THE REPUBLIC OF UGANDA

REPORT OF THE AUDITOR GENERAL

ON THE FINANCIAL STATEMENTS OF MINISTRY OF ENERGY AND MINERAL DEVELOPMENT FOR THE YEAR ENDED 30TH JUNE 2017

OFFICE OF THE AUDITOR GENERAL

UGANDA

REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF MINISTRY OF ENERGY AND MINERAL DEVELOPMENT FOR THE YEAR ENDED 30TH JUNE 2017

THE RT. HON. SPEAKER OF PARLIAMENT

Opinion

I have audited the accompanying Financial Statements of Ministry of Energy and Mineral Development, which comprise the Statement of Financial Position as at 30th June 2017, the Statement of Financial Performance and Statement of Cash Flows for the year then ended, and a summary of significant accounting policies and other explanatory notes, as set out on pages 13 to 42.

In my opinion, the financial statements of the Ministry of Energy and Mineral Development for the year ended 30th June 2017 are prepared, in all material respects in accordance with section 51 of the Public Finance and Management Act, 2015.

Basis of Opinion

I conducted my audit in accordance with International Standards of Supreme Audit Institutions (ISSAIs). My responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of my report. I am independent of the Ministry in accordance with the Constitution of the Republic of Uganda (1995) as amended, the National Audit Act, 2008, the International Ethics Standards Board for Accountants Code of Ethics for Professional Accountants (Parts A and B) (IESBA Code), the International Organization of Supreme Audit Institutions (INTOSAI) Code of Ethics and other independence requirements applicable to performing audits of Financial Statements in Uganda. I have fulfilled my other ethical responsibilities in accordance with the IESBA Code, and in accordance with other ethical requirements applicable to performing audits in Uganda. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in my audit of the financial statements of the current period. I have determined that there are no key audit matters to communicate in my report.

Emphasis of Matter

Without qualifying my opinion, I draw your attention to Note 22 to the financial statements:

- **Untitled Refinery Land**

Note 22 to the financial statements has a figure of Land amounting to UGX.212,244,363,954. The figure includes an amount of UGX.54,316,736,520, relating to land acquired in Hoima District meant for the construction of a refinery, which had not been titled. As disclosed by management, the land title has not yet been processed because of a court injunction[1] stopping the district Land Board from issuing land titles in the area.

Since government has plans of starting the construction of the refinery, this encumbrance may become an impediment to the process. Management stated that it was in consultation with the Ministry of Justice to address the matter. I await the results of the consultations.

Other Matter

In addition to the matter raised above, I consider it necessary to communicate the following matters other than those presented or disclosed in the financial statements:

- **Uncollected Royalties from Gold Exports by African Gold Refinery**

  Although the Mining Regulations 2004, require that minerals obtained under a mineral right or under a mineral dealer's licence may only be exported under an export permit granted by the Commissioner, analysis of Gold exports recorded by

[1] Bunyoro Kitara Reparation Agency Vs the District Land Boards of Hoima, Bullisa, Masindi, Kiryandongo, Kibaale,Kakumiro and Kagadi.

the Directorate of Geological Surveys and Mines (DGSM) compared with the exports declared to customs, revealed the following:

- The Directorate of Geological Surveys and Mines issued Gold export permits for only 16.281 kilograms, compared to records from Uganda Revenue Authority, which indicated that 8,691 kilograms of Gold, valued at USD 339.09 million were exported from Uganda in the financial year 2016/17;
- The Gold exports permits for African Gold Refinery were supported by export permits from the Ministry of Tourism Trade and Industry as opposed to being issued by DGSM (MEMD), which was contrary to the Mining Act, 2003. There was equally no evidence of payment of royalties on the exported gold. The above implies that, during the financial year, the country lost revenue ranging from **USD3.39m** to **USD 16.95m** in royalties from the undeclared gold exports and imports depending on the applicable rates of 1% and 5% for the imported or locally mined gold respectively.

