

**PARLIAMENT OF UGANDA**

**Wednesday, 18 May 2022**

*Parliament met at 10.03 a.m. in Parliament House,* *Kampala.*

PRAYERS

*(The Speaker, Ms Anita Among, in the Chair.)*

*The House was called to order.*

COMMUNICATION FROM THE CHAIR

**THE SPEAKER:** Honourable members, I welcome you to today’s sitting. Yesterday, I reminded you that we are coming to the end of the First Session. What we do inside Parliament impacts on how people consider us outside there. Therefore, I strongly caution colleagues - when we finish debate in the House, let us not attack colleagues outside. It is very unfortunate.

I watched a video, where Dr Musenero was attacked at the steps of Parliament. I felt so bad and I wondered: “Is this the House I am chairing?” Why do Members behave like that? The impunity you are exercising is very dangerous. Honourable members, the immunity we have is only within here. If someone takes an action against you outside, do not come back running to us. Let us be honourable enough and we need each other.

Much as you may want to either censure or do something, kindly, treat people nicely rather than behaving in the way that I saw. That kind of behavior is not called for.

Today, we shall handle the remaining Bills; the Naguru-Nakawa report and the coffee report. I would like to give a strong warning because I have heard there are Members who want to demonstrate during the debate on the coffee report. I am warning you, Members. If I see that kind of demonstration, I will stop the report.

Dr Abed brought this because he wants an action. I would lik to thank Dr Abed for raising it because we now have a solution. By the time the Government accepts to review within three months - a review is a process and it can be terminated. Why don’t we respect institutions? People are coming in with t-shirts. I am aware and I know where the t-shirts are, but I am waiting. What we want is action. We are legislating for the poor people out there. Once again, I thank Dr Abed for that. Can we proceed to the next item.

10.08

**MS BETTY NALUYIMA (NUP, Woman Representative, Wakiso):** Thank you. Madam Speaker, sometime back, you instructed us to register and roll call when we come to the House. I have always tried to put in my biometric features, but the machines are not working. Today, when I went the other side, where I always go, I found it is also not working, and so, I request that, that be handled.

**THE SPEAKER:** Okay. We shall check because we are going to make sure that we roll call and get to know which people miss Parliament. Can we have the income tax?

**MR SAMULE OPIO:** Thank you, Madam Speaker. Three weeks ago, the Attorney-General laid on the Table the first progress report on the livestock compensation and he committed that after every two weeks, he will be laying it on the Table. It is now past two weeks and that has not yet been done.

I am requesting that once he comes today, we ask that he makes provision for it to be laid before we close this particular session. Thank you.

**THE SPEAKER:** He will do that in the afternoon. Honourable members, I have looked at the report on the Uganda Revenue Authority (Amendment) Bill, 2022. We need a proper review of the URA Act. Since we need a proper review of the Act, I ask the minister to bring an amendment to the Uganda Revenue Authority Act.

We are not going to smuggle in anything in the Bill. Let us have a comprehensive review of the Act. Can you withdraw your report on the Uganda Revenue Authority (Amendment) Bill, 2022 so that you do not just smuggle in things.

10.10

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi):** Madam Speaker, as you have guided, I beg to withdraw the Uganda Revenue Authority (Amendment) Bill, 2022.

**THE SPEAKER:** Is it seconded? It is seconded by Hon. Silwany, Hon. Enos, Hon. Bahati, the Prime Minister, Hon. Alanyo, Hon. Hanifa, Member for Wakiso, Dr Abed, Hon. Kamara and Member for Kole. Thank you.

**MR SILWANY:** Thank you, Madam Speaker. Last week, we were here in Parliament when the -

**THE SPEAKER:** I have not finished what I am doing. You will bring the procedure - I now put the question that the Uganda Revenue Authority (Amendment) Bill, 2022 be withdrawn and a comprehensive amendment be brought.

*(Question put and agreed to.)*

*Motion adopted.*

**THE SPEAKER:** Who is speaking? Let Hon. Oshabe start.

**MR OSHABE:** Thank you very much, Madam Speaker, for going through the Uganda Revenue Authority (Amendment) Bill, 2022 that was submitted. I also thank you for your recommendations that the minister withdraws the same Bill. Can we hear from the minister?

The minister should be able to tell us when he is coming back to Parliament with similar amendments, as recommended by the Rt Hon. Speaker. Are we proceeding well, when the minister just withdraws and sits down without telling us how soon they are coming back?

**THE SPEAKER**: Honourable minister, can you make a commitment when you are coming back with the amendments on the Uganda Revenue Authority (Amendment) Bill, 2022. Otherwise, we have already set a precedence that the Managing Director of National Social Security Fund is ex-officio.

We made proper amendments in the NSSF Act and so, can you commit when you are coming back?

**MR MUSASIZI:** Thank you, Madam Speaker. We will expeditiously work on the processes of bringing the URA Bill in the new session of Parliament.

10.14

**MR MUHAMMAD NSEREKO (Independent, Kampala Central Division, Kampala):** Thank you, Madam Speaker. Exactly, this is what we asked for in the committee – that it would be prudent for them to bring substantive amendments to the URA law. I am glad that the minister is now conceding on the Floor of Parliament so that we have something broader and the whole of this Parliament can have an input at a greater and better time. This is so that we can make a better and stronger law, based on reason and for the good governance of URA and this country.

**THE SPEAKER:** Thank you. Yes, Hon. Silwany.

10. 14

**MR SOLOMON SILWANY (NRM, Bukooli County Central, Bugiri):** Thank you, Madam Speaker. Last week, while the Deputy Speaker was in the Chair, Hon. Rachael Magoola, the Member of Parliament for Bugweri District, raised an issue of Rwenzori Rare Metals. The Prime Minister directed that these people should immediately stop the plans to evict people and what they were doing.

Madam Speaker, yesterday, these people were in the community continuing with their activities, disregarding the directive of this Parliament. Wouldn’t it be procedurally right for the Prime Minister to inform us on whether the directive is being fulfilled or not?

This is because these people are continuing to terrorise people even after her directive. The Rt Hon. Nabbanja said, “I have used my powers as the Prime Minister to stop this immediately”. It has not stopped. They are continuing to terrorise and evict people.

**THE SPEAKER:** Honourable, can we first go to the income tax?

BILLS

SECOND READING

THE INCOME TAX (AMENDMENT) BILL, 2022

10.16

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi):** Madam Speaker, I beg to move that the Bill entitled, “The Income Tax (Amendment) Bill, 2022” be read for the second time.

**THE SPEAKER:** Is it seconded? It is seconded by Hon. Silwany, MP for Aruu, Hon. Avur and others. Can you speak to your motion?

**MR MUSASIZI:** Madam Speaker, the Income Tax (Amendment) Bill, 2022 intends to amend The Income Tax Act, Cap. 340, to -

1. substitute the definition of “beneficial owner”;
2. revise the definition of “exempt organisation”;
3. revise the tax rate applicable to individuals and companies for the purpose of rental income;
4. provide for a ceiling on deductible expenses on rental income for non-individuals;
5. provide for the extension of the tax holiday for the Bujagali Hydropower Project for five years;
6. provide for the harmonisation of the scope of qualifying sectors for tax incentives and related investment thresholds under The Income Tax Act, Cap. 340, The Value Added Tax Act, Cap. 349, Excise Duty Act, 2014 and Stamp Duty Act, 2014;
7. provide for exclusion of income from transportation of cargo embarking outside Uganda;
8. clarify the apportionment of income qualifying for exemption under the 10-year tax holiday;
9. provide for the definition of the business asset for purposes of section 118B;
10. provide for International Development Law Organisation as a listed institution, and
11. provide for other related matters.

Madam Speaker, we formally tabled this Bill before the Committee on Finance, Planning and Economic Development. I understand they have scrutinised the Bill and are ready to report back to the House.

**THE SPEAKER:** Thank you, honorable minister.

10.19

**THE CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Dr Keefa Kiwanuka):** Madam Speaker, there has been a bit of consultation on this report. As of yesterday, we thought we were ready, but there have been some changes, which have been suggested by Members. Therefore, the report on the Income Tax Bill is not ready.

However, Madam Speaker, I am ready with the report on Excise Duty and the Tax Procedures Code Bill. So, I am moving that we stand over this and that when we are ready, we will start from where the minister has stopped by moving the motion.

**THE SPEAKER:** Honourable members, this House has passed Bills before a report of the committee. The inefficiency of a committee should not be brought to the House. Hon. Muwanga, can you present your minority report?

10.21

**MR MUHAMMAD MUWANGA KIVUMBI (NUP, Butambala County, Butambala):** Madam Speaker, I even have a copy of the majority report, fully signed.

**THE SPEAKER:** Present your minority report. We have the Bill here and we shall work on the amendments.

**DR KEEFA KIWANUKA:** Madam Speaker, on the Order Paper, we were supposed to start with the URA Bill -

**THE SPEAKER:** You are supposed to start – Is the preserve of the Order Paper on you, the chairman of the finance committee? I am asking you: Is it on you, the chairman of the finance committee or on the Speaker?

**DR KEEFA KIWANUKA:** If it is your directive, Madam Speaker, then, we can proceed with the draft the way it is.

**MR SSEWUNGU:** Madam Speaker, I am seeing a new scenario in this House, where the chairperson of a committee is trying to usurp your powers.

Secondly, if a report was signed by members and it is on the Order Paper – because it cannot appear on the Order Paper without having been signed by members, what is the chairperson trying to insinuate on this Floor of Parliament?

**THE SPEAKER:** Honourable members, nobody can ever usurp my powers. The 415 votes I got were not 10 votes. *(Laughter)*

**MR SSEWUNGU:** That is why I am supporting you on that matter. Where a chairperson is trying to bring other ideas -

**THE SPEAKER:** This is my House.

**MR SSEWUNGU:** Thank you very much, Madam Speaker.

**THE SPEAKER:** Hon. Muwanga, can you continue?

**MR MUWANGA-KIVUMBI:** Madam Speaker, I have a minority report, but with me, here is also a copy of a fully-signed majority report. If the chairperson is cowardising, permit me to read the majority report, then I follow it up with the minority report. I have a copy of the majority report here that is fully signed by members. Unless the chairperson and the committee are tinkering this last moment with the majority report; it was signed yesterday and we have a copy.

**MR EKANYA:** Madam Speaker, our rules are clear. If a committee is not ready within the prescribed time to present the report, the House can continue with the Bill as it is and make a final decision. Do we want to operate and veer from the procedure that is within the rules?

10.24

**THE LEADER OF THE OPPOSITION (Mr Mathias Mpuuga):** Thank you, Madam Speaker. You need to help us at this very stage. The chairperson needs to come clean as to what stage the majority report is. The minority report that Hon. Muwanga Kivumbi has is a derivation from the majority report. A minority report is derived from the position of the majority report. So, for the minority report to be presented, the chairperson has to come clean as to the existence or non-existence of the majority report. That means where there is no majority report we cannot have a minority report.

**THE SPEAKER:** Hon. Namugga, when your Leader of the Opposition is speaking, you do not stand up. What is wrong with it? It is free sitting. Hon. Avur, can you sit? Give me the report.

**MR MPUUGA:** Let the leadership of the committee come clean as to what stage they are because they are confusing the House.

**THE SPEAKER:** Honourable Members, I do not see why you are causing all this chaos. I am saying first give me the report before you go to the microphone. Can you read this report the way it is? *(Dr Keefa Kiwanuka rose\_)* I have not allowed you yet. You people, I do not wish you to see the other part of Anita. Read the report; it can be amended in the House.

Honourable members, I just want to remind you, the leadership of the committees, of one thing: I have powers to sack any of you for not doing the correct things. *(Applause)* You are not going to continue disorganising us in this House.

**MR SSEMUJJU:** Madam Speaker, thank you very much. The chairperson of the committee has said the report is not ready, yet, he is now standing to present it. *(Laughter)* I request, without paralysing the work of Parliament, that as a leader of this institution, maybe administratively, you deal with that particular chairman. We can go ahead with business - because there is no way you can tell Parliament, in one second, that the report is not ready, but in another second, you are standing to present the same report.

I request you, Madam Speaker, to promise that you will deal with that matter administratively.

**THE SPEAKER:** I am going to deal with that issue; leave it to me. I am going to deal with the Member who attacked an honourable member on the steps and I am going to handle the issue of finance. *(Applause)* Hon. Avur, present your report.

10.28

**THE VICE-CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Ms Jane Pacuto):** Thank you, Madam Speaker. I rise to present the report of the Committee on Finance, Planning and Economic Development on the Income Tax (Amendment) Bill, 2022.

Madam Speaker, with your indulgence, I will skip the introduction, object of the Bill and methodology - because the minister has already taken us through those - and go straight to observations of the committee.

Observations of the committee

The committee identified various crosscutting issues and made the following observations, regarding the Income Tax (Amendment) Bill, 2022.

Cross-cutting issues

Non-clearance of motor vehicles nine years or older

The committee observed that Uganda Revenue Authority issued a notice to the public in April 2022, that all motor vehicles of nine years and older, from the date of manufacture, would be compelled to have their final clearances done at the port of entry - that is either at Mombasa or Dar-es-Salaam - effective 1 July 2022.

The committee further observed that the 3,000-strong business community under this sector usually does not have ready cash to execute transactions without borrowing; most businesses operate using borrowed money.

In this regard, banks and other credit facilitators have to verify goods and vehicles before extending the loan facility. In addition, the resale value of most of the imported vehicles is always based on current number plates.

The committee noted that this will greatly affect the market, since these vehicles will be acquiring number plates and it takes some time to reach the customer from the bonded warehouse. This has been possible through the warehousing regime, which allows vehicle importers to warehouse them for up to 270 days.

Recommendations

a. The proposal by URA that all motor vehicles aged nine years and older, from the date of their manufacture, are to be compelled to have their final clearances done at the port of entry should be deferred to the Financial Year 2023/2024, when the economy is fully open and able to effectively trade; and

b. The exercise be undertaken in a phased approach, with the first year targeting vehicles 15 years and older.

Widening the tax base

The committee observed that there is an urgent need to widen the tax base through measures that stimulate growth in the economy. The strategic areas are as follows:

1. Enactment of the National Local Content Bill;
2. Enactment of the Real Estates Agency Bill. You can read the details, honourable members;
3. Reduction in illicit trade; and
4. The committee noted that customers always shift to cheap smuggled and informal market products.

Recommendations

The committee recommends that Government undertakes active efforts to expand the tax base through:

a. Fast-tracking the implementation of the objectives of the Domestic Revenue Mobilisation Strategy; and

b. Enactment of the Local Content Bill and the Real Estate Agency Bill, 2022.

Specific observations of the committee

Clause 2(b), amending section 2(bb) of the Income Tax Act - Definition of “Exempt Organisation.”

The committee observed that the clause amends the definition of an “exempt organisation” in section 2(bb) of the principal Act to include a research institution, whose object is not for profit.

The committee further observed that the above definition of “exempt organisation” is ambiguous, in that it does not go far enough as to clarify whether not-for-profit oriented companies supporting the business community in business development are exempted.

The business management organisations that could benefit from a clear definition of a “research institution” to include associations such as Uganda Manufacturers Association and the Uganda Small Scale Industries Association (USSIA).

The committee further noted that including not-for-profit oriented companies under “research institutions” would be in line with the NDP III programme of private sector development, as more members of the private sector will be organised and supported.

Recommendations

The committee recommends that clause 2(b) be amended to include not-for-profit-oriented companies in the definition of a “research organisation”.

Taxation of Rental Income

The committee observed that the following is needed to amend section 22 and the study schedule to the Income Tax Act to simplify collections of rental tax. The committee further noted that given that most of our small individual landlords have challenges with record-keeping, and the sector is generally informal, there is a need to tax income and not expenses with regard to their rental income.

The committee further noted that due to the high taxation on rental income, compliance remains low. The committee took cognisance of the agreement between Government of Uganda and RippleNami Inc. to assist in the collection of rental tax through digital solutions.

The committee further noted that an increase in rental tax has a bottom-line advantage RippleNami Inc, which shall benefit from higher revenues. The committee noted that they need to monitor and evaluate the performance of RippleNami Inc. contract in future to ascertain if it has a positive impact through expanding the tax base in the rental tax head.

Recommendations

The committee recommends that all individuals are taxed on gross income and they should be in bands as indicated here. Members, I believe you can go through that; we have indicated that for those not exceeding up to Shs 2,000,820 there should be a nil tax. And then for those between Shs 2,000,820 to Shs 12 million it should be tax of 7.5 per cent on gross applied. For those exceeding Shs 12 million to Shs 60 million, a tax of 10 per cent be applied and those above Shs 60 million are taxed 15 per cent on gross. And, this applies to individuals and companies.

Then 4.5, clause 4(b), amending section 21(a) income tax exemption for manufacturers and hospital developers. The committee observed that the Bill seeks to exempt manufacturers and hospital developers from income tax for 10 years from the date of commencement of business. The committee further observed that there is a need to assess all exemptions and other tax incentives before more exemptions are granted.

Recommendations

The committee, therefore, recommends that clause 4(b) amending section 21(1) of the income tax be amended and the Government undertakes a comprehensive study on tax exemptions.

In 4.6 clause 4(a) an amendment of section 21 of the principal Act; extension of the tax exemption to Bujagali Hydropower Project from 2022 to 2027.

Observations of the committee

No return on equity, non-remittance of dividends and no board member by the Government of Uganda. I think that is self-explanatory. I do not have to go into the depth of that. Members, you can read that *–(Interjections)-* okay, I agree. I will read it. While the Government of Uganda is a majority shareholder of ordinary shares in Bujagali electricity limited, it has never received any dividend and it has no member on the board.

Out of the 460,000 shares, the Government owns 360 shares. The value for each of the shares classified as C is worth Shs 100,000 yet the value for each of the shares for the other shareholder classified as Class A has a value of Shs 100.

Based on the power purchase agreement, the Government is entitled to retain earnings also known as return on investment or equity for the shareholders, of 19 per cent. This is provided under Section 4.4 of Annex D of the Power Purchase Agreement. Table one gives a detailed summary of all this implied in terms of the finances, and how they go to the different shareholders. I beg you, Members, to go through it so that you can critically study it; the source of that information is with M/s Bujagali Energy Limited Annual Report and Financial Statements for Financial Years 2018 to 2021.

(b) Non-remittance of retained earnings

Section 4(9) of Annex D of the Power Purchase Agreement provides for return on Government of Uganda equity. However, Government has not received any equity because the power purchase agreement allocated no voting powers to Class C shareholders. Class A shareholders who are the minority receive their earnings that are in terms of dividends and retained earnings.

Secondly, preference shares of the value of $69,910 receive dividends every year, more than $70 million per year  -*(Interjections)-* thank you, honourable members. I am glad you are alert. For the last four years, that is between 2018 and 2021, retained earnings worth a total of $950.91 million equivalent to Shs 3.61 trillion have not been deposited into the Consolidated Fund.

(c) Drivers of the electricity tariff based on the Power Purchase Agreement

The high electricity tariffs are attributed to the costs arising from payment for capacity charges. The debt principal is 22 per cent, debt interest 20 per cent, operation and maintenance cost is 6 per cent and returns on equity of 52 per cent constitute the cost of capacity charges.

However, it should be noted that return on equity is misclassified as a cost yet it is an earning or dividend. The rest of the items that are debt principal and debt interest are paid by Government of Uganda through the debt refinancing undertaken in 2018. Bujagali Electricity Limited only meets operational and maintenance costs.

Additionally, when computing return on equity for M/s Bujagali Electricity Limited, they incorporate costs of corporate income tax, which is rather abnormal. However, it is critical to note that in section 4.5 of Annex D of the Power Purchase Agreement, the company is obliged to use its reasonable efforts to keep its corporate income tax liabilities to a minimum. Therefore, the proposal to exempt the company from corporate income tax is unfounded. Besides, corporate tax is charged on profit, not on cost.

The company is overpricing the capacity charges to generate excess income after knocking off their return on investment to the disadvantage of Government of Uganda. This leads to getting dividends for bale.

(d) Inadequate evacuation network

It ought to be noted that the main driver for high power tariffs is not the cost of power generation, but rather dimmed energy; that is the cost of unconsumed power. This is attributed to inadequate evacuation networks that constrain demand for the power generated, hence the need to incur capacity charges.

Therefore, the best-suited intervention would have to be to reduce the cost of developing evacuation networks and attract investments. On average, Shs 783.008 billion is required annually for the development of an overvaluation and distribution network.

(e) Foregone revenue:

Concern is raised on the fact that for the period 2018/2019 to 2020/2021, a sum of Shs 299.18 billion had been foregone due to income tax exemptions to Bujagali hydropower. The foregone revenue for the same period is yet to be established at the close of the financial year.

Nevertheless, the new proposed exemption period will amount to foregone revenue of a total of $113.8 million equivalent to Shs 432.44 billion in the years 2023 - 2027 in return for the tariff reduction of only 4.7 per cent.

It has been established that Government forecasts to grant income tax exemptions to the company until 2030 - This is according to the restructuring plan of the loan.

Unfortunately, despite repeated requests, Government was unable to furnish the committee with the benefits in monetary terms that have accrued from the exemption as well as enumeration of other exemptions that the company is benefiting from.

Honourable members, I implore you to go through Table 1 about what I have just read – the revenue foregone.

The cost of restructuring the loan cost Uganda additional $45 million. The committee recommends that when you review the accounts of M/s Bujagali Energy Limited (BEL), it clearly shows that M/s Bujagali Energy Limited, which is taking interest and dividends is basically increasing tariffs of power without their own equity.

The committee recommends early retirement of the loans be done.  Government should ensure all types of agreements, which commit Government and the people of Uganda, should be scrutinised by Parliament.

Madam Speaker, I am sorry my report has no page 12, but let me read this.

f) Lack of value-for-money

It should be noted that the anticipated tariff reduction from the new proposed exemption will be less than the expiring exemption, which has been asserted to have led to a tariff reduction from $13.83 cents per kWh on 1 July 2017, to a projection of $10.62 cents per kWh on 30 June 2022. This translates into a reduction of 23.2 per cent. Hence, there is a value-for-money concern as to why the anticipated tariff reduction of 4.7 per cent from the proposed exemption is far less than 23.2 per cent for the same period.

Ideally, based on precedents the new exemption would reduce the tariff to $8.15 cents per KWh not $10.12 cents per KWh. The committee believes that BEL has already allocated enough money for themselves to lower the tariffs at the consumer level without a tax waiver.

g) The return on equity for M/s Bujagali Energy Limited is 19 per cent per annum and it is deducted as an expense in the profit and loss account, which violates the principle of economy. Therefore, if this is agreed, then there is no need for the exemption.

Recommendations

1. The committee was not, therefore, satisfied with the explanations justifying another five-year corporate income tax waiver for M/s Bujagali Energy Ltd. The committee is, therefore, recommending that the request be declined, because the cost has been exaggerated by M/s Bujagali Energy Limited – *(Applause)* – Why clap? I have not completed the report. Your people are hearing you clap for higher tariffs.
2. The committee recommends that the Auditor-General of Uganda carries out a forensic audit on Bujagali Energy Limited to establish the excess money collected as a result of overpricing for tariffs and the same be remitted to the Consolidated Fund, among others.

4.7) Clause 7 - Amendment of section 89GB of the principal Act - Treatment of an intangible asset as a depreciable cost with a 100 per cent rate.

The committee noted that clause 7 provides that where the cost of acquiring an intangible asset to a licensee contractor is treated as petroleum exploration expenditure, then such cost qualifies for full deduction in the year of income as other petroleum exploration expenditure.

The committee took cognisance of the fact that the purpose of this amendment is to clarify that the same rate of writing off the cost of an intangible asset referred to in section 89GB(2) is the depreciation rate of 100 per cent, which is referred to in Section 89GB(1)(b).

That notwithstanding, the committee noted that section 89GB of the Income Tax Act already provides for the manner of the treatment of the cost of acquiring a depreciable asset in petroleum exploration.

Recommendation

The committee recommends that Clause 7 amending section 89GB be deleted.

Amendment of section 22 of the Income Tax Act to exclude seasonal farmers in Agriculture

The committee observed that section 22(2)(m) of the Income Tax Act (as amended in 2015) permits, for purposes of ascertaining the chargeable income of a person for a year of income, a deduction for any expenditure above Shs 5 million in one transaction, on goods and services from a supplier who does not have a taxpayer identification number.

The purpose of section 22(2)(m) of the Income Tax Act, the committee noted, is to incentivise unregistered suppliers of goods and services such as farmers to acquire TIN numbers  
in order to remain competitive. However, with regards to agriculture in general and cotton in particular, this approach may not be practicable.

The committee noted that while the solution appears simple, in that the farmers should register for tax in order to remain competitive, the situation on the ground is quite different.

To shed light on the difficulty of the application of section 22(2) (m), the committee noted that cotton is a seasonal crop and is mainly owned by small-scale farmers holding half to two acres of land with an average yield of 300-500 kilogrammes per acre.

The ginners buy cotton in small lots from various farmers. Generally, these small-scale farmers are not very sophisticated business owners and, therefore, may not understand the rationale for TIN registration or the procedures involved in the registration with URA.

The committee further noted that many of the farmers may not have the requisite documentation such as a national identity card or business registration number to successfully register themselves. Additionally, many farmers may not even meet the threshold of a gross turnover of Shs 10,000,000 in a year in one year, the presumptive threshold tax.

The committee noted that while the ginners have invested economic and social efforts to ensure that farmers are registered by URA and get a TIN, it is an uphill task that cannot be achieved in the short-term, given that tax education is not the core mandate of the ginners – currently, they told us, they are the ones trying to help the farmers.

Moreover, since the inclusion of section 22(2)(m) in the Income Tax Act in 2015, little or no sensitisation to these farmers has taken place.

The introduction of section 22(2)(m) in the Income Tax Act in 2015 has hurt farmers in two ways:

Firstly, the processors are unable to buy the raw material from cotton farmers who do not have TINs. Secondly, farmers who are not registered for tax are unable to sell their produce to any processors.

The committee concluded that, as with the treatment of agricultural supplies in other laws such as in section 119(5) that exempts agricultural supplies from withholding tax, section 22(2)(m) needs to recognise the reality of its impact on small-scale farmers, especially the cotton growers, and exclude them from taxable deductions pending adequate sensitisation and inclusion for them to acquire TINs.

The committee, therefore, recommends that section 22(2)(m) is amended to exclude its application to the agriculture sector.

Amendment to section 25(3) - Allowable interest on loans

Whereas it was not part of the Bill introduced, the committee received representation on the current application of section 25(3) of the principal Income Tax Act. The provision was introduced in 2019 with the objective of stopping erosion of profit through debt servicing by multinational companies or overseas borrowing states as follows:

“25(3) *The amount of deductible interest in respect of all debts owed by a taxpayer, who is a member of a group, other than a financial institution or person carrying on insurance business, shall not exceed 30 per cent of the tax earnings before interest, depreciation and amortisation*.”

Interest costs are genuine costs normally allowed before tax. However, this restriction on allowable interest to 30 per cent was intended to apply to a group of companies, which in section 25(5)(b) is defined as: “’group’ means person other than individuals, with common underlying ownership“. It was enacted based on Action 3 of Base Erosion and Profit Shifting (BEPS) of OECD against profit shifting and base erosion especially by multinational companies.

Multinational companies through aggressive tax planning would bring in money from one of their companies outside the country and then, repatriate it as tax payment. It was intended to limit allowable interest deductions where loans are to a lender not resident in Uganda. The witnesses, therefore, argued that the law was not intended for standalone companies where lenders are in Uganda. This is because where a company has borrowed locally, there is a clear audit trail of servicing the loan and the banks are also taxed on profits generated as a result of servicing that loan.

The committee, however, heard that in its application of the law, local companies are not allowed expense interest on their locally borrowed funds. The committee was told that this is harming genuine business borrowing in the country. In addition, it is like local companies are being penalised for local borrowing, which is making the cost of capital in Uganda high. The committee also noted that the disallowed interest payments, as business expenses, may affect future local investments in the country.

The committee, therefore, recommends that section 25(3) of the principal Act be reviewed to allow local companies with domestic borrowing to claim interest payments on loans as cost. Madam Speaker, I beg to report.

**THE SPEAKER:** Thank you very much. Did you lay the report on the Table? Can I have that report laid on the Table?

**MS PACUTO:** Madam Speaker, I laid the minutes yesterday. I now beg to lay a copy of the Income Tax (Amendment) Bill, 2022.

**THE SPEAKER:** There is a minority report to that effect. Chairperson, the minority report is also yours and so, you can invite the mover to present it.

**MS PACUTO:** Madam Speaker, as we were processing this report, there were dissenting views. Hon. Muwanga Kivumbi served us with a notice of coming up with a minority report. I beg that you allow him to report.

**THE SPEAKER:** Okay, and he is a member of the committee.

10.57

**MR MUHAMMAD MUWANGA KIVUMBI (NUP, Butambala County, Butambala):** Madam Speaker, from the onset, we agree with the majority report 99.9 per cent. *(Applause)* It is just one simple issue, though not very simple because it has a lot of impact on our local people, where we have a varying view, for which we recommend Parliament to follow our view.

The areas of dissent are only on rental tax issues. Several issues will arise with the proposed rental tax measures, particularly discrimination, impact on citizen’s recovery and risk of a company called RippleNami Inc.

The risk of RippleNami Inc.

In 2020, the Government of Uganda entered an agreement with RippleNami Inc. with the objective of increasing rental tax collections. The company was charged with identifying individuals and corporations, who are underpaying or not paying rental tax by deploying a tax compliance system based on RippleNami’s Blockchain Visualisation Platform. The system was adopted as a reform on rental tax collections.

The proposed amendments in clauses 3, 5 and 12 of the Bill are an indication of a failed reform that was expected to develop a rental tax geographical information system solution in Uganda. It has, however, been noted that the company is underperforming on its obligation on the agreement. For instance, the company was expected to contribute to the realisation of Shs 170 billion in the Financial Year 2021/2022. Unfortunately, the solution has never been implemented. The committee was informed by URA that the solution is expected to be implemented in June this year, 2022.

Nevertheless, Shs 117.2 billion was actualised in the last Financial Year 2020/2021, without the efforts of RippleNami Inc.; a shortfall of Shs 52.76 billion off the target. Instead of holding the company accountable for its failure to execute the contract, the Government has resorted to fixing the failed solution and default with fiscal intervention.

On the table here, I have a performance of rental tax. In the Financial Year 2017/2018, the performance was Shs 88 billion.  In the Financial Year 2018/2019, it was Shs 115 billion. In Financial Year 2019/2020, it was Shs 103 billion and in the last Financial Year 2020/ 2021, it was Shs 117 billion.

Following the review of the agreement between Uganda and RippleNami Inc., several concerns were noted: Government did not source the company through a competitive process; the agreement entered was poorly negotiated and contains provisions that are non-beneficial to the country.

The following are the critical aspects of the agreement:

The project only operates in the Greater Kampala Metropolitan Area that comprises all the divisions of Kampala City as well as the neighbouring municipalities of Mukono, Entebbe, Nansana and Wakiso; and so, it is restricted.

Even without any effort, the company is entitled to a share of 15 per cent of the net rental income collected by URA. Even if we do nothing, as long as we base the year of Shs 90 billion – any increment, without doing anything, as we collect more tax – this company takes away 15 per cent. It is similar to the ones we have elsewhere like Lubowa and others.

After every quarter of a financial year, revenue sharing payments are made after 30 days. So, after every 30 days, the company goes to URA and collects its money.

Failure to remit revenue sharing payments attracts an interest of 12 per cent per annum. That is the agreement.

Project managers for Government and the company have the authority to act on behalf of their respective parties in all matters regarding the project. So, the project manager for URA can commit the Government of Uganda.

Government is expected to assign an executive project sponsor to oversee the project at a higher level and assist in removing roadblocks.

Government is to provide the company with office space, supplies, furniture, internet and other facilities. *(Laughter)* Facilities, software, hardware or other resources required for RippleNami Inc. performance of services, will be borne by Government.

Tax exemptions for import, export, re-import, re-export and movement facilities related to the development, deployment and implementation of the tax compliance system – all those are things this company godly enjoys.

Government waived a claim to sovereign immunity, and provision to terminate the agreement if the rental tax compliance system is not set up within one year from the commencement date, at no cost.

Based on the above provisions, particularly paragraph 5.7.2 of the agreement, it can be noted that any increment arising from the proposed amendment will benefit RippleNami a share of 15 per cent of the net increment of rental tax. This is unfair, for the additional rental income in Financial Year 2022/2023 will largely be realised from a fiscal measure, not the prowess of the intervention of RippleNami.

The case we are making here is that RippleNami said it was going to expand the base and collect more taxes. It is not doing that. Instead, we are now here in Parliament manipulating a tax policy to increase revenue and its benefits for doing no work.

Discrimination

The losers in the proposed amendment are individuals and partnerships who will no longer be entitled to expenditure or loss deductions. These are to be subjected to a flat rate of 12 per cent tax of the gross rental income.

Colleagues, I have put here a table for ease of discernment. I have imagined the rental income of Shs 10 million. In the current law, if you have Shs 10 million income for an individual, you are paying Shs 750,000.

If you go ahead and implement the tax measure brought, you are going to pay Shs 1.2 million – by an individual of Shs 450,000. For companies, I am making no case because for companies, I am saying, okay, it can be as it is. However, even for companies, there will be a net loss from Shs 750,000 to double the effect of the tax.

It is also important to note that trusts, companies and retirement funds would benefit from the 50 per cent expenditure or loss deductions in a year of income unlike individuals or partnerships. This is discriminatory. Individuals or partnerships also incur expenses or losses, especially repairs, when generating rental income.

Impact on the recovery of citizens

Additionally, citizens are recovering from the adverse effects of the COVID-19 pandemic, particularly the lockdown that distorted their livelihoods.

Many individuals rely on rental income to pay school fees and meet medical expenses. Hence, any measure that increases their rental tax depreciates their disposable income amidst escalating inflation and commodity prices.

Furthermore, any increment in payable rental income increases the vulnerability of businesses hit by COVID-19 and staff who were laid off or suffered the reduction of wages. It would, therefore, be prudent not to increase rental income when citizens are struggling to revive their lives. *(Applause)*

Madam Speaker, you are aware that among other industries in this country, the housing industry has the largest local content. It affects a brick maker, welder, plumber, painter and people in cement. Therefore, when people’s disposable incomes are stressed in the housing industry, the entire economy will suffer.

So, as we tinker with the policy here, we must know humble citizens are recovering from – a total of 600,000 parents failed to have registration fees for primary school-going children across the country. You are going to punish them now with a new tax which benefit will go to a private company, RippleNami Inc., and it has no input.

Therefore, our recommendation is very simple, Madam Speaker, that for this one year, when RippleNami Inc. says it is going to apply its magic, we should not manipulate the tax. This is so that when RippleNami Inc. realises the benefits for their ingenuity, they benefit from it. However, for them to come here and we create a tax on our citizens, and they walk away with billions of shillings every 30 days, would be extremely unfair. *(Applause)*

I beg to move.

**THE SPEAKER:** Thank you very much, Hon. Kivumbi. On this side, I would like to thank the chairperson. After hearing what you have presented, your suggestion is that we delete four out of the 12 clauses. You are also saying that we amend two clauses out of the 12. In total, we are talking about six clauses.

The implication it has on Government is that the revenue projection from these incomes of Financial Year 2022/2023 is going to be affected. We must keep that in mind. Much as we are legislating for the poor people, we must also be able to get money to construct hospitals and work on roads. There is no other place that Government will get money from – not even from borrowing. So, we must legislate with that in mind.

The observation that I have on page 6 of the report – from the Government side, as I said yesterday, your observations must speak to the recommendations.

All of you are senior Members in this Parliament, you have been here longer than all of us. So, we really – I am reserving my comment, but as I promised, we need action on some of these things. I would like to request the Leader of the Opposition to give me a team from his side including hon. Nathan Nandala-Mafabi; then the minister, Hon. David Bahati, Hon. Paul Omara and Hon. Herbert, I would like you to do consensus and we agree on how to proceed. As we agree Hon. Nathan Nandala Mafabi, can you lead the team out?

**MR NANDALA MAFABI:** Madam Speaker, I am ready, but I suggest that on the team we add Hon. Dicksons Kateshumbwa because he has some ideas. I have just picked him, I do not know him very well, but I would love him to be -

**THE SPEAKER:** We are giving you five minutes. Chairperson, can you go ahead and read the next Bill.

**MR SSEMUJJU:** Madam Speaker, ordinarily, I should have been seeking for a clarification, but our rules do not allow us to seek clarification from you. However, as the team goes out to thrash out a few matters, does that mean we are standing over this Bill or there will be no debate? Because I have very strong sentiments -

**THE SPEAKER:** Hon. Ssemujju, when they return, we will continue with the debate. So, let us first deal with the next so that we do not sit here like it happened to us yesterday.

BILLS

SECOND READING

THE EXCISE DUTY (AMENDMENT) BILL, 2022

11.15

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi):** Madam Speaker, I beg to move that the Bill entitled, “The Excise Duty (Amendment) Bill, 2022” be read for the second time.

**THE SPEAKER:** Thank you, honourable minister. It is seconded by the House. Can you speak a bit to your report?

**MR MUSASIZI:** The object of the Bill is to amend the Excise Duty Act, 2014 to provide for the definition of “fruit juice”, “undenatured spirits” and “vegetable juice”; to provide for the amendment of schedule No.2 of the Act; and provide for other related matters.

This Bill was sent to the Committee on Finance, Planning and Economic Development, and they are ready to report back to the House. Thank you.

11.16

**DR KEEFA KIWANUKA (NRM, Kiboga East County, Kiboga):** Thank you, Madam Speaker. First of all, my apologies for the hard start earlier this morning. We have got a report on the Excise Duty (Amendment) Bill and it has been uploaded.

