like bidding

[Handwritten signatures and initials at the bottom of the page, including names like "Jijah", "Dat", "Ayob", "Lumbwe", "Mumtash", "Fahmay", and "Wab"]

of Kilembe Mines. He therefore recommends that this clause should read as follows; "For avoidance of doubt, competitive bidding shall not apply to areas under a mineral right except for a mineral right held by a State owned Enterprise."

The Committee considered the clause and the President's argument and agrees to the proposed amendment because it would enable Government to use competitive bidding for the licenses it controls instead of hand picking any company.

Committee Recommendation:

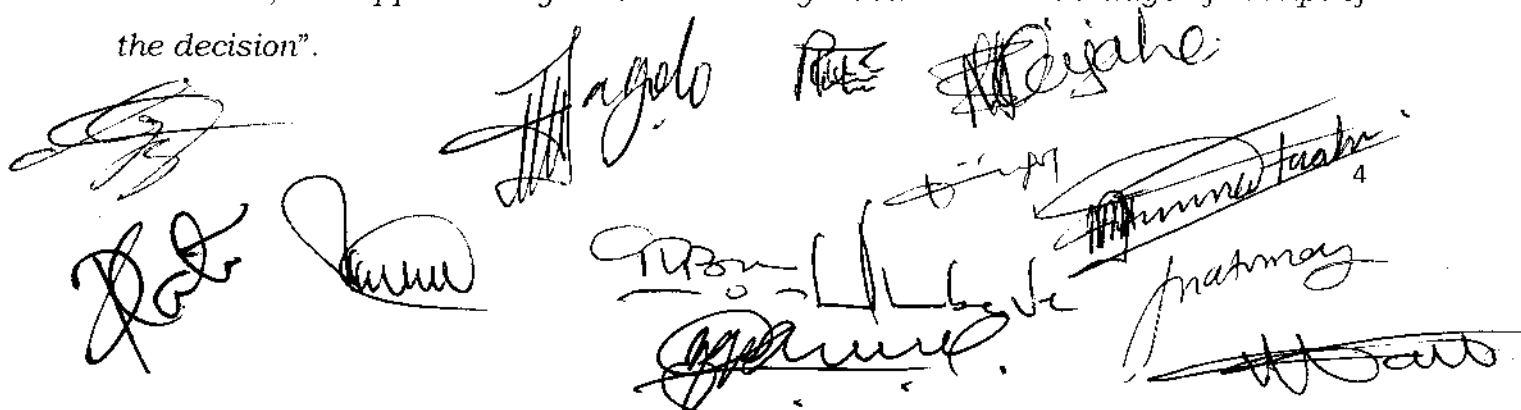
***The Committee recommends that clause 31(7) be amended as follows;
For avoidance of doubt, competitive bidding shall not apply to areas under a mineral right except for a mineral right held by a state owned enterprise.***

2.3. OBJECTION TO PROPOSED MINING OPERATION

Clause 33(6) provides that "A person aggrieved by the decision of the Minister under subsection (2), may appeal against the decision to the Tribunal within thirty days of receipt of the decision".

The President argues that establishment of a tribunal is contrary to the government's on-going process of rationalizing and merging of Agencies. He further urges that the High Court has unlimited jurisdiction in all matters and that it has been strengthened to improve delivery of justice and it is empowered to handle such grievances.

He therefore recommends that such an appeal should be lodged to the High Court and not the tribunal and that the clause should be substituted to read as follows; "an appeal being made to the High Court within 30 days of receipt of the decision".

A collection of handwritten signatures in black ink, including names like Angelo, Pius, and others, some with dates like 2017 and 2018.

The President recommended that clauses 33(7) and (8) be deleted consequentially.

