

MEMORANDUM

To: The Clerk of the Committee
Special Select Committee of the National Assembly
[Petroleum Commission of Guyana Bill 2017 – Bill No. 4/2017]

From: Conservation International Guyana

Date: July 28, 2017

Subject: Submission on The Petroleum Commission of Guyana Bill 2017 – Bill No. 4/2017

INTRODUCTION

CI-Guyana is pleased to make this submission for the consideration of the National Assembly in its deliberations on The Petroleum Commission of Guyana Bill 2017 – Bill No. 4/2017. We view the establishment and functioning of this commission as a very important step for the management of Guyana's emergent Oil and Gas sector and therefore commend this Bill.

We believe that this and other natural resources of the State must be managed in a manner to deliver optimal sustained social and economic benefits to the present and all future generations of Guyanese while securing the environment and the services it provides. Guyana's extractive industry sector – logging, fishing mining, quarrying and now oil and gas – has a key role to play as a trigger for green development, owing primarily to its significant potential to contribute to the growth in total wealth¹ of the country. To achieve this, the sector and nation must:

1. Effectively manage the drawdown of non-renewable natural capital (such as oil and gold) and maximize the returns on its monetization;
2. Ensure that extractive activities result in at least no net loss of critical renewable natural capital (forest, rivers, oceans, etc.); and
3. Invest and otherwise effectively manage the returns from monetization of extracted natural capital to realize long-term growth of the stocks of intangible (the capability of our people and effectiveness of our systems) and produced capital (infrastructure).

Based on the perspective presented, above we submit that:

1. Generally, the powers of the Minister prescribed within the Bill is excessive especially as it pertains to the administrative functioning of the Commission. This is especially illustrated by the powers contained in Section 8, apart from 8(1)(a); there is as well, the perception that the involvement of the Commission in the management of bid rounds for the grant of licenses can be determined only by the judgement of the Minister (Section 2 (c) with no indicator of when or when not the Minister will involve the Commission.

¹ A combined measure of the country's stocks of natural (renewable and non-renewable), intangible (social) and produced capital used by the World Bank in its assessment of the Wealth of Nations.

2. Given the Minister power, the purpose of Section 3, requiring the Commission to “consult and co-operate” with the Minister appears to be contradictory given that it is entirely an agent of the Minister.
3. The separation of powers of the Board of Directors and the Minister is also not very clear.
4. It is not clear from the Bill how the Commission will be expected to “cooperate with other government agencies” in respect to existing Statutes of relevance to the function described in Section 4(2)(f). The commission’s role should rather be one that supports the relevant agencies in the execution of their mandate.
5. The databank described in Section 4(2)(k) should include information on beneficial ownership and be available for public access.
6. The Commission should have a function to generate information on Guyana’s potential and realized oil and gas reserves independent of operators.
7. Further to the groups specifically identified in Section 10(4)(c)(i) and 10(4)(c)(ii) to be represented on the Board of Directors, youth and women should be represented.
8. The process by which representatives from constituent groups are nominated to serve on the Board should be specified, and the involvement of the Minister to act on the submission from these groups should be clarified. This will make the process of selection more transparent and allow the Minister to establish some distance from the Board that is expected to provide him with the best independent advice. This should especially be done for the representatives identified in Section 10(4)(c)(i) and 10(4)(c)(ii) and those recommended for addition in point 7 above.
9. The purpose of appointment of a Deputy Chairperson, Section 10(5), is not clear as the Bill does not describe any role for the post. It would be useful to ascribe specific roles for the Deputy Chairperson including signature authority.
10. Further to point 9 above, it would be beneficial to require the appointment of a Deputy Chairperson from amongst the special groups represented on the Board.
11. Section 20(4) should state that the Deputy Chairperson presides at meeting in the absence of the Chairperson and before the members present appoint one of themselves to preside.
12. Given that the quorum is by simple majority, it should be clarified which members of the board must be present before a meeting of the Board can proceed. Should the Chairperson be necessarily present? Should the meeting proceed in the absence of the Chairperson if the Deputy Chairperson is present without the authority of the Chairperson to convene the Board meeting?
13. As is practice in appointment of CEO of other Commissions in the natural resource sector, the Commissioner should be appointed by the Minister with the advice of the board.

14. "Environmentally responsible Operations," Section 9(1), needs to be defined under the requisite law.
15. While appreciating the importance of continuity in governance, Section 10(3) may allow for abuse of power by the Minister as there are no checks or balances preventing him to act as Chairperson (to represent the Board and provide advice) and Minister (chief decision-maker) for the period up to 30 days between appointments of a Board. Further, clarification should be provided regarding what will be deemed (by the Minister?) to be "not functioning" regarding the Board in Section 10(3).
16. Given the perceived absolute authority of the Minister on the appointment of the Board and whether it is functioning, Section 4 (a) should be reviewed as it may be perceived to give even greater power to the Minister who may decide with no justification not to appoint a Chairperson.