The objective of the Bill, as highlighted by the minister, is to define “fruit juice” and do something on excise duty on opaque beer, and fermented beverages; and amend the tax on plastics.

Observations

We observed that there is need for stability of excise duty. At the moment, taxes account for 45 to 55 per cent of the cost of production. And for any investment - businesses go an extra mile to do the planning based on the obtaining tax.

Sometimes, the planning could be two to three or even five years before they come up with a line of production. So, to enable proper planning and compliance, the taxes need to be stable –*(Interruption)*

**MR SSEMUJJU:** Madam Speaker, rule 82 is on dress code in this Parliament. It goes in greater detail to explain how we should dress.

Is the honourable who has just walked in, dressed like Pepe Kale – is Hon. John Musila in order to walk into the Chambers of Parliament as if he is going to stage to perform, in total violation of our rule 82, which gives details of what a Member is supposed to put on?

Madam Speaker, you gave every MP a copy of the Rules of Procedure of Parliament and I do not think it was for a joke. A Member is supposed to put on, *“a suit; a shirt and a tie; pair of long trousers with a jacket; a kanzu and jacket; a safari suit “-* but he chooses to come here as if he is going on stage dressed like Pepe Kale that famous Congolese musician? Is he in order?

**THE SPEAKER:** Honourable members, Hon. John Musila has always dressed smartly like that. He is dressed very well and that is the traditional attire from his ministry of Rasta men. Yes, Rasta man you can sit. Hon. Ssemujju, Rasta man is very smart. Can we go ahead.

**DR KEEFA KIWANUKA:** I am on page No.12 of the report and I am just talking through the points there instead of reading everything verbatim. We have a problem with our –

**THE SPEAKER:** Are you reading or talking to the report?

**DR KEEFA KIWANUKA:** If it is preferred that I read, I can, but I thought -

**THE SPEAKER:** No, the rules of this House are very clear. If you have a report, read it.

**DR KEEFA KIWANUKA:** Okay, let me start with stability of the excise tax regime. The committee observed that there is need to enable proper planning and implementation of investment plans by enterprises through a predictable and unstable tax regime.

The committee noted that any new tax measures should be thoroughly scrutinised to assess their impact on macro-economic stability and competitiveness of the sector in line with National Development Plan (NDP) III and the policy on export promotion and import substitution.

The committee noted that on average, tax accounts for between 45 and 55 per cent of the price of the final product.

The committee further noted that in particular, the excise duty regime is reviewed on an annual basis and yet, investment is planned for a period of three to five years.

The committee, therefore, recommends that Government develops an excise duty regime spanning from two to three years to facilitate proper planning.

Digital Tax Stamps (DTS)

For Financial Year 2018/2019, the budget approved the use of Digital Tax Stamps (DTS) to address tax leakages in excise payments. Although the objective is much appreciated, the implementation of the regime increases the cost of doing business through installation costs incurred by companies.

The committee further noted that Digital Tax Stamp increases the cost of exports as companies are forced to change branding designs just to incorporate the DTS, especially for export products, but that notwithstanding, the committee was cognisant of the central role that DTS plays in the domestic revenue mobilisation strategy.

Some of the benefits include:

1. Improvement in the capacity of URA to track and trace the capabilities of taxpayers As a means of improving compliance.
2. The increased production of real-time data.
3. The empowerment of consumers.
4. The improved protection of legitimate businesses against unfair competition.
5. The protection of the consumers against harmful products.
6. Improved prevention of illicit production and counterfeiting.
7. Improved real-time tax accounting and reconciliation for tax stamps.
8. Real-time enforcement and prosecution.

The committee, therefore, recommends:

1. That Digital Tax Stamp (DTS) payments be restructured to consider the increased excise duty collections to ensure Government and the country benefit commensurately from the solution.
2. That DTS only be applied to taxpayers who have proven to be continuously under-declaring the right excise duty payable.
3. Development of different tier thresholds on the excise duty regime.

The committee observed the need to promote local content through the development of a separate tier threshold for new innovative products which utilise local raw materials mainly in the agricultural industry. This should consider products at the introduction stage to enable them to benefit from the sunk cost, since targeting them for tax discourages innovation and reduces the expected revenue development through the value chain, especially the supply chains.

The committee, therefore, recommends that a separate excise duty threshold be developed for innovative products that promote the utilisation of local raw materials mainly in the agricultural industry.

Specific observations and recommendations

Clause 2

Amendment of section 2 of the Excise Duty Act, 2014. This is the definition of fruit juice.

The committee observed that “fruit juice” has been redefined in the Bill to mean “unfermented liquid extracted from the edible part of fresh fruit whether the extracted liquid is diluted or not.”

The committee was informed that the proposed redefinition of “fruit juice” goes against the conventional definition of juice as provided for in the UNBS standards that are aligned with the international definitions and classifications of juice.

The committee was further informed that redefining juice in the manner proposed in the amendments will bring raw materials, and that is juice pulp and puree under the excise duty levies.

The committee noted that the proposed wording will also lead to double taxation because fruit puree and the pulp will attract excise duty as will the final products that are used to manufacture the juice itself.

Furthermore, reinstating excise duty on pulp will mean that the cost will be extended to farmers in form of a reduction in prices. The rationale is to exclude puree for industrial use, but maintain the tax on ready to drink juice, whether diluted or not, to avoid double duty on both the puree and the final fruit juice.

The committee, therefore, recommends that clause 2 be amended to define “fruit juice” as “unfermented liquid extracted from the edible part of fresh fruit, whether the extracted liquid is diluted or not, but does not include fruit puree for industrial use that is not ready for final consumption.”

This redefinition will ensure that there is no double taxation of both the fruit pulp as raw material and the fruit juice itself.

Clause 3

Amendment of schedule 2 of the principal Act: Excise duty on opaque beer.

The committee observed that clause 3 (a) seeks to amend schedule 2 to the principal Act to reduce excise duty on opaque beer from 12 per cent or Shs 230 per litre, whichever is higher, to 12 per cent or Shs 150 per litre whichever is higher.

The committee learnt that one of the companies in the alcohol sector innovated and set up a *Kibuku* factory, which unfortunately closed in 2018 over unprogressive excise duty on opaque beer. The unprogressive tax on opaque beer rendered *Kibuku* uncompetitive with other local brews such as *tonto, ajono, muramba, malwa, kwete*, among others.

Due to this, annual VAT worth Shs 5 billion has been lost. An average of 3.6 million kilogrammes of local maize and over 1000 farmers supplying maize have lost the market. six thousand direct and indirect jobs linked to the factories have also been lost.

The committee, therefore, observed that while the above proposal to reduce opaque beer excise duty from Shs 230 or 12 per cent to Shs 150 or 12 per cent in the Excise Bill 2022, is welcome. It is not optimum for the business to operate.

Probably just to add, it is like Government is trying to renegotiate with the opaque beer industry to see whether they can start again. But at Shs 150 they said they are unable to start and they will just be testing the market.

It is against that background that the committee is recommending – actually, they had wanted it reduced to five per cent or Shs50. However, the committee is recommending that clause 3(a) be amended to reduce excise duty on opaque beer to 10 per cent or Shs100 per litre, whichever is higher.

The next one is on *Kombucha*. The committee observed that the second schedule of the Excise Duty Act, 2020 has excluded the alcoholic *Kombucha* drinks among items paying the 12 per cent or Shs150 tax regime.

As with opaque beer, *Kombucha* drinks are locally sourced and manufactured. It, therefore, serves a segment of the population that would, in the alternative, resort to illicit trade or untaxed and untaxable products such as local brew, *tonto*, *ajon*, *muramba*, *malwa*, and *kwete*.

While meeting with *Kombucha* Drinks Manufacturers’ Association of Uganda, the committee was informed that *Kombucha* is an applied term to mean “fermented sugary tea solution, with a combination of yeast and bacteria”. The committee was further informed that the *Kombucha* product contains two categories; it contains the alcoholic *Kombucha* and the non-alcoholic *Kombucha*.

The committee learnt that both alcoholic and non-alcoholic *Kombucha* drinks undergo fermentation processes, although they differ on the number of days spent in fermentation. The committee learnt that the Excise Duty (Amendment) Bill, 2022 is amended under item 5(d) to include non-alcoholic *Kombucha* under the category of products in a reduced tax regime of 12 per cent or Shs 150, whichever is higher.

However, due to the high fermentable nature of *Kombucha*, only two per cent of *Kombucha* products remain non-alcoholic, as they would require long-term costs of refrigeration to maintain them in a non-alcoholic state.

The committee further learnt that *Kombucha* drink manufacturers employ more than 65,000 youths. The committee, therefore, noted that alcoholic *Kombucha* should be included under Item 2 to protect the nascent industry from the high tax regime; that is the tax regime of 20 per cent or Shs 250, whichever is higher, and ensure that its players are encouraged to penetrate the formal sector even more.

Recommendation

The committee, therefore, recommends that schedule 2, item 3 of the Excise Duty Act, 2021 be amended to include alcoholic *Kombucha* drinks among the items applying the 12 per cent or Shs 150 tax regime. This will encourage more manufacturers of the alcoholic *Kombucha* to become tax compliant and join the formal sector, thereby expanding the tax base.

Finally, Madam Speaker, clause 3(d); amendment of item 11, schedule 2 of the Excise Duty Act - on plastics, the committee observed that item 11 of schedule 2 of the Excise Duty (Amendment) Bill, 2022 seeks to increase excise duty on bags of polymers, of ethylene and other plastics to 40 per cent or Shs 400, whichever is higher. That is from Shs 253, at the moment.

The committee further observed that the Excise Duty Act, 2021 was passed under schedule 11 and provided for 2.5 per cent or $70 per tonne on all polymers of ethylene and polypropylene imported into the country as a green levy.

The committee learnt that the above law was enacted to ensure that all plastic product manufacturers and importers would directly contribute to Government, to ensure a clean and healthy environment and ensure the 3 Rs (reduce, reuse and recycle), which are international practices for plastic products. This tax has been able to contribute about Shs 60 billion towards the Government Consolidated Fund, as the green environment levy.

The committee was informed by Uganda Plastic Manufacturers and Recyclers Association that although the above was reached by negotiation, it has still proved to be too high and led to the closure of some of their member factories. The committee, therefore, concluded from the above that the high excise duty on plastics is not justified.

The committee recommends that clause 3(d), amending item 11 of schedule 2 of the Excise Duty Act, 2021 be deleted.

Madam Speaker, that is the report of the committee. I have no notification of any minority report and Members here will agree with me.

**THE SPEAKER:** Honourable member, thank you very much for the report. I got a notification of the minority report, which is here. Members who write minority reports, a minority report is part of the main report. So, what you need to do next time is to hand over a copy of the minority report to the chairman.

Now that, chairman, you know, you can ask for the minority report to be read.

**DR KEEFA KIWANUKA:** Madam Speaker, that is the procedure and like other members, Hon. Muwanga Kivumbi, submitted the minority report and I have it. Can I now, Madam Speaker, formally request for a copy of the minority report?

**THE SPEAKER:** Yes. Thank you. Hon. Nsereko?

11.38

**MR MUHAMMAD NSEREKO (Independent, Kampala Division Central, Kampala):** Thank you, Madam Speaker. I am glad that you have ruled wisely on that matter. However, I would like this House to come alive to the fact that some chairpersons are jittery on minority reports. When you state that you want to move it, they keep running away. As a matter of fact, I do not want that to come through here, but you have ruled and we shall all abide.

Madam Speaker –*(Interruption)*

**MR KIBALYA:** Thank you, Madam Speaker. The chairperson of the committee, through your office, humbly requested for the minority report before hon. Nsereko continues. However, hon. Nsereko is continuing to read the minority report before the chairperson gets a report.

Is it procedurally right, Madam Speaker, for hon. Nsereko to continue, before the chairperson receives part of the report that he is supposed to defend?

**THE SPEAKER:** Hon. Nsereko, lay the minority report on Table and it is even uploaded. For your benefit, you can have mine.

**MR NSEREKO:** Thank you, hon. Kibalya, but I will not go into a lot of that. I will leave you.

**THE SPEAKER:** Can you read the report? *(Laughter)*

**MR NSEREKO:** Madam Speaker, I will begin with a few highlights, and my views are very clear. On excise duty, the committee interfaced with a number of proponents, but I will go directly into the component of fuel and state that:

With the increased fuel prices, we observed that 70 per cent increase has been accrued on fuel since January 2021 and that it has a ripple and negative effect on the economy, especially on transport, the overall value chain for raw materials and finished products, and also on the cost of living.

Madam Speaker, as a stop-gap measure to curb the high inflationary rate, we have been here, several times in the House, and tasked Government to come up with a solution, as regards the increasing prices of fuel. They have promised air after air after air. *(Laughter)*

The only tool –

**THE SPEAKER:** Hon. Nsereko, does Government give air? I am asking: Is there air that can be given by Government? Use parliamentary language, please.

**MR NSEREKO:** They have promised to come up with something, but they have come up with nothing. It is promise after promise.

Madam Speaker, I am glad you have been asking the question on fuel a number of times. Whenever we attempt to debate the matter, we are told to wait for the budget. Now the budgetary time has come.

Of course, we accept that there is a spike in the prices of fuel all over the world and we accommodate that. We are also alive to the fact that the cost of living and the inflationary rates have gone up all over the world, not only in Uganda. However, in the East African region, you heard Her Excellency President Samia Suluhu increasing the wages of government employees by 23 percent. President Uhuru announced an increment of 12 percent. Disposable income of our people in Uganda is diminishing every single day as a result -

**THE SPEAKER:** Are you reading that from the report?

**MR NSEREKO:**  Yes, this is my report and I am summarising.

**THE SPEAKER:** Can you read the report as it is?

**MR NSEREKO:** Madam Speaker, it is part of the report. As a stopgap measure, we recommend a reduction in the excise duty levied on motor-spirit, which is gasoline, by Shs 750, which would bring the cost to Shs 700 for motor-spirit gasoline; that is, petrol. Then diesel, which is gas oil, our proposal would be a reduction by Shs 500 only.

If the House so wishes, that is a proposal we have laid on the Table and we can propose our amendment when we move to Committee Stage.

The other observation we made was the issue of relaxing taxes on *Kombucha* drinks so that our people continue to be drunk. In my opinion, this is promoting laziness. *(Interjections)* Yes, you know it, honourable. If we could not take away tax on bread, why are we taking away tax on alcohol?

Madam Speaker, we also have a view -

**THE SPEAKER:** Honourable members, I would like you to keep in mind that we are looking for money. Wherever we can get money, whether it is from alcohol -

**MR NSEREKO:** As I wind up so that Members can debate, when you said we should look for money, we realised that there are some goods here that are tax-free in excise duty. For example, sugar confectioneries like chewing gum, sweets and chocolates. Why not tax them? I am giving that as a proposal to the House to look at that avenue, since you are looking for money. Madam Speaker, chewing gum is a luxury. Thank you.

**DR KEEFA KIWANUKA:** Madam Speaker, the procedural matter is that the report is restricted to fuel. However, the Member has taken liberty and gone into lots of other issues which are not in the report. He has talked about *Kombucha* drinks, which is not in the report.

**THE SPEAKER:** He was responding to your suggestion of reducing it to five percent.

11.46

**MS ASINANSI NYAKATO (FDC, Woman Representative, Hoima City)**: Thank you very much, Madam Speaker, for giving me way. I stand to support the minority report. The Excise Duty (Amendment) Bill, 2022 came in at the right time, when there are looming prices of fuel.

Currently, vehicles are parked at home, businesses are stranded and people are not working. Inflation has become inflation and the prices of commodities have gone so high. Even when time for reporting back to school came, 50 percent of Ugandan children did not go back to school because parents cannot afford the increased school fees and school requirements.

Last year, the tax exemption report showed that in the Financial Year 2020/2021, this Government lost about Shs 7.5 trillion. The same report said for the past five years as a country, we have lost Shs 21 trillion just in tax exemptions.

Madam Speaker, we believe - I know many of our colleagues here are asking: How are we going to get money to support this budget, which is coming tomorrow? I believe, if we exempted by 50 percent, we could recover this money, if Parliament waived tax on the fuel.

I would like to call upon Members from the ruling side to support us on this. I know each one of us in the constituency is feeling it. We should –*(Member timed out.)*

**THE SPEAKER:** It is a maiden speech.

**MS ASINANSI NYAKATO:** Madam Speaker, thank you very much. It is my maiden speech since you took up that seat.

**THE SPEAKER:** Can you finish?

**MS ASANANSI NYAKATO:** Let me finish. I call upon honourable members to support the proposed amendments in the minority report. Thank you very much, Madam Speaker.

11.48

**MR SOLOMON SILWANY (NRM, Bukooli Central County, Bugiri):** Madam Speaker, I would like to thank the chairperson for the report and hon. Nsereko for the minority report.

**THE SPEAKER:** Let us have a minimum debate so that we are able to go to Committee Stage. That is the most important one.

**MR SILWANY:** Madam Speaker, I would like to talk about opaque beer, on which the committee wants to reduce excise duty since it is made from local materials.

Alcohol is an inelastic product. At whatever price, the quantity demanded is the same. That is the small economics I read. Even if you put beer at Shs 100,000 per bottle, people who drink beer will still buy it because these are addictive products. *(Interjections)* This is an area where I think -

**THE SPEAKER:** Honourable members, please, have respect when someone is making a submission. Those who drink beer are unknown and it is a luxury.

**MR SILWANY:** Madam Speaker, this is an area from where I think we should collect a lot of taxes as Government. Different types of alcohol like *ajono* and all these drinks that make people drunk and sometimes become a problem to the society.

**THE SPEAKER:** We may not get a lot of taxes, but reasonable tax.

**MR SILWANY:** Madam Speaker, the second bit is fuel. It is to handle this tactfully because we need taxes to keep the economy moving ahead.

The issue of fuel cannot only be sorted by taxes. We should make a law in the Excise Duty (Amendment) Bill, 2022, that will at least give Ugandans a relief on the high fuel prices. I beg to submit and I request that the House moves in that direction.

**DR KEEFA KIWANUKA:** The procedural matter I am raising, Madam Speaker, is that we have reported back and we have also heard the minority report. However, we have not heard a response from the Executive on these matters.

**THE SPEAKER:** No. The Executive comes last.

11.51

**MR IBRAHIM SSEMUJJU (FDC, Kira Municipality, Wakiso):** Thank you, Madam Speaker. Rule 59(n) allows us to stop a debate and go to decision-making. The nature of these Bills – and I have been here, speaking from experience – is that most of the work is done at the Committee Stage.

The motion I am moving is that you put the question and we go to Committee Stage. The nature of this rule, Madam Speaker, gives you no option, but to put the question. *(Laughter)*

**THE SPEAKER:** Is the motion seconded?Honourable members, your input can be felt better at Committee Stage. We are now on *lwali* - just talking because we want the cameras to pick us.

The motion is seconded by hon. Kateshumbwa, hon. Silwany, hon. Amos, hon. Jane – they have not spoken. You have issues that you need to resolve in these things.

Honourable members, you have heard the motion and it has been seconded. I now put the question that The Excise Duty (Amendment) Bill, 2022 be read for the second time.

*(Question put and agreed to.)*

BILLS

COMMITTEE STAGE

THE EXCISE DUTY (AMENDMENT) BILL, 2022

Clause 1

**THE CHAIRPERSON:** I put the question that clause 1 stands part of the Bill.

*(Question put and agreed to.)*

*Clause 1, agreed to.*

Clause 2

11.55

**THE CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Dr Kiwanuka Keefa):** Madam Chairperson, clause 2 is amended by substituting for the proposed definition of the words “fruit juice” in paragraph (a) the following -

*“*Fruit juice; means unfermented liquid extracted from the edible part of a fresh fruit whether the extracted liquid is diluted or not, but does not include fruit puree for industrial use that is not ready for final consumption.”

Justification

This is to exclude fruit puree for industrial use from constituting fruit juice.

**MR MAWANDA:** Thank you, Madam Chairperson. When they introduced digital tax on juice, people bought juice extractive machines. They are no longer using bottled juice like at parties/functions. They sell them in glasses. These are markets for the bottled products.

This juice is not being taxed in any form and it affects the business of those who sell digital tax goods. Therefore, where are we categorising this form of juice?

**MR KATESHUMBWA:** Thank you, Madam Chairperson. The proposal I am going to make will actually answer the concerns he has. The proposal of the committee is going to undermine two aspects. The first aspect involves the local processors of juice who are doing it at *jua kali* level – those who are not categorised as “industrial”, if you use this definition.

Most importantly, the addition of the word “industrial” is not necessary because it is opening up our economy to so much imported puree and pulp from all over the world. The way it was captured should remain. After all, the concern that the committee had is already catered for under the Amendment Act, 2017 – section (2)(e)(b) – which provides for “juice and vegetable juice, except juice made from 30 per cent of pulp from vegetable or fruit grown in Uganda”.

Therefore, this is sufficient to address the concerns of the committee. I think that the proposal to redefine beyond what was captured is not necessary. Thank you.

**THE CHAIRPERSON:** Do you want us to maintain it as it was?

**MR KATESHUMBWA:** Yes.

**THE CHAIRPERSON:** Mr Chairperson, do you have something to say?

**DR KEEFA KIWANUKA:** With the clarification we have got, which was not available at the time of the committee proceedings, I concede.

**MR MUSASIZI:** Madam Chairperson, we did not provide any amendment to this clause and we stand by our provision in the Bill.

**THE CHAIRPERSON:** I put the question that clause 2 stands part of the Bill.

*(Question put and agreed to.)*

*Clause 2, agreed to.*

Clause 3

**DR KEEFA KIWANUKA:** Madam Chairperson, we move that:

clause 3 is amended -

a. in paragraph (a) by substituting for the proposed item (d), the following-

“(d) opaque beer – 10 per cent or Shs 100 per litre, whichever is higher.”

b. by inserting a new paragraph immediately after paragraph (a), the following -

“(f) any other alcoholic beverage locally produced other than the beverage referred to in subparagraph (a) made of fermented sugary tea solution with a combination of yeast and bacteria – 12 per cent or Shs 150 per litre, whichever is higher.”

By deleting paragraph (d) to maintain the status quo.

Justification

1. The amendment will encourage the reopening of companies that had closed as a consequence of the higher tax that had the effect of lowering the cost of production and seeks to lower the tax on opaque beer to enable the manufacturers.
2. To provide for a low tax rate for the alcoholic beverages locally produced from fermented sugary tea solution with a combination of yeast and bacteria.
3. The proposed tax rates under paragraph (d) seek to impose a higher tax on the recyclable products and leave the non-recyclable products with a lower tax. The recyclable products are seven per cent and the non-recyclable products are 93 per cent. So, we thought that it is not so rational.

**THE CHAIRPERSON:** What was the tax before?

**DR KEEFA KIWANUKA:** The tax is $70 per tonne, which works out as Shs 253. That is the current.

**THE CHAIRPERSON:** What is the current percentage?

**DR KEEFA KIWANUKA** Sorry, (d) is plastic.

**THE CHAIRPERSON:**  What was the tax in percentage on opaque beer? What is the current tax?

**DR KEEFA KIWANUKA:** It is 12 per cent and Shs 250 per litre.

**THE CHAIRPERSON:** So, what is your basis for reducing it to 10 per cent?

**DR KEEFA KIWANUKA:** As I explained to the House –*(Interruption)*

**MR MASABA:** Madam Chairperson, currently opaque beer is at 20 per cent or Shs 230 per litre, whichever is higher.

**MR SILWANY:** Thank you, Madam Chairperson. This is the area we want to really see this House adopt by increasing the tax on opaque beer because this is where Government can get money because there is no benefit to the economy and our people. This is where we should increase the tax. It will help the country to get some money to construct roads and develop our infrastructure generally.

Therefore, this is an area where we should not reduce the tax. So, I move a motion that the House adopts that we increase the tax instead of reducing it. In the worst case scenario, Madam Chairperson, we should retain the 20 per cent. Otherwise, we should not reduce anything.

**THE CHAIRPERSON:** Honourable members, the fact that we amended clause 2; it already has an effect on clause 3.

**MR SSEWUNGU:** Madam Chairperson, clause 3(h) should be deleted. If you go to the proposed amendment in clause 3(a), you realise that it is solely proposed at facilitating Nile Breweries Limited to resume production. The moment we do that, we will be throwing out all the other people preparing their local brews such as *tonto, kwete* and so much more. Consequently, Government seems to be held hostage by the multinational companies against its own people.

**MR MAWANDA:** Thank you very much, Madam Chairperson. I do not want us to misunderstand opaque beer as if it is real beer. This opaque beer, first of all, is manufactured by the local people. This is an improved beer that comes out of the *malwas*, which is a healthy standardised beer*. (Interjections)* Now, instead of people taking unhealthy beer, they will be taking this locally manufactured beer made by companies where the Ugandan people have invested.

**THE CHAIRPERSON:** Honourable members, order in the House.

**Mr MAWANDA:** The small and medium enterprises; the Ugandans, who have heavily invested in this sector, are now also going to be affected if this tax is increased.

Secondly, Madam Chairperson -

**THE CHAIRPERSON:** Honourable members, like I said, clause 2 has an effect on clause 3. Ask yourself how? Clause 2 introduces the definition of “fruit juice”, which we have rejected by maintaining the previous one. What impact is there that you want us to achieve after reducing the tax? Why don’t you maintain the previous tax? *(Applause)*

**MR KATESHUMBWA:** Madam Chairperson, when we are doing legislation, one of the things we must be careful about is emotions and looking at tax as something that you can easily adjust, without doing a detailed study.

Tomorrow, we shall be appropriating. Madam Chairperson, yesterday, you mentioned that this appetite of reducing taxes, without understanding that it has an implication on what we shall be discussing later, must be exercised carefully.

Having said that -

**THE CHAIRPERSON:** Just to add to what you are saying; and reducing taxes on non-essential goods. *(Applause)*

**MR KATESHUMBWA:**  Madam Chairperson, the proposal that was put in the amendment – Shs 150 per litre or 12 per cent is sufficient, in my opinion. For you to recommend a reduction from Shs 150 to Shs 50 shillings and from 12 to five per cent, you will have to explain the consequences tomorrow, as you appropriate.

What I am saying is that, what has been provided is sufficient. We do not need to touch it further by reducing it. Let us see how it plays out in a year and based on statistics, maybe, the ministry and the tax administration can advise in the subsequent year.

**THE CHAIRPERSON:** Honourable members, I do not want to be intimidated with a statement that “the voters are watching.” The same voters want hospitals in their places; the roads to be worked on plus security. This business of saying “the voters are watching.” Why don’t you say “the drunkards are watching.”

**MR NSEREKO:** Madam Chairperson, the notion that is here - and I would like the honourable members to understand this – is that the Ministry of Finance, Planning and Economic Development the one that is looking for taxes, is the one coming up with the proposal to reduce it to 12 per cent. The Act is here; I can read the schedule where that appears. It is in the second schedule and clearly it is 20 per cent or Shs 230 per litre -

**THE CHAIRPERSON:** Honourable, read from this one.

**MR NSEREKO:** Thank you. What we have here is Financial Year 2021/2022. What we are talking about are the non-alcoholic beverages. When we talk about opaque beer, it is not explicit. On opaque beer, in particular, in Financial Year 2020/2021, it was 30 per cent or Shs 650. The minister, in one year, came and sought for relief to 20 per cent. Now, in Financial Year 2021/2022, it is at 20 per cent. In one year, they are back for another relief of 12 per cent; there is a problem there that you need to tell us.

**THE CHAIRPERSON:** Honourable members, can I hear from the minister?

**MR MUSASIZI:** Hon. Ssewungu, it is in the interest of all of us that we get this information and then, we can be able to debate thoroughly.

Madam Chairperson, we are proposing to classify or take beer under 12 per cent or Shs 150 per litre, whichever is higher, for one reason; about three years ago, when I was still the chairperson, an argument came up that we must tax the non-essential items highly, especially alcohol, and this opaque beer was not spared despite the advice, which was given to us by the industrial players.

When we did that, the factory which was producing opaque beer in Kibuku closed. While, the producers of the raw material, which was being used, had no market. We came up with a proposal, which is current now, which we thought would bring this industry into the market so that the local material can be produced again and people could start getting money. This has also not worked.

Our studies and consultations with the industry players, is that if we introduced 12 per cent and Shs 150; they should be able to get back to the market. And, once they do so, we shall get the taxes we want; and our local producers will get income from the production of raw materials they use.

At the moment, even if we raised it to any rate we want, as long as the factory is not producing, we shall not get any revenue.

**MR SSEWUNGU:** Thank you, honourable minister. Madam Chairperson, I would like to thank the honourable minister for seeking my clarification. Hon. Henry Musasizi, you first go back to your Rubanda County East and look at those locals – kindly listen, because you accepted my clarification. We normally do not fight on this microphone; we talk sense, and you accepted that. The proposal you are bringing - as a matter of fact, you are throwing out all local brewers. The only way you can sustain this is by maintaining the status quo.

Secondly, when you go to Rubanda County East *–(Interjections)-* no, it is my home as well.

**THE CHAIRPERSON:** What is the status quo?

**MR SSEWUNGU:** I think it is 20 per cent. Madam Chairperson, the issue of throwing out other local brewers who prepare *muramba* from Rubanda County East and other local brews is not correct.

Thirdly, when you keep the status quo, still the other question – but the moment you create entry for another multi-national company to prepare Kibuku *–(Interjection)–* please, you are not on the microphone. I am the one speaking. Honourable minister, what do you lose by maintaining the status quo?

**THE CHAIRPERSON:** Honourable members of Parliament, I know how indisciplined you can mean to be. We are saying, let us move from 20 per cent to 12 per cent so that these people can be able to get back to business and get more employment. If they catch up, especially after COVID-19, we are only budgeting for one year and in that one year, we should be able to assess what could have happened. Honourable members, now –

**MR RUHUNDA:** Thank you, Madam Chairperson. I know that there are some biases against alcohol, but as you very well know, you cannot do away with alcohol. Even Jesus turned water into wine. *(Laughter)*

**THE CHAIRPERSON:** Honourable members, when we are in the House, you should not use a phone to make calls.

**MR RUHUNDA:** Madam Chairperson, the minister is right, because he is talking from an informed point of view. First of all, they have seen these factories, which are employing Ugandans and also having suppliers, closed. Now, that evidence is there. I have not heard –

**THE CHAIRPERSON:** Honourable members, the committee is recommending five per cent and Shs 50. We are rejecting that committee decision.

Now, we are taking the minister’s proposal of 12 per cent, and Shs 150. I now put a question that clause 3 – further amendment.

**MR NSEREKO:** Madam Chairperson, it was at 20 per cent, and you refused to remove tax on bread, but you are removing tax on beer. Why?

**THE CHAIRPERSON:** Honourable minister, I am putting the question on opaque beer. I am putting the question that clause 3 be amended on opaque beer as proposed by the minister.

*(Question put and agreed to.)*

**MR MUSASIZI:** Madam Chairperson, in –

**THE CHAIRPERSON:** I do not know whether you understand. Like Kasilo produces sorghum and maize. This thing uses sorghum and maize. It is for your own benefit and value-addition.

It benefits my constituency -

**MR MUSASIZI:** Madam Chairperson, under clause 3(d) amendment of item No.2 schedule 2 of the Excise Duty Act, 2021 on plastics, the recommendation of the committee is to delete the clause.

We appeal to Parliament to approve our proposal because of the following reasons:

1. Our proposal is meant to tax manufacturers of plastics that do not have recycling plants in order to encourage cleaning and conservation of our environment.
2. If this clause is deleted, it means that plastics can be imported into Uganda without paying any taxes. Uganda will have to incur the costs of cleaning up of the environment that has been polluted by imported polythene bags, free of tax.

Under clause 3(b), we propose to amend it as follows, “any other undenatured spirits of alcohol strength by volume of less than 80 per cent to attract excise duty of 80 per cent or Shs 1,700 per litre, whichever is higher.”

Justification

After consultations, we realised that in the next financial year, we promised the country that we shall not be increasing taxes and the proposal we had initially introduced was leading to increase in taxes when businesses are still beginning to recover from COVID-19.

The proposal reduces the risk of trading in illicit alcohol and hence, improved tax revenue; we have also –

**THE CHAIRPERSON:** Honourable minister, I thought we had passed alcohol and we are now on polythene bags.

**MR MUSASIZI:** Madam Chairperson, I need to clarify – would you like to handle one by one?

**THE CHAIRPERSON:** That is what we are doing. Your opinion on polythene bags.

**MR MUSASIZI:** They are quite several, but with your guidance, let us deal with them one by one. I have proposed it on plastics.

**THE CHAIRPERSON:** What is your proposal on plastics?

**MR MUSASIZI:** Madam Chairperson, our proposal on plastics is to ask Parliament to agree with our proposal as it is in the committee report and to reject what the committee is proposing.

**THE CHAIRPERSON:** As it is in the committee and reject what the committee proposed? Are you maintaining what is in the Bill – of 40 per cent or Shs 4,000 per kilogramme, whichever is higher?

**MR MUSASIZI:** Yes, the committee proposed an amendment, which I am rejecting and I gave my strong reasons.

**THE CHAIRPERSON:** Committee, give us your explanation for deletion.

**DR KEEFA KIWANUKA:** Madam Chairperson, this whole issue has a long history to it, but let me try to summarise the facts. First of all, there was a big issue around plastics in 2018, and I was privileged at that time to be the chairperson of the Committee on Natural Resources. I made an input in trying to ensure that we see a way of resolving the issue.

At that time, as a negotiated settlement, we reached an understanding that in order to clean our environment, companies should be encouraged to reduce the use, see if we can reuse whatever is there in the environment, and recycle.

It is against that background that the National Environment Management Act was passed. As a result of that Act, the manufacturers who could recycle, increased from 28 to now 70, with huge investment in this area.

More recently – I think it was last year – they came together as people involved in plastics; they agreed on what they called the green environment levy.

That is what I talked about earlier as the 2.5 per cent or $70, which is now projected to generate Shs 60 billion. The minister is targeting the people who can recycle, and that is mainly people manufacturing carrier bags – they make up 7 per cent of the whole plastic industry.

The 93 per cent that cannot recycle – and those are things like plastic wrappers and the sort of things that you normally see – are being left out in what is being proposed.

We should maintain the status quo so that everybody contributes to cleaning the environment. With what is being proposed, it means that those who contribute – those are the largest, 93 per cent as I have said.

At the moment, we have only one factory – which is Coca-Cola – which is recycling the used plastic bottles. With what is being proposed, they will not be contributing anything.

The minister is not giving any rationale – we asked them to provide something in writing, why they are proposing something in this amendment, up to the last minute, they did not provide anything. *(Hon. Masaba rose\_)* Let me take information from Hon. Karim.

**MR MASABA:** Thank you, Mr Chairperson for giving way –

**THE CHAIRPERSON:** When you are looking at this section, I would like you to read it together with Section 76 of the National Environment Management Authority Act, which says “…plastics made out of … of above thirty microns and those listed under Schedule 9“, should not be taxed. That is the NEMA Act.

**MR MASABA:** Thank you, Madam Chairperson, I am giving information to my chairperson. When you look at schedule 2 of the Excise Duty Act, 2021 on plastic products, they are substituting (d) for item (11) and they are targeting a certain type of *buveera.* Right now, we are charging all polythene at 2.5 per cent or US$79 per tonne, whichever is higher.

The minister is suggesting to target a specific one, which he has categorised with codes. Our proposal as a committee is to maintain it the way it is. All plastics should be taxed at a uniform rate, not targeting only the recyclable ones.

**THE CHAIRPERSON:** Can you clarify the polythene bags with codes 3923.2100 and 3923.29. We need to be very clear on those.

**MR MASABA:** Madam Chairperson, when they talk about these codes, they are referring to the usual polythene bags we use in the supermarkets; the ones they give us to carry our things.

**THE CHAIRPERSON:** Specify it in terms of microns. Are they above 30 microns or lower?

**MR MASABA:** According to the explanation, these are the recyclable ones.

**THE CHAIRPERSON:** I would like to know whether it is above or below.

**DR KEEFA KIWANUKA:** The plastic carrier bags under 30 microns were banned.

**THE CHAIRPERSON:** They were not banned.

**DR KEEFA KIWANUKA:** That is what we agreed, Madam Speaker. They were banned. Plastic carrier bags under 30 microns were banned. There may just be a problem of -

**THE CHAIRPERSON:** Yes, the ones below 30 microns were banned. Then above -

**DR KEEFA KIWANUKA:** On plastic carrier bags above 30 microns, we agreed to reduce the use, and encourage them to be reused. By encouraging them to be reused - This is why we are saying they should be of a larger micron than the thinner ones which cannot be reused.

On the recycled: This is what I was explaining. With recycling, several plants have now been opened. Actually, what is being proposed threatens the huge amounts of investment that have been put in this sector.

**THE CHAIRPERSON:** Members, we are moving from 2.5 per cent to 40 per cent. Look at the big difference. Honourable minister, are you seeing?

**MR MASABA:** MadamChairperson, this amendment is brought in bad faith because it is targeting only five per cent. The increment to 40 per cent or Shs 4,000 per kilogramme, is targeting only five per cent of polythene in the market, not the entire polythene. If it was targeting all the plastics, that would be very fine.

**MS NAKUT:** Madam Chairperson, we looked at the increment from 2.5 per cent to 40 per cent as  prohibitive because it will send specific sections of the players out of business. On the other side, it will protect another specific section. We saw it as discriminatory. We actually thought someone wants to use Parliament to complete an industry war and so, we refused. That is the basis on which we thought it should be deleted.

If we really want to ban plastics, then we should ban all of it, not a selective section of players and leave out others. That is the spirit, Madam Chairperson.

**MR ENOS ASIIMWE:** Honourable members, the current law talks about plastics and plastic granules. That implies that anything that has plastics, including the clothes we wear *-(Interruption)*

**THE CHAIRPERSON:** He is giving us information.

**MR ENOS ASIIMWE:** I was just giving information. The current law talks about plastics and plastic granules *–(Interjections)–* I am giving information for you to debate from an informed point of view. That is the purpose. I am not debating.