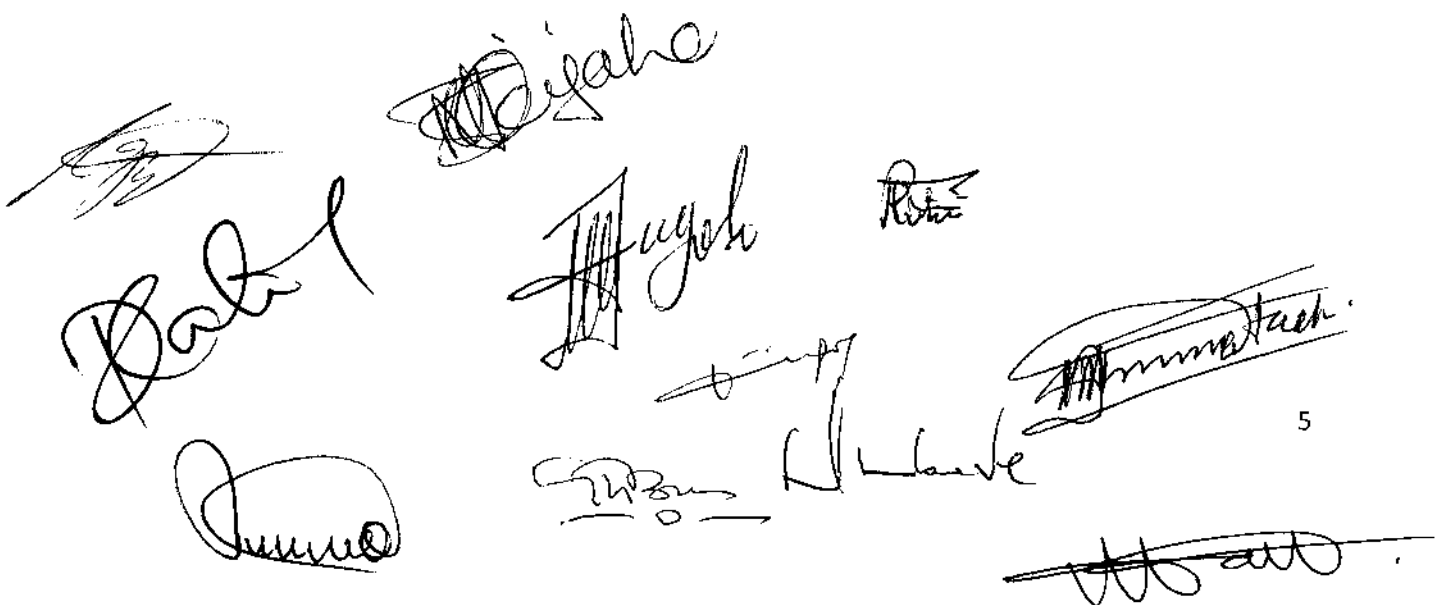
The Committee considered that clause and agrees with the President's argument recommends that clause 33 (6) be redrafted as follows; "A person aggrieved by the decision of the Minister under subsection (2) may appeal against the decision to the High Court within thirty days of receipt of the decision"

The Committee agrees with the President that clause 33 (7) and 8 should be deleted.

3.0 CONCLUSION:

Rt. Hon. Speaker and Hon. Members, the Committee scrutinized the issues raised and agrees with the President in all areas referred to the Committee for reconsideration.



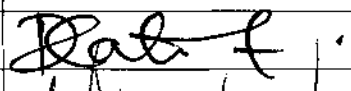
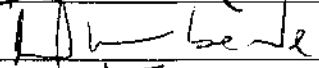


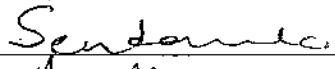
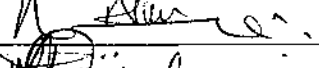
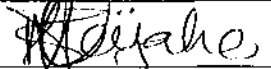
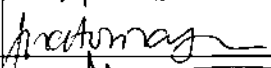

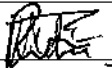

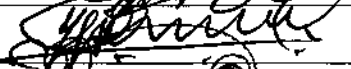
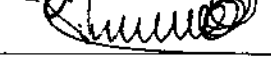

I beg to report.

