

BILLS SUPPLEMENT

to the Uganda Gazette No. 29 Volume CII dated 19th June, 2009.

Printed by UPPC, Entebbe by Order of the Government.

Bill No. 6 *Income Tax (Amendment) Bill* 2009

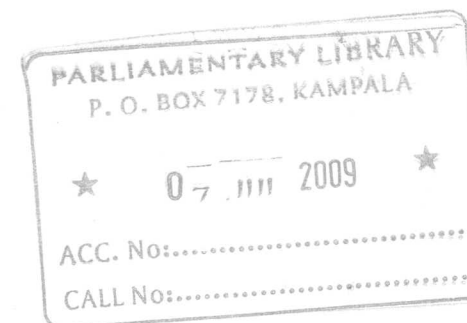
THE INCOME TAX (AMENDMENT) BILL, 2009

MEMORANDUM.

The object of this Bill is to provide for—

- (a) the exemption of the business income of persons derived from operating and managing educational institutions;
- (b) the taxation of petroleum operations; and
- (c) related matters.

SYDA N.M. BBUMBA (MP),
Minister of Finance, Planning and Economic Development.



THE INCOME TAX (AMENDMENT) BILL, 2009.

ARRANGEMENT OF CLAUSES*Clause.*

1. Commencement and application
2. Amendment of section 19 of principal Act
3. Amendment of section 21 of principal Act
4. Amendment of section 22 of principal Act
5. Amendment of section 89A of principal Act
6. Repeal of section 89D of principal Act
7. Amendment of section 89F of principal Act
8. Amendment of section 89G of principal Act
9. Amendment of section 89H of principal Act
10. Insertion of sections 89I, 89J, 89K, 89L, 89M, 89N, 89O, 89P and 89Q of principal Act
11. Amendment of section 114 of principal Act
12. Amendment of section 119 of principal Act
13. Amendment of the Sixth Schedule to principal Act
14. Insertion of Eighth Schedule to principal Act

A Bill for an Act

ENTITLED

THE INCOME TAX (AMENDMENT) ACT, 2009.

An Act to amend the Income Tax Act; to exempt business income of persons derived from operating and managing educational institutions; to provide for the taxation of petroleum operations and for related matters.

BE IT ENACTED by Parliament as follows:

1. Commencement and application

(1) This Act shall come into force on 1st July 2009.

(2) This Act applies to years of income commencing on or after 1st July 2009 except for sections 89A-89H which shall apply to years of income commencing on or after 1st July 2007.

2. Amendment of section 19 of principal Act

Section 19 of the principal Act is amended by substituting for subsection 19(2)(d) the following—

“(d) any allowance given for, and which does not exceed the cost actually or likely to be incurred, or a reimbursement or discharge of expenditure incurred by the employee on

(i) accommodation and travel expenses; or

(ii) meals and refreshment,

while undertaking travel in the course of performing duties of employment.”

3. Amendment of section 21 of principal Act

Section 21 of the principal Act is amended—

(a) by substituting for subsection (1)(z) the following —

“(z) the income of a person derived from agro-processing where the person—

(i) applies in writing to the Commissioner to be issued with a certificate of exemption at the beginning of his or her investment;

(ii) invests in new plant and machinery to process agricultural products for final consumption;

(iii) processes agricultural products grown or produced in Uganda;

(iv) undertakes to fulfill regularly all obligations in this Act relating to his or her investment;

(v) has been issued with a certificate of exemption by the Commissioner.”

(b) by substituting for subsection (1)(a) the following—

“(aa) business income derived by a person from managing or running an educational institution”

(c) by inserting immediately after (2)(b) the following—

“agro processing” in relation to agricultural products of pastoral, agricultural, or other farming operations, means an industrial or manufacturing process that substantially transforms or converts raw agricultural produce in order to convert the produce into a different chemical or physical states and includes the activities that take place between slaughter or harvest of the raw product in order to change it or preserve it.”

4. Amendment of section 22 of the principal Act

Section 22 of the principal Act is amended by repealing subsection (1) (e).