The current Act says plastic products and plastic granules which are taxed at 2.5 per cent or $70 per tonne - In the current law, it becomes very hard to know which item contains plastic and should be taxed or not, including the clothes you are putting on. Some of our shirts and clothes have plastics.

The purpose of having this amendment was to tax those that should not be on the market. In doing that, they brought this amendment and they put the rates higher so that they only deter plastics that are bad to our environment. The only problem we have here is that when you go by that definition, you leave out a lot of plastics. It is a bit discriminatory.

The only thing we need to decide as a House is that, if we are to maintain the current status quo at 2.5 per cent and $70, then we should look at the definition to actually deal with the plastics we do not need. If we are to take the new rate, we should also look at the definition and include plastics, for example, bottles, carbons, and all, so that we do not leave out anything that is not taxed.

It is the decision of this House to look at what is bad and not bad for the environment. The whole problem is in the definition. It is not in the rates. When we are arguing, let us argue how best we can define the plastics we do not need, and how best we can define those that we need. Thank you.

**THE CHAIRPERSON:** Honourable members, the deviation from 2.5 per cent to 40 percent is over taxation and that defeats the principle of equity. Either the minister accepts to maintain the 2.5 per cent or we take the committee position. Are we together, honourable minister? Can I hear from the minister?

**MR MUSASIZI:** Madam Chairperson, in the interest of moving together, as you have always done, I propose that the new proposal we are introducing in the Bill be deleted.

**THE CHAIRPERSON:** Honourable members, we are deleting the new proposal and maintaining the 2.5 per cent or $70 per tonne, whichever is higher.

*(Question put and agreed to.)*

**THE CHAIRPERSON:** Minister, are you okay with (f); the alcoholic beverages?

**MR MUSASIZI:** Madam Chairperson, we are still on clause 3. I would like to propose an amendment, under clause 3(b)(c), as follows:

“Any other undenatured spirits of alcoholic strength by volume of less than 80 per cent to attract excise duty of 80 per cent or Shs 1,700 per litre, whichever is higher.”

The justification is that this proposal is in line with the Government decision not to increase taxes in Financial Year 2022/2023. Secondly, it reduces the risk of trading in illicit alcohol, and hence, improved tax revenue.

Madam Chairperson, we consulted the stakeholders and they have no objection to maintaining the current excise duty rate of 80 per cent or Shs 1,700 per litre for both locally produced and imported spirits.

**THE CHAIRPERSON:** So, are you deviating from the committee’s decision? You are maintaining what is in the Bill and deviating from what the committee decided.

Honourable members, the honourable minister is proposing locally produced undenatured spirits at 80 per cent or Shs 1,700 per litre, whichever is higher. The imported one is at 80 per cent or Shs 2,000 – that is for the imported spirits.

I put the question that the minister’s amendment, as proposed, be considered.

*(Question put and agreed to.)*

**MR MASABA:** Madam Chairperson, for clarity, the imported is at 100 per cent, not 80 per cent.

**THE CHAIRPERSON:** No, he reduced it to 80 per cent. He changed it. Do you have an amendment? Are you done with your amendments?

**MR NSEREKO:** Madam Chairperson, this bad spirit of our colleague here –

**THE CHAIRPERSON:** Can we have an amendment from hon. Nsereko?

**MR NSEREKO:** Madam Chairperson, allow me to propose an amendment to the second schedule of the Excise Duty Act.

Honourable members, I refer you –*(Interjections)*- Honourable minister, can you stop distracting the Speaker? *(Laughter)*

**THE CHAIRPERSON:** Yes, hon. Nsereko?

**MR NSEREKO:** Thank you, Madam Chairperson. I propose an amendment to the Second Schedule of the Excise Duty Act. In paragraph (8) – I think on the small compendium, it is page 456 – to the effect that motor spirit – gasoline; that is, petroleum. At the moment, the rate charged per litre is Shs 1,450 and our proposal is a reduction by Shs 750 per litre. The justification was already given, Madam Chairperson.

The increase in fuel prices has driven up the cost of living. The wages are no longer commensurate with the increased cost of living. All departments are now asking for an increase in wages because they can no longer meet their demands. Disposable income is becoming minimal and slim.

Most Government workers are running on loans and what they had saved is no longer available because it is now consumed in transport. Different Government departments – those where you have people running on free fuel cards like ministers and others are the ones that are not feeling this. However, the ordinary person who wakes up in the morning and makes their money has felt this.

The increase in diesel prices has led to the increase in the prices of goods. We have tasked this Government to come up with a proposal – for six months – on how fuel prices will go down, but to no avail. The only remedy we remain with, Members of Parliament, is one: the whip of the tax. If we reduce this tax by Shs 750 –

**THE CHAIRPERSON:** You have brought your amendment; we have understood.

**MR NSEREKO:** Under part (b), on gas oil automotive light amber high speed engine, termed as diesel, it is at Shs 1,130 per litre, and we propose a reduction of Shs 600, which will take it to Shs 530.

I appeal to you all and persuade you to support this position in the interest of this country. And, I am certainly sure that this will be a good stop-gap measure to help people get back on their feet. It will reduce fuel-led inflation and will automatically send disposable income into the pockets of the people.

I am also very aware that for sure, people will desist from asking for a pay rise as a result of allowances based on mileage and fuel. So, assuming in the last two years, one has been paid allowances based on mileage, and the mileage is capped at a litre at Shs 3000; tell me how that person will make ends meet if it is not commensurate with the pump price today.

Therefore, by denying this, you will not only be cheating yourselves, but also cheating other people. That is my proposal, Madam Chairperson. Thank you.

**THE CHAIRPERSON:** Thank you.

**MR NSEREKO:** Madam Chairperson, maybe the additional proposal there is the introduction of taxes on sugar confectioneries in the same schedule; sugar confectioneries like chewing gum, sweets and chocolates, which this Government in its way of looking for tax and in its wisdom, only exempted to zero. I do not know whether those are essentials; sweets, chewing gum and others!

**THE CHAIRPERSON:** Sugar confectioneries, chewing gum, sweets and chocolates have been at nil. What is your suggestion?

**MR NSEREKO:** Our suggestion on sugar confectioneries, chewing gum, sweets and chocolates should be at 20 percent.

**THE CHAIRPERSON:** Yes, let us dispose one by one. Yes, honourable member.

**MR KATESHUMBWA:** Thank you very much, Madam Chairperson. The proposal by hon. Muhammad Nsereko is a very good political proposal.

**THE CHAIRPERSON:** Which one? The one on chewing gum?

**MR KATESHUMBWA:** Yes.

**THE CHAIRPERSON:** On which one?

**MR KATESHUMBWA:** On fuel; but technically untenable.

**THE CHAIRPERSON:** I said let us start with chewing gum.

**MR KATESHUMBWA:** I thought – with chewing gum, I have no comment. I wanted to comment on the fuel.

**THE CHAIRPERSON:** I put the question that we amend part 16 on sugar confectioneries, chewing gums, sweets and chocolates by introducing the 20 per cent duty?

*(Question put and agreed to.)*

**THE CHAIRPERSON:** Now, go to fuel.

**MR KATESHUMBWA:** Madam Chairperson, the implication on the proposal of reducing is that it will result into a Shs 1.5 trillion revenue loss. I have had the benefit of looking at the numbers from the industry; if you reduce that fuel by Shs 700, you are going to have a Shs 1.5 trillion deficit.

Madam Chairperson, the taxes on diesel and petrol accounted, for on average, 25 per cent. We all know that one of the big drivers of fuel has been the increase in the bale of fuel plus the global challenges of transportation.

I would like to request Members to exercise some level of caution when dealing with tax reductions, because you cannot deal with taxation in the very short-term. If you propose a measure that is going to cut down the revenue by Shs 1.5 trillion, that means, we must be able to reduce the Budget by that equal amount.

I, therefore, propose that since we have adopted the other proposal of confectionaries, let us maintain the rates.

**MR OMARA:** Madam Chairperson, we have a report of the Committee on Trade, Tourism and Cooperatives, which demonstrated that from December to March, when we had a fuel crisis, the country received, in volume terms, the biggest ever amount of oil. So, the issue is not about tax because - yes, this is not about tax because more volumes came in, in the three months from January to March, more than we had from September to December of last year.

Therefore, I am opposed to it. What is important is, we need to check on the grid and we need to have the ministry of energy exercise its mandate in terms of taking control. So, we should not allow the proposal that is being made by the honourable member. Thank you.

**THE CHAIRPERSON:** Thank you.

**MS ASANANSI NYAKATO:** Madam Chairperson, two weeks back, the finance minister was on TV lamenting how they are losing too much revenue because of fuel prices being so high, reason being people are not in production; and, whether Government reduces taxes on petrol and diesel or not, it is already making losses.

The only thing Government can do is to make a reduction on fuel and make the recovery as we had said - we told you last financial year alone, the tax exemption report indicated that as a country we lost Shs 7.7 trillion to exemptions. In the last five years alone we have lost Shs 21 trillion. We believe if we did exempt the Shs 1.5 trillion, which we would have waived on diesel and petrol, it can be recovered from these exemptions if we reduce them by 50 percent.

**MS NAKUT:** Madam Chairperson, we are handling the issue of fuel as proposed by hon. Nsereko. However, there is no evidence that if we reduce taxes, the pump prices will go down; there is no evidence.

Secondly, a few weeks ago, this House resolved that we functionalise the Road Fund. When we put in the Shs 100 on fuel, it was meant for the road fund. Now, when we want to remove that, what will we put in the Road Fund? So, my proposal is that let us allow it to stay in the way it has been for now. There is no tax being added on fuel.

**MR EKANYA:** Madam Chairperson, sometime back, a Committee on Finance led by the current minister for agriculture, investigated the cost of high fuel prices. It even went to Mombasa and met importers and so forth. Besides tax, there are two important aspects that this House needs to address. We need - and Attorney-General through you, Madam Chairperson, we need to have the competition law in place.

As we speak, fuel operators and importers are making super abnormal profits of more than Shs 1000. Therefore, even if you reduce the tax by Shs 500, they will not - because they do holding because we *–(Interjections)-* just hold on kindly; let me make this point. Kindly, I am informed. I am sorry. I will give you the opportunity - right now, this country does not have a competition law. There is monopoly; there is hoarding because we do not have regulation.

Therefore, I am saying that even if you reduced tax by Shs 500, the fuel importers would do hoarding and the prices go up because they are used to making super abnormal profits. What we need to do is, I am saying besides tax - because I do not want to legislate here and then, my people in Tororo do not benefit and we enrich the rich people.

Let us order the Attorney-General and minister for justice within a period of one month to bring the competition law in this place and we solve this problem once and for all. For now, we maintain the status quo and then move forward.

**THE CHAIRPERSON:** Honourable members, considering the severe implication of this proposal – it has a lot of impact. Hon. Dicksons Kateshumbwa and hon. Faith Nakut have just talked about it. I propose the Minister for energy together with the finance minister study this matter. You can bring in an amendment to the excise duty anytime to this effect – you are over shouting for me. *(Laughter)*

Honourable members, I am giving you guidance. I am saying you will come back and present. It has just come. Go and study it and bring it back. Do not think the fuel prices are only affecting one person. We are only lucky that hon. Nsereko raised it.

**MR MUSASIZI:** Thank you, Madam Chairperson. We take your guidance that this is a matter, which has just come to us. Also, considering our preliminary figures, my prayer to the House is that we be given time to study, thoroughly, the implications of this proposal and then report back to the House in three months.

**MR SSEWUNGU:** Madam Chairperson, I would like to thank you very much for being considerate. However much we come out to raise our issues, you have given us time.

As the minister goes to study this matter, let us also take keen interest in this. What is happening out there is that Shell and Total bring fuel here. Other companies buy it from these particular people, but sell at a lower price whereas those who have sold to the other buyers continue selling at a higher price. That is very abnormal in this country. One company is selling to a retailer, but the retailer is selling it cheaper than the wholesaler. I think we need to pay key attention to this *–(Interruption)*

**MR NANDALA-MAFABI:** Thank you, Madam Chairperson and Hon. Joseph Ssewungu for giving way –

**THE CHAIRPERSON:** You know he is a fuel dealer.

**MR NANDALA-MAFABI:** On what hon. Ssewungu is raising, the truth is this; fuel is bought on auction quarters. He knows, open-tender system. When somebody has done this and got his 100 trucks, he will not start selling to Shell, Total and others.

Shell and Total never sell to people in trucks. They keep it for their own facilities and they would also only buy from others. The only difference is the operational costs of Shell. They have an MD in Netherlands and London and so, their operational costs are high. Therefore, whatever they do, every litre you buy in Gulu is costed on that. While I, Nandala-Mafabi who brings my truck from the border, my operational costs are very low. Definitely, my charge will be low. However, the fuel is the same.

The other people, because they have the best advertising method, they say, “Go Shell, go Total; it is the best”, but the true story is that this fuel is the same.

Therefore, what we have to address, for which we want to ask the finance and energy ministers is to sit down and deal with the bottleneck from the point at the sea up to here. If we sorted that, the price of fuel here would go down.

**THE CHAIRPERSON:** Thank you, Hon. Nandala. I put the question that clause 3 be amended as follows:

1. Under item 16 - that is, the sugar confectionaries, chewing gum, sweets and chocolates by introducing the 20 per cent.
2. Clause 3

(a) Opaque beer by maintaining what is in the Act of 12 per cent or Shs 150.

(b) On imported undenatured spirits of alcoholic strength by value of 80 per cent or more - we have reduced it from 100 to 80 per cent and 2,500 to 2,000 per litre whichever is higher.

(d) We have maintained what is in the Act for plastics.

*(Question put and agreed to.)*

*Clause 3, as amended, agreed to.*

*The Title, agreed to.*

MOTION FOR RESUMPTION OF THE HOUSE

1.07

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi):** Madam Chairperson, I beg to move that the House do resume and the Committee of the whole House reports thereto.

**THE CHAIRPERSON:** I put the question that the House do resume and the Committee of the whole House reports thereto.

*(Question put and agreed to.)*

*(The House resumed, the Speaker presiding\_)*

REPORT OF THE COMMITTEE OF THE WHOLE HOUSE

1.08

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi):** Madam Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled, “The Excise Duty (Amendment) Bill, 2022” and passed it with amendments.

MOTION FOR ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE HOUSE

1.09

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi):** Madam Speaker, I beg to move that the report from the Committee of the whole House be adopted.

**THE SPEAKER:** I put the question that the House adopts the report of the Committee of the whole House.

*(Question put and agreed to.)*

*Report adopted.*

BILLS

THIRD READING

THE EXCISE DUTY (AMENDMENT) BILL, 2022

1.09

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi):** Madam Speaker, I beg to move that the Bill entitled, “The Excise Duty (Amendment) Bill, 2022” be read for the third time and do pass.

**THE SPEAKER:** I put the question that The Excise Duty (Amendment) Bill, 2022 be read for the third time and do pass.

*(Question put and agreed to.)*

A BILL FOR AN ACT ENTITLED, “THE EXCISE DUTY (AMENDMENT) ACT, 2022”

**THE SPEAKER:** Bill passed and title settled. *(Applause)* Honourable members, we constituted a team of brains to go and discuss the issue of the Income Tax (Amendment) Bill, 2022. Can I have a brief report to that effect and then, we go straight to Committee Stage?

Government side, I would like you to listen attentively to the findings of the Select Committee on Bujagali. You need to take action for the good of this country.

REPORT OF THE Select Committee on Bujagali

1.11

**MR NATHAN NANDALA-MAFABI (FDC, Budadiri County West, Sironko):** Thank you, Madam Speaker. Honourable members, as you are aware, I was the one who was chosen to lead the team. These are the members I led: Hon. David Bahati, the Minister for Trade, Hon. Henry Musasizi, Hon. Geofrey Ekanya and my Leader of the Opposition, Hon. Muwanga Kivumbi, Hon. John Teira, Hon. Timothy Batuwa, Hon. Loy Katali, a staff member (Moses Kaggwa), Hon. Paul Omara, Hon. Jane Pacuto (the vice- chairperson), Hon. Dickson Kateshumbwa, Hon. Gerald Nangoli, Hon. Karim Masaba, and Hon. Richard Wanda.

Colleagues, if there is anybody I have missed out, I beg your indulgence and excuse me.

Madam Speaker, I would like to state from the onset that there was no politics. Everybody there discussed as a Ugandan. In that team – I had forgotten Hon. Herbert Tayebwa who was the lead counsel; I will allow him to speak for a few minutes after I have made this presentation.

The issues we framed are the following:

1. Whether we should grant an extension to Bujagali for another five years;
2. Whether the financial records of Bujagali Energy Limited represent a true picture;
3. Whether the agreement between Government of Uganda and Bujagali Energy Ltd was made in good faith; and
4. Whether the tariff being charged is the right tariff.

Madam Speaker, we considered the accounts of Bujagali Energy Ltd, which run from 2018 to 2021. The accounting period is 31st of December of every financial year.

Findings

There is a calculation of the monthly capacity payment of what Government is supposed to pay Bujagali. I am going to ask all Members to hold their pens and write what I am going to read.

The Capacity Payment (CP) for any month (m) shall be calculated as follows: CP will equal to RTD plus ITD plus TERR plus CIT plus OT plus OM plus MC plus GoU plus EER. If you have made a mistake, we shall repeat it later.

CP = RTD + ITD+ TERR+ CIT+ OT + MC + GoU + EER

This is what it represents:

1. Capacity building is CP.
2. RTD means the amount of Repayment of Tariff Debt component for that month. There is a section.
3. ITD means the amount of Interest on Tariff Debt; the interest.
4. TERR means the Tariff Equity Repayment and the Return on that equity.
5. CIT means the Corporate Income Tax.
6. OT means the amount of Other Tax component.
7. OM means Monthly Operation and Maintenance Fee.
8. MC means Miscellaneous Charge.
9. GoU means the Government of Uganda
10. EER means Equity Return and Return on components.

That is the formula.

The committee interrogated this and looked at the accounts. It discovered the following:

1. The debt is being paid on time;
2. The interest on debt is being paid;
3. The return on equity is 19 per cent;
4. The corporation tax is supposed to be after making profit;
5. The remaining charges are also being paid; and
6. In the financials, after payment of the return on equity, there is a payment of dividends.

The committee observed the following:

There are three classes of share capital; Class A, Class B and Class C. Class A is for people of Bujagali and it has $10 million. Class C is for the people of Uganda, $20 million, with no voting right and no dividend. Class B preferential share has an investment of $67.910 with the highest dividend over $70 million per year.

We looked at the accounts and the financial statements looked misleading, and because of that, we tasked hon. Tayebwa to analyse them further. Madam Speaker, at an appropriate time, I will ask you to allow him to speak for a few minutes.

These are the findings we want to conclude with:

Given the misleading information we had, and the computation being done in the wrong way, it has led to high tariff rates because the equity owners get two types of payments; 19 per cent dividends, which they are not entitled to. This has pushed up power which would have been less than five cents by now.

Now, for us to harmonise this, we have agreed that we allow Government six months to go, come back, and carry out value-for-money audit on Bujagali. These six months will be done in consultation with Parliament.

Madam Speaker, the committee proposes that you constitute a committee, which will work with auditors of Government to carry out a value-for-money audit, to establish the true position on who has been benefiting from this project. *(Applause)*

Given the type of agreement we have, if we include every figure as it is supposed to be, the value of return on equity of 19 per cent on $ 10 million, would have been $1.9 million, as opposed to the national interest of average of $ 100 million per year, plus dividends of over $ 70 million per year.

Within that period of six months, we propose that the report which will come out should be presented to the House latest 1 January 2023. The reason we are saying 1 January 2023 - someone will say, it will be a public holiday, so if it is a public holiday, bring it on 31 December, if it is a working day or the next day, after 1 January 2023.

The purpose is for Parliament to scrutinise that report within three months and come up with a final recommendation as far as the Bujagali project is concerned. Is it okay? In that regard, and since we are talking of six months, plus the three months, it will be to months. It is in the wisdom of the committee that for now, the status quo remains for a period of only one year, which is the final period as far as Bujagali is concerned.

It is very difficult to lead very professional people. They argue, but I believe I did my best. Madam Speaker, I beg that you give my colleague, Hon. Herbert Tayebwa, three minutes and hon. Paul, one minute to conclude on this. In all, I want to thank my committee.

**THE SPEAKER:** Chairperson of the Bugisu Cooperative Union, thank you very much, for leading professionals. Hon. Herbert Tayebwa and Hon. Paul Omara, you have one minute each because we are going to constitute a team. We have already got information that we require, so just give us a brief. Hon. Herbert Tayebwa, come here.

1.23

**MR HERBERT TAYEBWA (NRM, Kashongi County, Kiruhura):** Madam Speaker, we went through the financial statements of Bujagali Energy Limited from the year 2019 to 2021. We also went through the power purchase agreement between the Government of the Republic of Uganda and Bujagali Energy Limited.

The return on equity, as said by my senior colleague, on the share capital of Bujagali is 19 per cent. For those who do not know, return on equity is the net profit over the share capital.

Madam Speaker, the financials clearly indicate that Bujagali brought in only US$10 million. Therefore, the 19 per cent return on equity would be $1.9 million. And that is what should be paid to them.

We also found out that in the computation of the tariff, they paid $67 million to Bujagali, which is 52 per cent of the composition of the tariff cost, which in our thinking, is too high. They should have actually paid them $1.9 million because that is what they are entitled to. Because of that big payment, the cost of power is high; and as a result of the high price, this company has been making a lot of profit.

We looked at the following years: In the Financial Year 2018/2019, they made a profit of $60,168,147. In 2020, they made a profit of $56,832,593. In 2021, they made a profit of $79,827,885. Madam Speaker, out of that, they were able to pay dividends to the shareholders who only contributed $10 million as share capital. In the year 2018, they paid out a dividend of $68,500,000. In 2019, they paid out $72 million. In 2020, they paid out –

**THE SPEAKER:** Can you summarise? We have a committee that is going to present a report.

**MR HERBERT TAYEBWA:** I am summarising this, Madam Speaker. We still believe that the accounting standard or principle of full disclosure would actually mean that if there is any money that was spent outside the share capital of $10 million, it should have been disclosed within the financial statements.

Honourable members, you will agree that if you are going to have a project, the project should be financed by two sources of income; it is either share capital or loan finance or both. And these sources of income must be clearly disclosed within the financial statements. However, what we see here is that the $10 million, which was paid, and then the money, which is from loans clearly indicating how they will be repaid with interest. I submit, Madam Speaker.

1.27

**MR PAUL OMARA (Independent, Otuke County, Otuke):** Thank you very much, Madam Speaker. I would like to thank our Chairperson, Hon. Nandala-Mafabi, for moderating and bringing us together on the way forward.

It is now very clear to us that the agreement the Government of the Republic of Uganda signed with Bujagali was very unfair to Uganda. That said, we have met all our commitments. Bujagali has been collecting all their return on equity and all the tax repayments and interest.

Madam Speaker, there has been profit, which was being made, which they were not entitled to. Unfortunately, they were taking away that money as payment on dividends and we are taking nothing. This is why we have recommended that the Auditor-General together with all the stakeholders, go through the financial statements to establish how much money they have taken over the years so that we can really take that money to the Consolidated Fund.

What we have also seen is that the senior loan should have been paid by 2023, which is one year ahead of us. But the clever people, during the loan consolidation and restructuring, extended the repayment period for another 10 years, and the payment is due in 2032, while the cost of negotiation was $45 million.

By the time we finish, we would have paid more money to Bujagali. This was based on a very wrong decision because Bujagali is not suffering from any cash flow problem; we have enough money there, to accelerate loan repayments.

Madam Speaker, in conclusion, there is enough money on depreciation and retained earnings. We are going to look at this and with this money, we should be able to pay all the loan for Bujagali, and then the Government of Uganda will begin to have all that money going to the Consolidated Fund. I thank you.

**MR NANDALA-MAFABI:** Madam Speaker, again, I would like to thank you for the opportunity you gave me to lead the team. As I said, I led a very tough team, but I have seen no minority report. *(Applause)* So, I am so happy.

I would like to thank my team for working. Let us handle this as Ugandans. The power tariffs affect everybody across the board. I would like to tell the Government of Uganda - even if it involves us going to explain to the President of Uganda, we are ready to do it because there are people who are afraid to tell him. We are here to tell him that we are being cheated by these so-called investors. *(Applause)*

Madam Speaker, this should be the eye-opener, and we can assure you that we are going to save the people of Uganda from this theft.

I would like to ask, Madam Speaker, that we now move to Committee Stage. *(Laughter)*

**THE CHAIRPERSON:** Honourable members, I would like to make these remarks before we start the Committee Stage. I am happy the Attorney-General is here. We are the majority shareholders; we must have the voting rights. That means we need an inclusion on the board, as Ugandans. We cannot afford having no Ugandan on the board. We need that done immediately. That is one.

The dividends that are paid to Bujagali – to those people – should also be paid to us. Our contribution is $20 million, theirs is $10 million; how come we are not getting dividends? We need dividends, as Ugandans. *(Applause)*

We need a forensic audit and to determine value-for-money. *(Applause)* A forensic audit must be done immediately.

In accordance with rule 190 of the Rules of Procedure of Parliament, I, therefore, announce a select committee that should go and work together with audit and find out what is happening in that area and, thereafter, it will have a meeting with the Executive on this issue.

I would like us to remove politics from it. Hon. Kivumbi, when I say that, “let us go to the President and call a spade a spade”, you should be able to do it. It is not about parties; it is about Ugandans. *(Applause)*

I will have hon. Herbert Tayebwa, hon. Paul Omara, hon. Muwanga Kivumbi, hon. Karim Masaba, hon. Nathan Nandala-Mafabi, hon. Dicksons Kateshumbwa, hon. Loy Katali, hon. Faith Nakut and hon. Esther Afoyocan. Those are the nine members of the select committee.

The team will be led by hon. Kateshumbwa. We need a report in this House. Tell me how much time you need – since you have looked at the accounts.

I am giving you three months to make a report to this House to that effect and, based on that reason, it is also an agreed position that we give them a waiver for one year.

BILLS

COMMITTEE STAGE

THE INCOME TAX (AMENDMENT) BILL, 2022

Clause 1

**THE CHAIRPERSON:** I put the question that clause 1 stands part of the Bill.

*(Question put and agreed to.)*

*Clause 1, agreed to.*

*Clause 2, agreed to.*

*Clause 3, agreed to.*

Clause 4

1.36

**THE CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Dr Keefa Kiwanuka):** Madam Chairperson, the committee proposes that clause 4 be deleted.

The justification is that there is need to undertake a comprehensive study of our current tax exemptions so as to inform any further tax exemptions.

**THE CHAIRPERSON:** Honourable minister, are you okay with the deletion?

**MR MUSASIZI:** Madam Chairperson, we stand with our proposal in the Bill.

**THE CHAIRPERSON:** Chairman, I thought this is where we have Bujagali.

**MR NANDALA-MAFABI:** Madam Chairperson, in clause 4(a), we are amending section 21 of the principal Act -

(a) in subsection (1)(ac) by substituting “2022” with “2023”.

This is because we have now agreed -

**THE CHAIRPERSON:** We are substituting “2027” with “2023”.

**MR NANDALA-MAFABI:** Yes, that is what I was saying. The committee had initially deleted the whole clause. That is the only part which is coming back, if we have agreed, as a House.

The justification for deletion was to remove Bujagali and these exemptions which have been talked about – we need a comprehensive study, first, before more exemptions can be granted.

This is basically dealing with exemptions. Madam Chairperson, if we delete (b) and (c), we are able to save almost Shs 3 trillion, from the report we have.

**THE CHAIRPERSON:** Can we have (a) redrafted to how it should be?

**MR NANDALA-MAFABI:** Madam Chairperson, we are saying -

“(a) in subsection (1)(ac) by substituting “2027” with “2023”.

**DR KEEFA KIWANUKA:** I concede.

**MR MUSASIZI:** On (a), I have no problem with the new development of substituting “2027” with “2023”. However, on (b), the proposal is seeking nothing else, but to harmonise what already exists in other Acts – Value Added Tax Act, Stamp Duty Act and others. So, I pray that (b) stands.

**MR NANDALA-MAFABI:** Madam Chairperson, we agreed as a committee, that these tax exemptions and waivers need to be reviewed. A total analysis has been carried out and we got to realise that we are losing over Shs7 trillion per year in form of tax exemptions and waivers. We are not ready to grant more, if Parliament agrees, until there is a total analysis of what has been granted, the benefits -

**THE CHAIRPERSON:** Hon. Nandala, we made a ruling in this House. We gave the committee work and we said we want to know all the beneficiaries of tax exemptions. Before we do that - we are looking for money - we are not waiving before we get a report. We want to know the basis of the waivers.

**MR KATESHUMBWA:** Madam Chairperson, I am actually surprised that my brother here, the minister, is attempting to defend this. We are trying to help Government. There are studies that are on record that show that the cost of exemption is bleeding our budget. For goodness sake, Government should put a stop on exemptions. Do a study - it is actually part of your domestic revenue mobilisation strategy.

Let us analyse the cost benefit of these exemptions. It will help us unlock the tax revenue that we need. Otherwise, we are going to have a problem financing our budget.

**THE CHAIRPERSON:** We passed a resolution to that effect. Can you concede?

**MR MUSASIZI:** Madam Chairperson, I concede.

**THE CHAIRPERSON:** Thank you. Honourable members, I put the question that clause 4 be amended in (a) as proposed by Hon. Nandala-Mafabi, replacing 2027 with 2023, and deleting the rest of the clause.

*(Question put and agreed to.)*

*Clause 4, as amended, agreed to.*

Clause 5

**DR KEEFA KIWANUKA:** Madam Chairperson, in clause 5, we propose that it be amended in paragraph C, by deleting the phrase “and any excess of the expenditure and losses shall be curried forward to the subsequent year of income.”

The justification for this is to do away with the proposed gross allowed on 50 per cent. If we remove the gross allowed, by implication, it brings it down to 15 per cent. This will make it easier for tax administration. It will also save taxpayers from carrying forward excess expenditure and ease the complication in accounting.

**THE CHAIRPERSON:** Honourable minister, since we are operating a cash budget in a year - that would now – yesterday, we set a precedence that we should not carry it forward.

**MR MUSASIZI:** Madam Chairperson, I agree with the committee and, therefore, concede.

**THE CHAIRPERSON:** Thank you.

**MR MUWANGA KIVUMBI:** MadamChairperson, we have a problem with this one. This is where RippleNami is going to reap this country; it is on this provision. In my minority report, I emphasised that we need a year for RippleNami that says it has magic technology, to improve our revenue, of which it will net off 15 per cent of added revenue from a base of 90. If we manipulate the tax now and increase revenue, inherently, RippleNami is going to be a net beneficiary of a natural growth of revenue.

So, our own bone of contention - because we are tired of companies like RippleNami, CICPA and a category of them - that come here, do nothing and reap our country. We will only benefit because we have manipulated the tax.

So, our bone of contention is that now that this is going to be their first year of implementation, let us see the magic bullet they have. Then later, next year, if we see that they have not done much, Government should terminate this agreement. As I explained, it is so horrible and it is so bad an agreement. We need to investigate the chambers and entities that negotiated this agreement.

Therefore, Madam Chairperson, my position is that we should not increase the tax on this. Let it stay as it is this year to give RippleNami the benefit of doubt - that I have gotten a solution for it not to benefit because we have increased the burden on Ugandans.

**THE CHAIRPERSON:** I wanted to find out: Are we making this amendment only for RippleNami?

**MR MUWANGA KIVUMBI:** MadamChairperson, it is not only for RippleNami Inc. The way the formula is - and the committee should have been very explicit - is that we are not saying there is going to be no tax paid on rent; it is going to be there.

**THE CHAIRPERSON:** What are you suggesting?

**MR MUWANGA:** We are suggesting that for this financial year, let us not tinker with the formula as it is so that RippleNami can do magic. If RippleNami is found not to operate, then Government will be informed that they entered a very terrible deal. Otherwise, right now, there will be more revenue generated because of a tax increase on rent and RippleNami Inc. will walk away with the benefits.

**MR MUSASIZI:** Madam Chairperson, I would like to give clarification to the House that the agreement with RippleNami did not bring any variations in the taxes. What the proposal is seeking, hon. Muwanga Kivumbi, is about clarifying taxation of rental income. It is basically to ease administration and compliance. Where I think you are coming from - you know that when we do this - perhaps with RippleNami - we will collect more and, therefore, demand more, in terms of payment. Otherwise, I would like to say that there are matters of policy in nature, like what hon. Muwanga Kivumbi is addressing - which we can deal with -*(Interjection)*- I am proceeding well.

**THE CHAIRPERSON:** He is on a procedural matter.

**MR MUSASIZI:** Therefore, I would like to appeal to the House that in the spirit -

**THE CHAIRPERSON:** By the way, this is a new insertion, coming in after 1(a). It was not there before; they are just inserting it.

**MR MUSASIZI:** Madam Chairperson, I would like to invite the House, in the spirit of helping Government, to raise revenue to finance the budget. Let us support our proposal as amended by the committee and we move on.

**MR NSEREKO:** Madam Chairperson, what I would like to help our colleagues understand is that Hon. Muwanga Kivumbi is not saying that the Government will not raise more revenue; he actually agrees with you. However, Government has signed an agreement with a block-chain company in technology, that states that they will introduce a solution that will help you raise more revenue in rental income. Do not worry. It has failed to give you the solution and for that, it takes a percentage of the rental income collected after the increment.

Now, having failed through block chain technology - and this is why you need to understand technology - it runs to you to raise a new formula, which is based on growth. Automatically, a new formula based on growth, which we would all like, will give a spike in this rental income by another Shs 200 billion and this company will walk out with 20 per cent, which would be Shs 40 billion for no business done, but for the effort of Parliament.

There is a reason you should interest yourselves in technology because by one mere statement - as you saw in the agreement which talks about data processing - in short, you are performing for them. Therefore, we agree that this will boost Government revenue.

What hon. Muwanga Kivumbi is saying, in short, is that they are just using this Parliament as a conduit to realise the effect of profit. Therefore, the issue here is, hon. Muwanga Kivumbi is trying to impeach these very insane agreements that we are signing with tech companies from a point –*(Interjection)* - no, it is not in the Bill, but it is implied.

When the revenue goes up, therefore, there is a benefit for someone else –

**THE CHAIRPERSON:** Can we hear from another person? We have understood what you are saying. Let us hear from the chairman. What was the basis of that inclusion?

**DR KEEFA KIWANUKA:** Madam Chairperson, when Hon. Muwanga Kivumbi brought this matter to the committee, we generally almost unanimously agreed that it was a bad agreement with RippleNami, but that is agreed.

However, his contention is that if we increase the rental tax, we will not know how much RippleNami has contributed, but we are saying let us deal with this; then we can deal with the issue of RippleNami separately.

Madam Chairperson, my opinion is that –

**THE CHAIRPERSON:** We are dealing with a Bill, not with an institution. The institution can be handled the way you are going to handle Bujagali.

**DR KEEFA KIWANUKA:** Madam Chairperson, actually, we were of the view in the committee that after we have disposed of these Bills, then we can deal with the issue of RippleNami, as part of our oversight responsibility. However, you may choose, Madam Chairperson, to set up another ad hoc committee, specifically to look at that issue.

**THE CHAIRPERSON:** No; we cannot have so many ad hoc committees.

**MR NANDALA-MAFABI:** Madam Chairperson, I would like to support the chairperson of the committee; he has made it clear. One thing we have to distinguish here is we have to know where RippleNami starts to earn the 20 per cent. Of course, it was 20 per cent; now, they have reduced it to 15 per cent. By the way, to reduce it, of course, some people said, “But…”.

We want to thank the former leadership of URA, which was properly sacked because of that agreement because they were stuck – It came with 20 per cent and they are tax exempt. Eventually, there are people who put up issues. I think, then, I am told somebody saw sense; they reduced it to 15 per cent and one of them who was sacked is around here, because of RippleNami.

So, Madam Chairperson, the minister should help us to understand from here. When we increase our tax now, as we make this so that the tax base becomes wide, at what point does RippleNami come in? That is why the chairperson of the committee is suggesting that - I do not think we need another ad hoc committee.

He is suggesting that after this exercise of the Bills, the next work to be done is the RippleNami Inc. agreement; to see what happens and the minister, maybe at that particular time, will come up to explain properly where RippleNami starts to earn its 15 per cent?

**THE CHAIRPERSON:** Yes. In carrying out the oversight role, I think the committee should be able to follow-up on that particular company. Hon. Muwanga Kivumbi, I am happy you are a member of the committee.

**MR MUWANGA KIVUMBI:** Madam Chairperson, actually, for me, the committee knows that we did a lot of good work on that very provision. However, it is high time we use –*(Interruption)*

**MR NANDALA-MAFABI:** Madam Chairperson, I was appointed the shadow minister for finance to that committee, by him. He is not supposed to talk without asking me. *(Laughter)* Is he procedurally right to continue speaking, when the minister has spoken? *(Laughter)*

**THE CHAIRPERSON:** Honourable members, I think let us not legislate for a particular company. Let us ammend the Bill and then – Hon. Kateshumbwa, you have something. Shadow Minister, you are not supposed to speak.

**MR MUWANGA KIVUMBI:** Of course, I was busy both with the budget and taxation. I was running two committees at the same time. I delegated some of my powers to him –*(Laughter)*- but I have since recalled them. *(Laughter)* I could not reduce a former LOP to a shadow minister to that extent.

Madam Chairperson, her bone of contention should be understood here. Sometimes in my language, which I will use, when you have a banana and maybe it slipped and develops a crack somewhere - the Attorney-General knows that - the Baganda say that, that is where you start peeling it.

