



OFFICE OF THE
LEADER OF THE OPPOSITION

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**STATEMENT OF THE LEADER OF THE OPPOSITION ON THE ENERGY
CHARTER TREATY**

(Moved under Rule 53 of the Rules of Procedure)

**Mathias Mpuuga (MP)
LEADER OF THE OPPOSITION**

August, 2023

Rt. Hon. Speaker and Colleagues;

On many instances a handful of government officials are selected to deliberate and sign treaties on behalf of Uganda without involving the people's representatives, that is the Members of Parliament. This House ought to pick interest in the matter of entering treaties, conventions, agreements or other arrangements between Uganda and any other country or between Uganda and any international organisation or body.

One such Treaty is the Energy Charter Treaty (ECT) that has far-reaching implications for climate change, a matter that is not restricted to geographical boundaries.

Background

ECT, is an investment treaty that was developed in the 1990s to enable multilateral cooperation in the Energy Sector. ECT is controversial in the sense that it protects investors against discriminatory access, expropriation, nationalization, breaches of contract and other unexpected circumstances that could impact their profit expectations. In particular, privileges granted to investments in the Energy Sector are increasingly in conflict with efforts to curb climate change and environmental degradation.

The controversies surrounding the ECT have cost member states colossal sums of money in arbitration claims challenging government actions made in the public interest, such as environmental policies or the protection of human rights and local communities. This is why countries like France, Spain, Poland and the Netherlands have announced plans to withdraw from the Energy Charter Treaty (ECT), arguing that the accord runs counter to their climate goals. Belgium, Denmark, Slovenia and Germany are also reportedly considering a similar move. Italy withdrew from the ECT in 2016.

Uganda's involvement with the ECT

In 2015, Uganda signed the non-binding International Charter (IEC) as a demonstration of political commitment making the first step towards acceding to the Energy Charter Treaty (ECT). In 2019, Uganda took a step further towards acceding to the ECT by submitting a letter of intent to the ECT secretariat.

Given the foregoing contention, it is our considered opinion that Uganda reconsiders her intended accession to the ECT especially at a time when key members of the European Union are considering withdrawing from the Treaty. If Uganda proceeds with the accession plans, this will derail our environment

and climate action efforts and also expose the country to hefty fines in case of breach of contract.

We are cognisant of the provisions of Article 123 of the Constitution of the Republic of Uganda which bestows in the President, or any person authorised by the president, the power to enter into Treaties, Agreements or Protocols with other countries or other International Organisations on behalf of Uganda. We invite this House to consider a Constitutional amendment to clothe Parliament with powers to have an input in International Instruments. I maintain that the same prerogative ought to be exercised judiciously and in national interests as provided for under Article 99(1) of our Constitution.

Rt. Hon. Speaker and Colleagues, another related matter of concern is failure or refusal to ratify and domesticate crucial Treaties and Protocols Uganda has voted in favour of and in some instances signed. So many treaties which are ratifiable by the executive remain unratified. Most of those Treaties relate to promotion and enforcement of Fundamental Human Rights and Freedoms. Without pre-empting Parliament, this matter is before the Committee on Foreign Affairs, I hope appropriate recommendations will be made.

In the United Kingdom, for instance, Parliament has a Statutory role of ratifying treaties¹. The British Government is duty-bound to lay treaties, with an Explanatory Memorandum, before Parliament for twenty-one (21) sitting days before it can ratify them. Note that whereas the Parliament may not debate, vote or amend the treaties, the House of Commons can block ratification of any treaty indefinitely². It is therefore important that Parliament, under the Ratification of Treaties Act, is wholly and singly mandated to ratify Treaties entered on behalf of Uganda³.

In the premises, it is underwhelming that, instead, Uganda's interest is in acceding to the ECT. Owing to the ramifications of the ECT, it is imperative that Uganda's participation should not be undertaken in haste especially at this time when the country's investments in oil are in full gear. One of the most controversial clauses in the ECT is that even when a country exits the treaty, it remains vulnerable to litigation for the subsequent 20 years.

¹ Constitutional Reform and Governance Act, 2010

² House of Commons Library, 2017. Parliament's role in ratifying treaties, Briefing Paper No. 5855, 17th February, 2017.

³ Office of the Leader of the Opposition, 2022. Alternative Policy Statement for Foreign Affairs for FY 2022-2023, March 2022.

Prayers

In the circumstances, I pray that –

1. This House directs the Prime Minister to make a Statement on government's plan to accede to the ECT;
2. This House urges Government to expedite Constitutional Review, including empowering Parliament to have an input in the process of negotiating and binding Uganda to International Instruments, as well as ratifying the same.

I beg to submit.