5. Amendment of section 89A of the principal Act

Section 89A of the principal Act is amended—

- (a) by inserting immediately after the definition of "decommissioning plan" the following—

"delivery point" means the point at which the crude oil passes through the intake valve of the pipeline or tanker or truck or rail wagon at the terminal or refinery in Uganda or such other point which may be agreed to in writing between the parties to the petroleum agreement;

- (b) by inserting immediately after the definition of the "participation dividend" the following—

"petroleum agreement" means an Agreement between the Government of the Republic of Uganda and a petroleum exploration company;

"petroleum capital expenditure" means expenditure treated as petroleum capital expenditure under the Eighth Schedule.

- (c) by substituting for the definition of "petroleum operations" the following—

"petroleum operations" means exploration operations, development operations, and production operations authorized under a petroleum agreement.

- (d) by inserting immediately after the definition of "petroleum operations" the following—

"petroleum revenues" means signature bonus, surface rentals, royalties, revenue from company profit oil and gas, revenue from Government profit oil and gas (as spelt out in the production sharing agreements) and revenue from Government shares of state participation.

- (e) by substituting for the definitions of "recoverable cost" the following—

"recoverable cost" means a cost of a contractor that is recoverable under a petroleum agreement.

6. Repeal of section 89D of principal Act.

Section 89D of the principal Act is repealed.

7. Amendment of section 89F of principal Act.

Section 89F of the principal Act is amended—

- (a) by substituting for subsection (1) the following—

"(1) A contractor is allowed a deduction for the cost of an asset or other expenditure incurred in undertaking petroleum operations under a petroleum agreement in the year of income in which the asset is placed in service, if it has an ascertainable useful life, and in other cases the year of income in which the expenditure is incurred."

- (b) by substituting for subsection (3) the following—

"(3) A contractor is allowed a deduction for expenditure incurred in transportation facilities up to the delivery point on a unit of production basis."

8. Amendment of section 89G of principal Act.

Section 89G of the principal Act is amended by repealing subsection (a).

9. Amendment of section 89H of principal Act.

Section 89H of the principal Act is amended by repealing subsections (3) and (5).

10. Insertion of sections 89I, 89J, 89K, 89L, 89M, 89O, 89P and 89Q of the principal Act.

The principal Act is amended by inserting immediately after section 89 H the following new sections—

“89I. Tax accounting principles

(1) A taxpayer undertaking petroleum operations shall only derive income when it is receivable and incur expenses when they are payable.

(2) All transactions shall be reflected at arms length value and a contractor shall have a duty to disclose all non arms length transactions and convert them to arms length prices.

89J. Allocation of costs and expenses

Costs and expenses incurred by a contractor in respect of activities which would only in part qualify as contract expenses shall be allocated to the books, accounts, records and reports maintained for that purpose, in a manner that—

- (a) avoids any duplication of costs;
- (b) fairly and equitably reflects the costs attributable to the petroleum operations carried out;
- (c) excludes any costs and expenses, which would be allocated to those activities which do not constitute petroleum operations.

89K. The principle of ring fencing

Any exploration, development or production expenditure associated with a unit development involving a discovery area which extends into a neighboring country shall be allocated on the basis of the petroleum reserves attributable to that portion of the discovery area located in Uganda.

89L. Allowable currencies

(1) For the purposes of this Part, accounts shall be maintained in both Uganda Shillings and in United States Dollars but in case of conflict, accounts maintained in United States Dollars shall prevail.

(2) For purposes of conversion of the currencies, the exchange rate shall be the Bank of Uganda rate, prevailing on the last business day of the calendar month in which payments are received and costs and expenditures are paid.

89M. Consolidation principle

Subject to Section 89C, the income tax in each year of income shall be assessed on the basis of the aggregate contract revenues derived from, and allowable contract expenditures incurred in, the petroleum operations carried out in a contract area.

89N. Carry forward losses

(1) Commencing with the year of income of commencement of commercial production, any deductions in respect of allowable contract expenditures which remain unrecovered in any year of income from contract revenues shall be treated as an operating loss and may be carried forward as an assessed loss to subsequent years of income until fully recovered from the contract revenues.

(2) Not less than 30 days prior to the beginning of each calendar year, a contractor shall furnish to the Government for approval, an estimate, by quarters for the proceeding calendar year of—

- (a) all contract revenues and contract expenses to be incurred;
- (b) income tax of the contractor or each entity comprising the contractor, in respect of the taxable income derived from petroleum operations for such calendar year.