Now, there was no way we could start ripping these funny agreements, one by one. Do not, Madam Chairperson, target only RippleNami. We should go even for SICPA, which is marking off on fuel. We go for all those excise –

**THE CHAIRPERSON:** Honourable member, I have given you powers to go to all the companies that you use - that is your oversight role - and report back to the House.

**MR MUWANGA KIVUMBI:** I can concede on this and report in how many days?

**THE CHAIRPERSON:** Tell me; how many days do you want?

**MR MUWANGA KIVUMBI:** Give us two months, as a committee on finance.

**THE CHAIRPERSON:** In two months, the committee on finance - First of all, I had given you one month to report on all the exemptions and you have not reported. I am going to write back to you; you have not reported on the exemptions.

Honourable members, I put the question that clause 5 be amended, as proposed.

*(Question put and agreed to.)*

*Clause 5, as amended, agreed to.*

*Clause 6, agreed to.*

Clause 7

**DR KIWANUKA:** Madam Chairperson, in clause 7, the committee recommends that it be deleted. The justification is that section 89GB of the Income Tax Act already provides for the manner of the treatment of the cost of acquiring a depreciable asset in petroleum exploration.

**THE CHAIRPERSON:** Yes, minister?

**MR MUSASIZI:** Madam Chairperson, I concede.

**THE CHAIRPERSON:** I put the question that clause 7 be deleted, as proposed.

*(Question put and agreed to.)*

*Clause 7, deleted.*

Clause 8

**DR KIWANUKA:** Madam Chairperson, the committee recommends that clause 8 be deleted. This is because the proposed amendment is very restrictive, for, it seeks to remove the seven days within which a taxpayer makes a payment after furnishing a return.

**THE CHAIRPERSON:** Minister?

**MR MUSASIZI:** Madam Chairperson, I concede.

**THE CHAIRPERSON:** I put the question that clause 8 be deleted, as proposed.

*(Question put and agreed to.)*

*Clause 8, deleted.*

*Clause 9, agreed to.*

Clause 10

**DR KIWANUKA:** Madam Chairperson, on clause 10, the committee recommends that it should be deleted. This is because the proposed clause 6 restricts business assets to mean only land and yet land is a factor of production. Actually, the minister had offered to withdraw it, but we did not get the -

**MR MUSASIZI:** Madam Chairperson, it is true I agreed with the committee when I appeared before it and I, therefore, concede.

**THE CHAIRPERSON:** I put the question that clause 10 be deleted as proposed.

*(Question put and agreed to.)*

*Clause 10, deleted.*

*Clause 11, agreed to.*

Clause 12

**DR KIWANUKA:** Madam Chairperson, under clause 12, this is the proposed amendment; that clause 12 is substituted with the following: “(12) Amendment of the third schedule of the principal Act. The third schedule to the principal Act is amended by substituting for part six the following:

Part six: Rental Tax Rates for Individuals; gross rental income not exceeding Shs 2,820,000 per annum, that is Shs 235,000 per month; rate of tax nil.

Exceeding Shs 2,820,000, but not exceeding Shs 12 million; rate of tax 7.5 per cent.

Exceeding Shs 12 million, but not exceeding Shs 16 million, that is Shs 5 million per month; 10 percent; and exceeding Shs 60 million; 15 percent.

So, it is the same as the companies.

The proposed amendment has categorised the rates into thresholds, taking into consideration the differences in rental income earned by individuals engaged in rental business; making it a progressive tax. I do not know whether I need to clarify that. Here, the issue we are dealing with is that the minister is proposing -

Madam Chairperson, the minister had proposed that we should have a flat rate of 12 per cent for individuals - that we do not allow them any expense as costs which, is allowable. What we are saying is that, that is going to be unfair for the individuals. He had proposed that there should not be any threshold, and we thought that makes it very difficult taxing even somebody with a *muzigo* who is probably earning Shs 100,000 per month; and that it is even not cost-effective for URA to go chasing people who earn Shs 100,000 to collect this tax from them.

**THE CHAIRPERSON:** Are you making it a progressive tax?

**DR KIWANUKA:** Yes; so, we have borrowed the principle of “Pay As You Earn” - that those who earn more should pay more. That is the recommendation of the committee.

**MS PACUTO:** Madam Chairperson, there is also - on the other side for non-individuals, we also amended so that we do not carry forward losses; and, therefore, we propose a tax of 15 per cent on gross income for companies.

**MR MUSASIZI:** Madam Chairperson, I think we need to put these things into context. My proposal is for individuals; we said we tax 12 per cent, irrespective of the rental income earned, and irrespective of the expenses incurred.

For the companies, our proposal is to allow 50 per cent as expenses then we tax another 50 per cent by 30 per cent. *(Interjection)-* You can seek clarification, but not information because I am well informed on this subject. Would you like me to clarify?

**MR MASABA:** Thank you, Madam Chairperson. I am giving my senior colleague here information and clarification. According to the committee report, we are proposing 15 per cent which is a flat rate of the gross. So, when you get an income you are earning and you remove 50 per cent deductible and then subject it to 30 per cent taxation; it is 15 per cent.

I think he is confused with Maths – but we are trying to just make it simple and easy such that companies cannot claim, in the next financial years, on deductibles. So, it is the same rate the committee is proposing, but the figures are confusing him. It is 15 per cent.

**DR KEEFA KIWANUKA:** Madam Chairperson, on the issue of non-individuals that the minister is reintroducing, we have already dealt with it in clause 5. So, we do not have to revisit that unless it is being recommitted.

**MR MUSASIZI:** Madam Chairperson, that is why I have to be given time to explain these things to the House. First of all, Hon. Karim, what you are trying to say - to achieve that 15 per cent is what we call the “effective tax rate”. We arrive at the effective tax rate after charging 30 per cent from the 50 per cent remaining.

What hon. Keefa Kiwanuka is saying is that we pass the amendment *-(Interjection)–* Yes, but also, clause 12 is about the schedule and what I am trying to address is the proposal, which Hon. Jane Pacuto has just presented. It is seeking to defeat our proposal of application of allowable expenses to 50 per cent.

Madam Chairperson, I have a question, which may not be answered. Do we need revenue from -

**The Chairperson:** Can you propose the amendments and we move on. You are now lecturing us.

**Mr musasizi:** Madam Chairperson, I do not agree with the committee proposal and so, I would like to propose an alternative as follows:

For individuals, we propose to maintain the threshold of Shs 2.82 million, which means anybody who earns below the threshold, does not pay rental income tax. However, we propose that anyone earning rental income above the proposed threshold be subjected to the tax of 12 per cent of the gross rental income.

For companies -

**The Chairperson:** Honourable minister, before you move on, we need a progressive tax. Do not put everybody at a flat rate.

**Mr masaba:** Hon. Musasizi, when you look at our proposal, you will be generating more income. What the committee is looking at is taxing those who are earning a lot of income at a higher rate than those who are earning very little.

On the issue of the companies and why we are telling him that our proposal is way better - take the example of a company that earns Shs 10 million. Fifty per cent of Shs 10 million is Shs 5,000,000 and 30 per cent of Shs 5,000,000 is Shs 1.5 million. The committee is recommending a flat rate of 15 per cent. This, on the income of Shs 10 million, is Shs 1.5 million. That is our argument as a committee.

Then, we have a progressive tax on individuals because we have individuals who are earning billions of shillings in rental income and those earning very little - as low as Shs 2,000,000. Therefore, we want to differentiate the two.

**Mr kateshumbwa:** Madam Chairperson, I would like to support the honourable minister, state the reasons and appeal to my colleague. Why? First of all, having a threshold is good. It will protect the small people who are trying to be developers. So, that principle is very good.

What I do not support is having bands created. It is going to create implementation problems in tax administration. Also, we are going to have people making a lot of tax planning schemes to fit within the bands. Therefore, we would rather provide the threshold to protect that man or lady who is trying to make small investments then have a flat rate of 12 per cent.

Madam Chairperson, that will be progressive. If you earn a billion, you apply 12 per cent. If you earn Shs 10 million, you also apply 12 per cent.

**The Chairperson:** Thank you. Honourable members, I put the question that clause 12 be amended as proposed by Minister Musasizi.

*(Question put and agreed to.)*

*Clause 12, as amended, agreed to.*

*The Title, agreed to.*

MOTION FOR THE HOUSE TO RESUME

2.14

**The Minister Of state for Finance, Planning and Economic Development (General Duties) (Mr Henry Musasizi):** Madam Chairperson, I beg to move that the House do resume and the Committee of the whole House reports thereto.

**The Chairperson:** I put the question that the House do resume and the Committee of the whole House reports thereto.

*(Question put and agreed to.)*

*(The House resumed, the Speaker presiding\_)*

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

2.15

**The Minister Of state for Finance, Planning and Economic Development (General Duties) (Mr Henry Musasizi):** Madam Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled, “The Income Tax (Amendment) Bill, 2022” and passed it with amendments.

MOTION FOR ADOPTION OF THE REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

2.15

**The Minister Of state for Finance, Planning and Economic Development (General Duties) (Mr Henry Musasizi):** Madam Speaker, I beg to move that the report from the Committee of the whole House be adopted.

**The Speaker:** I put the question that the House adopts the report from the Committee of the whole House.

(*Question put and agreed to.)*

*Report adopted.*

Bills

Third reading

the income tax (Amendment) Bill, 2022

2.16

**The Minister Of state for Finance, Planning and Economic Development (General Duties) (Mr Henry Musasizi):** Madam Speaker, I beg to move a motion that the Bill entitled, “The Income Tax (Amendment) Bill, 2022” be read for the third time and do pass.

**The Speaker:** I put the question that the Income Tax (Amendment) Bill, 2022 be read the third time and do pass.

*(Question put and agreed to.)*

A BILL FOR AN ACT ENTITLED, “The income tax (Amendment) Act, 2022”

**The Speaker:** Bill passed and title settled. *(Applause)* Honourable members, thank you.

Bills

Second Reading

THE TAX PROCEDURES CODE (AMENDMENT) BILL, 2022

**The Speaker:** Hon. Muwanga Kivumbi, do you have –

**Mr Muwanga Kivumbi:** We do – (*Inaudible)* - the wish of the sponsor of the Bill. He can briefly speak to it and we go to Committee Stage, then tackle coffee in the afternoon.

**The Speaker:** Honourable minister, can you speak a bit to your Bill. Move the motion.

2.18

**The Minister Of state for Finance, Planning and Economic Development (General Duties) (Mr Henry Musasizi):** Madam Speaker, I beg to move a motion that the Tax Procedures Code (Amendment) Bill, 2022 be read for the second time.

**The Speaker:** Is it seconded? It is seconded by the Attorney-General, the Minister for Finance, the Member for Kinkizi, hon. Amos, hon. David Bahati, the Prime Minister, Hon. James and Hon. Tom Aza. Can you give us the synopsis?

**Mr musasizi:** Madam Speaker, the Tax Procedures Code (Amendment) Bill seeks to amend the Tax Procedures Code Act, 2014 to provide for the timeframe for registration of tax agents; to provide for a temporary closure of businesses until compliance with the requirements of the electronic receipting and invoicing or tax stamps; to provide for disclosure of information on contracted services; to provide for penalties for failure to affix or activate tax stamps, printing over or defacing of tax stamps, forgery of tax stamps, failure to use electronic receipting or invoicing, forgery of electronic receipting or invoice interference with the electronic fiscal device or the electronic dispensing control device; to provide for payment of informers, and other related matters.

Madam Speaker, we presented this Bill to the Committee on Finance, Planning and Economic Development. I am aware they considered the Bill and, now, are ready to report back.

**THE SPEAKER:** Thank you for the synopsis of the Bill. *Hansard*, I would like you to capture the Bill. Now that there was nothing in contention, capture the report and have it in the *Hansard.* So, we can move to Committee Stage.

*(The report will be appended to the Hansard monthly bound volume of May 2022.)*

Honourable members, before we go to Committee Stage, I put the question that “The Tax Procedures Code (Amendment) Bill, 2022” be read for the second time.

*(Question put and agreed to.)*

BILLS

COMMITTEE STAGE

THE TAX PROCEDURES CODE (AMENDMENT) BILL 2022

**THE CHAIRPERSON:** I put the question that clause 1 stands part of the Bill.

*(Question put and agreed to.)*

*Clause 1, agreed to.*

*Clause 2, agreed to.*

*Clause 3, agreed to.*

Clause 4

2.22

**THE CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Dr Keefa Kiwanuka):** Thank you, Madam Chairperson.

Clause 4: Amendment of section 33 of the principal Act

Substitute clause 4 with the following -

“4. Amendment of section 33 of the principal Act.

Section 33 of the principal Act is amended –

(a) in subsection (1) by inserting immediately after the word “payable”, the words “or for failure to comply with the requirements of electronic receipting and invoicing or tax stamps” within thirty days from the date of the notice.

(b) by substituting for subsection (2), the following -

“(2) Where a taxpayer does not pay the tax due or fails to comply with the requirements of electronic receipting and invoicing or tax stamps after service of a notice under subsection (1), the commissioner or authorised officer may issue an order to close down part or the whole of the business premises of the taxpayer for a period not exceeding thirty days.”

(c) by substituting for subsection (5), the following -

“(5) If the taxpayer complies with the tax obligations under subsection (1) during the period of closure, the commissioner shall immediately remove the notice referred to in subsection (4).”

In subsection (1), the feeling was that before a shop or any business is closed, the person is given notice. We discussed how long the notice is required and thought that having it in seven days, as is in the principal Act at the moment, is too short a notice, especially at this point in time when the system is just being rolled out.

I think the others are fairly consequential to that.

**MR KIRYOWA KIWANUKA:** Thank you very much, Madam Chairperson. We agree with the principle as proposed by the committee, that, indeed, any taxpayer or anyone else needs to be given notice before any action is taken, which may have an adverse effect or any action for that matter. That is the principle of the Constitution.

However, for tax purposes, longer periods of time given to persons allow for breach of tax principles. For example, if you give someone notice that you are going to their place to close it for a particular purpose within 30 days, you will have, in essence, told them to go away.

The seven days is a short period. In fact, ideally, if it were not against the Constitution, we would not even give notice, but we need to give short notice. Honourable members, you need to appreciate that while we need to give the notice, we should not allow the intending tax offender time to arrange their spaces. Therefore, I propose that we take the principle, but allow for seven days’ notice. It should be sufficient.

Secondly, the system that we are talking about now - you did give notice of this in the last cycle and it came into force by law, a year ago. Everyone is expected to receive notice of this. Therefore, we propose that a seven-day period will be sufficient for these purposes.

**THE CHAIRPERSON:** In the current Act, it is seven days and now, the committee is proposing 30 days. What was your basis of varying from seven to 30 days? There is also one of 14 to 30 days.

**DR KIWANUKA:** Although the Attorney-General has argued that the system came into place about a year ago, I think it is generally accepted that the system is just being rolled out. Since it is still being rolled out, it is still new. We thought that people need sufficient notice and not just to close them down as it is at the moment.

As we look at these laws almost every year, we thought that we can look at it again, probably, next year. By then, more people would have gotten used to what is happening, and it will not be a surprise to them. So, we can, probably, reduce it to what the Attorney-General is advising.

**THE CHAIRPERSON:** Madam Chairperson, considering the committee’s strong view and our strong view as well, I would like to appeal to the House that we settle for 15 days as a win-win.

**DR KIWANUKA:** I concede.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 4 be amended as proposed by hon. Henry Musasizi.

*(Question put and agreed to.)*

*Clause 4, as amended, agreed to.*

*Clause 5, agreed to.*

*Clause 6, agreed to.*

*Clause 7, agreed to.*

*(Clause 8, agreed to.)*

*The Title, agreed to.*

MOTION FOR THE HOUSE TO RESUME

2.29

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi):** Madam Chairperson, I beg to move that the House do resume and the Committee of the whole House reports thereto.

*(Question put and agreed to.)*

**THE CHAIRPERSON:** I put the question that the House do resume and the Committee of the whole House reports thereto.

*(The House resumed, the Speaker presiding\_)*

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

2.30

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi):** Madam Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled, “The Tax Procedures Code (Amendment) Bill, 2022” and passed it with amendments.

MOTION FOR ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE HOUSE

**THE SPEAKER:** Honourable minister?

2.30

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi):** Madam Speaker, I beg to move that the report from the Committee of the whole House be adopted.

**THE SPEAKER:** I put the question that the House adopts the report of the Committee of the whole House.

*(Question put and agreed to.)*

*Report adopted.*

BILLS

THIRD READING

THE TAX PROCEDURES CODE (AMENDMENT) BILL, 2022

**THE SPEAKER:** Honourable minister?

2.31

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi):** Madam Speaker, I beg to move that the Tax Procedures Code (Amendment) Bill, 2022, be read the third time and do pass.

**THE SPEAKER:** I put the question that the Tax Procedures Code (Amendment) Bill, 2022 be read the third time and do pass.

*(Question put and agreed to.)*

THE TAX PROCEDURES CODE (AMENDMENT) ACT, 2022

**THE SPEAKER:** The Bill is passed and title settled. I would like to thank you very much, honourable members, for all this time. I would also like to thank the committee. I have only one pending report from hon. Ayume - you are the only one who will have not presented a report in this session. It is 2.30 p.m. and we are suspending the House for one hour.

*(The House was suspended at 2.32 p.m.)*

*(On resumption at 3.33 p.m., the Speaker presiding\_)*

**THE SPEAKER:** Honourable members, I welcome you for the afternoon sitting and I also thank you for the morning sitting. We achieved a lot. At the end of the session, the issue will be, how many Bills did you pass? How many motions did you pass? How many reports did you pass? I can comfortably tell you that of all the Bills that Government laid on the Table for us, we only have one Bill left. So, we are good to go.

It is not because of us; it is because of the committee. We are ready to handle all the Bills.

Honourable members, one of your core roles is appropriation and we are going to do appropriation tomorrow. Do not say you were not told. We will do appropriation tomorrow. The whole country will be watching whether you were there to represent them. They will start asking you, “Why didn’t we get money?” and that kind of thing.

Be here tomorrow so that we appropriate. I would like to remind you; the preserve of appropriation is for Parliament. The moment you allow to give out your powers, then you are finished. This afternoon, we are going to receive two reports: The report from Naguru, because of the complaints we got from the tenants who had been in Naguru for 15 years. On 1 March 2022, this House appointed an ad hoc committee to investigate the Naguru-Nakawa land allocations.

This was after the 15 years when the Ugandans were displaced from that area in the name of putting up a satellite city. The land was allocated to developers. The report is going to be presented. It was concluded and I think they interacted with a number of stakeholders. Can we have the chairperson of the Naguru ad hoc committee.

Honourable members, before the report is read, can I have Hon. Musasizi lay on the Table some documents?

3.38

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi):** Madam Speaker, I beg to lay on the Table the corrigenda to the draft budget estimates for Financial Year 2022/2033. I beg to lay.

**THE SPEAKER:** Please lay the report; it stands referred to the Committee on Budget for consideration.

Can I have the report on Naguru/Nakawa?

Members, some of you are going to start with points of procedure and order. I have been sitting here since morning. Even yesterday, I sat here since morning. Do not show me the Constitution; I know what it is. We are here to receive the reports. You are the same people who said that we should receive the reports to be read. Not so? Let us receive the reports.

MOTION FOR ADOPTION OF THE REPORT OF THE AD HOC COMMITTEE ON THE NAGURU-NAKAWA LAND ALLOCATIONS

3.39

**MR DAN KIMOSHO (NRM, Kazo County, Kazo):** Madam Speaker and honourable colleagues, this is the report of the ad hoc committee on the Naguru-Nakawa land allocations.

Madam Speaker, before I start reading the report, I beg to lay on the Table a copy of the report and the minutes of all the meetings that we conducted as a committee. I beg to lay.

Madam Speaker and Members, again, this is the report on the Naguru-Nakawa land allocations. I will start on page 4 with the introduction.

On 1 March 2022, the Parliament of Uganda, while exercising authority vested in it by Article 90 of the Constitution of the Republic of Uganda and Rule 191 of the Rules of Procedure of Parliament, constituted an ad hoc committee to investigate the Nakawa-Naguru land allocations after a Member raised the matter on the Floor of the House. An ad hoc committee was constituted. There are names of members and the terms of reference. I request that I go into the real issues. The report is uploaded on our iPads.

There is the background to the report on page 5.

M/s Opec Prime Properties (U) Limited/Government of Uganda Agreement

On 5 October 2007, the Government of Uganda, being desirous of redeveloping the Nakawa-Naguru Housing Estate in Kampala through the construction of modern residential, commercial and institutional properties and premises; and represented by the Ministry of Local Government, entered into a Public Private Partnership (PPP) Agreement with M/s Opec Prime Properties Limited and M/s Opec Prime (U) Limited.

The contract was for construction of 1,747 residential units for purchase by the registered tenants of the Nakawa-Naguru Housing Estate, who were given first priority. The project was expected to be completed in 10 years. This notwithstanding, the I,747 residential units were, however, expected to be completed in the first four years from execution of the PPP Agreement.

Under this agreement, Government contributed land - approximately 142.5 acres - while the developer was fully responsible for the technical, financial, operational and building costs of the project.

Challenges faced by the Project

The project did not take off immediately as expected due to, among others, court actions, investigations by the Inspectorate of Government, challenges associated with vacation of tenants and a delay by Kampala City Council to approve the master plan.

However, Government had agreed with M/s Opec Prime Properties Limited to construct the housing units, which would be sold at a subsidised cost. Following the giveaway of the Nakawa land, Opec needed a commitment on the initially agreed-upon subsidy to the housing units, but Government did not commit itself. Opec had hoped to make good the loss of the subsidy by developing the Nakawa portion into a commercial project, which would generate more profits.

Eventually, all the above challenges were resolved, save for the subsidy concerns. Government executed a Memorandum of Understanding on 18 May 2007, with the registered tenants, who agreed to vacate the Naguru-Nakawa land to pave way for land clearance. There is an attachment there in Appendix 2. It is in the documents that I laid.

The Government undertook to keep the tenants updated on the progress of the redevelopment and to give them first priority to purchase the subsidised residential units within six months from the date of communication of offer. The site was finally handed over to M/s Opec Prime Properties Limited by His Excellency the President of the Republic of Uganda, on 14 October 2013.

Allocation of the Nakawa land

Government allocated the Nakawa land to the M/s Agha Khan Foundation for the construction of a teaching hospital, among others. The Government then held negotiations with M/s Opec Prime Properties (U) Limited for surrender of the land, to which M/s Opec Prime Prime Properties Ltd.agreed to surrender 24.426 hectares back to Government through Addendum No.2, signed on 28 October 2015. There is also Appendix 3 there in the documents that I laid.

This notwithstanding, M/s Opec Prime Properties was still under obligation to deliver the project, as agreed earlier in 10 years, but with the residential units being completed within four years respectively, and accord the former sitting tenants the first priority or right to purchase the 1,747 residential units, among others.

Termination of the PPP Agreement

M/s Opec Prime (U) Ltd failed to deliver the project by 5 October 2017, as agreed with the Government and due to the former’s non-performance and breach of the PPP agreement, on 9 August 2018, it was terminated. On 18 April 2018, M/s Opec Prime Properties Limited notified the Attorney-General of its intention to commence arbitration. M/s Opec Prime Properties Ltd. proceeded to file an application to court, vide Miscellaneous Cause No.41 of 2018, seeking a court order, halting Government from terminating the PPP agreement.

Nonetheless, Government proceeded to terminate the PPP agreement on 9 August 2018. The High Court of Uganda at Kampala, in Misc. Case No.4l of 2018, granted an order, restraining Government from evicting M/s Opec Prime (U) Ltd from the Naguru land on 29 August 2018. However, Government, in defiance of this court order, went ahead and re-entered the land.

M/s Opec Prime (U) Ltd filed an application for contempt of court against the Attorney-General, ULC, hon. Rukutana Mwesigwa, hon. Betty Amongi and hon. Baguma Isoke, which was successful and the respondents ordered to pay a fine of Shs 50,000,000 each, but this was later paid by Government. After termination of the PPP agreement, the land reverted to the Government.

The Settlement Agreement between Opec Prime Properties (U) Ltd and Government

On 17 September 2021, a settlement agreement was executed between the developer and the Attorney-General, leading to a consent withdrawal, dated 22 September 2021. Later, M/s Opec Prime Properties (U) Ltd filed an application to court, vide Miscellaneous Application No. 1568/2021, to vary the terms of the consent withdrawal to include terms of the settlement agreement. The Attorney-General conceded to this application and a consent variation order was issued by the High Court, but this was later annulled, in a review of another Misc. Application 223 of 2022. It was held that:

“*Accordingly, the consent order in M.A. No. 1568 of 2021 that varied the onset withdrawal under Misc. Cause No.41 of 2018 was unlawful and declared null and void. Consequently, the pending application M.A. No.06 of 2022 that arises from M.A. No.1568 of 2021 is of no legal consequence and hereby declared a nullity*”.

In January 2022, following the allocation of the land at Naguru by ULC, M/s Opec Prime Properties (U) Ltd filed contempt proceedings at the High Court, vide M.A. No.06 of 2022, arising from Miscellaneous Application No. 1568/2021. The application for contempt of court was overtaken by events, following the filing of another Miscellaneous Application No. 223 of 2022 for a review and setting aside of the variation of the consent order, which was successful.

As can be seen above, the High Court agreed with the applicant that following the consent withdrawal by parties, the court became *functus officio* and incapable of reopening the matter to vary the consent withdrawal, hence the consent variation of the withdrawal order was a nullity. This further implies that the court order from which the contempt of court proceedings were based was a nullity.

That notwithstanding, the High Court also held that the settlement agreement, as signed on 17 September 2021, remains a contract between the respondents, being Opec Prime Properties (U) Ltd and the Attorney-General, and reflects what the parties agreed upon, though it has no force of a court decree, since its inclusion under Miscellaneous Application No. 1568 of 2021 was unlawful.

Methodology

Through you, Madam Speaker, I will proceed to the terms of reference. The methodology is clear and we are highlighting the people that we interacted with, and the documents that we considered. So, we proceed to page 10.

Term of Reference 1: To ascertain the various claimants, the nature of claims they have on the land, the basis of such claims, and further establish the genuine ownership of the disputed Nakawa-Naguru estate land.

Size of the land

The Nakawa-Naguru land is 142.5 acres. Of the 142.5 acres, 60 acres were reallocated to the Aga Khan Foundation for construction of a modern teaching hospital, leaving a balance of 82.5 acres.

Following the termination of the PPP agreement by Government and subsequent re-entry into the land by the Uganda Land Commission (ULC), being the custodian of Government land, the land reverted to Government. The lease initially offered to M/s Opec Prime Properties (U) Ltd was cancelled and a record was re-entered into the register as the Uganda Land Commission, which subsequently allocated the land as follows - There is a table there.

1. Anil Damani - 3 acres;
2. Arab Oil Supplies and Exploration Ltd - 4 acres;
3. Dashen (U) Ltd - 3 acres;
4. Dembe Enterprises Ltd - 3 acres;
5. Dominion Partners Ltd - 1 acre;
6. EACOM International Ltd - 0.30 acres;
7. Fakhruddin Properties Ltd - 1.42 acres;
8. Phaneero International Ministries - 4 acres;
9. Gash Logistics Ltd - 0.8 acres;
10. Global Paper Products Ltd - 0.6 acres;
11. Master Links Uganda Ltd - 3 acres;
12. Meera Investments Ltd - 3 acres;
13. Roko Construction Company - 2 acres;
14. Multi Consult Design Ltd - 2 acres;
15. Rudra Hardware and Tools Ltd - 4 acres;
16. Seven Hills Apartments Ltd - 4 acres;
17. Wash and Wills Country Home Ltd - 0.85 acres;
18. Internal Medicine of Virginia PC - 15 acres;
19. Ntinda Wholesale Traders - 2 acres;
20. National Library - 2 acres;
21. Uganda Heart Institute - 10 acres;
22. Nakawa Division - 3.09 acres;
23. St Peter’s Church - 1.18 acres;
24. Naguru Infant School - 1.0 acres;
25. Agha Khan Hospital - 60 acres.

The committee observed that M/s Fakruddin Properties Ltd and M/s EACOM Internationa Ltd have not yet been issued certificates of title because they have not yet completed the process of acquisition. However, it was noted that M/s Fakruddin has been frustrated by ULC who denied them a new assessment, yet the 45 days was still valid. These are the 45 days of the lease offer. The 45 days were still valid, but they were denied an assessment. M/s EACOM International Ltd declined the offer because it was too small for their project.

Other claimants

Despite the fact that land reverted to Government and was subsequently allocated to the beneficiaries listed above, there are some other persons that have made claims as follows:

1. Allocatees by the ULC;
2. Registered tenants;
3. Institutions; and
4. Third party claimants.

Registered tenants of Nakawa-Naguru Housing Estate

As earlier pointed out, in 2007, Government of Uganda signed a memorandum of understanding (MoU) with the registered tenants who would be given first priority in the purchase of subsidised and decent accommodation. The MoU, therefore, paved way for the registered tenants to vacate and eventual site handover was done by H.E. the President of the Republic of Uganda on 14 October 2013.

In the said MoU, Government covenanted in paragraph (2) to:

1. Maintain a register of all tenants of Nakawa/Naguru Housing Estate.
2. Engage a private developer to undertake the redevelopment of the said estate.
3. Give periodic information as necessary to the registered tenants on the progress of the redevelopment of the said estate.
4. Ensure that on completion of the construction of the dedicated flat, the registered tenants will be given the first priority to purchase the said flat erected by the developer.

Observations

The committee noted that the core purpose of the project was to create a satellite city with modern settlement facilities and equipped with modern social amenities. The project was to construct 1,747 units, which were to be subsidised for purchase by the former sitting tenants.

The committee noted that after termination of the PPP agreement, the Government decided to give an ex-gratia of Shs 17,797,079 to the registered tenants for the loss of the opportunity to purchase the condominium properties.

The committee, however, received various petitions from the alleged sitting tenants who claimed that they were left out of the list and would, therefore, not benefit from the forbearance that Government had promised on the first call on the purchase of the condominium properties. The committee examined their claims, but could not establish the genuineness, especially since some of them were registered long after the PPP was signed.

The committee noted the advice rendered by the Solicitor-General of Uganda to the Parliamentary Commission in respect of the legal strength of the MoU, dated 24 May 2013, wherein he opined that:

*“A Memorandum of Understanding is a simple gentleman’s agreement, which does not create any right, duty of a binding nature enforceable by a court of law. In Milner v. Percy Bilton (1966) 2 ALL ER 894, the term “understanding” was held to mean something quite different from a binding legal contract. At most, the word connotes a gentleman’s agreement.”*

The attachment is Appendix 4, which I tabled.

In light of the above, the committee observed that the registered tenants of Naguru and Nakawa have no legal claim over the Nakawa/Naguru land.

It was further observed that despite a Cabinet directive of 2019 to have the ex-gratia funds made available to the Ministry of Local Government by the Ministry of Finance, Planning and Economic and Economic Development, to compensate former tenants of Nakawa/Naguru Housing Estate, a decision which was also communicated to the association, to date it has not been implemented.

Recommendations

In light of the findings above, the committee recommends that payment of ex-gratia of Shs 17.79 million should be expedited to bring the issue of the former tenants to an end.

The existing institutions

This category comprises institutions like Naguru Infant Primary School, KCCA Nakawa Division Headquarters, inclusive of the Naguru Estate Community Centre and St. Peter’s Church. While the church got a certificate of title for the land that they occupy, KCCA Nakawa Division Headquarters, inclusive of the Naguru Estate Community Centre and the infant school, have not received their certificates of title despite having allocation to the land they occupy.

Recommendation

In light of the findings above, the committee recommends that Government should expedite the process of giving the two entities titles, namely; Nakawa Division Headquarters and Naguru Infant School to safeguard their interests.

Third party claimants

This category includes parties that had entered into agreement with OPEC Prime Properties (U) Ltd and had developed their portions of the land. These include:

1. M/s Lukyamuzi Investments Ltd;
2. Hakim Mulindwa;
3. Acacia Properties Ltd;
4. M/s Okecha, Baryayanga Advocates; and
5. Prof. Gakwandi Shatto.

This category claims an interest in a total of 12 properties on the said land.

Following the termination of the PPP agreement and Opec Prime suing Government, Government, under clause (2) of the settlement agreement, agreed to recognise third parties with developed portions who executed agreements with Opec Prime Properties Ltd and Opec Prime Properties (U) Ltd.

It is worth noting that the Solicitor-General, in his legal opinion to the Permanent Secretary of the Ministry of Lands, Housing and Urban Development on 18 June 2020, opined that third parties who had made developments on the land, measuring 12.17 acres, should be provided leases in accordance with a Cabinet decision.

However, he further stated that persons and companies that entered into agreement with Opec Prime Properties Ltd had no legal claim against the Government of Uganda, based on the principle of privity of contract.

The then Attorney-General, Hon. William Byaruhanga, in a letter dated 8 July 2020, addressed to the chairperson of ULC, stated that individuals and companies that bought land from OPEC Prime Properties had no interest in the land, following the termination of the PPP agreement, which formed the basis for the grant of the land to OPEC, and once terminated, land reverted to the Government of Uganda.

The agreement between Government of Uganda and OPEC was a foundation on which those dealings were based. The termination of the PPP agreement effectively extinguished any right or claim that was founded on that agreement. Government of Uganda, therefore, owed no obligation to those third parties. With the destruction of the foundation on which transactions were built, anything built on that foundation collapsed.

The committee was, therefore, curious as to why the office of the Attorney-General thought to bind Government in the agreement for third parties without legal basis.

The committee noted that even though the settlement agreement recognised the third parties with developments on the land, KCCA informed the committee that some of the third parties had no approved plans, implying that such developments are illegal structures and do not attract any value in the eyes of the law.

The Uganda Land Commission informed the committee that on 13 January 2022, it sat and revised the previous allocations that had been made. It was able to reserve 12 acres for Opec Prime and the third parties with developed portions. It also resolved that the land is surveyed to account for the revised land size. It must be noted that no commission minutes were adduced to corroborate this.

The committee, however, notes that the Attorney-General, Hon. Kiryoowa Kiwanuka, deviated from his predecessor’s position and signed a settlement agreement. He did not address his mind to the establishment of illegal structures, which were constructed without KCCA’s approval by allowing compensation to the same by Government, under the settlement agreement.

Observation

The Government has no obligation to the third parties who bought land from Opec Prime Properties Limited.

The committee noted that any right of claim by third parties founded on the agreement between Opec Prime and Government of Uganda was legally enforceable on Opec Prime Properties and not Government of Uganda.

The payment for M/s ROKO Construction of Shs 15 billion was irregular because its claims should have been against Opec Prime and not Government of Uganda.

Recommendations

1. In light of the findings above, the committee recommends that the settlement agreement should not be implemented by both parties;
2. The IGG should investigate further this matter with a view of bringing out any wrongdoing;
3. The Government should recover payment made to M/s ROKO Construction;
4. The illegal structures on the Naguru land should be demolished and the responsible KCCA officers be held accountable; and
5. KCCA, in collaboration with the Ministry of Lands, Housing and Urban Development should develop a plan for Naguru and ensure strict compliance by developers.

The next term of reference is to examine the status or fate of the former occupants of the Nakawa-Naguru Estate land in light of the ongoing disputes over the land.

The verified number of registered tenants on the Nakawa-Naguru Estate is 1,747 as per submission from the Nakawa-Naguru Tenants Association.

As earlier pointed out, the tenants entered into an MoU with Government to vacate the land for developments and were assured of accessing the modern housing units at a subsidised rate and would be given first priority of purchase of the units after the project completion. However, this never happened because the project did not take off as earlier planned and anticipated.

Government, therefore, decided to pay them ex-gratia amounting to Shs 17.797 million to each registered tenant. The committee also received some petitions from some tenants who claimed they had been left out by the tenants’ association yet they were bona fide tenants. This was not verified as we earlier on highlighted.

The committee was informed that Government has since not honoured its promise and decision to pay the ex-gratia to the registered tenants despite several requests being made to the finance ministry by the Office of the President to pay the registered tenants.

This, notwithstanding, the committee notes that an ex-gratia payment is a favour off from a sense of moral obligation rather than any legal requirement. Despite this finding, Government committed itself to pay.

Recommendation

Since Government committed to pay ex-gratia of Shs 17.797 million to each of the registered tenants, it should honour the same without further delay.

The next term of reference was to examine the process through which the land in the Nakawa-Naguru Estate was allocated to various claimants.

As earlier observed, after the termination of the PPP agreement between Opec Prime Properties and Government of Uganda, and subsequent entry on the land on 19 September 2018, Government regained ownership of the land.

According to the ULC Chairperson, after the Minister, Hon. Betty Kamya visited the land in Naguru on 26 February 2020, there was an influx of applications, which prompted the ULC to start the process of issuing guidelines to the applicants.

ULC commenced on the process of re-allocation based on four criteria:

1. Presidential directives;
2. Ministerial directives;
3. Third party with development; and
4. Residue land for fresh applicants.

ULC, in a meeting held between the 9th and 12th of February 2021, under Minute 3/2/21, came up with criteria that applicants were to follow. This was then placed on the noticeboard and included the following:

1. Legal existence of the company/partnership;
2. Particulars of directors;
3. Annual audited books of accounts;
4. Experience in handling similar projects;
5. Governance/company structure;
6. Business plan for development of the land;
7. Proof of tax compliance;
8. Proof of source of funding; and
9. Submission of support documentation for the applications.