Although management admitted that African Gold Refinery does not make any declaration of gold exports to the Commissioner claiming they were offered a tax waiver by MoFPED, there was no evidence to this effect. Management also stated that an Inter-Agency approach to resolve the matter has been adopted.

Management is advised to expedite investigation of the discrepancies with a view to recover the royalties.

- **<u>Default on payment of Annual Mineral Rent fees</u>**

I noted that UGX.2,718,388,000 was outstanding as annual mineral rent fees from exploration and mining companies contrary to Section 106(1) and (2) of the Mining Act 2003. The failure to collect annual mineral rent fees by the Directorate leads to loss of government revenue.

Management stated that it had written letters to the mineral rent defaulters and intends to publish their names. It has also communicated to both URA and the Solicitor General's office to follow up and prosecute the persistent defaulters.
I wait results of management action in this regard.

- **Undistributed royalties**

Review of the collection and sharing of Mineral royalties revealed that various land owners were not paid the prescribed 3% of the total of the royalties amounting to UGX.354,371,332 as at 30th June 2017 contrary to Section 98(2), of the Mining Act, 2003 which requires royalties to be shared by the Government, Local Governments and owners or lawful occupiers of land. The practice denies the landowners the revenues arising from use of their land, which potentially can affect the relationship between mineral right holders and landowners.

Management explained that although they had compiled a list of landowners entitled to share royalties, some landowners who were required to submit their bank details through the Chief Administrative Officers and proof of land ownership had not met the criteria. I advised management to streamline and expedite the process of identifying the entitled landowners so as to effect the payment of royalties as stipulated in the law.

- **Mischarge of Expenditure**

Contrary to the Public Finance and Management Regulations, 2016, a review of the Ministry's expenditure for the financial year 2016/2017 revealed that a total of UGX.410,969,548 was charged on inappropriate budget lines. This is not only misleading to the users of the statements but also negatively affects the implementation of activities from which funds have been diverted. Management acknowledged the audit observation and pledged to avoid such mischarge in the future.

Management is advised to liaise with the Ministry of Finance, Planning and Economic Development to ensure that budget lines are allocated sufficient amounts of funds to undertake planned activities.

- **Outstanding Advances**

A sum of UGX.321,998,640 which was advanced to various persons as facilitation to undertake official activities such as supervision, monitoring, workshops, travel abroad for conferences and training had not been accounted for in form of back to office reports, fuel accountabilities and allowances to third parties.

Audit could not confirm whether these funds were used for the intended purpose.

Management acknowledged the delayed filing and submission of accountabilities and promised to follow up with the officers.

I advised management to enforce recoveries from the non-compliant officers as prescribed in the financial regulations.

- **<u>Shareholding and Management of UEB successor companies</u>**

  Section 126 of the Electricity Act, 1999 mandates MEMD in accordance with the PERD Statute 1993, to incorporate, under the Companies Act a successor company or companies to assume all the duties, objectives, functions and, to take over the property, rights and liabilities of the Uganda Electricity Board, except those to be exercised by the Electricity Regulatory Authority.

  I observed that the shareholding of the UEB successor companies - UEGCL, UETCL and UEDCL, was split between the MoFPED and the Minister of State in charge of privatization. The role of the Ministry of Energy or its shareholding is not stated anywhere yet almost 50% of the Ministry's budget is transferred to finance activities of the successor companies.

  Without any shareholding in the Successor companies, MEMD may not effectively supervise projects under the successor companies. Consequently, the possibility of conflicting roles between the Ministry and the successor companies cannot be ruled out.

  Management stated that the issue was being addressed through the review of the Electricity Act, 1999, which is currently awaiting issue of certificate of financial implications by MoFPED. The matter was also presented to Cabinet and two of the recommendations approved by cabinet were:

a) To have the MEMD as the majority shareholder and MoFPED as the minority shareholder in order to improve on the management and oversight of the successor Companies by the Ministry of Energy and Mineral Development.

b) To have the Successor Companies returned to the sector Ministry. This requires an amendment of the PERD Statute, which MoFPED has been instructed to do.