(3) Quarterly updates of the above estimates shall be submitted by the contractor to the Government for approval within 30 days after the end of each year.

89O. Petroleum revenue returns

(1) For the purposes of this Part, a person shall file a petroleum revenue return with the Commissioner in respect of company profit oil and gas, every three months.

(2) A petroleum revenue return shall be filed not later than 15 days after the end of the period in subsection (1).

(3) A petroleum revenue return shall be in the form prescribed by the Commissioner and shall state the amount of tax payable, or, refund claimed for that year of income, and such other matters as may be prescribed, by the Commissioner.

(4) In addition to the return required under subsection (1), the Commissioner may require any person, whether taxable or not, to file, on that person's own behalf or as an agent or trustee of a contractor, with the Commissioner any other return, in the prescribed form, for the purposes of this Act.

(5) A person required to file a return under this section, may apply in writing to the Commissioner for an extension of the time required to furnish the return.

(6) Where an application is made under subsection (5), and the Commissioner is satisfied that the person is unable to furnish the return by the due date because of absence from Uganda, sickness, or any other reasonable cause, the Commissioner may, by notice in writing extend the time for filing the return for a period not exceeding ninety days.

(7) The granting of an extension of time to file a return under this section does not alter the due date for payment of tax due under this Act.

(8) For the purposes of this Part, all returns shall be filed electronically.

89P Collection of other revenues

Except in the case of company profit oil, all the other revenues prescribed under section 89A(d) shall be payable to the Uganda Revenue Authority for transfer to Bank of Uganda for crediting to a petroleum revenue fund of Government.

89Q Classification, definition and allocation of costs and expenditures

For the purposes of this Part, the classification, definition and allocation of costs and expenditures for purposes of determining tax on petroleum revenue shall be in accordance with the Eighth Schedule to this Act."

11. Amendment of section 114 of principal Act

Section 114 of the principal Act is amended by substituting for subsection (1) the following—

"(1) An individual charged to tax under section 5 shall furnish a return of rental income for each year of income not later than six months after the end of that year."

12. Amendment of section 119 of principal Act

Section 119 of the principal Act is amended by substituting for subsection 5 (a) the following—

"(a) a supply or importation of petroleum or petroleum products including furnace oil, other than cosmetics and fabrics or yarn manufactured out of petroleum products;"

13. Amendment of the Sixth Schedule to principal Act

The Sixth Schedule to the principal Act is amended by substituting for Part II of that Schedule the following—

"PART II

Vehicles depreciation ceiling

The amount for purposes of Section 27 (11) is shs 60,000,000."

14. Insertion of Eighth Schedule to principal Act

The Principal Act is amended by inserting immediately after the Seventh Schedule the following -

"EIGHTH SCHEDULE**Section 89Q****Classification, Definition and Allocation of Costs and Expenditures****1. Exploration expenditure**

Exploration expenditures shall include—

- (a) aerial, geophysical, geochemical, paleontological, geological, topographical and seismic surveys and studies and their interpretation;
- (b) core hole drilling and water well drilling;
- (c) labour, materials and services used in drilling wells with the object of finding new petroleum reservoirs or for the purpose of appraising the extent of or subsequently producing petroleum reservoirs already discovered where the wells are dry or are otherwise not completed as producing wells;
- (d) facilities used solely in support of those purposes including access roads and purchased geological and geophysical information;
- (e) a portion of all service costs as defined in paragraph 4 of this Schedule, allocated to exploration operations on an equitable basis and consistently applied;

- (f) a portion of all general and administrative expenses, as defined in paragraph 5 of this Schedule, allocated to exploration operations based on projected budget expenditures subject to adjustment on the basis of actual expenditure at the end of a calendar year; and
- (g) subject to paragraph 11, any other contract expenses incurred prior to the commencement of commercial production in a development area which are not provided for under paragraph 2.