This process attracted the attention of His Excellency the President of Uganda, who vide a letter dated 26 June 2020, shared his concerns as follows, and I quote:

*“…I, therefore, need to be convinced that the companies you have allocated the land have both the technical and financial capacity to develop it and are not mere speculators. I also need to be informed about the projects that they are going to undertake and what strict conditions have been given to them by Government to ensure compliance. In addition, there is need to consider whether the proposed projects are compatible.*

*In the meantime, the process of issuing titles to individual companies, (save for the hospital [Internal Medicine of Virginia, PC]) should be halted pending the submission and consideration of your report. This hospital should be allocated 15 acres, as earlier communicated.”*

This directive was re-echoed by the Minister of Lands, Housing and Urban Development in a letter to the chairperson of ULC, dated 8 February 2021. She opined:

*“I am reliably informed that during the week that commenced on 1 February 2021, Uganda Land Commission allocated part of the Naguru land to the following organisations….unfortunately, this was against the express directive of His Excellency the President of the Republic of Uganda through a letter to you, Ref. PO/19, dated 26 June 2020 in which he directed that the process of issuing titles to individual companies, save for Internal Medicine of Virginia PC, be halted pending submission and consideration of your report.*

*Besides, through several communications by the Attorney-General, Solicitor-General and myself, it has been made clear that Naguru land is still a subject under the administration of Cabinet, which set up an inter-ministerial committee, Chaired by the Minister for Kampala Capital City Authority and Metropolitan Affairs to examine and recommend to Cabinet how to deal with third party claimants and other interests on Naguru land…*

*I, therefore, direct that the process of allocating land at Naguru beginning with offer letters, allocates through surveys and mapping, production of deed plans, valuations for payment of stamp duty and production* *of certificates of title, be stayed until Cabinet has discussed the inter-ministerial committee report and made decisions.”*

Madam Speaker, the committee observed as follows:

1. The committee saw no evidence of communication lifting the Presidential and ministerial directives.
2. The committee observed that ULC did not follow its own set criteria in allocating the Nakawa - Naguru land.
3. The documents from some of the applicants reviewed did not comply with the set parameters.

These entities are as follows:

M/s Internal Medicine of Virginia PC/Internal Medicine Virginia Limited

1. They never interacted with ULC as required.
2. They have no offer letters.
3. There are no forwarding letters from ULC.
4. They had no audited accounts.
5. They had no proof of ability to execute similar projects.
6. No known address i.e., not traceable at all.
7. No original documents for consideration as required by law.

Phaneroo Ministries

1. No experience in handling similar projects.
2. No proof of source of funding.
3. It is a company limited by guarantee and not permitted to do business.
4. No proof of tax compliance.

Arab Oils Supplies and Exploration

1. No experience in handling similar projects.
2. No proof of source of funding.
3. No proof of tax compliance.
4. No audited accounts.

Master Links Uganda Limited

1. No experience in handling similar projects.
2. No proof of source of funding.
3. No proof of tax compliance.
4. No audited accounts.
5. No bank statements

However, due to influence peddling, the certificates of title were issued to the above entities, despite the obvious non-compliance to the ULC set parameters. With the above findings, it is clear that the actions of ULC in allocating and issuing certificates of title were in contravention of the set criteria.

Recommendations

1. The ULC secretary and the commissioners should be held accountable and indeed retired in public interest, for the omissions in the allocation of the Naguru land. They should also vacate offices.
2. The leases between ULC and the entities that did not qualify for allocation be terminated.

**THE SPEAKER:** Honourable chairperson, you said, “due to influence peddling…” By who?

**MR KIMOSHO:** In our report, we will clearly bring out where we found influence peddling to have happened.

To establish the total amount of proceeds from the sale or rent of land in the Nakawa - Naguru Estate:

The committee established that all the Nakawa - Naguru land was leased out to various developers by Government. During the process of leasing, all private entities were required to pay rent, premiums and stamp duty following assessment by the Chief Government Valuer. The ULC realised Shs 10,288,400,000 as premium and Shs 468,300,000 as ground rent. The table below shows the payments so far made as of March 2020. I think, Madam Speaker and Members, you can go through the table.

It was established that institutions such as the Uganda Heart Institute, the National Library, Nakawa Division Headquarters, St Stephens Church, and Ntinda Wholesalers, Virginia Internal Medicine never paid a premium as they were given a waiver by the Minster, Hon. Betty Kamya, who wrote to ULC to waive the premium and ground rent, but they were issued peppercorn leases.

**THE SPEAKER:** Honourable members, kindly listen to the report.

**MR KIMOSHO:** To establish any possible fraudulent activities or flaws committed in the disposal/allocation of land in Nakawa - Naguru Estate

Land Allocations

The committee established that following the re-entry of the Naguru land by ULC, the commission proceeded to allocate the land on the basis of the following:

1. Presidential directives;

2. Cabinet decisions; and

3. ULC criteria.

Most allocatees informed the committee that they got information about the availability of land at Naguru Estate through brokers who aided them in the application process. ULC, on the other hand, submitted that after the visit of the lands minister, Hon. Betty Kamya, and the technical team, they had an influx of applications. In order to handle the applications, they issued a notice detailing the requirements, which the applicant had to submit alongside their application.

ULC never issued an advert for the available public land. In this regard, the committee observed that ULC acted in a non-transparent manner. It, indeed, acted in a manner devoid of integrity expected of a public entity. As a result, entities and individuals who had the capacity to develop the land were deprived of the information and knowledge of land availability.

The committee further established that ULC does not have formal criteria for allocating public land. The committee also established that the commission lacks an inventory of the land under its custody and mandate. Because of this, it is the applicants who identify Government land and bring it to the attention of the commission.

The committee invited all the land allocatees as highlighted above, through adverts in the press, invitations and summons and most of them turned up, save for Internal Medicine of Virginia Ltd.

The committee also found that ULC, in its interaction with the allocatees, to assess their capacity to develop the land they applied for, did not interact with Internal Medicine of Virginia, save for the chairperson who only physically interacted with a one Farouk. Efforts to reach them were futile.

Indeed, it was the testimony of the Commission that a search for Internal Medicine of Virginia, PC turned out to be futile. Even when they were offered an opportunity to interact with the commission on *Zoom* at an agreeable time, nobody showed up. Refer to letters from the chairperson, ULC to Internal Medicine of Virginia, PC dated 6 October 2020 and 29 September 2020 respectively. Those letters are attached to the documents that I laid on Table.

The committee further took note of the letter of the President dated 16 May 2021 (Appendix 7) in which he stated:

*“Sometime back, I met the owners of Internal Medicine of Virginia PC who are interested in building a specialised hospital and medical school in Nakawa - Naguru Estate.*

*I directed the Minister for Lands to have 15 acres allocated to this group on the Nakawa/ Naguru land.*

*I have been informed that the group has registered a local company in Uganda for the same project. However, they are having challenges registering the land in the new names because my directive indicated Internal Medicine of Virginia PC, and not Internal Medicine of Virginia Limited.*

*I, therefore, direct you to register the land in the name of Internal Medicine of Virginia Limited.”*

Even then, the new Internal Medicine Virginia Limited was nowhere to be seen during the committee processes. Even when the committee ran a public advert in the media, nobody showed up. Appendix 8 is attached.

As such, the committee wondered what criteria was used to evaluate and approve them as suitable for allocation without ever interacting with the company.

The committee could not examine their financials to determine its ability to undertake the mooted investment because they were a newly formed company; no business plan or even tax clearance was submitted. They did not even attempt to comply with the criteria for assessment prescribed by the ULC.

To make matters worse, despite the Chief Government Valuer assessing Shs 4.5 billion of premium and annual ground rent, Internal Medicine of Virginia ended up paying only Shs 300,000 as peppercorn ground rent for 15 acres. Refer to a letter by the Permanent Secretary of the Ministry of Lands, Housing and Urban Development dated 25 January 2022, addressed to the Secretary, Uganda Land Commission, attached hereto and marked Appendix 9.

The committee concluded that Internal Medicine of Virginia is non-existent and a sham of an investor; as such, the land allocated to them should be recovered and the lease terminated. *(Applause)*

Madam Speaker, the committee observed that despite the lease allocation to Internal Medicine of Virginia being a Presidential directive, the Uganda Land Commission, in implementing it, ought to have complied with the law and its own set criteria. For the avoidance of doubt, the ULC, in its meeting held between the 9th and the 12th of February 2021 under Minute No.3/2/202l paragraph 3.1.3, set the following criteria for assessing the suitability of applicants:

1. Information about the company, which would require a study of the company profile, certificate of incorporation, memorandum of understanding and articles of association, governance structures, particulars of directors of the company.

2. In the requirement of ULC, financials of the company in regards to bank statements and tax clearance certificate.

3. Experience in terms of the applicant’s brief on similar undertakings, magnitude, size and value of the developments over the last five years, investment plans, use and relevance of the project and the area.

An analysis of all the application data reveals that ULC ignored its own set parameters, especially in the allocation and lease offers to Internal Medicine of Virginia, Master Links Uganda Ltd, Phaneroo Ministries and Arab Oil Supplies and Exploration Ltd. If the criteria had been followed, none of these entities would have qualified for allocation of land in Naguru. The respective certificates of titles should be cancelled.

It is the considered view of the committee that such land should have been allocated to genuine investors, who can offer the same solution like what was touted as being provided by Internal Medicine of Virginia PC such as M/s Mediheal Group of Companies Ltd (the committee interacted with them and were found to be credible and with demonstrable experience through their wide network of hospitals in Kenya, Rwanda and Uganda); China Friendship Hospital, who have requested Government for more land for expansion.

It is important to note that the said investor M/s Mediheal Group of Hospitals Ltd has a Presidential directive that has not been honoured even when they meet the criteria set by ULC.

A further analysis of the application data shows that the following applicants fully complied with the set criteria and qualify for the allocations.

Madam Speaker, these are the following:

1. Anil Damani;

2. M/s Dembe Enterprises;

3. M/s Farkhruddin Properties Ltd.;

4. M/s Rudra Hardware and Tools Ltd.;

5. M/s Dominion Partners Ltd.;

6. M/s Seven Hills;

7. M/s Gash Logistics Ltd;

8. M/s Ntinda Wholesalers;

9. M/s Dashen Uganda Ltd.;

10. M/s Global Paper Products Ltd.;

11. M/s Meera Investments; and

12. M/s Wash and Wills Country Home Ltd.

The committee recommends that the certificates of title of the above companies be upheld.

Interference by ministers

A further review of the application data established that Hon. Persis Namuganza - the then Minister of State for Lands, Housing and Urban Development - brought to the attention of the ULC Presidential directives for allocation of land to entities, yet such Presidential directives were non-documented, traced or even availed to the committee. A case in point; in a letter dated 24 January 2020, the minister brought to the attention of the ULC chairperson, entities and persons whom the President is purported to have issued directives for allocation of land. These entities included Anil Damani, Seven Hills and Princeton Children’s Medical Centre.

The committee noted that these Presidential directives were non-existent and Mr Anil Damani denied ever writing the letter to the minister and denied the signature appended to it.

It was also observed that Hon. Persis Namuganza abused her office and authority by directing ULC to allocate land to entities while purporting to be communicating Presidential directives, which were non-existent.

Recommendations

In light of the above findings, the committee recommends that:

1. Hon. Persis Namuganza be held accountable for abuse of office for misleading ULC into allocation of land to individuals and entities following Presidential directives, which were non-existent.

2. Parliament, being aware of the decisions of Fox Odoi-Oywelowo v. Attorney-General and Twinobusingye Severino v. Parliament, urges the appointing authority to temporarily relieve Hon. Persis Namuganza of her duties to pave way for investigations by the relevant organs of Government.

The committee noted that the undue interference by ministers and other government officials, in the process leading to the re-entry of the Nakawa-Naguru land portrayed Government in bad light and resulted into financial loss upon the ministers being found in contempt of court and being ordered to pay Shs 50,000,000 - a cost that was borne by Government.

These ministers included: Hon. Mwesigwa Rukutana, the then Deputy Attorney-General; Hon. Betty Amongi, the then Minister for Lands, Housing and Urban Development, and Hon. Baguma Isoke, the then chairperson of ULC.

The committee recommendations are as follows:

1. The committee recommends that monies that were ordered by court to be paid by individual ministers, but was paid by Government be recovered from them. *(Applause)*

2. Government officials should always respect and follow the law in execution of their respective mandates.

Variations in allocations

The committee noted that although ULC formally communicated the acreage of land allocated to allocatees, the certificates of title issued to them indicated less acreage than allocated with no explanation to the allocatees. Whereas lease offers of less acreage were communicated by the Secretary to the Commission, there were no minutes of the communication availed to the committee to support such reductions or variations in size, connoting the existence of fraudulent intent.

ULC explained to the committee that due to the very many applications and directives at hand for the scarce resources, they made several adjustments to the allocations with no justifiable reason. The variations that were done were as below.

I request that we proceed; you will go through the list. As earlier noted, no commission minute was availed to the committee to explain these variations. Similarly, some allocatees protested the variations as no explanation was given to them.

The committee observed that this exposes Government to a very serious legal risk, which could result into litigation in courts of law and as a result, lead to loss of funds.

Recommendations

In light of the above findings, the committee recommends that:

1. The Secretary to ULC, Ms Barbra Imaryo, should be held liable for altering the size of the acreage without a commission minute to the effect.

2. Allocations and lease offers should only be communicated to potential leasees upon proper ascertainment of the size of the parcels allocated to them.

Term of Reference 6: To propose measures to safeguard the interest of Government in the Nakawa-Naguru estate land.

Having highlighted several challenges throughout this report, the committee recommends the following measures to safeguard the interests of Government:

1. In a bid to resolve the confusion that is evident in the relationship between the Uganda Lands Commission (ULC) and the lands ministry, and in the process of disposal of public land, the committee recommends that Government fast-tracks policy and legislative proposals.
2. Having established that Uganda Land Commission does not have an inventory of the land it superintends over, administers and manages, the committee recommends that all Government land be identified, surveyed and titled to avoid loss. In this regard, the Uganda Land Commission should have a proper inventory and land register.
3. The committee observed that the Uganda Land Commission lacks both financial and human resource capacity to satisfactorily execute its mandate, and has often relied on the Ministry of Lands, Housing and Urban Development to second personnel to help it out in technical aspects of land management, leaving it very vulnerable to unscrupulous land dealers. The committee, therefore, recommends that the personnel, their technical capacity and financial capacity of the commission be strengthened.
4. The committee also recommends appointment of a more technically competent commission with exposure and experience in land management.
5. The Uganda Land Commission should exercise its rights comprised in the lease agreements with the lessees, to ensure the terms and conditions of the lease are fully complied with and take timely appropriate action for those not compliant, to avoid further reoccurrence of the Opec Prime scandal.
6. The current commission be retired in public interest for abuse of authority and violation of the executive authority.
7. Government should follow the law and obey court orders to avoid unnecessary reputational and litigation associated risks.

Term of Reference 7: To investigate any other matters incidental to the Nakawa-Naguru Estate land.

The committee did not have adequate time to delve into other incidental matters, but found it pertinent to comment on the allocation of land to M/s ROKO Construction Limited and the settlement agreement.

The committee, in its interaction with M/s ROKO, was informed that M/s ROKO Construction Limited was allocated land inclusive of the 1.7 acres, for which they were compensated for by Government. The Uganda Land Commission, in its meeting held between the 9th to 12th of February 2021 under Minute Number 3/2/2021 allocated two acres of land to M/s ROKO Construction Company Limited. The chairperson informed the committee that in allocating two acres, they considered the 1.7 acres on which M/s ROKO had initially constructed a slab for Opec Prime.

The committee noted that ROKO Construction Ltd had been compensated Shs 15.72 billion in lieu of any interest they held in two acres earlier allocated to them, inclusive of the slab. This figure is inclusive of 8 per cent interest rate per annum.

The Uganda Land Commission, in its status report dated August 2020 stated as follows:

*”The Uganda Land Commission’s considered opinion is that M/s ROKO has no legal basis for any payment as it failed to fulfill its obligations with Opec Prime at the time of re-entry, which would be the basis of its claim. M/s ROKO, therefore, has no claim to the land.”*

At the time of writing this report, there was no evidence that Government of Uganda had instituted any legal proceedings against Opec Prime.

There were irregularities in signing and effecting payments to M/s ROKO Construction Company as reflected in the deed between the Government of Uganda and M/s ROKO. Whereas, there was a Presidential directive to effect payment to M/s ROKO Construction Company in a letter dated 20September 202l (Appendix. 11), it should have been done within the law.

Mr Ramathan Ggoobi, who signed the Deed of Settlement and Assignment on behalf of Government (Appendix l2), made payments to M/s ROKO Construction Company on 18October 2021, via invoice No. SP050/OCT, before the Deed of Settlement and Assignment was signed on 19 November 2021. He informed the committee that he was implementing the Presidential directive, which stipulated that he should effect payments immediately as reflected in his letter.

The committee recommends that:

1. The land allocated to M/s ROKO Construction Ltd should be revalued, taking into consideration the appreciation in value and the fixtures thereon before the lease offer is made.
2. Government should recover Shs 15.72 billion paid to M/s ROKO from M/s Opec Prime Properties. *(Applause)*.
3. Mr Ramathan Ggoobi should be cautioned for making payments to M/s ROKO Construction irregularly.

4. The Presidential -

**THE SPEAKER:** Honourable members, if you are not satisfied with the caution, you can suggest an amendment. That is how the House is handled.

**MR KIMOSHO:** Madam Speaker, the other recommendation is that Presidential directives should be implemented within the law-

**THE SPEAKER:** Honourable members, you are losing the point. Kindly listen to the report, then you will debate and make your own amendments.

**MR KIMOSHO:** Thank you, Madam Speaker.

Uganda Land Commission

The vacation of the Chairperson of Uganda Land Commission from office, temporarily pending determination of the court matters and other investigations against her, poses governance challenges to the commission, and rendering their decisions questionable.

Legal framework

The committee observed that there is no clear legal framework guiding the operations and relations between the lands ministry and the commission to enable smooth and transparent management of land owned by Government.

Conclusion

Madam Speaker, the Ad hoc Committee dwelled upon all the details of the Naguru/Nakawa land allocations as per the Terms of Reference and came up with the recommendations highlighted above. These should form a basis for a long-lasting solution to the challenges in the development of the areas for the good of the country.

The recommendations should also create a basis for a more transparent and accountable system of disposal of public land in the whole country. Suffice to submit that there is urgent need for legal regime to streamline the process of giving out and use of public land.

I would like to thank the members of the committee for the commitment they exhibited in the short time and I beg to report. Thank you.

**THE SPEAKER:** Thank you, honourable Member of Parliament and chairperson of the ad hoc committee. Members, you have heard from the chairperson of the committee. I just want to find out something from the learned Attorney-General. Attorney-General, do you act on Presidential directives as they are, or do you act within the law?

4.42

**THE ATTORNEY-GENERAL (Mr Kiryowa Kiwanuka):** Thank you, Madam Speaker. When you receive a Presidential directive, you determine what provisions of the law are available for you to implement it; so, you implement them in accordance with the law.

**THE SPEAKER:** Thank you. Learned Attorney-General, should Presidential directives be in writing or verbal?

4.42

**THE ATTORNEY-GENERAL (Mr Kiryowa Kiwanuka):** Madam Speaker, there is no standard for which you receive a Presidential directive. I have been here for a very short time to know how that works, but I receive mine in writing.

I do not see what would stop the President from calling me and instructing me to carry out -

**THE SPEAKER:** That is okay. My question is answered. If you are not satisfied, I am satisfied. Learned Attorney-General, I still want to ask something – I need clarification. You know, you are the legal advisor for the country and it would be good for us to learn more from you.

When making a payment, do you make a payment before the deed is executed or you execute a deed and make the payment? What I have heard is that M/s ROKO was paid a month before and the deed was signed later. What was the basis of payment?

**MR KIRYOWA KIWANUKA:** I will answer the question by saying, that you first enter into an agreement. The agreement could be formal or informal. The ideal situation would be that you enter into an agreement first, have it executed and then make the payment.

**THE SPEAKER:** Lastly, the learned Attorney-General then said the third parties were not supposed to benefit. The fact that M/s ROKO was a third party, in your own understanding, was that payment right?

**MR KIRYOWA KIWANUKA:** In running the risk of answering the question for which I am found culpable –*(Laughter)*- Madam Speaker, the payment to M/s ROKO would be correct because the Cabinet made a Cabinet decision that the people who had developments there should be compensated with land. So, yes, it would be correct.

However, secondly, Madam Speaker, the M/s ROKO situation -

**THE SPEAKER:** M/**s** ROKO was not a sitting tenant. There is a difference between the sitting tenants and then M/s ROKO, which had a contract with OPEC.

**MR KIRYOWA:** That is what I was explaining, Madam Speaker. At the time of entering the deed of settlement and assignment, M/s ROKO had entered into an agreement with M/s OPEC Prime Properties to be paid using the land. So, the deed of assignment was supposed to be – and like the committee rightly instructed - that, that money should be recovered on the basis of the deed of assignment.

**THE SPEAKER:** You are a very good Attorney-General. The debate is open.

**MR SSEWUNGU:** Thank you, Madam Speaker. I would like to thank you for those questions you started with before the debate. However, let us not be misled by the Attorney-General.

Madam Speaker, I was in the Ninth Parliament. I was among the Members who investigated the matter of Basajjabalaba – the giveaway of Shs 149 billion. Indeed, the President was giving directives to Hon. Kiddu Makubuya, who was the Attorney-General, and the then Minister of Finance, Planning and Economic Development, Syda Bbumba.

At the end of the day, we met the President - I was there, myself. He told us that his directive is not a matter of taking it, but that as the Attorney-General, he must advise him before he makes a mistake. That is how we censured Hon. Kiddu Makubuya -

**THE SPEAKER:** That is what he has said.

**MR SSEWUNGU:** No. He has said, Madam Speaker - I have noted him very well. He said that once he gets the directive, he takes it. That is what he said.

**THE SPEAKER:** No. Hon. Ssewungu, he said you must act within the law.

**MR SSEWUNGU:** That is what we are saying. According to the question you asked the Attorney-General, was he acting within the law? Actually, Madam Speaker, looking at the directives of the President, they are under 2021, but the transaction of the Naguru land began in 2006.

**THE SPEAKER:** Hon. Ssewungu, I understand your problem. You have been sitting here since morning. You must be tired. *(Laughter)*

4.48

**MS SUSAN AMERO (Independent, Woman Representative, Amuria):** Thank you, Madam Speaker. I would like to thank the committee for the report. I did not know that there were some Ugandans here that are patriotic. Thank you for the work you have done.

Madam Speaker, I would like to start with the issue of compensation of the sitting tenants, considering the land value of Nakawa at the current market price. Nakawa is a prime area where everyone would love to have land.

Madam Speaker, the Shs 17 million that they are talking about as compensation for these people is very little money. Therefore, we would like to ask Government that these people be considered, according to the current market price because they destabilised them from wherever they were living comfortably.

**THE SPEAKER:** Hon. Susan, ex gratia is different from compensation. What Government would do is to reconsider, but it is ex gratia.

**MS AMERO:** Thank you, Madam Speaker, for your guidance. You have asked a question that I was about to ask on: Irregularity in the payment of M/s ROKO. I am not comfortable with the recommendation of the committee to just caution Mr Ggoobi, the PS/ST. He has just taken less than a year in the office, but the irregularities he has caused this country are enormous that we cannot just continue to caution him. He needs to leave that office because he is abusing it terribly. *(Applause)*

Madam Speaker, I, therefore, move an amendment that he be retired in public interest. I thank you.

**THE SPEAKER:** Thank you. Hon. Susan, on appointment by the President – when you read the case of Fox Odoi v. Attorney-General and the case of Severino v. Attorney General, Parliament does not have powers to order somebody out of office. However, we can urge the appointing authority to have the person out of office.

I would like us to be mindful of the law on whatever we are discussing. Counsel Nsibambi, isn’t that correct?

4.51

**MR YUSUF NSIBAMBI (FDC, Mawokota County South, Mpigi):** Thank you, Madam Speaker. I would like to take this opportunity to thank the committee for a good report –

**THE SPEAKER:** Put on your mask.

**MR NSIBAMBI:** I am sorry, Madam Speaker. I have a problem when I speak - Okay.

I would like to thank the committee for a good report. It has given Parliament and the entire country an opportunity to get a directory of the land grabbers and the cartel in mismanaging land in this entire country. I was a land administrator.

From page one to page 37, the names mentioned – as individuals and the companies – are the people involved in land grabbing in this country. So, we have now got the opportunity of addressing the relevant authorities to investigate those characters behind the Naguru land grabbing.

In that spirit, I do not support the recommendations to uphold some applications.

Let us first look at the genesis of this allocation. How did they get to know that land was available when the notice was pinned on the land board of the Uganda Land Commission?

Do they work there? They have testified that actually, they got to know through land brokers. However, there is a procurement method under the PPDA, on how one acquires public properties. *(Applause)*

So, Madam Speaker –

**THE SPEAKER:** So, do you want to make an amendment?

**MR NSIBAMBI:** I would like to make an amendment that the entire parcel of land should revert to Government. Mulago Hospital is looking for land. Public facilities and not – even Parliament of Uganda. So, we should cancel the entire transaction because it is tainted with fraud and irregularities. *(Applause)*

I, therefore, submit that the report be amended to cancel all the titles and that land should revert back to ULC as public land. I beg to submit.

**THE SPEAKER:** By the way, even Naguru Hospital, which is next to the land is also looking for more land. So, Attorney-General, take note of this. We have actually removed money for the purchase of land for Naguru from the budget because we want you to allocate that land to Naguru Hospital. *(Applause)*

Hon. Mapenduzi - that line up – you are all going to speak. With me, we can even sit up to midnight. *(Laughter)* Members, two minutes.

4.54

**MR MAPENDUZI OJARA (Independent, Bardege-Layibi Division, Gulu City):** Madam Speaker, thank you very much. I would like to join my colleagues in thanking the committee for doing a wonderful job.

Unlike the opinion offered by the honourable colleague, I feel if there are entities that followed procedures - and I know, to avoid having serious legal implications, I think the recommendation of the committee should be respected.

However, Madam Speaker, based on the advice you offered that Parliament does not have the power to cause the removal, I, therefore, want to, basing on your advice, join my colleagues in urging the appointing authority to consider relieving some of the officials who have been mentioned, of their duties.

For example, the ministers who have been mentioned - there are ministers that have been mentioned including Hon. Persis Namuganza. I think these are the people who should be relieved of their duties. So, the appointing authority should consider giving them the opportunity to rest from holding those public offices. Thank you.

4.56

**MR PETER OKOT (DP, Tochi County, Omoro):** Thank you very much, Madam Speaker. I join colleagues in applauding the committee for their good investigation. This report leaves many of us worried about how things are done in this country. It reminds me of the famous Temangalo saga, where payments are done even before any document is prepared.

I would like the people we appoint to public offices - how they take their responsibilities and whether they think that when they are appointed, they should do things without following the laid down procedures.

Madam Speaker, it has been mentioned - names were mentioned. The committee did not refer anything to the office of the IGG. I would include a recommendation that some of these people be referred to the office of the IGG, but knowing that –*(Interjections)*- aware that the sitting IGG has also been mentioned. So, we also go for her.

**THE SPEAKER:** Honourable members of Parliament, the IGG is not the honourable Betty Kamya. The IGG is an office. Whereas Hon. Betty Kamya is mentioned in this, it does not deter us from referring anybody to the IGG.

**MR PETER OKOT:** Finally, Madam Speaker, I also join colleagues in urging Government to reconsider the Shs 17 million for the sitting tenants, to be reconsidered and reviewed upward. Thank you.

**THE SPEAKER:** Honourable members, do not repeat what has been said; we have already agreed that ex-gratia will be handled.

4.58

**MR GEOFREY OKELLO (DP, Nwoya East County, Nwoya):** Thank you, Madam Speaker. I would like to thank the committee that gave us this report. For the record, Madam Speaker, I grew up in Naguru Estate as a secondary student, in my O-level. I also stayed in Nakawa Housing Estate as a secondary school student, in my A-level. The issue of Naguru and Nakawa –

**THE SPEAKER:** Honourable members, there is only one meeting here.

**MR GEOFREY OKELLO:** Thank you for protecting me, Madam Speaker. The issue of Naguru and Nakawa is a very old one - more than 30 years. Central in the issue of Naguru-Nakawa was the user clause; that, that land would remain a residential area for low income earners who work in Government and KCC.

In the report, the tenants - the *bonafide* occupants - have now been left on the sidelines and we are now unclear on the user clause. We run a risk of having that place occupied by all sorts of business.

I, therefore, request that the user clause of that land be clarified in this report, so that we know for sure how that land will be settled, for the benefit of the low income earners. I thank you very much.

5.00

**MR JOEL SSENYONYI (NUP, Nakawa Division West, Kampala):** Thank you, Madam Speaker. This is an issue that is very close to my heart because the land we are talking about is within my constituency of Nakawa West.

Madam Speaker, we debate these reports and recommendations are passed, but I hope that ultimately, first, we get to learn; but secondly, that action gets to be taken.

This particular piece of land - hundreds of people were evicted over 10 years ago. They were crying in pain. Many are living in slums. Many died. They were told, “Look, we are evicting you here for your own good because we are going to put up state-of-the-art apartments - a satellite city - and you are going to be the first beneficiaries.” To date, that has never happened.

They were promised: “Alright, we are going to try and cushion you with Shs 17.9 million shillings.” It has been so many years and that money is even too little, given the times – inflation! Shs 17.9 million, Madam Speaker, even one year ago, is not the same amount today, but somehow, we do not seem to learn. It keeps happening again, and again, and again.

Madam Speaker, the Uganda Land Commission, as we speak, is being examined by COSASE, the committee I chair in the Auditor-General’s report. It is the same problems everywhere. Naguru-Nakawa is just a snippet of the challenges this institution has across the country. However, when we make recommendations and action is never taken, we will be in a vicious cycle.

Therefore, my prayer, Madam Speaker, is that this debate will not just be to make ourselves feel good for the cameras, but that action gets to be taken. People –*(Member timed out.)*

5.02

**MR RONALD BALIMWEZO (NUP, Nakawa Division East, Kampala):** Thank you, Madam Speaker. Nakawa estate was in my area of jurisdiction, where they are now constructing a state-of-the-art hospital for Agha Khan.

Madam Speaker, the previous sitting tenant had stayed on that land for over 40 years and they had equitable interest in the land. These people were evicted at night and psychologically tortured. They also made a memorandum of understanding to that effect, which I believe, is effective. Therefore, it is important that they are compensated and not just given ex-gratia.

Madam Speaker, things have changed; that land is very costly. If someone had received a building, a low-cost house during that time, it would be seven times -*(Interjection)-* let me first complete. I will give you some time.

Secondly, I am the whistleblower. When Opec was selling off that land, I came out and warned Government that I was going to resettle people on the land. That is when I was called by the Prime Minister’s office and they told me to calm down for they had constituted *–(Member timed out.)*

5.04

**MR ABUBAKER KAWALYA (NUP, Rubaga Division North, Kampala):** Thank you, Madam Speaker. Let me also take this opportunity to thank the committee for the wonderful work. However, this has portrayed a bad image on the governance of this country, and most especially when it comes to land issues.

In 2013, the Kampala Physical Development Plan was passed and it approved the Nakawa area to be a purely residential area. When you look at most of the companies who were allocated land, most of them are business-oriented.

Madam Speaker, the same laws that we have in this country, for example, the Physical Planning Act also gives the local authorities power to be consulted when it comes to subdivisions. We have seen that land being subdivided, but when you read into the committee’s report, you do not see a single day when Kampala Capital City Authority was consulted when they were going to subdivide this land. So, we need to interest ourselves when it comes to the issue of subdivision of this big land.

Madam Speaker, there are serious -

**THE SPEAKER:** Can I get to understand: Is that land under KCCA or ULC?

**MR KAWALYA:** It isunder the jurisdiction of Kampala. So, the Kampala Physical Planning department -

**THE SPEAKER:** No; there are two offices; ULC and KCCA.

**MR KAWALYA:** It is KCCA. ULC - Madam Speaker, let me explain this -

**THE SPEAKER:** Do not mislead this House; the land is under ULC.

**MR KAWALYA:** I understand that the land is under ULC, but ULC is supposed to write to Kampala Capital City Authority seeking a change of user for that property and at the same time, when it comes to subdivisions, they are supposed to be done at the KCCA land zonal office –*(Member timed out.)*

5.07

**MS JOYCE ACAN (NRM, PWD Representative):** Thank you, Madam Speaker. I would like to commend the committee for the report.

**THE SPEAKER:** Is that Hon. Acan?

**MS ACAN:** Hon. Joyce Acan for people with disabilities. I would like to commend the committee for the good report and recommendations that they have come up with. The Naguru and Nakawa land in question – and Nakawa in particular - I grew up in Nakawa. The issue of Nakawa started in 1998.

Madam Speaker, during the demolition, people were thrown out. The people that were thrown out migrated to Mutungo, Kasokoso, Mbuya and most of them are dead, as I speak. Their children remain waiting for the compensation of these properties.

Madam Speaker, I am very happy that the committee has recommended the ex-gratia of Shs 17 million to each tenant. However, I am made to understand that ex-gratia means a token of appreciation. I only implore the House that this money be increased a little bit to suit the current market because when these people receive this money, they will go and buy land, and then construct.

Additionally, I would like the Attorney-General to come out clearly and tell us about some individuals or companies that made an MoU with Opec; and when Opec was terminated, these companies are now demanding that Government compensates them. A case in point is the Multi Consultant Design.

Madam Speaker, I am well aware that when you are on my land, and I have given it to you, when you want to involve a third party, you must first consult me to be involved in the agreement. I would like the Attorney-General or the lands minister to tell us whether they were not in the know of these individuals. I read in another report of the 10th Parliament that they denied these companies; that they went into agreement with Opec without their knowledge, and now they are terminating their lease, and these people are running to court. I beg to submit.

5.10

**MR ROBERT WANDWASI (NRM, Bungokho County South, Mbale):** Thank you, Madam Speaker. For record purposes, I would like to pronounce my name properly. I am Hon. Wandwasi Robert, MP for Bungokho County South constituency in Mbale.

Madam Speaker, it is very surprising that the Uganda Land Commission, in which we put a lot of trust, and which was supposed to be the custodian of the public land, is mentioned in the committee report that during the time of interrogation as having no inventory. To me, this puts Government at a very high risk. The people who are supposed to take care of our land did not have an inventory. What were they superintending or taking care of?

Therefore, Madam Speaker, I wish to move, in the same spirit, that ULC commissioners be retired in public interest, if you want to save Government land in our country.

5.12

**ms christine apolot (nrm, Woman Representative, Kumi):** Thank you, Madam Speaker. I appreciate the committee for the recommendations made. Matters about land in this country are very crucial. Without land, we cannot have development cutting across the entire country.

The observations that have been made for the Nakawa-Naguru land make us know that land grabbing and mismanagement is happening across the country. It is very important that the district land boards get thorough training on matters about land.

Even as we look at these recommendations - I support that of identification of Government land, its registration and having it surveyed. I would like to make a slight amendment that we set a timeframe for that because this one has taken time. When you reflect on the recommendations that the Ministry of Education and Sports made in relation to protecting school land through surveying, they are not were being implemented.

Therefore, I implore this Parliament to make a recommendation of one or two years for all land-related matters to be sorted out so that land belonging to Government can be protected. I beg to submit.

**The Speaker:** Attorney-General, I would like you to interest yourself in the PPDA - whether it has a provision for the sale of Government land*.* If it is not there, then we need to see what to do.

5.14

**Mr benard sekyanzi (NRM, Budyebo County, Nakasongola):** Thank you, Madam Speaker. I thank the committee for coming up with this great report. However, I just want to amend the recommendations because Government money is being wasted in this country.

In Nakaseke or even Nakasongola, we are suffering a lot with roads because there are no funds for maintenance. Where the court ordered that these individuals should pay this money, Government again paid, instead of them. They are supposed to pay and we should put timelines. Maybe, in two months, these individuals should pay this money so that it is used in other sectors, for example, on the road maintenance. Thank you.

5.16

**Mr bashir lubega (NRM, Mubende Municipality, Mubende):** Thank you, Madam Speaker. I thank the committee and I would like to mention that this country is faced with an uphill task of fighting corruption. There are several anti-corruption campaigns, including trekking very long journeys in the fight against it.

We seem to be very good at rhetoric and poor at practice; we do not walk the talk. We should, at this point, try to investigate the factors that underpin this discrepancy between principle and practice.

Renowned countries where corruption is fought, like Australia; if anybody is mentioned in a corruption scandal, that person is dented enough. You do not need to be convicted to leave office.

In a situation where the most senior technical person at the finance ministry - Dr Ggoobi - is mentioned in this report; where our ministers have turned themselves into false prophets - delivering false prophecies from the President - something must be done or else, this Parliament risks becoming a mere collection of sheep in entities, rubber stamps and political bootlickers. I beg to submit.

5.18

**Mr gaffa mbwatekamwa (NRM, Igara County West, Bushenyi):** Thank you, Madam Speaker. I thank the committee for the good report. I do appreciate that the spirit was to set up a satellite city. However, I remember in the 10th Parliament when the President had instituted a committee to investigate - headed by our *Mzee* here, Moses Ali - even ministers who were on that committee had started taking some small portions of trying to create that satellite city into a slum.

To me, Hon. Namuganza has a responsibility and must tell this House how it happened. However, I cannot agree with Members who are saying that the matter should be referred to the IGG. I remember when the President one time mentioned that if the IGG decided to harass those thieves, some of them would run away from investing in Uganda. I think she did not sense that intelligence because you cannot go in a meeting of night dancers then you start denouncing cannibalism.

In a nutshell, I am saying that technical people should be held responsible. When we talk about even some of the commissioners –*(Member timed out.)* A microsecond; this is my maiden speech. *(Laughter)*

Thank you very much. Madam Speaker, the matter we are talking about has taken over eight to 11 years but some commissioners are there for over a year or three; but we are just generalising. Can’t we try to look out for those people who were in office at the time this land was given out, find them wherever they are, and arrest them? Thank you.