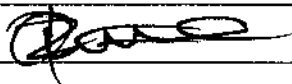


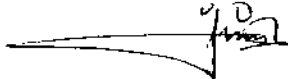
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- Dalal*
- Diyahe*
- Hugh*
- Rita*
- Wong*
- Wong*
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- Wong*

**SIGNATURE SHEET FOR MEMBERS OF THE COMMITTEE ON
ENVIRONMENT AND NATURAL RESOURCES – ON RECONSIDERATION OF
THE MINING AND MINERALS BILL, 2022**

No.	NAME	PARTY	SIGNATURE
1.	Hon. Dr. Otiam Emmanuel Otaala (Chair)	NRM	
2.	Hon. Dr. Kugonza Emely (Deputy)	NRM	
3.	Hon. Biyika Lawrence Songa	NRM	
4.	Hon. Kateshumbwa Dicksons	NRM	
5.	Hon. Wambede Seth	NRM	
6.	Hon. Agasha Juliet Bashisha	NRM	
7.	Hon. Tumwesigye Josephat	NRM	
8.	Hon. Sendawula Christine Bukonya	NRM	
9.	Hon. Akamba Paul	NRM	
10.	Hon. Mugumya Clare	NRM	
11.	Hon. Natumanya Flora	NRM	
12.	Hon. Katalihwa Donald Byabazaire	NRM	
13.	Hon. Ruhunda Alex	NRM	
14.	Hon. John Faith Magolo	NRM	
15.	Hon. Angura Fredrick	NRM	
16.	Hon. Apollo Yeri Ofwono	NRM	
17.	Hon. Twinomujuni Francis Kazini	NRM	
18.	Hon. Otukol Sam	NRM	
19.	Hon. Alion Yorke Odria	NRM	
20.	Hon. Kaaya Christine Nakimwero	NUP	
21.	Hon. Kanyike Ronald Evans	NUP	
22.	Hon. Nalule Asha Aisha Kabanda	NUP	

23.	Hon. Tebandeke Charles	NUP	
24.	Hon. Aol Betty Acan	FDC	
25.	Hon. Nyakato Asinansi	FDC	
26.	Hon. Kayondo Fred	DP	
27.	Hon. Akena James Jimmy	UPC	
28.	Hon. Adidwa Abdu	INDEP.	
29.	Hon. Kamuntu Moses	INDEP.	
30.	Hon. Auma Linda Agnes	INDEP.	
31.	Hon. Musana Eric	INDEP.	

32 POLYCARP OGWARI INDEP. 

PROPOSED AMENDMENTS TO THE MINING AND MINERALS BILL, AS RETURNED BY THE PRESIDENT.

1. Amendment of clause 8.

Amend clause 8 by deleting the definition of the term “**large scale mining**”; and insert a new provision numbered 59 (under the cross heading “*Large Scale Mining Licences*”).

Justification: Clause 8 defines “large scale mining” to mean “the intentional mining of minerals in mechanised operations, involving the excavation of large surface pits, sinking of shafts, driving of adits or other underground openings with limitations to extents of the mining operation dictated by the extents of the ore body and annual ore production volumes or throughput exceeding one million tons”

The current definition if maintained has the effect of excluding projects such as Kilembe Mines, Makutu Rare Earth Element, Rubanda and Muko iron Ore which are complex and capital intensive but may not meet the annual ore production of throughput exceeding one million tonnes.

2. Amendment of clause 31

Substitute sub clause (7) with the following-

“For avoidance of doubt, competitive bidding shall not apply to areas under a mineral right, **except for a mineral right held by a State own enterprise.**”

Justification: The bill as passed by Parliament empowers the Minister to announce areas open for bidding for an exploration licence, medium scale licence or a large scale mining licence. It further states that “competitive bidding shall not apply to areas under a mineral right.” The exemption would prevent Government from applying competitive bidding for licences under control of Government, like Kilembe Mines. The proposed amendment will enable Government to use competitive bidding for licences under its control.