2. Development and production expenditures.

Development and production, expenditures shall include—

- (a) drilling wells which are completed as producing wells and drilling wells for the purposes of producing a petroleum reservoir already discovered where the wells are completed as producing wells;
- (b) completing the wells described in paragraph 1(c) by way of installation of casing or equipment or by any other means, after a well is drilled for the purposes of bringing the well into use as a producing well;
- (c) the costs of field facilities including field gathering systems, field production and treatment units, wellhead equipment, subsurface equipment, natural gas separation facilities, enhanced recovered systems, offshore platforms, petroleum storage facilities in the field and related facilities, and field access roads for production activities;
- (d) the costs of transportation facilities installed up to the delivery point, including but not limited to pipelines, compressors, and storage facilities;
- (e) engineering and design studies for field facilities;

- (f) a portion of all service costs allocated to the development operations on an equitable basis and consistently applied;
- (g) a portion of all general and administrative expenses allocated to the development operations based on projected budget expenditures which are to be adjusted to actual expenditures at the end of the calendar year; and
- (h) any other expenditure incurred in development operations prior to the commencement of commercial production in a development area, other than those incurred in respect of operations carried out beyond the delivery point.

3. Operating Expenses

(1) Operation expenses are the necessary, appropriate and economical expenditures incurred in the petroleum operations after the start of the commercial production.

(2) In addition, the operation expenses include intangible drilling costs such as, labour consumable material and services having no salvage value, which are incurred in the drilling operations related to the drilling or deepening of producing wells whether incurred before or after the start of commercial production, which are not exploration expenditures, development and production expenditures and general administrative expenses and service costs that are allocated to expenditures or development and production expenditures under paragraphs 1(e) and (f) and 2(f) and (g).

(3) Operating expenses shall not include tariff charges, if any, imposed by a pipeline company associated with the transportation of petroleum from the delivery point to the seaboard terminal point of export.

4. Service costs

(1) Service costs are the necessary, appropriate and economical direct and indirect expenditures incurred in support of the petroleum operations including, warehouses, piers, marine vessels, vehicles, motorized rolling equipment, aircraft, fire and security stations, workshops, water and sewage plants, power plants, housing, community and recreational facilities and furniture and tools and equipment used in those activities.

(2) The service costs in any calendar year shall include the total costs incurred in that year, to purchase and construct the facilities specified in subparagraph (1) as well as the annual costs used to maintain and operate the facilities.

(3) All service costs shall be regularly allocated as specified in paragraphs 1(e), 2(f) and 3, to exploration expenditures, development and production expenditures and operating expenses.

5. General and administrative expenses

(1) General and administrative expenses are expenses of the main office and the field office and the associated general and administrative costs incurred in relation to petroleum operations, including, supervisory, accounting and employee relations services carried out by a contractor in Uganda.

(2) General and administrative expenses shall also include—

- (a) the personnel and service costs of the affiliated company of a contractor except the costs provided for in paragraph 9(2)(g)(ii) which are incurred in connection with the petroleum operations carried out under the agreement; and
- (b) reasonable travel expenses of the personnel of the affiliated company of a contractor in the general and administrative category specified in subparagraph (i), in connection with the petroleum operations.

(3) All general and administrative expenses shall be necessary, appropriate and economical and shall be regularly allocated as specified in paragraphs 1(f), 2(g) and 3 to exploration expenditures, development and production expenditures and operating expenses.

6. Classification of expenses for income tax purposes.

(1) Petroleum capital expenditures

Petroleum capital expenditures are the contract expenses which qualify as development and production expenditures as described in paragraph 2 of this Schedule.

(2) Petroleum operating expenditures

Petroleum operating expenditures are the contract expenses which qualify as exploration expenditure and operating expenses as described in paragraphs 1 and 3 of this Schedule.

7. Capital allowances

(1) Petroleum capital expenditures, as defined in paragraph 6(1) shall be depreciated for income tax purposes.

(2) In determining the amount of depreciation which is allowable as a deduction in any year of income, the following principles shall apply—

Petroleum capital expenditures shall be depreciated using the straight line method over the expected life of the petroleum operations as specified in the petroleum agreement or over a period of six years, whichever is the lesser, except in respect of those expenditures referred to in paragraph 2(d), under which shall be depreciated on a "unit of production" basis.

The "unit of production" depreciation charge in each year of income shall be determined by dividing the total expenditure referred to in paragraph 2(d) which remains undeducted at the beginning of each year by the then

deductible reserves, in barrels of oil or the equivalent of barrels of oil, in the contract area and multiplying the resulting figure by the total number of barrels of oil produced in the year of income.