**The Speaker:** Honourable members, we are not sending this to the IGG. What we have done is conclusive. We are only going to ask the Executive to give us a treasury memorandum on what they have done within two months.

5.21

**Mr james kaberuka (NRM, Kinkizi County West, Kanungu):** Thank you, Madam Speaker. In Shakespeare’s MacBeth, King Macbeth once said, “I know what is legal, but not what is right.” I am meant to understand that a number of players who are supposed to protect the Constitution - the legal regime of this country - are the ones who have continued to malign the establishment of the law, to their interest.

Madam Speaker, when you look at the committee recommendations - this time we have seen a committee presenting very good reports and we want to thank them. *(Applause)*

Corruption in this country is being engineered by the ones supposed to annihilate it. The first recommendation is talking about ULC officers retiring - but in Rukiga/Runyankore, there is an adage that, “When you leave what is producing urine and then start bumping on *“bishatos”;* the clothing you are wearing, you are just trying to have the defence of an alibi.”

It is at this moment that I would like to suggest - first of all, you have made us afraid. With due respect, do you mean our recommendations cannot stand because a minister cannot be censured by Parliament? No. We need to review the law and empower Parliament, which approved the ministers, to make sure we do something to put them under key and lock. Otherwise, we cannot continue recommending and then, it is the preserve of the President to leave that minister in place. This will render us meaningless in this Parliament.

With due respect, the people concerned who did the wrong things that have been mentioned, should be brought to book because our people are suffering.

One time, I was almost chased from a committee because I mentioned this matter. Honourable members can testify. It is at this moment that we should start biting because this is a House of Representatives. How can we superintend over these people who are depleting our resources, but continue to blame us?

I would like to bring up another issue. The other day, I saw a person speaking on television and saying, “The Parliament has no role.” They are the ones making funny statements and we are here trying to protect them.

My prayer is – the honourable minister has mentioned that whether you go to the IGG or not, you should be interrogated. We need a comprehensive report on who did what so that they face the justice of this country. I beg to submit, Madam Speaker.

5.25

**MS PROSSY AKAMPURIRA (NRM, Woman Representative, Rubanda):** Thank you very much, Madam Speaker. I would like to put a disclaimer that I happen to be a victim of one of the pieces of land here in Kampala, where we woke up one morning and found our entire flat razed down by people who are alleged to have got a directive from the President to take the land.

I would like Parliament to request the President to make work easy for us. Whoever you meet in such scandals will tell you it is a Presidential directive to bring people down. We saw what happened in the last Parliament, when a population of thousands of people were chased away from land. When you asked the ministers, they would –

**THE SPEAKER:** Hon. Prossy, just to allay your fears, the Presidential directives are always in blue letters. When you get that blue letter, act within the law. That is what the Attorney-General said.

**MS AKAMPURIRA:** Thank you very much, Madam Speaker. It is good you have emphasised it. I thank you so much.

Even our ministers, especially the ones for land, should be cautious of the people. You do not know how much it hurts when you write that letter and then take someone’s family with children down. They are pushed away and yet yours are in flats sleeping well.

I would like to request that sometimes, even when a letter comes, please advise the President very well, for the sake of these families. It hurts. I have experienced it. If this has not happened to you, you will not know what it means. I pray that whoever has been found guilty or mentioned should clearly explain to the people so that they know the right issue. Thank you very much, Madam Speaker.

**THE SPEAKER:** Attorney-General, I need you to note that all schools have been encroached upon by the same people. School land has been encroached upon. I have a neighbour whose playground has been taken. I would like this committee to investigate these school lands and find out what is happening.

5.28

**MR ROBERT MIGADDE (NRM, Buvuma Islands County, Buvuma):** Thank you very much, Madam Speaker. In the Ninth Parliament, I chaired a select committee that investigated land belonging to public schools in Kampala. I recall the Leader of the Opposition was one of the members.

After demolition of Nabagereka Primary School, we discovered that almost 90 per cent of land belonging to these schools, including Government schools, is under threat. In many of these transactions, we looked at a number of Presidential directives. Unfortunately, all these letters ended with passing the responsibility back to the minister or the responsible officer. Therefore, the Presidential directives are actually not directives. They are seeking advice, but in most cases, some of these people end up taking that direction.

Therefore, my prayer –

**THE SPEAKER:** Allow me guide the House. In this case, there is what they call “purported Presidential directives.” There are no Presidential directives.

**MR MIGADDE:** Madam Speaker, thank you for that guidance. I was referring to the others that we looked at, which were not purported.

Right from the beginning, there was duping - and I am a physical planner by profession. You cannot have a satellite city in Nakawa, when Kampala City is here.

Every institution has a time when it can be remembered. Let this Parliament be remembered for -

**THE SPEAKER:** Honourable members, listen to the Member from the fishing community.

**MR MIGADDE:** Last Parliament had its peak and that was the age limit. Let this Parliament have its peak as early as the celebration of one year, which is our birthday. Let this be our peak by censuring those who are responsible - our hands are itching - that is the only way we can help the President and this Government to have the right officers in the right offices. Thank you very much.

5.33

**MR JOHN TEIRA (NRM, Bugabula County North, Kamuli):** Thank you, Madam Speaker. I have the Floor, honourable colleagues. My attention has been drawn to pages 13 and 14 of the report, where the report seems to create an impression that tenants became tenants by virtue of signing a memorandum of understanding with the company.

There have been cries from different corners of people who are genuine tenants, but do not appear in the report in which those who signed the memorandum of understanding are included.

Madam Speaker, I invite this House, using all the resources available, to properly investigate if there are more tenants who were not included, but are genuine tenants. It is very painful to be left out.

Secondly, the honourable members who have been implicated in the report seem to create an impression that they are innocent. Why don’t we give this country one gift for people to learn that if you have faulted, you step aside, pave way for investigation and when they are complete, you come back and resume your office if you are exonerated*. (Applause)*

Thirdly, this business of the Frontbenchers inviting the President to launch fake programmes must stop -*(Interjection)*

**THE SPEAKER:** Who is disorganising Hon. Teira?

**MR TEIRA:** Madam Speaker, with your protection, this business of the Frontbenchers – without doing due diligence on projects in this country – maligning my dear President, implicating him and creating an impression that he is part of the land grabbers, must stop and whoever does so, going forward, must be held accountable. Thank you. *(Applause)*

**THE SPEAKER:** Hon. Abdu Katuntu and then Hon. Charles Bakkabulindi?

5.34

**MR ABDU KATUNTU (Independent, Bugweri County, Bugweri):** Thank you very much, Madam Speaker. Colleagues, I only have four points to make.

The first one – and I think it is the most important one, I would like to remind the whole House that land, as a factor of production, is not elastic: it is not expanding but the population is expanding.

The crisis of land grabbing – brace yourselves, it is going to continue. So, this is not a very simple matter. This is just a symptom. People are everywhere looking for land, both legitimately and illegitimately. If we do not start addressing the real problem now, even tomorrow, there will be another ad hoc committee about land, about officers, about politicians and about everybody.

So, Madam Speaker, I would like to thank the committee for this report, but most importantly you, the presiding officer, for having brought this business to the Floor.

Secondly, what is the policy of this Government? From the report, it is clear that Government wanted to establish a satellite city in Nakawa and I imagine that was the policy. Today, I see land being allocated to hospitals, schools, supermarkets – nothing to do with the original policy.

So, we have moved away from the policy, which according to the documents which are here, was the purpose – and that is very serious. Can Government tell us whether the allocations now conform to the “Satellite City Policy” or we have now diverted? Soon, you will find somebody with a farm there –

**THE SPEAKER:** Hon. Katuntu, the letter which was written by the President on what should be on that land has never been vacated.

**MR KATUNTU:** That is the truth. The letter has never been vacated - yes, this land belongs to the Uganda Land Commission, but physical planning for that area is Kampala Capital City Authority. Do we have an approved plan, in accordance with that policy, to all those people who are purporting to be developing this land? You have to relook at even those who are occupying the land currently.

Thirdly, Madam Speaker, is the issue of due diligence. Before Government puts pen to paper, somebody must have done due diligence. May we know who did the due diligence of Opec because that is not here? Was this company allowed to take over this land without due diligence? If somebody misled the Government, he should be held responsible.

Madam Speaker, now we are looking at another one called Virginia. From the letter exchange and the report, it looks like there was no due diligence done on Virginia, yet we now have people saying that there is a Presidential directive – and I am going to address the issue of Presidential directives, too.

Colleagues, as long as there is no due diligence, the President’s name is always going to be brought into shoddy deals. This is because the first person, who runs to State House, comes out with a Presidential directive. Now, we are learning from this report that even ministers are talking about verbal Presidential directives.

The President puts himself in a very difficult position. If your minister goes and says I have been directed by the President, and he is your agent, who am I not to believe it?

Madam Speaker, there was no due diligence on Opec and there is no due diligence on Virginia, yet there is an allocation and even a Presidential signature to that allocation. Why? The President was forced. In law, Presidential orders are not law. Let me repeat: In law, Presidential orders are not law.

In the US, Presidential orders are called executive orders and they carry a weight of law because they are written – they are instruments. However, because our constitutional regime runs what we call “an executive soul”, all the authority of the Executive rests in the President. That is why the President makes those Presidential orders.

However, there are small things where I think the President should not be getting over – allocating half an acre of land and we are seeing a Presidential directive: Give Hon. Abdu Katuntu this half an acre of land. It is not correct because many crooks in town are taking advantage of it and are actually dragging the President’s name in this particular transaction.

Lastly, Madam Speaker –

**THE SPEAKER:** Hon. Katuntu, even if such a letter is there, somebody must act within the law.

**MR KATUNTU:** Yes, Madam Speaker, and that is not debatable – as the learned Attorney-General has explained. When the President gives a directive, it is you to implement it within the law. If you find that it is not implementable within the law, you write back to the President, saying, Sir, you directed this, but the law does not allow me to do this.

That is what I imagine if you had a senior – civil servants are technical advisors of the President.

Lastly, Madam Speaker, about the third parties like M/s ROKO – Government has no contract with M/s ROKO. The obligation we had was with Opec. After –

**THE SPEAKER:** Honourable members, can you listen.

**MR KATUNTU:** After Opec had reported, we cannot now go and start looking for those people who had defaulted to Opec and we give them good money. You cannot do that. We are spending good money to sort out problems, which are not ours.

Madam Speaker, I thank you very much.

**THE SPEAKER:** Thank you very much.

5.42

**MR STEPHEN BAKA (NRM, Bukooli County North, Bugiri):** Thank you, Madam Speaker. Let me join my colleagues in thanking the committee for the wonderful work done, and I support those who say that the entire land reverts back to Government and -

**THE SPEAKER:** Honourable members, can you listen.

**MR BAKA:** Let me give you the background of Nakawa-Naguru -

**THE SPEAKER:** We know the background of that place.

**MR BAKA:** I was the Chairman of LC II and LC I, and I would like to give you the background -

**THE SPEAKER:** Hon. Baka, what is your amendment?

**MR BAKA:** Madam Speaker, even the issue of Opec was designed to confuse us. Before OPEC came in, we had flaunted three plans as the chairman LC II. We had a plan for the low income, middle and the rich, and Kampala City Council had approved them.

**THE SPEAKER:** Do you have an amendment to the report?

**MR BAKA:** The issue of Naguru and Nakawa under Opec just came to confuse people. First, who was Opec? Was Opec a foreigner or somebody from within? In order to save time, I would like to say that we better revert the entire land of Nakawa and Naguru back to Government and plan, even the tenants of Nakawa-Naguru up to now *-(Member timed out.)*

**THE SPEAKER:** Honourable members, please, all of you sit down.

5.44

**MR SOLOMON SILWANY (NRM, Bukooli County Central, Bugiri):** Thank you, Madam Speaker. The party I support most, the National Resistance Movement, lost support in the last elections in Buganda Region because of, among other reasons, land grabbing.

We are not going to stand here in Parliament and keep quiet when the people of Uganda are losing land and property. If we are to restore sanity in this country, we must give the right people land that belongs to them.

This business of rich bourgeoisies coming and taking over land and property of the poor, and diverting it from the initial plans of Government, this Parliament should not condone such because – *(Interruption)*

**MR OLANYA:** Thank you, Hon. Solomon Silwany. I would like to give you some information on that Nakawa land. I remember a man who used to own a school called “Nakawa Vocational School” he is called Bema.

When the minister told that man that he had been directed by the President to hand over the school, the man found time to meet the President. The President assured the man that he had not directed the minister to get the land free of charge.

Madam Speaker, to date, that minister has swindled Shs 2 billion supposed to be paid to Nakawa Vocational School that is owned by Bema, the man who used to train persons with disabilities. Right now, the issue is in court and we are directing that man to take that minister head on. There are thieves in this country.

**THE SPEAKER:** Which minister is that?

**MR OLANYA:** The then Minister for Lands, Housing and Urban Development, the Hon. Betty Amongi. Right now the man is so annoyed because the money has not yet been paid to him even after the President said he should be paid.

Madam Speaker, thieves are taking over this country and we need to take it very seriously.

**MR SILWANY:** We should stand and be counted as Members of Parliament who were not part of those that supported land grabbing in this country. I am saying this because the only resource that we have in this country and which the people are remaining with to date –*(Interruption)*

**MR AOGON:** Madam Speaker, I would like to thank Hon. Silwany; he is my brother and it is good for him to give me time. The spirit of grabbing land did not start from Nakawa it had already started at Shimoni. Now we have traced it up to Lubowa and we cannot tell where it will go next.

I would like to get this from the Attorney-General: How did Shimoni TTC and PTC vacate their land at Nile Avenue? Was it through a directive, a legislative process or a given law? We are under pressure to have people interdicted and/or censured with immediate effect because that is what we need to do as Parliament.

**MR MACHO:** Further information, Madam Speaker. I would like to agree with Hon. Silas Aogon from Kumi. I would like to inform the House that Cabinet has black angels and one of them is in the House today.

Those black angels have tainted the good name of the regime to the extent that wherever we go out, for some of us who put on yellow shirts, people are beginning to run away from us.

I would, therefore, like to agree with my colleagues that those black angels, including one who is here, must carry political accountability for having organised a land bonanza to distribute land amongst themselves.

Why can’t those black angels just tell Ugandans that they are ready to steal land once and stop because they stole the land at Naguru; and they are stealing land in other places, yet they have now become immune. We should name and shame them, and carry some, like hon. Persis Namuganza, to city square so that Ugandans can know that those who steal -*(In audible)*

5.51

**THE LEADER OF THE OPPOSITION (Mr Mathias Mpuuga):** Thank you, Madam Speaker. Earlier in the morning we had a tranquil environmentand we discussed matters almost similar to what is on the floor. During the discussion on the Bujagali exemption, we received almost similar indictments of negligence of duty, a no-care attitude toward public duty -

**THE SPEAKER:** Honourable members, we are in one House. Steven - hon. Muwanga Kivumbi, come back. Musasizi you crossed the floor.

**MR MATHIAS MPUUGA:** Madam Speaker, now that the House is full and it was halfway during the discussion of the tax Bills, my basic sense is that Members are here to take action on their public duty. The report is very informative, but of course, it runs short of raising a red flag on how public business is conducted. The Presidency has become a subject of exploitation by individuals who have been given a duty to execute work on behalf of the country?

Madam Speaker, we were discussing Bujagali, we were discussing Naguru, and subsequently we shall be discussing the coffee deal. The trend is the same. Seemingly, the painter or the artist seems to be the same. This House of Parliament is enjoined to rise to the occasion and terminate this thread of persistent and deliberate fraud carrying through all public projects and programmes. Until we send a strong message, we shall continue debating in turns and no action will be taken.

Madam Speaker, I would like to invite the Attorney-General to take cognisance of the existence of Article 239 and its implementation. Learned Attorney-General, it is the duty of Government by extension of Parliament to curtail the abuse that has been routed through the Uganda Land Commission (ULC) on public land all over the country - Naguru is just a small tip of the vast iceberg.

Madam Speaker, one of the amendments that I wanted to move in relation to ULC is an investigation into the activities of ULC. That commission is a very big problem; even removing an individual will not solve the problem. For those of you who have been in this House for a while you know of one, two and three registrars who were removed, but the same vice remains. Is ULC the devil that they cannot overcome their troubles? Madam Speaker, I think we need to make an investigation into the core of the problem of ULC. They have given away public land in local governments; and they have participated in defrauding the public.

Madam Speaker, there is a gap, probably because of the time the committee never came out to bring to bear and remove the veil on one of the directors of these companies. If there was enough time to remove the veil, you would be shocked; they are the same people that are grabbing land in the countryside, and they are evicting people. When you see some of these companies whose names are coached in phonetics, you imagine that they were registered somewhere in Greece; but the owners are around and they have a track record of land grabbing. Because they have gotten away with evil, it is no longer a problem for them.

Madam Speaker, walking the talk and acting on the recommendations of this committee will be a huge step forward by this Parliament. It will send a very strong message, but also as an advisor of the President. The President needs to be helped to safeguard the State House from becoming a clearinghouse for fraud.

Madam Speaker, the President does not have all the time to look at all these documents. People walk to State House with phoney investors. As long as you pick somebody with another colour, they look like investors. The President is desirous of getting investors - as long as you are another colour - you just pick any fraudster from Europe or America, as long as they are white; get an appointment, you say, “These are investors”. They have grabbed public land and sold it, and they walk to the bank smiling. This Parliament needs to do the public a duty to stop this.

Second last, Madam Speaker, the *ex gratia* awarded at Shs 17 million over 10 years ago should be subjected to a GDP deflator. My friend hon. Henry Musasizi knows how this is done. Probably Shs 17 million 10 years ago could be Shs 50 million now. I do not think it is right, as long as it is *ex gratia* at Shs 17 million 10 years ago. The financial people know how to deflate it and bring it to the current value. Otherwise, from the day it became a Government assurance, to the time we are discussing it, without being effective it needs to be brought to the current value.

Madam Speaker, we need to be firm. If this is a Government assurance, then in the budget we are discussing, we should put money for these people to be paid off and we rest that ghost. Otherwise, I am sure some of the beneficiaries are long dead. Others are frustrated. We are talking about people that served this country at various levels. Some of them are aged and others are sick. We must terminate their demand because we are the Parliament of Uganda.

If possible to commit, the minister for finance is here. The budget process is still ongoing. This is not a lot of money. It can be availed to have this Government assurance cleared and terminated.

Finally, to my dear sister, the honourable minister, you can do yourself justice and jump before you are pushed. You will have sent a very strong message to your prudence as a servant of the people, and we begin anew. When an inquest is made and you are exonerated, probably the appointing authority could think about your prudence and bring you back.

Madam Speaker, one of the biggest challenges I have had in this House, in the two terms I have been on the committee on appointments; some of the people that are sent by the President are very difficult to vet. They have a checkered record and when they come and they are pleading to be placed in public offices we end up in this kind of mess.

Parliament, especially the vetting committee of Parliament to which I am a member, must up its game. Otherwise, we have individuals, not necessarily on the front bench, but in various offices, with checkered records over time, and they are being recycled, and the problem continues because impunity has been incubated and accepted.

I thank you, Madam Speaker.

**THE SPEAKER:** Thank you so much, Leader of the Opposition. Attorney-General, as you have heard, under Article 239 on the function of the Uganda Land Commission, we need to make sure that we handle that. On the *ex gratia*, they were given 15 years back. We need to see how we can improve on that. Can I hear from Government? You are the Prime Minister; you are the one to know who should talk.

6.02

**THE THIRD DEPUTY PRIME MINISTER AND MINISTER WITHOUT PORTFOLIO (Ms Rukia Nakadama):** Madam Speaker, I thank you. I thank the members of the committee and honourable members for their contribution. I would like to call upon hon. Persis Namuganza to come and say something, then, we can conclude. *(Applause)*

6.02

**THE MINISTER OF STATE FOR LANDS, HOUSING AND URBAN DEVELOPMENT (LANDS) (Ms Persis Namuganza):** Thank you, Madam Speaker. First of all, I discovered that the report, which has been read, was referring to the letter I wrote to Uganda Land Commission, the basis of the recommendation that I should leave office; and which letter was missing on that report. However, I have gotten the copy and I would like to read it and lay it on the Table.

On 24 January 2020, I wrote a letter to Uganda Land Commission requesting it to allocate 10 acres of land in Naguru to construct a modern children’s hospital and dialysis centre. This was after we had had a meeting with His Excellency the President, with the managers of this hospital and they had made a request.

Madam Speaker, I request that –*(Interjections)*

**THE SPEAKER:** Raise your voice.

**MS NAMUGANZA:** Can I repeat? Madam Speaker, I was saying that when the report was read, they referred to a letter that I wrote to Uganda Land Commission on 24 January 2020 being the basis of my “abuse of office”. However, in that report, this letter has not been attached. I was bringing to the attention of the Speaker and honourable members that since I have a copy of the letter and it makes part of the report, I should read it and lay it on the Table.

**THE SPEAKER:** Is the letter from the President?

**MS NAMUGANZA:** No, Madam Speaker. They were referring to the letter I wrote.

**THE SPEAKER:** The letter you wrote to ULC?

**MS NAMUGANZA:** Yes, but it is not on the report – it is not attached.

**THE SPEAKER:** Okay. Please read. Please, go ahead.

**MS NAMUGANZA:** Because somebody can wonder what is in that letter.

**THE SPEAKER:** Please, read.

**MS NAMUGANZA:** I stated, Madam Speaker, that last year, in June 2019, a request was extended to His Excellency the President on the above - that is the allocation of 10 acres of land to the children’s hospital and dialysis centre - these children with swollen heads. This request had not been recommended because at that time, Naguru land still had issues to do with legal matters.

I told the committee that this is not a new subject matter to Uganda Land Commission, because when we met the President, we met him with Uganda Land Commission –*(Interjections)*- Honourable colleagues, can you please listen to me?

We met the President with the Uganda Land Commission. So, I was informing them that since this is not a new matter to you, this centre will need the 10 acres of land to be allocated and construction will be by Princeton Children’s Medical Centre, in partnership with other –

**THE SPEAKER:** Honourable members, let us first allow the honourable minister to finish her letter.

**MS AMERO:** Madam Speaker, I am rising on a procedural issue. The honourable minister had the opportunity to appear before the committee. She did not tender in this letter. What precedence are we setting here, now that witnesses can come and begin tendering letters here? *(Applause)*

Madam Speaker, are we proceeding -

**THE SPEAKER:** Honourable members, according to the documents I have, that letter was tendered in the committee. What is missing in the committee - because the purported letter is saying it was a Presidential directive – is, where is the letter that gave you powers to write that letter to ULC and that is what brings the influence peddling? *(Applause)*

**MR ASUMAN BASALIRWA:** Madam Speaker, I think what honourable members should appreciate is that this letter being read by the minister –

**THE SPEAKER:** Honourable members!

**MR BASALIRWA:** The impression that the honourable minister wants to create is that the committee did not put into consideration that letter. That letter was brought to the attention of the committee and in writing the report, the committee made reference to that letter.

However, that letter did not answer the concerns of the committee; that is to say, the origin of the so-called Presidential directives. So, the letter being read, Madam Speaker, was actually put into consideration when the committee was considering the report. I think that must be understood from that context.

So, there is no injustice that was occasioned on the side of the minister. The documents that we had were put into consideration in writing the report.

**THE SPEAKER:** Thank you. Honourable members, let us allow the minister to finish - Has the minister finished?

Honourable members**,** the way it is nice to chair a House where people are rowdy. I wish one of you could sit here and see yourselves the way you behave. *(Laughter)*

Honourable members, listen to the Prime Minister.

**MS NAKADAMA:** Madam Speaker, I would like to thank you once again. We have heard the report. The Executive is going to take up the matter. I think after two months, we shall come up with a treasury memorandum. Whoever will be found guilty, action will be taken against that person. I thank you.

**THE SPEAKER:** Honourable members, there are allegations against the committee that they did not consider everything. Can we have clarification from the chairperson of the committee, just for transparency?

6.10

**MR PATRICK OSHABE (NUP, Kassanda County North, Kassanda):** Madam Speaker, before the chairperson comes in, I have an amendment to the recommendation, which I would like to tender, then the chairperson responds to it.

Madam Speaker, the land we are talking about is 142.5 acres of the original land, but the committee report has referred to mainly the 82.5 acres. They have not mentioned anything to do with the 60 acres; whether the people who received the 60 acres really deserved to receive them. Nothing has been mentioned about the 60 acres.

The original purpose of this land was to build residential spaces for our people. One of the biggest recommendation this Parliament must make is that the purpose of the land must not be lost. We must return to the original purpose of the land.

Recently, in the Committee on Budget, we were informed that Government regained its take in the National Housing Corporation. Therefore, I would like to amend the recommendations to state that the 142.5 acres, must return to its original purpose and the National Housing Corporation be given opportunity to develop and build low-cost housing for the people that used to stay on that land.

No supermarkets, no hospitals *–(Member timed out.)*

**THE SPEAKER:** Honourable members, I asked the Attorney-General a question; whether the first directive was vacated or not. The answer was that there was no vacation of the first directive. Meaning everything that was done there was null and void. *(Applause)* Hon. Nandala-Mafabi, would you like to amend the recommendation?

6.13

**MR NATHAN NANDALA-MAFABI (FDC, Budadiri West County, Sironko):** Madam Speaker, thank you very much. We have got a problem in Uganda, where people tend to hide behind the President. When you are a minister, you are the one to advise the President, not the President to advise you. You say, “It is possible. It can be done. This is the way to handle.”

The reason I am raising this is because we have an experience - when we were investigating CHOGM - where a Vice-President wanted to dodge coming to the committee, hiding under the pretext that he was part of the Presidency; you recall the President said, “You are not part and you must appear.” Indeed, he appeared and you know the consequences; he ended up in Luzira. If a Vice-President can go to Luzira for misconduct, who is a minister, who comes here and waives a premium, and then says he acted on behalf of the President, and wants to dupe Parliament that the President was on the -

The recommendation I propose is that all those who acted on the Presidential directives, which were not right, should be held personally liable. *(Applause)*

**THE SPEAKER:** We are going to hear from the chairperson. I seek clarification from the Attorney-General. Attorney-General, when court slaps a cost on you, as Kiryowa Kiwanuka, do you transfer it to Government? Isn’t it a strict liability?

6.16

**THE ATTORNEY-GENERAL (Mr Kiryowa Kiwanuka):** Thank you, Madam Speaker. Ideally, you shouldn’t. But what has been happening is, because the suit is against the Attorney-General, they bring the suit against the Attorney-General and they say the defendant has been found in contempt. We have tried to deal with it, but in such cases, we ask for third party notices to be issued to those people to whom the court is directing the contempt.

We have had an objection to the court now, which we think is unfair to say, “Government is in contempt” because it is abstract. We would like the court to tell us who exactly in Government is in contempt of the order. Ideally, the contempt should be purged by the contemnor.

**THE SPEAKER:** Was the issue of the Government paying money on behalf of these people correct or wrong?

**MR KIRYOWA KIWANUKA:** The court order said “the defendant” and the defendant was the Attorney-General, but ideally, it should have been paid by the contemnor. It should have been the contemnor paying the money.

**THE SPEAKER:** Who?

**MR KIRYOWA KIWANUKA:** The person who committed the wrong.

**THE SPEAKER:** Why did the Government pay on their behalf?

**MR KIRYOWA KIWANUKA:** It was before my time; someone made that decision.

**MR KIMOSHO:** Thank you, Madam Speaker. There are issues that have come up and I thought I would clarify. One, on the issue of the letter that hon. Persis Namuganza refers to, it is true and it is on the record. What is not on record is that in that letter, she alludes to a meeting with the President, where she got a Presidential directive. So, to the committee, this Presidential directive remained verbal and there is no way we could have taken it as an authentic directive.

To make matters worse, the beneficiaries, Madam Speaker -*[Members rose\_]*

**THE SPEAKER:** What is the problem? Chairperson, can you finish?

**MR KIMOSHO:** Madam Speaker, what confused the committee further on this directive was that the beneficiaries alluded to, in the minister’s letter, denied ever to have written either to her or the President. Now, the committee wondered how the President could have even thought of directing for those people to benefit. The signatures on the record, as attached on the file, differed from the signatures of the beneficiaries. This is why it left us in suspense and we concluded that this was not a genuine record.

The other matter is on the issue of the satellite city. We highlighted –

**MR MATHIAS MPUUGA:** Thank you, chairperson. The learned Attorney-General could enjoin this in his clarification. From the representation of the committee and the clarification by the chairperson that the honourable minister purported to have gotten a Presidential directive and presented names of companies that denied ever requesting for this land in any form, is there another meaning, learned Attorney-General, of “fraudulent misrepresentation”?

**MR KIMOSHO:** Madam Speaker, I beg for your indulgence that I finish to respond to these clarifications. The thought that we could retain and cancel some is for a reason. When we assessed, we realised that there were some applicants who were genuine. However, on further examination, we realised that others were completely fake. Actually, we lifted the veil to know who the applicants were. Some of these were clearly fronts –*(Interjections)-*

**The Speaker:** Honourable members, listen to the chairperson. If you want to amend that, you will.

**Mr kimosho:** Actually, maybe you listen to this statement and make your judgement. We examined these companies. We sent for files and found that some companies were genuine – they had all the financials and what it takes.

We lifted the veil and asked for the names of owners of these companies. It came out clearly that some were genuine renowned businessmen. If the Speaker allows, we can tender that document with the names. We also found, especially with those that we recommended for cancelling, that these were clear speculators who had never been in business.

The committee weighed that if we cancel, we are only creating another bonanza for technocrats to steal, again, from another category of people. That is how we recommended –

**The Speaker:** Honourable members, listen.

**Mr kimosho:** Madam Speaker, it was our recommendation – and still is – that Government –*(Interjections)*– if I can state this and finalise –

**The Speaker:** Honourable colleagues, listen.

**Mr kimosho:** Honourable colleagues, you need to listen to this. In the lease offer that is entered between the allocatee and ULC, they put a minimum of five years for someone to have developed that land. So, we recommended that for those whose titles are retained, they are supervised strictly to ensure compliance with the plan of KCCA. Failure to do that in five years, then they cancel the land.Thank you.

**The Speaker:** Attorney-General, you need to guide us on that. The committee says that the ones who did not have the financials - actually the brokers – where you are looking at somebody coming to get land, but when you check his account, he has $10 million only.

**Mr kimosho:** Madam Speaker, the people that we recommended for cancellation – first, for some when we compared, at the time of payment, they were proposing business plans between $18 million and $50 million. On their accounts, they had $10 million or less –*(Interjections)*

**The Speaker:** Honourable members, listen. You need this information. The coffee man, you are going to speak next.

**Mr kimosho:** The other issue, when you look at our recommendation for cancellation, was on the legal basis that it is a company limited by guarantee, it is not supposed to do business, but it applied for it –*(Interjections)*

**The Speaker:** Honourable members, when you look at a company like Phaneroo, it is a church: Was that place meant for a church? Motion?

6.25

**Mr gaffa mbwatekamwa (NRM, Igara County West, Bushenyi):** Madam Speaker, I move under rule 59(n) of the Rules of Procedure of Parliament of Uganda. Having debated this matter, I move a motion that it should be closed since we have a coffee report that people are waiting for, and we proceed. Ugandans have been waiting. That is why even Parliament is still full at this moment – because we have our area of interest.

Madam Speaker, I propose that you put a question that the report be adopted with amendments. Thank you.

**The Speaker:** Is it seconded?

6.27

**Mr gilbert olanya (FDC, Kilak South County, Amuru):** Madam Speaker, I rise to second the motion moved by Hon. Mbwatekamwa that the question be put and the report be adopted with all the amendments, mostly on the ministers. I beg to move.

**The Speaker:** Honourable members, a motion was proposed and has been seconded. Amendments have been made. We need action in the first sitting of the next session - when is the next session? We need a response – Treasury Memorandum – from Government. There are other things that they are supposed to do in terms of cancellation. The rest, you can do.

6.29

**Mr NATHAN nandala mafabi (FDC, Budadiri County West, Sironko):** Thank you, Madam Speaker. We have made amendments, which have been captured. I think the Clerk is aware. Maybe he can remind us –

**The Speaker:** We will extract the resolution of this House and send to every individual.

**Mr nandala mafabi:** Thank you. However, we have seen things bordering on forgery – that is fraud. The people who are involved are here on the frontbench. This House is not meant to have fraudsters on the Frontbench. Wouldn’t it be procedurally right that a notice is put that action by Parliament to deal with fraudsters, who are Members on the frontbench, starts immediately?

**Mr okupa:** Can I seek some clarification, Madam Speaker? Hon. Nandala Mafabi has talked in parables – you are now putting blame on the Frontbench. Can you be specific and name the people you are calling “fraudsters”?

**The Speaker:** I think he meant hon. Mbwatekamwa. Do you mean him? *(Laughter)*

**Mr nandala mafabi:** Madam Speaker, I do not think hon. Mbwatekamwa is in this report. There are those who are. Therefore, the report will be extracted and I am sure all these Members know them. They also know themselves – and are also looking at me. *(Laughter)*

**THE SPEAKER:** Honourable members, just for record purpose, the revised recommendations - one was from hon. Mathias Mpuuga. Now you are going to miss the amendments.

The amendments that we are making - honourable members, I am actually happy that you are taking a lot of time on this and you will fail to debate on the next; but you are taking my time.

The amendments that we have include –

1. The same committee investigating ULC;
2. The Shs 17 million *ex gratia* should be revised to the current market value;
3. The purpose of the land should be considered and returned to its original use;
4. That the entire transaction be cancelled;
5. All those who acted on the alleged Presidential directives with disregard of the law must be held personally liable - that is from Hon. Nandala Mafabi; and
6. Hon. Susan Amero says the PS/ST should be held responsible.

I made a correction on the legality – Hon. Amero was speaking like a woman from Amuria. I made a correction. You said, “He should be retired”, but I said “Let us follow the law.”

I now put the question that the Report of the Ad Hoc Committee on Naguru-Nakawa Land Allocations be adopted by this House with the amendments.

*(Question put and agreed to.)*

*Report adopted.*

**THE SPEAKER:** Honourable members, can we go to the next report? Before that, there is a document to be laid on the Table by Hon. Henry Musasizi.

6.35

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi):** Madam Speaker, I beg to lay on the Table the Supplementary Schedule No. 2 for the Financial Year 2021/2022. I beg to lay.

**THE SPEAKER:** Honourable members, it is free sitting and so, feel free to sit anywhere, apart from the Speaker’s seat. I refer the schedule to the Committee on Budget and it must be handled as fast as possible.

Honourable members, we had a controversial issue here where you have been alleging that the presiding officer must have been bribed and compromised. But I would like to tell you one thing: it is good to have a - honourable members, we received a complaint in this House about the coffee agreement. We tasked the Committee on Trade, Tourism, and Industry to investigate the perceived unfair commitment to this country in that agreement.

To my surprise, when the presiding officer committed this, it was not out of any force, it was because of the love for this country. The presiding officer got so disappointed for being perceived to have been bought off, not to have this presented or directed. I was not directed by anybody. I am not a commodity to be bought. You are lucky that you have presiding officers who are not “needy”.

Chairperson of the Committee on Trade, Tourism and Industry can you present your report?

MOTION FOR ADOPTION OF THE REPORT OF THE SECTORAL COMMITTEE ON TRADE, TOURISM AND INDUSTRY ON THE INVESTIGATION OF THE ALLEGED UNFAIR TERMS IN THE MOU BETWEEN THE GOVERNMENT OF UGANDA AND UGANDA VINCI COFFEE COMPANY LIMITED

**THE SPEAKER:** Honourable members, kindly listen to the chairperson.

6.38

**THE CHAIRPERSON, COMMITTEE ON TOURISM, TRADE AND INDUSTRY (Mr Mwine Mpaka):** Thank you, Madam Speaker. Before I read the report of the committee, I wish to thank you for the support you gave us throughout this process. *(Applause)* I would also like to appreciate the commitment of the Members and staff of the Committee on Tourism, Trade and Industry who slept at midnight every day trying to compile this report.

This is a report of the Sectoral Committee on Trade, Tourism, and Industry on the investigation of the alleged unfair terms in the MOU between the Government of Uganda and Vinci Coffee Company Limited.

The Committee on Trade, Tourism and Industry has the honour to present this report on the investigation pertaining to the Government of Uganda and Vinci Coffee Company Limited Memorandum of Understanding that was signed on 10 February 2022.

The background

Uganda is the leading coffee exporter in Africa and the second largest coffee producer in Africa exporting over 6.5 million bags between April 2021 and March 2022. Coffee holds a strategic position as Uganda’s leading forex exchange earner in the past 20 years, contributing to approximately 20 per cent of the foreign exchange earnings.

The Sectoral Committee on Trade, Tourism and Industry derives its mandate from Article 90 of the Constitution of the Republic of Uganda - and the rest of the details are there. In the interest of time, I may not be able to read them.

Madam Speaker, Dr Abed Bwanika was concerned that the provisions of the agreement –

(a) Would alienate the people of Uganda that are involved in coffee production, and will give the monopoly of purchase and export of coffee from Uganda to one company called Uganda Vinci Coffee Company Limited;

(b) Has provisions, which exempt Uganda Vinci Coffee Company Limited from paying all the taxes in Uganda, including Income Tax, Pay-As-You-Earn, Excise Duty and contributing to the National Social Security Fund;

(c) Has provisions that seek to subsidise Uganda Vinci Coffee Company Limited, giving them a special tariff on electricity;

(d) Has provisions obligating Government to provide infrastructure yet, Uganda Vinci Coffee Company Limited is going to pay zero tax to the Government of Uganda;

(e) Violates the laws of the Republic of Uganda, including the Constitution of the Republic of Uganda, the Coffee Act, and the laws and policies in regard to liberalisation of the economy; and

(f) Seeks to render the people of Uganda, who survive on coffee production and trade, out of the economy, out of business and they are going to be rendered slaves in their own country.