3. Amendment of clause 33.

- a. Amend sub-clause (6) by substituting the words “may appeal against the decision **to the tribunal** within thirty days of receipt of the decision” with the words “may appeal **to the High Court** within thirty days of receipt of the decision”

Justification: The establishment of a tribunal is contrary to the Government’s on-going process of rationalizing and merging of agencies; and since the High Court has unlimited jurisdiction, it’s empowered to handle such grievances.

- b. Delete sub clauses (7) and (8)

Justification: Consequential.

4. Insertion of a new provision.

- a. Insert a new provision numbered 59 (under cross heading “*large scale mining licences*”) to read as follows-

“59. Threshold for Large Scale Mining licence.

The Minister shall, by regulations, prescribe the threshold for large scale mining licence under this Act”

- b. Renumber the provisions accordingly

Justification: Consequential.



MINORITY REPORT ON MINING AND MINERALS BILL, 2021.



Moved Under Rule 205 of the Rules of Procedure



JULY 2022

1.0 INTRODUCTION

Rt. Hon. Speaker and colleague Members of Parliament, we the undersigned Members of the Committee on Environment and Natural Resources would like to state from the onset that we support legislation that provides legal effect to mining and minerals in our country.

The Mining and Minerals Bill, 2021 was tabled on the 18th November, 2021 and referred to the Committee on Environment and Natural Resources for scrutiny and processing in line with Rule 129 of the Rules of Procedure of Parliament.

Pursuant to Rule 205 of the Rules of our Rules of Procedure, on behalf of the undersigned members, I hereby present a dissenting opinion from the overall opinion of majority of our colleagues on the Committee.

1.1 Brief Background

Rt. Hon. Speaker, this House passed the Minerals and Mining Bill on 18th February, 2022. Four months after passing of the Bill, the President returned it to the House for reconsideration of 3 clauses.

2.0 AREA OF DISSENT

We dissent with majority of the Committee on one ground:

- i. Excessive and open ended delegation of ministerial powers to define and determine the classification "large scale mining".

3.0 DISSENTING OBSERVATIONS

Rt. Hon. Speaker, we agree with the President's reasoning on the concerns over the definition of large scale mining. We however disagree on the proposed amendment to cure the identified mischief.



3.1 Excessive and open ended delegation of ministerial powers

Rt. Hon. Speaker and colleagues, the power to make laws with significant ramification on the citizens of our country is exclusively vested in this House by article 79 of the Constitution of our Republic.

Delegating the authority to determine what is considered "large scale mining" to just an office of Minister is bad legislation. Am aware that any one of us could hold that portfolio of Minister responsible for mining anytime in future. That notwithstanding, the inherent self-interest usually demonstrated by individuals holding public office is the reason some countries like Tanzania and Zambia have cured this dilemma by establishing a threshold in the Mining Act not through Statutory Instruments.

Rt. Hon. Speaker

Together with my colleague with whom we have signed this report, we conducted a quick desk benchmarking exercise in the 2 countries and we established that;

- i. The Tanzania Mining law provides for the equivalency of large scale mining licenses and defines thus; **"special mining licence"** means a licence for large scale mining operation, whose capital investment is not less than US\$100,000,000 (One Hundred Million US Dollars) or its equivalent in Tanzanian shillings.
- ii. The Zambian Mining law provides the size of the licensed area as follows; **"large-scale mining"** means mining over an area of a minimum of one hundred and twenty-one cadastre units and not exceeding seven thousand four hundred and eighty-five cadastre units;

For avoidance of doubt, **"cadastre unit"** means a quadrilateral formed by the intersection of meridians and parallels and with a distance equal



to six sexagesimal seconds, and that covers an average plan metric surface of 3.3400 hectares;

Proposed Amendment.