(3) Deductions with respect to the depreciation of petroleum capital expenditures shall be allowable commencing with—

- (a) the year of income in which the capital asset is placed into service or where the capital expenditure does not relate to an asset which normally has a useful life beyond a year in which it is placed in service, the tax year of income in which the capital expenditure is incurred; or
- (b) the year of income in which commercial production commences from the contract area,

whichever is later.

8. Definition of allowable contract expenditures

For each year of income, commencing with the year of income in which commercial production commences from the contract area, allowable contract expenditures which shall be deductible for the purpose of the calculation of income tax payable by a contractor shall consist of the sum of—

- (a) the petroleum operating expenditures for the year of income as determined in accordance with paragraph 6(2);
- (b) the allowable deductions for depreciation of petroleum capital expenditures for the year of income, as determined in accordance with paragraph 7;
- (c) the amount of any operating loss from previous years of income, determined in accordance with this Act.

9. Costs recoverable without further approval of Government

(1) Subject to a petroleum agreement, a contractor shall bear and pay the costs and expenses specified in this paragraph, in respect of petroleum operations.

- (2) The costs and expenses of a contractor shall include—
- (a) the direct costs attributable to the acquisition, renewal or relinquishment of surface rights acquired and maintained in a respective contract area;
 - (b) the following labour and associated labour costs—
 - (i) the gross salaries, wages, bonuses and cost of living, housing and other allowances afforded to expatriate employees in similar operations, of the employees of a contractor directly engaged in the petroleum operations, irrespective of the location of the employees;
 - (ii) the costs of the contractor regarding sickness and disability payments applicable to the salaries and wages chargeable under subparagraph (b)(i);
 - (iii) expenses or contributions made pursuant to assessments or obligations imposed under the laws of Uganda which are applicable to the cost of salaries and wages chargeable under subparagraph (b)(i);
 - (iv) the cost of established plans for the employees of the contractor in respect of life insurance, hospitalization, pensions, stock purchase and thrift plans and other benefits of a similar nature which are granted to the employees of the contractor;
 - (v) reasonable travel and personnel expenses of the employees of the contractor and their families including those made for the travel and relocation of the expatriate employees assigned to Uganda, all of which shall be in accordance with the contractor's normal practice and which shall be consistent with generally accepted practices in the international petroleum industry; and

- (vi) any personal income taxes payable in Uganda, incurred by employees of the contractor and paid or reimbursed by the contractor;
- (c) the cost of establishing, maintaining and operating any offices, camps, warehouses, workshops, housing, water systems and other facilities for the purpose of carrying out petroleum operations but the costs of the facilities, which are not used for the exclusive purpose of carrying out the petroleum operations, shall be apportioned on a consistent and equitable basis between the petroleum operations and the contractor's other operations and those of the affiliates of the contractor;
- (d) the cost of transportation of employees, equipment, materials and supplies necessary for the conduct of the petroleum operations;
- (e) the following charges for services—
 - (i) the actual costs of contracts for technical and other services entered into by the contractor for petroleum operations, made with third parties other than an affiliated company of a contractor that the prices paid by the contractor are in accordance with those generally charged by other international or domestic supplies for comparable work and service;
 - (ii) without prejudice to the charges to be made in accordance with paragraph 5 of this Schedule, in the case of specific services rendered to the petroleum operations under contract with, and invoiced to a contractor by an affiliated company of the contractor.
 - (iii) changes shall be subject to the following—
 - (A) allowable charges shall be based on actual costs without profits.

- (B) the allowable charges shall not be higher than the most favourable prices charged by an affiliated company to third parties for comparable services under similar terms and conditions elsewhere;
- (C) the allowable charges shall be included in any budget submitted to the Advising Committee using the petroleum agreement.
- (D) the allowable charges shall not exceed the charge billed to any joint operations in respect of those services under petroleum agreement relating to petroleum operations carried on under the agreement.
- (E) the contractor shall if requested by Government, specify the amount of the charges which represent an allocated proportion of the general material, management, technical and other costs of affiliated company of the services concerned; and
- (F) where necessary but subject to the petroleum agreement certified evidence of the basis of prices charged may be obtained from the auditors of the affiliated company.
- (f) all rentals, levies, charges, fees, compensation or other charges in respect of rights of way, contributions and any other assessment and charges levied by the Government or any Government or foreign public authority in connection with the petroleum operations, and paid directly or indirectly by the contractor, other than royalty, income tax imposed on the contractor, except as provided for under the petroleum agreement and the Government production share attributable to the petroleum agreement;