In response, the Rt Hon. Speaker referred the matter to the Committee on Trade, Tourism and Industry to study the agreement and make an analysis.

Honourable members, the methodology is on page 4. We met various stakeholders and the petitioners:

1. Hon. Abed Bwanika
2. Hon. Gorreth Namugga
3. Hon. Richard Lumu
4. Hon. Joyce Bagala
5. Hon. Francis Katabaazi
6. The Ministry of Finance, Planning and Economic Development
7. The Office of the Attorney-General
8. Uganda Coffee Development Authority (UCDA)
9. Public Procurement and Disposal Unit
10. Uganda Law Society
11. Uganda Vinci Coffee Company Limited
12. Uganda Coffee Federation
13. Esco Uganda
14. Uganda Quality Coffee Traders Association
15. UGACOF
16. Buganda Culture and Development Foundation (BUCADEF)
17. Ankole Coffee Producers Cooperative Union (ACPCU)
18. Kawacom Uganda Ltd; and so many other stakeholders as seen on that page.

Committee findings, observations and analysis:

The first phase of the structural adjustment began in 1981 under President Milton Obote, who, in exchange for debt relief following the global oil crisis, ceded control of the coffee sector to the World Bank, the IMF and USAID, which began setting prices and managing capital investments in crops, machines, and transportation. This first round of structural adjustments did little to mitigate Uganda’s foreign debt, which continued to grow through the 1980s.

Uganda then began the second round of adjustments in 1990 under the “Washington Consensus,” where President Yoweri Museveni entered into the World Bank’s Agricultural Sector Adjustment Credit Programme by repealing the Coffee Marketing Act, 1969, which had guaranteed Cooperative Unions monopoly over the coffee trade.

The committee observes that the structural adjustments that the Government of Uganda undertook between 1981 and l990 led to the liberalisation of Uganda’s coffee industry. However, the agreement re-introduces a monopoly in the coffee industry, which is against the principle of liberalisation.

In March 2022, a total of 478,023 bags of coffee valued at $80.99 million were exported. During the same period, in March, Italy maintained the highest market share of 32.39 per cent compared with 38.02 per cent in the month of February 2022. It was followed by Sudan 24.98 per cent, Germany 12.30 per cent, Belgium 5.69 per cent and the United States of America 4.55 per cent, among others.

On page 9, the total below shows the top 20 export companies in the month of March 2022. I do not know if they can project the table in the interest of time. The table on page 9, shows all the companies that have been exporting coffee. From the figure above on page 10, the committee observes that coffee exports have been growing over the years.

Also, Table 1 shows high leve1s of competitiveness amongst the players in the coffee market with a total annual export capacity of 6.5 million and, therefore, the committee rules out any possible intentions of increasing exports through this agreement.

The registered coffee processors in the country and value-addition

We thought we would look at value-addition because it seems to be the core reason as to why this agreement was signed. Value-addition involves taking any product from one level to the next. For farmers, value-added has particular importance in that it offers a strategy for transforming an unprofitable enterprise into a profitable one.

Furthermore, the committee was informed that currently, Uganda has 47 licenced coffee roasters and incubators licenced by UCDA for the Financial Year 202l/2022 spread across the different regions in the country.

The committee observes that the bigger challenge we have as a country is that much of the coffee that is produced locally is exported. Only five per cent of the coffee produced in Uganda is consumed locally. If we had high local consumption, the fluctuation in the coffee prices on the international market would not affect us as much.

The committee also observes that the already existing 47 local processors are in the business of adding value, namely: roasted coffee beans, roasted and ground coffee, and instant spray-dried coffee as proposed in the Vinci Coffee Agreement in clause 3, specifically, 3.1.2, this is done without similar incentives as those proposed in the Uganda Vinci Coffee Agreement. Honourable members, below is the table. This is proof on page 11, that we already have companies in Uganda that are not enjoying the same benefits, but are doing exactly what Vinci intends to do in this agreement. They have been licenced by UCDA.

On page 12, we have previous Government interventions and investments in the coffee value chain.

The Government through UCDA in conjunction with UDC have conducted two feasibility studies to partner with the private sector (Soluble Coffee in Wakiso and a Turkish company) to increase the export of processed coffee to Gulf cooperation countries and other countries.

However, there has not been any specific dedicated budget available for coffee value-addition interventions.

The committee observes that an insignificant amount of funds has been invested in the coffee value chain in the Financial Year 2021/2022 as follows:

Rural Industrial Development Project under the Ministry of Trade, Industry and Cooperatives was able to secure five coffee hullers each at Shs 70 million and limited numbers of roasters and grinders, which are of low capacity.

Previous efforts in establishing soluble coffee plants in Uganda

We wanted to see if any other company had ever come to Uganda to set up the same plant Vinci intends to set up. So, we had to do an analysis and compare all their feasibility studies.

A number of feasibility studies have been carried out by the private sector to invest in soluble coffee plants in Uganda since 2006. While feasibility studies have recommended that the proposed business is feasible, actual implementation has not taken place and none of them has commenced. You can look at all the feasibility studies that have been done on page 13 and in the different years. The most recent was the Delecto Foods PVT Ltd (India) in 2017.

After continued failure to take-off by the various companies listed above, UCDA engaged Deloitte to undertake a feasibility study, which would consolidate the findings of all the past studies with a view to assess the viability of the instant coffee plant in Uganda.

The study concluded that with the existing prices of 2004 and 2005, prices of Uganda Green Coffee and soluble coffee, the plant was viable. However, the main problem was establishing a market outlet. The identification of a strategic investment and export market partner was the most crucial factor for success.

The committee observed that most of these feasibility studies remained on paper. Various reasons were given for not taking off, such as lack of Government guarantee for funds to be borrowed, for example, in the case of Coffee Marketing Board and SEDA S.A., where $8.8 million was required to kick-start the project.

On page 14, honourable members, analysis of the agreement between the Government of Uganda and Uganda Vinci Coffee Company Limited

Background

On 29 April, 2015, Government of Uganda, through the Ministry of Finance, Planning and Economic Development executed a project implementation agreement (herein after referred to as the “Agreement”) between the Government of Uganda and Uganda Vinci Coffee Company Limited.

In this agreement, Government was represented by Mr Keith Muhakanizi, the then Permanent Secretary/Secretary to Treasury while Ms Enrica Pinetti signed on behalf of Uganda Vinci Coffee Company Limited (UVCCL).

Page 15: On 21 December, 2015, Government and UVCCL executed an addendum (Addendum No.1) to the project implementation agreement dated 29 April, 2015 wherein UVCCL was granted a number of tax exemptions in addition to those that had been granted under the project implementation agreement of 29 April, 2015.

On 17 October, 2017, Government and UVCCL executed another addendum (Addendum No.2) to the project implementation agreement dated 29 April, 2015 wherein Government amended the obligations of UVCCL, empowering UVCCL to buy and clean green coffee beans and export the excess green beans, upon satisfaction of the installed capacity of the coffee processing facility.

We are just giving you a background of the different changes and different agreements that have been signed in the past.

Lastly, on the 10th day of February, 2022, Government of Uganda, through the Ministry of Finance, Planning and Economic Development executed an agreement (herein after referred to as the “Agreement”) between the Government of Uganda and Uganda Vinci Coffee Company Limited.

Government was represented by Hon. Minister, Matia Kasaija and witnessed by Mr Ramathan Ggoobi, the Permanent Secretary/Secretary to the Treasury.

This agreement signed in February 2022, incorporated and replaced all the provisions that had been contained into the Project Implementation Agreement of 2015 and Addenda No.1 and No.2 to the Project Implementation Agreement of 2015, in relation to the project.

Analysis of the Terms of the Agreement

Uganda Vinci Coffee Company Limited is a company organised under the laws of Uganda, and incorporated on 9 January 2014. The company had an initial share capital of $10 million divided into 1000 ordinary shares of $10,000 each.

Below, you can see the shareholders of Vinci Coffee Company Limited: Mr Hisham and so on, but Hawk Limited owns 96 per cent shares. So, the Director of Hawk is practically the largest shareholder in this company.

Hawk has two contradictions; we have a Hawk that was registered in Uganda in 1998 and we have the directors here. We also have a Hawk they claim -*(Interjection)-* The Hawk that was registered in Uganda in 1998, the shareholders are Mr Rajab Katunda, Mr Zuberu Katunda and Mzee Kambi Hindo. *(Interjection)* We do not know where they come from, but this company was registered in 1998.

The Directors of Uganda Vinci Coffee Company Limited are Ms Enrica Maria Pinetti and so on; they are five. Those are the details we have so far about the ownership of Uganda Vinci Coffee Company Limited.

The scope of the project

According to the agreement, UVCCL presented itself to Government as having capacity to undertake the establishment and operation of a coffee business, including the development of a coffee processing facility at Kampala Industrial and Business Park, Namanve and at such other place the company determines.

Clause 3 of the agreement requires UVCCL to design, finance, construct and operate - Honourable members, those are the clauses. I believe you have them; I would like to go straight to the observations.

The committee has examined the above provisions and makes the following observations:

Failure to sign the Agreement

There were various issues concerning how UVCCL Director, Ms Pinetti, signed as a witness and not a director; so we thought we would look into this.

Page 18: The representative from UVCCL Ms Enrica Pinetti signed as a witness and no one signed on behalf of Uganda Vinci Coffee Company Limited.

The committee notes that under the articles and memorandum of association of UVCCL, it is only a director, secretary or a person appointed by the board who has the right to authenticate any document affecting the company.

This means that if the agreement was to bind UVCCL, it had to be signed by the director, secretary or any other person authorised by the board.

The committee also notes that for a document to bind UVCCL it must bear the seal of UVCCL, which seal is supposed to be affixed in the presence of a director, secretary or any other person authorised by the board.

On page 19, it is a known legal principle that a person who does not append a signature on a document is not bound by that document.

The committee notes that the intention of a party to be bound contractually is one of the major elements of a binding agreement.

Section 10(i) of the Contracts’ Act defines a contract as, *“…an agreement made with a true consent of the parties with the capacity to contract for lawful consideration and with lawful object with the intention to be legally bound.”*

The committee is, therefore, of the considered opinion that the agreement between Uganda and UVCCL, having not been signed and sealed by Ms Pinetti, can be challenged as not binding on UVCCL, unless where Government can adduce evidence to show that UVCCL conducted itself in a manner that led it to believe that the agreement was binding on it as was held in the Reveille Independent LLC v. Anotech International (UK) Limited (2016).

However, this might not be possible in the circumstances of this case since UVCCL has not undertaken any activity under the agreement, making the job of Government relying on the conduct of UVCCL very tedious.

Ambiguity as to the commercial operation of the plant and conflict with lease agreement.

Allow me go to the observations.

The committee observed that whereas the effective date is known and clause 5.2 purports that the agreement will run for 10 years from the actual commencement of the operation of the project, the date on which the plant will be operational cannot be ascertained.

The committee also observed that whereas Government obligations start running from the effective date, the obligation of the company to start running from a date to be determined by the company, is the obligation of the company to start running from a date to be determined by the company, when they commission the plant.

The committee further observed that whereas the company is allowed to start constructing the factory within one year of the effective date, there are no timelines provided for the company to finish this plant within a particular time, neither are there guarantees or penalties for non-delivery of the intended plant and their obligations on the company.

This means that the company can take as long as it wants to construct the plant, while at the same time enjoying the benefits granted to it under the agreement without Government even getting any benefit from the plant.

Page 21: It is also not clear as to whether the plant will be deemed to be operational when it is operating at the initial operating capacity of 27,000 metric tonnes or at the fully installed capacity of 60,000 metric tonnes.

This uncertainty means that the agreement could run for more than 10 years since the determinants, of when the operation of the plant is to be deemed to have commenced, are not determined and are left to the company to determine.

The committee further observed that this agreement has no termination clause. The committee is concerned that even where a force majeure event occurs as required in clause 7, the agreement cannot be terminated in its terms, but can merely be modified. This seems to have been a deliberate attempt to frustrate any possibility of terminating the agreement by either party. The committee is further concerned about the provision in clause 5.3 on the continuation rights under this agreement. Honourable members, the clauses are there.

Clause 5.3.1 vests the factory and all the assets of the company during the substance of the agreement and even during its termination - What we are trying to explain is that, this agreement gives Vinci Company the authority even after it has been terminated to carry everything away *-(Interjections)*

This provision reverses the principle of leases, which provides that any property established on land reverts to the owner of the land upon termination or expiry of the lease agreement. This, therefore, means that Government has no reversionary interest in the land leased to the company and cannot, therefore, take it back. In other words, Government cannot take back the assets/properties on the land upon termination or expiry of the agreement. The company is allowed to take away the machines according to the lease agreement which was signed on 31 August 2018, between Uganda Investment Authority and Uganda Vinci Coffee Company Limited. This creates a contradiction in the lease agreement signed between UIA who are the custodians of this land and UVCCL; and the agreement signed between the Ministry of Finance, Planning and Economic Development and UVCCL, which is not in the interest of Government.

We have two contradicting agreements. The agreement signed by UIA, when they were giving Vinci the land, where they clearly stated that when Vinci is leaving they will just take machinery. We have a new agreement signed by the ministry giving it the authority to take everything. This is what we are trying to explain.

In the same vein, the committee is concerned about clause 5.3.2 which continues the agreement, consents granted under the agreement as well as the rights due to the company in the agreement even where the agreement is terminated.

The concern of the committee is that termination in itself will not end the agreement, while at the same time termination of the agreement is redundant and has no legal effect. This means that even if this agreement is terminated, the benefits under the agreement are maintained in favour of the company as if the agreement was not terminated. This will allow the company to continue operating as if no termination was made, and continue enjoying the rights under the agreement, while utilising the consents as if the same had never been terminated.

The committee is, therefore, of the opinion that the provisions of the agreement, specifically clauses 5.2 and 5.3, lack a specific termination clause and performance guarantee in the agreement, and make impugned provisions fall within the doctrine of unconscionable bargain.

In summary, therefore, clauses 5.3.1, 5.3.2, and 5.3.6 are unfair, unreasonable, unethical, unwarranted, morphological, and ambiguous; and thus, cannot be allowed to stand under any reasonable circumstances in a democratic society. *(Applause)*

6.1.7.5 MoU is not sincere on the quantity of premium grades

In the MoU, they state, while this company was operating at full capacity, they estimated to have 60,000 metric tonnes at full capacity. When we interacted with the farmers, we were informed that the conversion of green coffee beans to soluble coffee is 3:1. You say you are going to operate at 60,000 metrics tonnes, but it is not clear in the contract. If this is true, it means you need 180,000 metric tonnes of green coffee beans, because the conversion rate is 3:1.

The committee was informed by Uganda Coffee Private Sector that the conversion rate of green coffee to soluble coffee is 3:1. This means that UVCCL requires about 180,000 metric tonnes of green coffee.

The committee, however, observes that Uganda’s average annual export for the past five years is about 5.2 million bags, which is equivalent to about 309,000 metric tonnes. This implies that UVCCL at full capacity will take 58.2% (180,000 metric tonnes) of Uganda’s coffee production*.* The committee notes that the stated reason for UVCCL’s desire to ring-fence is to ensure uninterrupted supply of high quality soluble beans.

The committee further observes that since coffee is not constantly available in equal volumes throughout the year, different seasons and weather patterns - clause 4.2.2 which gives the company priority supply would possibly imply that no other person would be able to access coffee volumes for export in the first half of the coffee year.

The committee also observesthat the project description states the production of instant spray-dried coffee. The committee was informed that in soluble coffee processing, there are two methods. Honourable members, when you are processing soluble coffee, there is the spray-drying method and freeze-drying method. Before I read, I would like to help you understand that in the spray-drying method, they boil this coffee to 180 degrees and in that process, they destroy the aroma and this coffee cannot last more than between four and eight months on the shelf.

On the other hand, freeze-dry is a method - they all have different equipment, but freeze-drying method requires much more expensive equipment. Freeze-drying processes the coffee at -53°C, and preserves the aroma. This coffee can last between two to 20 years on the shelf. The committee observes that the project description states the production of instant spray-dried coffee.

In spray-drying, the coffee extract is sprayed into a stream of hot air at the top of a tall cylindrical tower. As the droplets fall, they dry, becoming a fine powder by the time they reach the bottom. The powder may then be texturized into granules to facilitate dosage and dissolution.

Spray-drying on the other hand exhibits certain possibilities of losing certain aromatic compounds, due to high temperature operations. Spray–drying is the most commonly used and cheaper drying process. The shelf life of this coffee produced under spray-drying is between four to eight months maximum. However, all the existing factories in the country doing value-addition are applying the method Vinci wants to apply.

Freeze-drying is energy-intensive and expensive due to application of low temperature and pressure; the coffee extract is frozen to about – 40°C and cut into granules. The frozen granules are then dried at low temperature and under vacuum. The quality of the aroma and flavour are protected by the very low temperature and gentle drying conditions. Freeze-drying maintains the original flavor and has the best aroma recovery. The coffee processed under this method has a shelf life of between two and 20 years. This is a research you can even google on your mobile phones.

The committee observes in clause 3.1.2 of the agreement, UVCCL intends to apply the spray-drying method, which produces a low value and grade end product, since it cannot preserve the aroma and flavour and has a shorter shelf life.

The committee was informed that it does not make economic sense for UVCCL or any company to purchase coffee, specifically, screen 18 and above. Honourable members, if you look at the agreement, you will see that they have ring-fenced screen 18 and above. This is the most valuable coffee bean because it has a strong aroma. These are very big beans.

The committee was informed that it does not make economic sense for UVCCL or any company to purchase coffee, specifically, screen 18 and above at a premium price, as indicated in clause 4.2.2 of the agreement, and use a cheaper method of processing, which not only downgrades the value, but also causes the coffee to lose certain aromatic compounds due to the high temperature operation, thus making operational losses.

The committee observes that the spray-drying method can only make economic sense if it is used to process low-grade coffee beans, as opposed to screen 18 and thus, finds no merit in UVCCL ring-fencing premium quality coffee beans in clause 4.2.1, using spray-drying method. By implication, UVCCL is hoodwinking Government with a hidden agenda of exporting unlimited volumes of the premium coffee green beans, as stated in clause 3.1.4, without officially adding value as the company purports to do. *(Applause)*

Honourable members, this company is saying they are coming to Uganda to add value, but in the agreement, they have given themselves a provision to also export the green beans we are fighting.

Now, it does not make economic sense – I am just trying to help you understand and to summarise. It does not make economic sense to ring-fence the best quality, yet you cannot use these machinery to process it. Otherwise, you would be downgrading it. This means they intended to export the best quality and process the low quality.

The committee, in its considered opinion, does not think it makes scientific sense for an investor to buy at premium price screen 18 and above, and use the cheapest and least preferred method in making instant soluble coffee. This means that if UVCCL uses the spray-drying method, when the coffee is exported, it will fetch a much lower price from the international market and, hence, losses are prone to be made.

Honourable members, on page 25 – we are now assessing the capacity of UVCCL to deliver on the project – the committee observes that while UVCCL had indicated, prior to executing the Project Implementation Agreement in 2015, that it had capacity to deliver on the project and had been granted all the necessary factors for it to start constructing the factory, UVCCL has failed to commence construction of the factory as had been envisaged by Government.

The committee was informed that whereas Government had spent colossal sums of money to grade, fence, backfill the land allocated to UVCCL at a tune of Shs 7 billion, and had relocated the power lines over the proposed factory site, UVCCL had not commenced, nor undertaken any activity, as envisaged in the agreement.

Those are the pictures we took of the site. The only thing on that land is an *askari*’s house, made of iron sheets. We took an aerial view of the land so that you can know there is nothing happening.

The committee observed that UVCCL could not prove its capacity to deliver on the project and withheld vital information from the committee, relating to the feasibility study – we were interested in a feasibility study because we were aware so many feasibility studies have failed – it had allegedly undertaken the architectural and engineering designs as well of the plant, to enable the committee assess its readiness to deliver on the project, as had been agreed upon in the Agreement.

UVCCL did not adduce any evidence or information to show that it had participated in the coffee value chain – people were asking if it had experience - in Uganda or elsewhere, thereby casting doubt on the ability of UVCCL to deliver on the project.

Honourable members, on page 27, the committee observes, in 3.2 of the agreement, that it was understood by both parties that the company had undertaken feasibility studies and a market survey. However, during the committee’s interaction with the Minister for Finance, Planning and Economic Development, Hon. Matia Kasaija, who is, in this case, the party representing Government of Uganda, confessed to have never seen a copy or content of the feasibility study and market survey, yet they signed an agreement that purported to have knowledge of the said documents.

Pursuant to Rule 208 of our Rules of Procedure, the committee further made an effort to secure a copy of the said feasibility study and market survey from the Vinci Coffee Company Secretary, who deliberately failed to avail the documents to the committee. Up to date, he is still on bond and the feasibility study has failed to appear.

It is, therefore, a considered opinion of the committee that the feasibility study and market survey for UVCCL do not exist.

The committee was also informed that UVCCL did not pay for the land allocated to it by Uganda Investment Authority (UIA), and UIA had instead waived payment of the premium of $80,000 per acre, equivalent to $2 million, by UVCCL.

The committee was further informed that UVCCL had sought and obtained authorisation from UIA to mortgage the land that had been allocated to it to finance its activities on 3 August 2018. *(Laughter)* So, we gave them land, equivalent to 25 acres, in our industrial park and they requested for permission to mortgage that land to get money to set up the factory - that letter and the attachments are here.

At the time of this report, the committee had no way of establishing whether the land had not been already mortgaged because both parties failed to provide the committee with the land title.

The committee observes that whereas Ms Enrica Pinetti requested for a mortgage approval on 30 August 2018, and was granted approval on 3 September 2018, this approval was irregular because it should have been done by the board of UIA. Unfortunately, the evidence submitted – and we have the evidence here as well - by UIA indicates that the approval was done using three emails between Ramadhan Bukoma and Basil Ajer.

These emails were exchanged at 2.00 a.m. on a Saturday – in the night. What we are saying is that the normal procedure would have been to go to a board and get official approval; but the approval was done using three emails and we have the content of those emails with us. *(Laughter)*

The committee was guided by Uganda Coffee Development Authority that the cost required to construct and operate a 60,000-tonne coffee processing factory to undertake the activities as those envisaged by UVCCL, was about $440 million. The committee also observed that at the time this agreement was executed in February 2022, UVCCL did not possess a valid investment licence, since the one that had been issued to them in 2014 expired in 2019 without it being renewed. This means that UVCCL was not eligible to receive the tax incentives and other benefits granted to investors in Uganda.

The committee also notes that whereas UVCCL was required, in the lease agreement, to pay $10 as rent per annum, no evidence was adduced to the committee that UVCCL has ever complied with its rent obligations. Furthermore, the committee did not receive any evidence proving that UVCCL has met its obligations in paying the annual park service charge, ever since the lease agreement was signed - equivalent to 0.5 per cent of the premium.

The failure of UVCCL to meet its obligations under the lease agreement throws further doubt on its capacity and commitment to finance the project.

The committee observes that whereas UVCCL has share capital of $10 million, the money required to construct such a factory envisaged in the Agreement is estimated by UCDA to cost about $440 million in the first year alone. The committee is convinced that UVCCL, given its limited share capital, cannot be in position to borrow a sum which is 44 times the value of the company.

The committee was, therefore, not convinced that UVCCL had the capacity to deliver on the project and this explains why it has not commenced construction or operation of the coffee factory, since the first agreement was signed in 2015.

Land allocated to UVCCL

Clause 3.2.5 of the Agreement obligates Government to avail land to UVCCL in Namanve Industrial Park. The committee notes that on 4 June 2014, UIA allocated 25 acres of land in Namanve and executed a lease agreement for the same. This lease was for an initial period of five years, but extendable to 49 years, upon fulfilment of the conditions provided in the lease.

The lease had also provided that it would only be extended for the full 49 years upon satisfaction of the Uganda Investment Authority that there is established on the demised land developments, which are ready for occupancy.

According to a letter dated 3 August 2018, addressed to the then PS/ST, Mr Muhakanizi, UVCCL requested for an extension of the lease to the full 49 years, citing that the land allocated to it was swampy and required a lot of works.

At the bottom of page 29 - honourable members, I am trying to be fast. Following the letter, a new lease agreement was executed on 31 August 2018 between UIA and UVCCL for 49 years. The lease agreement also waived payment of $80,000 per acre totaling to $2 million for 25 acres that was payable for the leasehold.

Their lease also required that it will only be extended for the full 49 years upon satisfaction of the Uganda Investment Authority that they are established on the mild land developments, which are ready for occupancy. Currently the only structure there for occupancy is the Askari’s house.

The committee has been informed that since UVCCL was granted the lease, it has not undertaken any activity on the land. The committee has also been further informed that all the activities carried out on the land were by Government.

The committee observed that UVCCL was not eligible to benefit from the 49 year lease extension since it had not complied with the building covenants under the initial lease agreement. This means that the lease was irregularly extended.

The committee further observes that UVCCL has not, even after the extension of the full 49 years, done the construction works on the site to date.

On page 30, at the bottom - project support; the Agreement makes provisions for various supports to be availed to UVCCL by Government. These are examined below for legality and appropriateness.

Tax support

Honourable members, you will remember in the Agreement, if you have read it, generous tax support was given to this company: import duties, excise duty, corporation tax - in the interest of time, I will not read them. I will go straight to the observations.

Observations

The committee interacted with the finance minister, the Attorney-General and the Solicitor-General who opined that all the tax incentives granted to UVCCL are provided for under the various tax laws and are, therefore, lawful.

The committee has examined the project support prescribed in the argument in light of the views received on the matter, and is of the considered opinion that some of the provisions in the agreement conflict with the provisions of the Constitution of the Republic of Uganda, 1995; the Income Tax Act, Cap. 330; the Value Added Tax Act, cap 349; the Excise Duty Act, 2014; the Stamp Duty Act; the National Social Security Fund Act, Cap. 222; the National Coffee Act, 2021; the Local Government Act, Cap. 249; and the Public Finance Management Act, 2015.

Article 2 of the Constitution declares the Constitution to be the supreme law of the Republic of Uganda and provides that the Constitution has binding force in Uganda. On the other hand, Article 79 of the Constitution relates to the functions of Parliament and directs that, “Parliament shall have the power to make laws on any matter for the peace, order, development and good governance of Uganda.”

Honourable members, clause (2) of Article 79 specifically bars any person or body other than Parliament from having the power to make provisions having the force of law in Uganda, except under the authority conferred by an Act of Parliament.

Observations

The committee observes that the exemptions granted under clause 4.11 to 4.13 have the effects of shielding UVCCL from paying taxes prescribed by Parliament. While exercising functions under Article 79 and 152 of the Constitution. This act of shielding the application of various tax laws on the activity of UVCCL has the effect of filtering the discretion of Parliament to impose taxes, as well as overriding the statutory requirements of paying taxes by individuals and entities as Parliament has prescribed by law.

It should be noted that whereas the Constitution recognises that Parliament may allow persons or authority to vary tax it has imposed under Article 152(2) of the Constitution, this power can only be exercised by a person upon whom Parliament specifically grants such power under the specific tax law.

By inference, therefore, a person who imposes or varies the tax without the authority of Parliament does so unconstitutionally, illegally, and irregularly. Such an act infringes upon and renders redundant, the performance of the functions of Parliament to impose taxes as guaranteed under Article 152(1) of the Constitution.

Furthermore, clause 4.2 has rendered redundant and amended by infection, the provision of various laws imposing tax on the activities of UVCCL, for instance, paragraph A, which exempts the payment of income tax - these sections of the Income Tax Act impose a tax on a person who or entity which earns income in any year of income.

Honourable members, in the interest of time, the committee observes that whereas the finance minister indicated that the tax exemption was granted under the Income Tax Act, the committee disagrees with this because these exemptions could not be accessed by UVCCL since such exemptions are only accessed where a taxable person earns income in a year of income, which entitles such a person to an exemption.

The committee asserts that UVCCL has not commenced any activity nor has it earned any income to warrant the grant of exemptions under the Income Tax Act.

Furthermore, the agreement granting the exemption to UVCCL was signed in 2015, yet the provision under the Income Tax Act, which grants exemptions on the income of a person or entity processing agricultural produce was introduced in 2020, five years after the agreement was executed. This means that the exemptions could not be accessed by UVCCL at the time, because it did not form part of the exemption regime under the Act.

Moreso, Section 21A(f) of the Income Tax Act, which the Attorney-General pointed out as the basis for granting the exemptions to UVCCL, does not apply to UVCCL since the provision requires the recipient of the exemption to possess and have invested capital over $10 million yet UVCCL has not yet invested the requisite funds.

In this regard, therefore, the committee finds that the grant of the tax waiver to UVCCL under the Income Tax Act was irregular and illegal since the provisions of the law, under which the waiver was granted, did not apply to UVCCL at the time of grant.

Observations

The committee observes that whereas Government is empowered to meet tax obligations under Section 40A of the Tax Procedures Code Act, the section impugned by the minister does not apply in the circumstances. Section 40A is produced below and honourable members you can read - in the interest of time I will not read all those.

The provision on page 37 bars the entering into commitments, by votes, without authorisation of Parliament. The provision, if read together with section 40A, would require Government to only meet commitments which have been approved by Parliament. Since the commitments in the Agreement between Uganda and UVCCL were not approved by Parliament; then Government cannot and should not meet those commitments.

Secondly, the committee observes that the matter at hand was not about who was supposed to meet the tax obligation of UVCCL, but relates to the illegality of the award of the tax exemptions.

The committee notes that the minister responsible fell short of responding to the committee’s quest in understanding how this tax was waived and the authority under which it was waived.

The committee further notes that the VAT Act does not grant any person, not even a minister, the right to waive the tax. In that regard the minister acted irregularly and illegally in granting the VAT exemptions to UVCCL.

Honourable members, in the interest of time, on page 39, the committee is concerned that 4.13 specifically on the exemptions of payment of social security contributions, local service tax, work permit fees and charges not only contravene provisions of the above laws and Articles 79 and 152 of the Constitution, but also amounts to amending the provisions of the above laws by agreement - we are saying that they are now using an agreement to amend the laws - a matter that courts have found in various decisions to be irregular, illegal and have no legal effect.

The committee further confirmed that the amendment will also remove the safety net for employees of the project provided under the NSSF Act since the agreement does not provide who shall meet their contributions. The provisions will also deny the relevant local government income arising from the local service tax.

The committee, for the reasons advanced in paragraph 2 above, rejects the opinion of the minister on the waiver granted to UVCCL over the payment of social security contributions, local service tax and work permit fees since the matter does not relate to the payment of tax.

The committee is of the considered view that the minister was not granted, by the relevant laws, the right to waive any of the provisions of the above law and in the manner prescribed in the agreement.

The committee observes that the limitations, determination and variation of tax obligations by agreement have been litigated upon in a number of cases, including that of K.M. Enterprises and Others v. Uganda Revenue Authority. Honourable members, you can read that case later in the interest of time.

By inference, therefore, clauses 4.1 and 4.1.3 of the agreement cannot settle tax liability between Government and UVCCL, even if it purports to do so. These provisions are therefore illegal, unlawful and of no legal consequence since the imposition, collection and payment of tax is a statutory matter and not a matter of agreement or conjecture.

Furthermore, the committee observes that clause 4.1.4 of the Agreement also infringes on the exercise of the functions of Parliament in Article 79 and Article 152 of the Constitution.

The committee observes that clause 4.1.4 obligates Government to stabilise the tax levied on the company; and further required that any new taxes introduced by Government, which affect the economic benefits of the company, Government shall be notified, and shall take steps to amend the agreement to resolve the economic benefits of UVCCL, including reimbursing the company the costs that may have been incurred by the company as a result of change in the law.

The committee finds that clause 4.1.4 has the effect of barring Parliament from exercising its mandate in Articles 79 and 152 to impose taxes on UVCCL. Where Parliament does so, such taxes do not apply to UVCCL and the tax obligations are to be met by Government.

Honourable members, on page 42, we gave an example of a case to help you understand our points.

The committee is, therefore, of the considered opinion that Government, in prescribing clause 4.1.4 in the agreement, ought to have been alive to the fact that tax matters in Uganda are statutory and not contractual as guided by the above court decisions; and should not have included such a provision in the  
agreement well knowing that such was declared illegal and of no legal effect in the cases mentioned above. This makes clause 4.1.4 of the agreement irregular, unconstitutional and illegal.

The committee is aware that over the years, Government has provided numerous incentives to various eligible investors. These incentives, in form of tax holidays and exemptions, are prescribed by law, under the specific law applicable to the tax being exempted and not in agreements as is the case in this matter.

Coffee Supply

This was one of the most important issues because of the term “monopoly”.

Honourable members, you can read clause 4.2 of the agreement. I will go straight to the committee observations.

The committee has examined clause 4.2.1 and notes that this provision creates a monopoly in favour of UVCCL in the purchase of super quality coffee beans from Uganda.

Whereas the word “monopoly” is not defined in Uganda, it was defined in the case of the State v. Duluth Board of Trade, 107 Minn. 506 (1909), to consist in the ownership or control of so large a part of the market supply or output of a given commodity as to stifle competition, restrict the freedom of commerce and give the monopolist control over prices.

Based on the above definition, the committee expressly finds that the Agreement creates a monopoly where:

1. It gives priority in supply of premium quality coffee to the Company (4.2.1);
2. Limits licencing of coffee exporters until the company meets its demand, which is unlimited; and
3. Grants the company powers to determine prices of coffee.

The committee observes that clause 4.2 creates a monopoly in favour of UVCCL to the purchase of superior quality coffee beans from Uganda by restricting Government from registering any contract or acknowledging any arrangement for the export of coffee beans.

This means that even if you have an agreement that is existing now, they will not give you a licence to export and meet that obligation much as they may say your contract is still valid.

The committee observes that this means that no export of super quality coffee beans shall be allowed by Government until the quantity required by UVCCL is attained. Further still, a monopoly is created in favour of UVCCL since it controls the prices and pays for the coffee beans supplied to it.

The committee notes that the supply of premium quality coffee beans (Screen 18 and above) in Uganda is limited since such coffee beans constitute between 3-6 per cent of the total coffee production in Uganda.

The committee was informed that out of the total production of 390,000 tonnes of coffee, about 23,400 tonnes are of the super quality beans, which are restricted by the Agreement. The supply of these high-quality beans is much sought after since they fetch more money internationally and domestically. Therefore, restricting access to such beans to UVCCL alone will amount to restraint of trade and would, therefore, contravene Article 40(2) of the Constitution since it will bar all other persons in Uganda, except UVCCL from accessing and trading in such beans.

The committee observes that this matter has been litigated in the case of Spedag Interfreight Uganda Ltd and three others. Honourable members, you can read that.

The committee was informed that the livelihoods of farmers and all persons engaged in the coffee value chain are likely to be affected by the Agreement owing to the fact that the coffee requirements of the Agreement represent approximately 15 per cent of the total coffee production in Uganda and 100 per cent of the premium coffee beans.

The committee was informed that allocating 100 per cent of premium quality coffee produced in the country will mean that other players will not be able to access that category of coffee, thereby affecting the economic activities, and livelihoods of various persons participating in the coffee value chain.

The committee is concerned that the current exporters of coffee beans who have long-term agreements with various international organisations are likely to be affected by the Agreement, since they will not be able to access premium coffee to be supplied in fulfilment of their contractual obligations. This will adversely affect the returns from coffee and expose the players to untold suffering and losses for which Government will not be able to atone for in damages. The committee finds this matter disturbing and a threat to the economic and social wellbeing of the people of Uganda.

The committee also observes that a monopoly is a threat to the already existing 47 licenced processors of coffee with the possibilities of causing unemployment, loss of tax and in the worst long-term scenario, shut down of operations.

The creation of a monopoly under clause 4.2.1 also infringes on the East Africa Competition Act, 2006 wherein, section 5(1) of the EAC Competition Act prohibits anti-competitive concerted practices, and moreso if such practices have or are intended to have an anti-competitive effect in the relevant market, as the case is in the present scenario.

The committee observes that Article 8A of the Constitution was infringed upon by the Agreement when the execution of the Agreement was concluded without the input of coffee farmers, who are the owners of the coffee beans, which are being granted to UVCCL under the Agreement.

The committee interacted with coffee farmers through their cooperatives who affirmed that they were not consulted by the minister prior to executing the Agreement. The committee was also informed by Uganda Coffee Development Authority (UCDA) that it was also not consulted during the formulation of the agreement.

The finance minister and the Attorney-General also confirmed that they had not consulted the coffee farmers since there was no legal obligation to consult them.

The committee observes that the non-consultation of coffee farmers, who number about 12 million, was contrary to Article 8A, which now entrenches the democratic principle of consultations in our Constitution.

Furthermore, Article 26 of the Constitution was also infringed upon when Government, not owning any coffee beans, entered into an agreement committing and pledging the coffee beans owned by farmers without their consent. The committee observes that unlike minerals and other natural resources that are held in trust for the people by the Government, coffee is owned exclusively by the farmers.

This means the farmer has the right to determine how and to whom he or she sells his or her coffee to. The Agreement, therefore, interferes with the exclusive rights granted to farmers over their coffee by Article 26 of the Constitution by pledging the coffee to a single entity without the consent of farmers. The farmer’s proprietary rights have been affected by the Agreement irreversibly.

Page 49: Apart from the legal challenges identified above, the committee is also concerned that clause 4.2.1 infringes on and reverses the National Coffee Policy, 2013.

The committee notes that in 2013, Government formulated the National Coffee Policy as the guiding instrument of the coffee subsector. The aim of this policy is to lay a strong foundation for the long-term competitiveness that is socially, environmentally and economically sustainable, and also ensures that Uganda coffee flourishes throughout the world.

The implementation of the National Coffee Policy is guided by six principles and they are all there. We are mostly interested in (b) *“The subsector shall operate under a liberalised market environment with the framework of a regulatory body.”*

The Agreement infringes on and reverses the National Coffee Policy, specifically the principle that coffee production, processing and marketing shall be undertaken by the private sector as individual farmers, farmer organisations and business companies, since it has now transferred the purchase of high quality beans to be exclusively provided by a single company.