We propose that this House compels the committee to interact with technical officers in the Ministry responsible for mining in order to establish a schedule that will guide the different thresholds for different mineral categories for purposes of satisfying the definition and requirements of qualification of "large scale mining.

Recommendation.


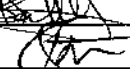
We recommend that this House finds our proposal worth considering and accordingly allow the Committee to scrutinize the said part of clause 8 of the Bill.

CONCLUSION.

Rt. Hon. Speaker and Honourable Colleagues, we request you to consider and support the Minority Report.



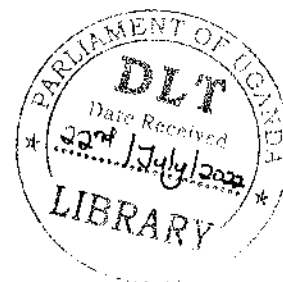
MEMBERS OF THE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES WHO SIGNED THE MINORITY REPORT ON THE MINING AND MINERALS BILL, 2021

SN	Name	Signature
1	AISHA KABANDA NALULE	
2	KATHICE RONALD EVANS	

MINUTES OF THE PROCEEDINGS OF THE IN-HOUSE MEETING OF THE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES RECONSIDERING THE MINING AND MINERALS BILL, 2021- HELD ON TUESDAY 19TH JULY, 2022 IN ROOM 201, SECOND FLOOR - NORTH WING:

MEMBERS PRESENT:

1. Hon. Otiam Emmanuel Otaala	Chairperson
2. Hon. Kugonza Emely	Deputy Chairperson
3. Hon. Angura Fredrick	Member
4. Hon. Agasha Juliet Bashisha	Member
5. Hon. Kayondo Fred	Member
6. Hon. Akamba Paul	Member
7. Hon. Kateshumbwa Dickson	Member
8. Hon. Tumwesigye Josephat	Member
9. Hon. Tebandeke Charles	Member
10. Hon. Apollo Yeri Ofwono	Member
11. Hon. Kaaya Christne Nakimwero	Member
12. Hon. Donald Byabazaire	Member
13. Hon. Clare Mugumya	Member
14. Hon. Kanyike Ronald Evans	Member
15. Hon. Bukenya Christine Sendaula	Member
16. Hon. Asha Aisha Kabanda	Member
17. Hon. Otukol Sam	Member



In attendance:

1. Ms. Mpitsi Jacqueline Oidu	Clerk Assistant
2. Ms. Acheing Florence	Princ. Legal Counsel
3. Mr. Basala Martin	Economist
4. Ms. Charity Alesi	Sen. Research Officer
5. Mr. Mugisha David	Princ. Policy Analyst
6. Mr. Asiimwe Mayers	Policy Analyst

MIN. 3 19/07/22	PRESENTATION OF THE PROPOSED AMENDMENTS ON THE MINING AND MINERALS BILL, 2021: <ul style="list-style-type: none"> • The Legal Counsel read the letter written by H.E the President detailing the clauses for reconsideration in the Mining and Minerals Bill, 2021 and the proposed amendments thereof. • The detailed letter containing clauses for reconsideration which was written on 18th of June, 2022 is herewith attached.
MIN. 4 19/07/22	MEMBERS REACTIONS: <ul style="list-style-type: none"> • Members took cognizance of the Present's interests and agreed that the definition of the Large Scale Mining of the Bill in clause 8 be deleted and a new provision be numbered 59 – threshold for large scale mining be inserted. Members agreed that this would give the Minister Powers to prescribe the threshold for large scale mining. • <i>Question was put and agreed to.</i> • The Committee concurred with the President and recommended that clause 31 (7) be amended to allow competitive bidding for a mineral right held by a state owned enterprise. • <i>Question was put and agreed.</i> • The Committee also noted that the establishment of the tribunal in clause 33(7) and (8) is contrary to the government's on-going rationalizing process and merging of Agencies and therefore should be deleted. • <i>Question was put and agreed to.</i>

19/07/22

- The Chairperson thanked Members for actively participating in the scrutinizing of the reconsidered Mining and Minerals Bill and urged them to keep up the spirit; bearing in mind that more Bills will be introduced in the Committee this financial year.
- There being no other business, the meeting was adjourned at 04:30p.m.