- (g) insurance premiums and costs incurred for insurance, and where the insurance is wholly or partly placed with an affiliated company of the contractor, the premiums and costs shall be recoverable only to the extent generally charged by competitive insurance companies other than an affiliated company of the contractor and the costs and losses incurred as a consequence of events which are, and in so far as, not made good by insurance obtained under a petroleum agreement are recoverable under a agreement unless the costs resulted solely from an act of willful misconduct or negligence of the contractor;
- (h) all costs and expenses of litigation and legal or related services necessary or expedient for producing, perfecting, and the retention and protection of the contract area, and in defending or prosecuting lawsuits involving the contract or any third party claim arising out of activities under the petroleum agreement, or sums paid in respect of legal services necessary or expedient for the protection of the interest of the contractor are recoverable and where legal services are by salaried or regularly retained lawyers of the contractor or an affiliated company of the contractor, the compensation shall be included in accordance with subparagraph (2) (b) or (d), as the case may be;
- (i) except as specified in a petroleum agreement, all costs and expenses incurred by a contractor in training its Ugandan employees engaged in the petroleum operations and any other training as may be required under the petroleum agreement;
- (j) the costs and charges described in paragraph 5;
- (k) to finance development operations where the interest rates and charges do not exceed prevailing commercial rates and only to the extent that the interest and

financial charges relate to debt raised by the contractor to finance such operations, including loans from affiliate and non-affiliates companies do not exceed fifty per cent (50%) of the total financing requirement and all loans from affiliated companies shall be subject to review and approval of the Government, where approval shall be given on contract that the terms of the loans are comparable to those which may be obtained on an arm's length basis from a non-affiliated company lender;

- (l) commissions paid to intermediaries by the contractor except where the commissions exceed the levels usually paid in the international oil industry under similar conditions in which case the approval of Government shall be required, and shall not be unreasonably withheld;
- (m) expenditure on research into and development of new equipment, material and techniques for use in searching for development and producing petroleum directly, related to the conduct of petroleum operations carried out under a petroleum agreement;
- (n) costs for all measures taken to avoid waste and prevent damage or pollution in the conduct of the petroleum operations.
- (o) costs incurred in connection with the leasing of property and equipment on condition that the costs do not exceed prevailing commercial rates and that the leasing arrangements are concluded with parties which are not affiliated companies of the contractor;
- (p) costs of acquiring, leasing, operating and maintaining communication systems including, radio, telephone, telecopier and e-mail system.

(3) The following conditions apply to materials acquired under petroleum agreement—

- (a) so far as is practicable and consistent with efficient and economical operation, only material acquired for use in the reasonably foreseeable future shall be purchased or furnished by a contractor for use in petroleum operations and the accumulation of surplus stocks shall be avoided;
- (b) a contractor shall not warrant material beyond the supplier's or manufacturer's guarantee and, in case of defective material or equipment, any adjustment received by the contractor from the suppliers or manufacturers or their agents shall be credited to the amount under the petroleum agreement;
- (c) except as otherwise provided in subparagraph (d) material purchased by a contractor for use in the petroleum operations shall be valued to include the invoice price less trade and cash discounts if any, purchase and procurement fees plus freight and forwarding charges between point of supply and point of shipment, loading and unloading fees, dock charges, forwarding and documentation fees, packing costs, freight to port of destination, insurance, taxes, customs duties, consular fees, other items chargeable against imported material and where practicable handling and transportation expenses from point of importation to warehouse or operating site, and its costs should not exceed those currently prevailing in normal arms length transactions on the open market;
- (d) materials purchased from affiliated companies of the contractor shall be charged at prices not higher than—