Furthermore, the creation of a monopoly has infringed upon the principle that the coffee subsector shall operate under a liberalised market environment within the framework of a regulatory body.

Connected to the above, clauses 4.2.1 and 3.1.4 have reversed the Government policy which favours value-addition to coffee by allowing the export of raw coffee beans. The committee notes that the National Development Plan (NDP) III focuses on agro-industrialisation and value-addition and Government has taken a deliberate strategy to add value to coffee. Therefore, allowing UVCCL to export raw coffee beans, as stated and provided for in the Agreement, is a policy reversal in light of the fact that Government should be looking at establishing more soluble coffee plants to supplement the plant to be established by UVCCL, rather than allowing UVCCL to export raw coffee beans.

Page 50: Clause 4.2.2 of the agreement also poses some challenges since it infringes on the price determination mechanisms established in the National Coffee Act. Clause 4.2.2 not only allows the UVCCL to determine the price of coffee beans, but also allows UVCCL to pay a price, which is lower, between the price approved by a relevant authority for a particular consignment or the prevailing international price for each grade of coffee.

This provision will not only exploit farmers by being paid a lower price than the one they can obtain from selling their coffee beans elsewhere, but also contravenes the specific provisions of section 5(g) of the National Coffee Act, which provides, as one of the functions of UCDA, the obligation to prescribe quality control standards for the sale and marketing of coffee, issue indicative prices at which coffee may be traded and protect coffee farmers from exploitation and unfair trade practices.

Various stakeholders have been explaining this Agreement; they have been telling you that this company cannot determine the price and they quote UCDA to be the one to help us determine the price. However, when you look at the Act, UCDA can only give indicative prices. This is like the way a newspaper can publish the dollar rate internationally, but you find different forex bureaus with different rates. Therefore, UCDA does not have the mandate to set the price. For them to use UCDA as a shield is inconsequential.

The committee also notes that the National Coffee Act prescribes two types of price determination, being the indicative issued by the National Coffee Development Authority and a price determined through auction under section 35.

The committee observes that allowing UVCCL to determine the price for coffee beans not only contravenes the above sections of the National Coffee Act, but also amends, by infection, the price determination mechanisms prescribed by law.

The committee also observes that whereas farmers are being promised premium prices, the agreement is silent on the method of supply of coffee beans to the factory. This, therefore, opens a window for possible contracted brokers by UVCCL, since the factory will need constant supply from different regions of the country, thus, reducing the margin on the farm gate price.

The committee is concerned that designating UVCCL as a price determinant will distort the coffee prices in Uganda by disregarding the forces of demand and supply, both locally and internationally, in determining coffee prices.

Recommendations

The committee makes the following recommendations *–(Interjections)–* do you want me to go to the findings?

**THE SPEAKER:** But you have the document. Can’t you read it? Go to the recommendations.

**MR MWINE:** The committee makes the following recommendations:

That in light of the violations of the various laws, as highlighted above, specifically Articles 2, 79 –

**THE SPEAKER:** *Hansard*, capture everything that is not being read. Honourable members –

*(The report is hereby appended.)*

**MR OSHABE:** Madam Speaker, these microphones often project better sound than this. The sound we normally get here is better than what we have today. Is there a way you can ask your team to rectify this as we finalise this very important report? Thank you.

**THE SPEAKER:** Hon. Patrick, does that mean that when I speak you cannot hear me? Chairperson, use a different microphone.

**MR MPAKA:** Recommendations, honourable members –

**THE SPEAKER:** Honourable member, you should probably remove the mask if they cannot hear you. First sanitise.

**MR MPAKA:** Honourable members, the committee makes the following recommendations:

That in light of the violations of the various laws, as highlighted above, specifically –

**THE SPEAKER:** If I could ask, why are you standing? Was this report uploaded? Don’t you know how to read? Do not be lazy in reading. I am not going to allow those procedural matters of yours. Let the chairperson continue.

**MR MPAKA:** Honourable members, page 54 is on recommendations. The committee makes the following recommendations:

1. That in light of the violations of the various laws as highlighted above, specifically Articles 2, 79 and 152 of the Constitution of Uganda, sections 4(1), 7(1), 19 and 21 of the Income Tax Act Cap. 314, sections 4 and 5 of the Value Added Tax Cap. 349, sections 4(1) of the Excise Duty Act 2014, section 7 of the National Social Security Fund Act Cap. 222, sections 54 and 59 of the Uganda Citizenship and Immigration Control Act Cap. 66, and section 80 of the Local Government Act Cap. 243, the Agreement executed between the Government of Uganda and Uganda Vinci Coffee Company Limited is unconstitutional, illegal, void *ab initio* and unenforceable at law. Government is directed to terminate this Agreement and report to Parliament within six months from the date of adoption of this report.
2. Upon termination, Government should regularise its relationship with Uganda Vinci Coffee Company Limited through proper due diligence, due process and proper stakeholder consultation before any further business can proceed thus, initiating fresh negotiations.
3. Government should consider extending appropriate incentives to the already existing 47 local companies that are doing value-addition.
4. Government should fast-track capitalisation of UDC to enable the corporation to invest in soluble coffee plants.
5. There is urgent need for a competition law to promote vigorous competition and prevent anti-competitive business practices.
6. The officials who committed Government to such illegalities should be penalised as a deterrent mechanism to stop similar occurrences in the future. I beg to submit. *(Applause)*

Before I take leave, Madam Speaker, allow me to clarify on a matter that was in the media concerning the committee meeting with the President of the Republic of Uganda, His Excellency Yoweri Kaguta Museveni.

Madam Speaker, you are aware that some observations, findings and recommendations of our report leaked in both print and social media, which is consumed by everyone, including us, Members of Parliament and the President. The President, therefore, invited the committee and we sought guidance from the leadership of Parliament, who authorised us to go and meet the President, as a key stakeholder, since coffee is a major strategic resource of the country.

Madam Speaker, if you allow me to inform the House, the President was of the considered opinion as follows:

The President agreed with most of the issues raised by the committee. However, he emphasised that the biggest problem has been exportation of raw materials for the past 100 years as opposed to value-addition.

The President in conclusion strongly recommended that a review of the Agreement between Vinci and Government of Uganda be done in not more than three months, as opposed to termination, as termination could have reputational damage on both the country and the investor. *(Interjections)* He said the mistakes were made by our people and not the investor. These are the views of the President, not the views of the committee. I beg to submit.

**THE SPEAKER:** Honourable members, I would like you to understand this. By the time the President concedes to all the 28 findings, and says give us three months to review, which review can mean termination - When you review and find out that there is nothing workable, that can lead into termination. I would like you to understand this. Otherwise, one would have opted not to accept, but the fact that he accepted – Hon. Cecilia Ogwal, can I hear from you?

By the time the President said that, that means this House had done a lot and I really want to thank the committee for the good work. *(Applause)* I also want to thank the presiding officers for standing very firm in ensuring that the report comes.

In this House, we said we need an action report. If it is said that we need action taken and presented in this House, we want to see what is happening. Attorney-General, do you have something to tell us?

Honourable members, you are shouting as if you are in your homes. Honourable members, I would like you to appreciate something. One, the first agreement was signed in 2015, by the then Attorney-General and addendum one was signed in 2017. Incidentally, it was not Hon. Kiryowa Kiwanuka. I would like to tell you that it is these addenda that saved this country. Otherwise, the first agreement had finished the country. Chairperson, am I lying? Can I hear from Dr Abed Bwanika? You have two minutes.

7.59

**DR ABED BWANIKA (NUP, Kimaanya-Kabonera Division, Masaka City):** Thank you, Madam Speaker. Madam Speaker, I would like to appreciate you for giving me an opportunity, as the chief petitioner. I also want to appreciate you for standing on the side of the people of Uganda. *(Applause)*

The 11th Parliament – the Committee on Tourism, Trade and Industry – will go in the history of this nation that when the people of Uganda wanted our support, we did not only stand, but we also ran.

I appreciate the most able chairperson. Thank you – and your committee – for the work well done. Coffee is a heritage for the people of Uganda and it is God-given.

Coffee is a strategic commodity and has been at the centre of our economy before independence. The contribution of coffee to the economy of Uganda is undisputable.

What we do not understand is how Government of Uganda can decide to surrender our heritage to people other than Ugandans. What we do not understand is how the Government can go ahead and commit our coffee without consultating us.

Coffee, in Uganda, is not a property of Government. It is a property of the farmers, traders and processors. The least Government would have done, if they wanted to enter into any agreement, was to have consulted the stakeholders who own the coffee. *(Applause)*

Madam Speaker, all of us understand the need for a soluble factory for Uganda. Nobody should educate us on that. I grew up in coffee and was taken to school by coffee.

What the majority of us here do not understand is: Why is it that if we want to invest in this soluble coffee factory, the first people to think about are those other than the Ugandan people? We know that we have a number of Ugandan companies that are involved in processing coffee.

The best Government should do is to come out and support our people so that they put up the soluble coffee factory as Ugandan people. *(Applause)*

Madam Speaker, what the people of Uganda do not understand is how Government can sign an agreement that seeks to downgrade our coffee. You get the best quality coffee, which is screen 18 and above, and you want to produce instant coffee of low grade. We do not understand that.

We do not understand how Government that stands for the people of Uganda can authorise an individual company to determine the coffee price in this country. *(Applause)*

The people of Uganda do not understand when their own Government seeks to give an individual company priority procurement and priority powers to export coffee against its own people.

Madam Speaker, the people of Uganda do not understand how Government can come up with an agreement on coffee and they include a clause in this agreement that gives access to this company’s bank instruments. The two are not the same.

As I conclude –

**THE SPEAKER:** Hon. Abed, you conclude.

**DR BWANIKA:** This Agreement is satanic. This Agreement contravenes the laws of the Republic of Uganda. This Agreement is wicked in nature. This Parliament, on behalf of the people of Ugandan – we are representatives of our people. We should stand on the side of the people of Uganda. *(Applause)*

Madam Speaker, I pray that this wonderful report be adopted fully with its recommendations. I only want to add one recommendation that, immediately, the registrar of lands prefers a caveat on the title of Uganda Vinci Coffee Company Ltd. Company in Namanve so that we can protect the property of the people of Uganda. That should be immediate.

Madam Speaker, I pray that the full report be adopted. Thank you.

**THE SPEAKER:** Bugisu Cooperative Union?

8.08

**MR NATHAN NANDALA MAFABI (FDC, Budadiri County West, Sironko):** Thank you, Madam Speaker –

**THE SPEAKER:** Honourable members, I want you to listen.

**MR NANDALA MAFABI:** Thank you, Madam Speaker. I would like to commend the committee for a very good report. *(Applause)* I have been discussing with my brother, Hon. Abdu Katuntu, that these people who wrote this report – the committee – are more than lawyers. *(Applause)* I ask my brother, the Attorney-General, that these people have tried to do everything legally. I do not see anywhere, where we are going to fault them, however much we apply any law. *(Laughter)*

Madam Speaker, the only thing which the committee left out in the recommendations is that when they discovered that the lease, which has been given for five years had expired, there is no way - I think the Uganda Investment Authority officer found a way to cure that defective lease. Basically, what they would have done was to cancel it. Madam Speaker, at an appropriate time, this will be dealt with. By cancelling that lease because the extension is illegal.

I came here to talk to the Attorney-General. As I told you yesterday, this Attorney-General is an intelligent man. I advised him to keep in his lane because I do not want him to misuse his good knowledge and intelligence.

I have seen him being reported on. Under Article 119, there is no agreement in this country of whichever nature that can go out without the Attorney-General making his input by either drafting or perusing it.

Therefore, Attorney-General, you still have time to help us understand this matter and the role you played as far as this addendum is concern?

Madam Speaker, I come from Bugisu, the producers of Arabica coffee. They produce 70 per cent of Arabica coffee. I have been consulting my chairman. Tomorrow, we are going to deliver here 600 packets of roasted coffee to confirm that if we empower locals, they have the capacity to do what we are going to do.

Coffee is the leading foreign exchange earner for this country. And so, if you make a mistake of giving it to somebody who is not a Ugandan, in short, you will have sent your foreign exchange earnings to Italy.

Madam Speaker, if you look at the shareholding, you will realise that there are four shareholders, each of them having 10 shares. However, there is one called Hawk Limited having 960 shares. Also, when you look at this matter, you realise that all the four shareholders are directors. There is one called Pinetti who doesn’t appear anywhere as a shareholder, but she is the managing director. I am not so sure if she knows how a coffee plant looks like. If she was given a licence in 2014 to come and set up a factory where Government of Uganda has cleared for her land worth Shs4 billion, yet up to now she has put up nothing; she does not know what coffee is! How do you come here and tell us that you have capacity to bring a factory of $440 million to change the livelihoods of Ugandans?

Madam Speaker, I would like to inform Government that such agreements are very dangerous to the people of Uganda. Coffee touches the livelihoods of the people of Uganda. It touches the economy of Uganda, and I think it is the only thing we are remaining with. Fish is more or less gone. Cotton is about to get finished. Land is also - Madam Speaker, with oil, you know the law you passed.

I want to state that the second most traded commodity in the world, after oil, is coffee. The politics of oil is on the table, while the politics of coffee is under the table. I would like to ask the people of Uganda that we now bring the politics of coffee on the table because that is the only way we can help ourselves to reduce poverty.

Madam Speaker, how can someone come here and say they were exempted from income tax? Under what law? The only person who can exempt someone is Parliament of Uganda. Where did somebody get the authority to become Parliament? In short, what they were saying is that they were signing this Agreement and later come and tell you to appropriate money to pay taxes for those people who never paid.

Where did the finance minister -

**THE SPEAKER:** Chairman, maybe for just information, all the taxes were exempted.

**MR NANDALA MAFABI:** That is what I am saying, Madam Speaker. But the only person entitled to exempt or waive taxes is Parliament. Even for NSSF remittances, I never read anything in the NSSF Act saying that when Pinetti comes to Uganda, she would not pay NSSF, because everybody must pay. What it meant is that people of Uganda were going to pay that NSSF by some people coming to Parliament, seeking appropriation of money and then remit it to NSSF. All this is a cost to the people of Uganda.

I would like to state that this matter was not only going to affect coffee growers; it was going to affect all tax payers. Your money was going to be passed over to Pinetti.

In fact, we gave her land for free. All Ugandans who have got land in Namanave have paid for it. She never paid a premium of Shs 2 million. I am sorry for mentioning her, but it is because she is her. We have paid -

**THE SPEAKER:** You mention her name and not just refer to her as “her” because there are so many “hers”.

**MR NANDALA MAFABI:** Madam Speaker, I had forgotten that you are a “her” too? *(Laughter)*

**THE SPEAKER:** Yes.

**MR NANDALA MAFABI:** I am sorry.

Anyhow, while I am not good at pronunciation, I will try. She is called Pinetti, something like that. Okay, call her Pinetti Italian. Pinetti Italian was given land for free. She never paid even the premium. The land has been graded and drained at a cost of over Shs 7 billion. She has not brought even a single shilling; and the same land has already been mortgaged.

There is a letter of permission granting her to mortgage on the land. What type of investor is this who comes without any shilling? Or one who comes, gets our land and mortgages it on day one?

Madam Speaker, I would like to state that these agreements violate the rights of all the people of Uganda, including the President himself; his rights have also been violated.

If he said, he wanted to look at it for three months - we want to help him by saying that, today is the day to make a decision for him. The Agreement is not the best for the people of Uganda.

The committee, Madam Speaker, if we had a way, we would have really remunerated them because they have saved the people of Uganda, given the pressure and, Madam Speaker, I know you have the capacity. The pressure, Madam Speaker, you also underwent with your colleague, the Deputy Speaker, was enormous. So, we want to congratulate you for standing up, and I would like to state that I liked your statement in which you said that the presiding officers are not needy.

I would like to also say this to the people of Uganda: you should learn to vote people who are not needy. If members of this committee were needy, we would have had a problem by now**.** *(Applause)*

Madam Speaker, I have got a friend of mine here whose name I forgot. Hon. Katuntu knows him; he is a neighbour. He has promised that they want to return Coffee Marketing Board. However, I would like to give you a brief history of Coffee Marketing Board.

Coffee Marketing Board was the one which was marketing coffee for all the farmers in Uganda. Madam Speaker, for the coffee which was being marketed, the Government then decided that we need to also process it into a final product by roasting it. Equipment was imported to this country and installed in Bugolobi Coffee Plant –*(Interjection)*- partly UPC and partly UDC. I know why I have said that.

Then there was a process that there was going to be a turnkey to process coffee in Uganda at that stage, on a Friday, Coffee Marketing Board was closed, yet the day on which to determine the turnkey was on Monday and that was when we had come from the bush and said we had come to make people of Uganda stronger. Instead, we were locking down what would have been good for them.

Madam Speaker – and my mother is here asking me –

**THE SPEAKER:** Can you summarise, Hon. Nandala?

**MR NANDALA MAFABI:** I would like to summarise. Equipment had been brought in. When the liberalisation law came in 1991, that is when Coffee Marketing Board was closed and the day it was closed, all the equipment was ready to start operation. If that equipment is still there in Bugolobi, you do not need to ask this lady to come. Just go and open Bugolobi and that equipment will start operating –*(Interjections)*- unless somebody had taken it –*(Interjections)*- You are not so sure.

If you are not so sure that somebody has taken it, I can ask you, Madam Speaker. You have the capacity. Do you know the equipment? Madam Speaker, he wants to give me the equipment. Let me walk to him.

**THE SPEAKER:** Can I have Kinkizi?

8.22

**MR JAMES KABERUKA (NRM, Kinkizi County West, Kanungu):** Madam Speaker, thank you very much. I would also like to join colleagues to thank you very much for standing with the people of Uganda. Hon. Nandala-Mafabi has said it all, but surely, at this moment in time we need to praise people who deserve praise.

Madam Speaker, I would like to thank the committee for ably presenting a very good report that is representative of the facts. People should know that in 2018, the 10th Parliament, sent the Committee on Budget to go and see what was happening in Namanve, concerning this company. That is when we highlighted the issue of this lady mortgaging land to get money, meaning that this company came here to get a small resource, start trading from it, and then as they advance, to get money to make ends meet. This is just a gimmick to hoodwink Ugandans, in the name of coffee processing and business.

Madam Speaker, someone can say Kaberuka does not grow coffee. I am a coffee grower and my fees were paid from coffee. I was imagining today, in the newspapers and social media, stories are running of police guarding my friend Besigye’s home –*(Interjection)*- I would like to make my point. Listen! He is protesting against the rising prices of commodities. Government said prices are a result of international factors, including the war in Ukraine.

However, Madam Speaker, the coffee vandalisation is another war that all of us are going to protest against -*(Applause)*- including the police that are going to catch us because the police were paid for by the money from coffee. I want to also believe that even where the Attorney-General comes from, where he has amassed resources; if he was representing the people, as a Member of Parliament, probably he would have felt the way I am feeling.

Madam Speaker, me, you and others have constituencies. The Attorney-General’s constituency is the appointing authority. It is at this time that we also need to gauge the people we are approving; we need to keep them in their lane. If you mess up, we get rid of you –*(Applause)*- because the Attorney-General is supposed to advise Government. If you misadvise, what is your relevance in this country? *(Applause)*

Madam Speaker, when you look at these ministers, I am sorry to say I have seen Addendum No. 1, which was signed in 2015. Addendum No. 2 was signed in 2017 -

**THE SPEAKER:** Signed by who?

**MR KABERUKA:** It was signed by Keith Muhakanizi and Matia Kasaija and the other one was Keith Muhakanizi with Pinetti. Now, this one was Attorney-General because he did not sign the other ones. On this one, the Attorney-General said that this one is very good.

Madam Speaker, I would like to say that we need to do something and I would like to thank the committee for the recommendation. However, the six months given are too many. In that period, something can happen.

**THE SPEAKER:** No, they are not giving them six months; it is three.

**MR KABERUKA:** We even need to give them one month because this is our resource. Madam Speaker, we are not talking about gold. We are not talking about oil. We are not talking about whatever; we are talking about what we produce using our hands. You cannot determine what I do at my home and then you put a curtail –*(Applause)*

My people from Kinkizi West, Kanungu District have sent me here to thank you, first of all –*(Laughter)*- for ably standing with Ugandans and they are all over watching. Those in the Diaspora are watching this Parliament today to see how we determine the issue of coffee, in relation to Ugandans.

Madam Speaker, thank you very much, but also, we need to have hon. Matia Kasaija here and the Attorney-General here to tell us what their role is. Thank you very much.

**THE SPEAKER:** Hon. Kibedi from Mityana. If you are from Bugisu, just sit down. Actually, the whole east has been represented -

8.29

**MR MUHAMMAD NSEGUMIRE (NRM, Mityana County North, Mityana):** Thank you, Madam Speaker. I have seen a list of shareholders, but in that list there is a shareholder called Hawk with 96 percent but we do not know that person. Who is this person we are giving our coffee? Who is Hawk?

Besides that, where does Uganda Investment Authority get the permission to give investors land and allow it to be mortgaged? How can we give investors land and then they mortgage it, yet they come purporting that they have enough capital to start up a business in Uganda?

Madam Speaker, the person we are talking about, Madam Pinetti, does not appear-

**THE SPEAKER:** Honourable members, let us not -

**MR NSEGUMIRE:** She does not appear as a shareholder, but we are seeing her as a managing director. Therefore, I wonder, where she gets all those powers to be a managing director, yet she is not a shareholder? The person we are talking about was given roads; where has she reached with the roads which were given to her?

8.31

**MR EDDIE KWIZERA (NRM, Bukimbiri County, Kisoro):** Madam Speaker, thank you very much. I will address my mind as to whether there is an agreement or no agreement, and will request the Attorney-General to look at the implications of Article 119 which reads as follows: *“Subject to the provisions of the Constitution no agreement, contract, treaty, convention or document by whatever name it is called, to which Government is a party or in respect to which Government has interests shall be concluded without legal advice from the Attorney-General, except in which case and is subject to such conditions as Parliament may prescribe.”*

Madam Speaker, this Parliament has never prescribed the law to empower the Attorney-General and how the Attorney-General’s Chambers operate. Even in section (6) it says, *“Until Parliament makes such law referred to in clause (5) of this article, the Attorney-General may, by statutory instrument, exempt any particular category of agreement or contract none of the parties to which is a foreign government or its agency or an international organisation from the application of that clause.”*

To the best of my knowledge, the Attorney-General has not complied with both *-(Interjection)-* Can I conclude? So, in this case, do we have an agreement? There is no agreement.

Secondly, Article 21 of the Constitution talks about discrimination; you cannot treat one agency against another in the discrimination. What is Government trading in? Is it a commodity? Does it have a commodity? Is coffee a tradable commodity? And does Government have a commodity to trade in? Can you trade in what you do not have? So, what was it selling? And if they wanted to do it, then articles 1 and 8 of the Constitution apply, because Government of Uganda does not have a tradable commodity. So, it means there is nothing they are selling.

Attorney-General, I would like to suggest that we thank this committee and we take this one as a working document because there is neither document nor agreement to work on. However, this one should be a good research paper for Government of Uganda not to enter into these kinds of documents that have no legal implications, but political implications. I thank you.

8.34

**MS LILLIAN ABER (NRM, Woman Representative, Kitgum):** Thank you very much, Madam Speaker. I thank my colleague, Hon. Mwine Mpaka, and the committee for the good work well done. There is no doubt that coffee is one of the commodities that can boost our economy. It is paramount that we use this moment and this report to plan better for coffee and cater for the interests of all the companies that deal in it.

Madam Speaker, I would like to note that the intention that Government had of having a Uganda branded coffee was not a bad one; the intention to have exportation *-(Interjection)-* Madam Speaker, I need your protection.

As I conclude, it is paramount -

**THE SPEAKER:** Honourable members!

**MS ABER:** Thank you very much, Madam Speaker for the protection.

**THE SPEAKER:** Honourable members, if you continue in the same way, I will put the question. Learn how to respect each other even if she is supporting what Government did; learn to respect each other. If you want to make that kind of noise, the National Theatre is very near here. Honourable members, I think that is why I need to have you trained on decorum; have respect. Are you done?

**MS ABER:** No, Madam Speaker. I was rudely disrupted. And, I would like to conclude and say that, I would like to plead that we take the three months to have a review. However, when reviewing, we need to put into consideration the consultations made by all the stakeholders, and ensure all interests are catered for. All in all, we are all speaking the same language.

Madam Speaker, I beg to move that we adopt the report. I thank you.

8.38

**MR MUHAMMAD MUWANGA KIVUMBI (NUP, Butambala County, Butambala):** Madam Speaker, let me take this opportunity in a special way not only to thank the Committee on Trade, but also let me thank all Members of this Parliament. In the spaces, even where some of us do not attend, Members of the 11th Parliament have stood their ground. *(Applause)*

In a special way, on this coffee, I would like to thank members of the NRM party. *(Applause)* In a space where we were not, you represented and stood for the people of Uganda. You brought this coffee to this point.

Secondly, in the last couple of days and weeks, I have been having meetings with the Committee on Finance, Planning and Economic Development and with the Committee on Budget. It has not been a more proud time for me, than the Members I have interacted with. Today, it has been more special, especially the chairperson of this committee. *(Applause)*

A culture is emerging in this country and this Parliament, where people stand above board and partisan lines. We are putting Uganda first. However, there are three fundamental things I would like to say.

First, in this country, it is high time we defined an investor. Someone comes here with nothing, we give him or her land, tax holidays, water and free electricity! We give you contingency liability to go and borrow. Therefore, who is an investor in this case? Is Uganda the investor or those people? Attorney-General with due respect, you need to redefine who an investor in this country is. I think we are getting the wrong definition.

Secondly, we need to fish out how many agreements are of this nature. It seems that every day, we will be dealing with an agreement like this. We are having Lubowa with similar terms. We are told this Pinetti has gone to Sango Bay. We have been told the same person is into roads. The same person is in Lubowa. The same person has gone into gold. What is so special about Pinetti? We need to ask about this person.

Lastly - I do not want to speak for a long time - I come from a region and I am the chairperson of the Buganda Parliamentary Caucus, and Buganda is one of the regions that fundamentally produce a lot of coffee in this country. A special programme is underway in Buganda, called “*Emmwanyi Terimba”* led by the Kingdom of Buganda. Uganda Coffee Development Authority has worked with the kingdom to rejuvenate coffee production in Uganda. We can boldly say there is going to be immense wealth in this region because of that programme in Buganda.

We want to proudly stand up and speak now for the caucus. Hon. Kiryowa and Government, we are not going to accept this agreement. *(Applause)* Know that Buganda is at the heart of this country, and so, we say “no”, Uganda will say “no”. Therefore, Hon. Kiryowa and others, the best thing you can do –*(Interjections)*

**The Speaker:** Honourable member, all the people of Uganda are the same. There is no tribe which is superior.

**Mr muwanga KIVUMBI:** Madam Speaker, I am not discriminating others, but I am only speaking for Central Uganda –

**The Speaker:** Do you want to say people in Teso cannot talk and the people in Uganda cannot believe them?

**Mr muwanga KIVUMBI:** They will listen. Okay, let me correct the statement. We will be at the forefront of rejecting this agreement in a more fundamental way – *(Interjections)*

**The Speaker:** No. It is Members of the Parliament of Uganda.

**Mr muwanga KIVUMBI:** Okay. In rejecting this agreement, we will be part and parcel of Parliament.

The last thing I would like to urge this Parliament very heartily is that – I have seen the Agreement, but you want to roast my brother, hon. Kiryowa Kiwanka. Madam Speaker, when you trace this Agreement, he did not start it. He found it along the way. When we bring out all the rotten agreements in this country, they have not started with him. What we need to dissect clearly in this country is: Who are the civil servants -

**The Speaker:** Honourable members, order in the House. Hon. Katuntu, I would like you to stand up and read for me, rules 88 and 89. I need order in the House. When someone is speaking, give respect.

8.47

**Mr abdu katuntu (Independent, Bugweri County, Bugweri):** Thank you, Madam Speaker. Rule 88: Order in the House*.*

*(1) The Speaker or the Chairperson, after having called the attention of the House or the Committee to the conduct of a Member who persists in irrelevance or tedious repetition either of his or her own arguments, or of the arguments made by other Members in the debate, may direct the Member to discontinue his or her speech.*

*(2) The Speaker or Chairperson, shall order any Member whose conduct is grossly disorderly to withdraw immediately from the House or Committee for the remainder of that day’s sitting and the Clerk or the Sergeant-at-Arms shall act on such orders as he or she may receive from the Speaker or Chairperson to ensure compliance with this rule.”*

Rule 89 is about naming and suspension of Members –

**The Speaker:** You can leave it there. Honourable members, I want you to learn one thing. We act according to our rules. If a Member is making a presentation, why do you disorganise? Wait for your time. Do not imagine the person seated here does not have powers. I am just reminding you that I have the powers. I will suspend you from the House. Hon. Muwanga Kivumbi, finish.

**Mr muwanga KIVUMBI:** Madam Speaker, the point I was trying to make is that it seems it does not matter who is in the office because there is a culture among civil servants that are not doing a good job. Let us trace this to the technical people who advise our frontbench because beyond the Attorney-General, there is a whole Chamber. Did they do the job? Therefore, do we need to retool the entire human resource in this country? Fundamentally, we are seeing agreements after agreements, wrong both in law and fact. The country is making a loss.

Lastly, is this thing of exemption. We have spoken over and over it. It is high time in this country that a comprehensive review on exemptions - and I want to urge Parliament to put a fund in this coming budget so that the Government can come up with a comprehensive review of all the exemptions and we pronounce ourselves for once.

With that, Madam Speaker, I beg to move.

**The Speaker:** Leader of the Opposition.

8.48

**Mr muhammad nsereko (Independent, Kampala Central Division, Kampala City):** Madam Speaker, before the Leader of the Opposition comes –*(Laughter)*

**The Speaker:** Leader of the Opposition.

**Mr nsereko:** Madam Speaker, through you, can I request for a minute from my Leader of the Opposition?

**The Speaker:** First the Leader of the Opposition and then you will speak for a minute.

**Mr nsereko:** Thank you, Madam Speaker. I stand to re-echo our support for the recommendations of the committee in due regard to the following - and it will be brief.

What is the view on a contract or an agreement that is not in consonance with the Constitution? It is void *ab initio*. Remedies: Can you revise it, review it or it is void as it is? This is what we are here to dissect.

In our view, we have discovered the following:

One, if we follow the Investment Code Act, this person does not have the capacity to fit as an investor.

Two, do you even go to recommendation number two, whereby you want to review and even revisit and sit in agreement, again, with that person? The answer is: “No.” Three, the powers to waive and to tax belong to this House. Taxes were waived in contravention of the laws of Uganda.

Therefore, the contract or the agreement is void *ab initio*. It does not hold water in fact or in standard. Thank you.

8.50

**THE LEADER OF THE OPPOSITION (Mr Mathias Mpuuga):** Madam Speaker, I thank you. I will begin with the niceties of the day. I thank the chairperson and his team for an immaculate job. We thank you and congratulate you.

The second issue, for me, is, again, for our own housekeeping. I did ask the Rt Hon. Deputy Speaker on the Floor of the House whether he had allowed the Members to go and meet the President. Unfortunately, the Rt Hon. Deputy Speaker did not offer that clarity that you have offered.

I counselled then - and I still want to counsel - that if we want to protect the integrity of this House, nobody should go and meet anyone without the tacit and direct approval of the Rt Hon. Speaker of the House so that the Speaker is in charge of the business and the conduct of business in this House.

Three - and related - the President should be well advised that it is his right to interact with any committee of Parliament conducting any business. Therefore, he should be advised that, if he wishes to participate in that business, he should request the Speaker to be one of the witnesses wishing to give evidence to the House so that the President does not put us in an awkward situation *–*

**THE SPEAKER:** But, what kind of characters do we have? How do you raise procedure against your LOP? For heaven’s sake! LOP, you finish. No, you cannot raise procedure against the LOP - *(Laughter)*

**MR MPUUGA:** Madam Speaker, the point I am making is that the President has the right to interact with the committees of Parliament; to give evidence and views. In the past –

**THE SPEAKER:** Members, listen to the LOP.

**MR MPUUGA:** This Government used to have a Prime Minister – in the past – and it was the job of the Prime Minister to close that gap –

**THE SPEAKER:** In the past? There is a Prime Minister here.

**MR MPUUGA:** I was speaking in jest, advising the Prime Minister to pick up their duties. If there is business in the House, to which the President has interest, the Prime Minister has an obligation to advise the President of the business in the House to register his interest. What we are trying to protect is for the committees of Parliament to work without undue interference, especially after they have done their work. *(Applause)* Thank you.

The committee is observing, very well, that the agreement for the attendant violations of the laws of the land, including the supreme law of the land, is void *ab initio*. I am afraid that, in the conclusions, they are talking about regularisation. Once you have declared an undertaking illegal, regularisation never arises.

Therefore, we will seek clarification from the chairperson or, at best, the learned Attorney-General, on whether the law has since changed – that you can, actually, regularise an illegality so that we can see how to proceed. *(Laughter)*

On the lease that was expired, as ably observed by the committee, I do not think we need to do much. Clearly, the provisions of Section 172 of the Registration of Titles Act are very unequivocal on how to protect public interests or personal interests. We ask that, as one of our resolutions, a caveat be entered.

This is because, candidly, the committee is saying - and we are in agreement – that, indeed, there is no agreement. When there is no agreement, what to do is, now, to protect whatever is public property. Part of the protection is to actually put the caveat on the title. Any attendant issues, including an attempt by the company to try and litigate – are other matters and we leave them to the other arms of Government to deal with. For us, we would have executed our mandate of protecting public interest.

Hon. Muwanga has partly navigated what is becoming an inherent challenge, probably, in the Attorney-General’s Chambers. The Private-Public Partnership Act came into effect in 2015 and has since heralded many undertakings by Government and private persons and companies. Do we ask that one of our resolutions is to ask the learned Attorney-General to lay before Parliament all existing PPPs for the attention of Parliament? *(Applause)*

There seems to be a darkroom in the Attorney-General’s Chambers, where particular ungodly undertakings are done on behalf of the people of Uganda. Whatever is not godly – you can nomenclature it. I am just saying “ungodly”. Then, we can have an occasion, as Parliament – as part of our gatekeeping –to interest ourselves in some of these undertakings by Government, on behalf of the people of Uganda.

Madam Speaker, again, to bring clarity to this conversation, the committee is observing that the agreement was potentially not signed. So, are we talking about an existing agreement? One can say we can regularise, but does it exist in form and function? We need to really have that cleared so that we can conclude it as we take leave of the subject matter.

Lastly, the committee observes that some of the witnesses were a bit elusive. Actually, some refused to appear before the committee of Parliament, which is contempt of Parliament.

May we ask the chairperson to clearly inform Parliament about who these contemnors are so that we can really take charge, as Parliament? This is because some of them actually report to Parliament. If you are a witness and you are invited and you decline to appear to give evidence in a matter before Parliament – we do not have to throw our weight around, but we can actually exert our powers, as Parliament.

I would like to ask the chairperson to help Parliament understand who these contemnors are so that we can take action against them. I would like to –

**THE SPEAKER:** Maybe you will also need to find out if those people did not appear, did they send a representative? If I am unable to appear before a committee, I can send my Attorney-General to represent me in that committee, unless they did not send anyone completely.

**MR MPUUGA:** Finally, I would like to appreciate the Hon. Dr Abed Bwanika and the petitioners. It is a matter that began in the Shadow Cabinet, but I am happy the House embraced it. And, that should be the spirit of this House because eventually, when we enter this building, we become the representation of the aspirations, the desires and the frustrations and dreams of the people of Uganda. Therefore, we must discard all partisan banter and legislate for posterity. I thank you and I would like to ask of this House to adopt this report with these amendments.

**THE SPEAKER:** Thank you, Leader of the Opposition. Can I have the Attorney-General?

9.00

**THE ATTORNEY-GENERAL (Mr Kiryowa Kiwanuka):** Thank you, Madam Speaker. We have received and read the report; I have read it and noted its contents.

I would like to thank the chairperson and the members for the work they have done, and Parliament for its oversight role. We have listened and noted the concerns of both Parliament and the people. We shall take the recommendations that have been given and we shall review and report back to Parliament on the actions taken *–*

**THE SPEAKER:** Can you continue?

**MR KIRYOWA KIWANUKA:** We shall report back to Parliament as required on the action taken in respect to these reports. To answer your question, Leader of the Opposition, the law has not changed. If it is null and void, it is null and void.

We shall get the PPPs and we have no problem with that, and have them laid here.

However, as I close, Madam Speaker, opinions *–*

**THE SPEAKER:** No, when the Leader of the Opposition was speaking, you were all seated and listening. Please listen! Do not imagine you own the House. Can’t we hear from him because he is going to help the House!

**MR KIRYOWA KIWANUKA:** Madam Speaker, like I said, the law has not changed. If it is found to be null and void, it is null and void and we shall treat it in accordance with the law. We thank you, Madam Speaker and Members, and we shall be happy to come back and report to you on the action taken on the report. Thank you.

**THE SPEAKER:** Honourable members, you have heard: We want action taken and if it is null and void, it is null and void, and there is no agreement.

In the circumstance, I now put the question that the report of the Sectoral Committee on Tourism, Trade and Industry on the investigation of the alleged unfair terms in the MoU between the Government of Uganda and Uganda Vinci Coffee Company Limited be adopted with its amendments and the addendum.

*(Question put and agreed to.)*

*Report adopted.*

**THE SPEAKER:** The House is adjourned to tomorrow at 10.00 o’clock.

*(The House rose at 9.02 p.m. and adjourned until Thursday, 19 May 2022 at 10.00 a.m.)*