I await the outcome of the amendment of the Electricity Act and the implementation of the Cabinet recommendations.

- **Delay in developing procurement guidelines for oil companies**

The Production Sharing Agreements between Uganda and the oil companies require formulation of procurement guidelines. Audit noted that, since the discovery of commercial oil in Uganda in 2006, procurement guidelines have not been developed as required by the petroleum agreements.

This affects regulation and control by government of the procurement processes and may result into unfair competition and exorbitant recoverable costs.

Management stated that with the enactment of the Petroleum (Exploration, Development and Production) Act, 2013 and later putting in place the attendant regulations in 2016, the Ministry in consultation with the Petroleum Authority of Uganda will soon embark on the development of the required Procurement Guidelines and other Guidelines for better management of the Upstream Petroleum sub-sector.

I await management's action towards the development of the requisite Guidelines for better management of the petroleum sub-sector.

- **Non-payment of royalties by Hima Cement**

According to Section 98(1) of the Mining Act 2003, all minerals obtained or mined in the course of prospecting, exploration, mining or mineral processing operations shall be subject to the payment of royalties on the gross value of the minerals based on the prevailing market price of the minerals at such rates as shall be prescribed.

It was observed that by the end of the financial year 2016/17, the Company had not paid royalties amounting to UGX.679,694,100. This was caused by the failure by the directorate of geological surveys and mines to enforce payment.

Management stated that a notice of non-payment has been issued to the Company.

I wait the outcome of management's action in ensuring payment of outstanding royalties by the Company.

- **<u>Delayed completion of Projects</u>**

  Regulation 53(1) b of the PPDA (Contracts) regulations, 2014, requires contract managers to ensure that the provider performs the contract in accordance with the terms and conditions specified in the contract. This includes ensuring that contracts are completed on time.

  It was however noted that a number of projects totaling UGX.8,065,807,305, were not completed on time, with an average delay of 356 days.

  Management acknowledged the audit observation and attributed project delays to; Underestimation of scope of work/alteration of scope of works, scarcity of materials needed for some projects and unsettled disputes with PAPs. It was further stated the projects were now in progress.

  Management is advised to take necessary measures to ensure contract terms are adhered to both in terms of performance and timelines.

<u>Responsibilities of the Accounting Officer for the Financial Statements</u>

Under Article 164 of the Constitution of the Republic of Uganda, 1995 (as amended) and Section 45 of the Public Finance Management Act, 2015, the Accounting Officer is accountable to Parliament for the funds and resources of the Ministry.

The Accounting Officer is responsible for the preparation of the financial statements in accordance with the requirements of the Public Finance Management Act, 2015 and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatements, whether due to fraud or error.

In preparing the financial statements, the Accounting Officer is responsible for assessing the Ministry's ability to continue delivering its mandate, disclosing, as applicable, matters related to delivery of services, unless Government either intends to discontinue the Agency's operations, or has no realistic alternative but to do so.

Auditors' Responsibilities for the audit of the Financial Statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement, when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users, taken on the basis of these financial statements.

As part of an audit in accordance with ISSAIs, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:-

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Ministry's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on

the Ministry's ability to deliver its mandate. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Ministry to fail to deliver its mandate.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

I also provide the management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.

From the matters communicated with management, I determine those matters that were of most significance in the audit of the financial statements of the current period and are therefore the key audit matters. I describe these matters in my auditor's report unless law or regulation precludes public disclosure about the matter or when, in extremely rare circumstances, I determine that a matter should not be communicated in my report because the adverse consequences of doing so would reasonably be expected to outweigh the public interest benefits of such communication.

John F.S. Muwanga

<u>**AUDITOR GENERAL**</u>

1st December 2017