- (e) new material (condition "A") shall be valued at the current international price which shall not exceed the price prevailing in normal arms length transactions on the open market;
- (f) used materials (condition "B") which shall be in sound and serviceable condition and is suitable for reuse for its original function without reconditioning and priced at seventy-five percent (75%) of the current price of new material (condition "A");
- (g) used materials shall be material which cannot be classified as condition "B" but which after repair and reconditioning will be further serviceable for original function as good second hand material (condition "B") and priced at fifty percent (50%) of the current price of new material (condition "A");
- (h) materials which cannot be classified as condition "B" or condition "C" shall be priced at a value commensurate with their use;
- (i) materials involving erection costs shall be charged at the applicable condition percentage of the current knocked down price of new materials (condition "A");
- (j) where the use of materials temporary and its service to the petroleum operations does not justify the reduction in price as provided in this subparagraph, the material shall be priced on a basis that results in a net charge to the accounts under the petroleum agreement consistent with the value of the service rendered;
- (k) stocks and consumables costs shall be charged to the accounts using the "average costs" method.

(4) The costs and expenses in the paragraph shall be classified under the classification of expenses in paragraphs 1, 2, 3, 4, and 5 of this Schedule;

(5) The costs and expenses in this paragraph are recoverable contract expenses of a contractor under a petroleum agreement.

10. Costs not recoverable under a petroleum agreement

(1) The following costs are not recoverable under a petroleum agreement—

- (a) costs incurred before the date of petroleum agreement;
- (b) petroleum marketing or transportation tariff charges incurred beyond the delivery point;
- (c) the costs associated with the provision of a bank guarantee granted under a petroleum agreement and any payments made under the petroleum agreement in respect of failure by the contractor to comply with its contractual obligations the petroleum agreement and any other amounts spent on indemnities with regard to fulfillment of contractual obligations by the contractor;
- (d) legal and other costs of arbitration and the independent expert in respect of any dispute referred for determination under the petroleum agreement;
- (e) royalty;
- (f) income tax imposed in accordance with the laws of Uganda;
- (g) the Government production share determined in accordance with the petroleum agreement;
- (h) fines and penalties imposed by courts;

- (i) costs incurred as a result of willful misconduct or gross negligence of the contractor;
- (j) interest incurred on loans raised by the contract to finance exploration operations; and
- (k) bonus payments.

(2) Any other costs and expenses which are not provided for in this paragraph and which are incurred by a contractor for the necessary and proper conduct of petroleum operations are recoverable.

11. Credits under a petroleum agreement

The net proceeds of the following transactions shall be credited to the accounts under a petroleum agreement—

- (a) the net proceeds of any insurance or claim in connection with the petroleum operations or any assets charged to the accounts under a petroleum premiums charged to the accounts under the petroleum agreement;
- (b) revenue received from outside for the use of property or assets charged to the accounts under the petroleum agreement;
- (c) any adjustment received by the contractor from the suppliers or manufacturers or their agents in connection with a defective material the cost of which was previously charged by the contractor to the accounts under the petroleum agreement;
- (d) rebates, refunds or other credits received by the contractor which apply to any charge which has been made to the accounts under the petroleum agreement, but excluding any awards granted to a contractor under the arbitration or independent expert proceedings referred to, paragraph 10 (1) (d);

- (e) the actual net proceeds of sale realized from the disposal on an arms length basis of inventory materials originally charged to the accounts under a petroleum agreement and subsequently exported from Uganda without being used in the petroleum operations and where the inventory materials are exported but not sold by the contractor, or, if sold, are disposed of other than on an arms length basis, the materials shall be valued as used material in accordance with paragraph (a), (b), (vi) and (c) and the value so determined shall be credited to the Accounts.

12. Duplication of charges and credits

Notwithstanding any provision to the contrary in this Schedule there shall be no duplication of charges or credits in the accounts under a petroleum agreement.

13. Meaning of "affiliated company"

(1) In this Schedule "affiliated company" means any entity directly or indirectly effectively controlling or effectively controlled by or under direct or indirect effective common control of a specified entity.

(2) For the purposes of the definition in sub-paragraph (1)—

- (a) "control" when used in respect of any specified entity means power to direct, administer and dictate policies of the other entity;
- (b) it is not necessary for one entity to own directly or indirectly fifty percent or more of the entity's voting securities to have control over that entity;
- (c) ownership direct or indirect of fifty percent or more of the other entity's voting securities shall automatically indicate control; and
- (d) the terms "controlling" or "controlled" have meanings corresponding to the foregoing".