Confirmed by:

Ample

Mpitsi Jacqueline Oidu
CLERK ASSISTANT

Amma Aala

Dr. Otiam Emmanuel Otaala (MP)
CHAIRPERSON

PROPOSED AMENDMENTS TO THE MINING AND MINERALS BILL, AS RETURNED BY THE PRESIDENT.

1. Amendment of clause 8.

Amend clause 8 by deleting the definition of the term “**large scale mining**”; and insert a new provision numbered 59 (under the cross heading “*Large Scale Mining Licences*”).

Justification: Clause 8 defines “large scale mining” to mean “the intentional mining of minerals in mechanised operations, involving the excavation of large surface pits, sinking of shafts, driving of adits or other underground openings with limitations to extents of the mining operation dictated by the extents of the ore body and annual ore production volumes or throughput exceeding one million tons”

The current definition if maintained has the effect of excluding projects such as Kilembe Mines, Makutu Rare Earth Element, Rubanda and Muko iron Ore which are complex and capital intensive but may not meet the annual ore production of throughput exceeding one million tonnes.

2. Amendment of clause 31

Substitute sub clause (7) with the following-

“For avoidance of doubt, competitive bidding shall not apply to areas under a mineral right, **except for a mineral right held by a State own enterprise.**”

Justification: The bill as passed by Parliament empowers the Minister to announce areas open for bidding for an exploration licence, medium scale licence or a large scale mining licence. It further states that “competitive bidding shall not apply to areas under a mineral right.” The exemption would prevent Government from applying competitive bidding for licences under control of Government, like Kilembe Mines. The proposed amendment will enable Government to use competitive bidding for licences under its control.



3. Amendment of clause 33.

- a. Amend sub-clause (6) by substituting the words “may appeal against the decision **to the tribunal** within thirty days of receipt of the decision” with the words “may appeal **to the High Court** within thirty days of receipt of the decision”

Justification: The establishment of a tribunal is contrary to the Government's on-going process of rationalizing and merging of agencies; and since the High Court has unlimited jurisdiction, it's empowered to handle such grievances.

- b. Delete sub clauses (7) and (8)

Justification: Consequential.

4. Insertion of a new provision.

- a. Insert a new provision numbered 59 (under cross heading “*large scale mining licences*”) to read as follows-

“59. Threshold for Large Scale Mining licence.

The Minister shall, by regulations, prescribe the threshold for large scale mining licence under this Act”

- b. Renumber the provisions accordingly

Justification: Consequential.

2. Clause 33(1) on Establishment of a Tribunal:

(a) **Clause 33(6)** on appeals against the decisions of the Minister being made to the Tribunal should be substituted with *"an appeal being made to the High Court within thirty days of receipt of the decision."* The establishment of a tribunal is contrary to the Government's on-going process of rationalizing and merging of Agencies. Since the High Court has unlimited jurisdiction in all matters and has been strengthened to improve delivery of justice, it is empowered to handle such grievances.

(b) **Clause 33(7) and (8)** should be repealed.

3. Clause 31 (7) on competitive bidding should be amended by substituting it with the following:

"For avoidance of doubt, competitive bidding shall not apply to areas under a mineral right except for a mineral right held by a State-owned enterprise."

The Justification is that the Bill as passed by Parliament empowers the Minister to announce areas open for bidding for an exploration licence, medium scale mining licence or a large-scale mining licence. It further states that: *"competitive bidding shall not apply to areas under a mineral right."* The exemption would prevent Government from using competitive bidding for licences in the control of Government, like bidding of Kilembe Mines. The proposed amendment will enable Government to use competitive bidding for the licences it controls.

Therefore, in accordance with Article 91(3) (b) of the Constitution, I hereby, return the Bill to Parliament for reconsideration of the above clauses.


Yoweri K. Museveni
P R E S I D E N T

Enc.....

TEL: 231900
FAX: 235462
EMAIL: shc@statehouse.go.ug

IN ANY CORRESPONDENCE ON
THIS SUBJECT PLEASE QUOTE NO.

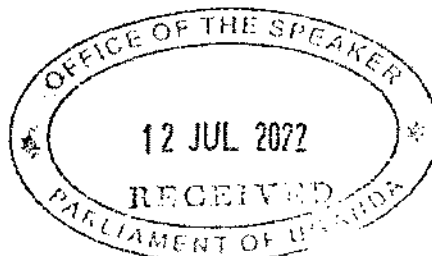
PO/19



State House,
P. O. Box 25497,
Kampala,
Uganda.

18th June, 2022

Rt. Hon. Anita Among
Speaker
Parliament of Uganda
KAMPALA



**RE: RECONSIDERATION OF THE MINING AND MINERALS
BILL, 2022**

The above matter refers.

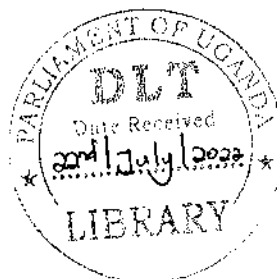
I have received the Mining and Minerals Bill, 2022 for my assent. However, there are some provisions in the bill that need to be reconsidered as listed below;

1. Clause 8 on definition of Large Scale Mining:

The definition under Clause 8 should be deleted and instead a new provision numbered 59 (Threshold for Large Scale Mining) inserted under cross heading: Large Scale Mining.

The justification is that **Clause 28(1)** of the Bill restricts a Mineral Agreement to exploration, licences and large-scale mining licences. The Bill under **Clause 8** defines Large Scale Mining to mean "*the intentional mining of minerals in mechanized operations, involving the excavation of large surface pits, sinking of shafts, driving of adits or other underground openings with limitations to the extents of the mining operation dictated by the extents of the ore body and annual ore production volumes or throughput exceeding one million tonnes.*"

The current definition, if maintained, has the effect of excluding projects such as Kilembe Mines, Makutu Rare Earth Element, Rubanda and Muko Iron Ore which are complex and capital intensive but may not meet the annual ore production or throughput exceeding one million tonnes.



2. **Clause 33(1) on Establishment of a Tribunal:**

(a) **Clause 33(6)** on appeals against the decisions of the Minister being made to the Tribunal should be substituted with *"an appeal being made to the High Court within thirty days of receipt of the decision."* The establishment of a tribunal is contrary to the Government's on-going process of rationalizing and merging of Agencies. Since the High Court has unlimited jurisdiction in all matters and has been strengthened to improve delivery of justice, it is empowered to handle such grievances.

(b) **Clause 33(7) and (8)** should be repealed.

3. **Clause 31 (7)** on competitive bidding should be amended by substituting it with the following:

"For avoidance of doubt, competitive bidding shall not apply to areas under a mineral right except for a mineral right held by a State-owned enterprise."

The Justification is that the Bill as passed by Parliament empowers the Minister to announce areas open for bidding for an exploration licence, medium scale mining licence or a large-scale mining licence. It further states that: *"competitive bidding shall not apply to areas under a mineral right."* The exemption would prevent Government from using competitive bidding for licences in the control of Government, like bidding of Kilembe Mines. The proposed amendment will enable Government to use competitive bidding for the licences it controls.

Therefore, in accordance with Article 91(3) (b) of the Constitution, I hereby, return the Bill to Parliament for reconsideration of the above clauses.


Yoweri K. Museveni
P R E S I D E N T

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