

**REMARKS BY THE
CHAIRPERSON, UGANDA BANKERS' ASSOCIATION, MS. SARAH ARAPTA
THE NATIONAL HIGH LEVEL SUMMIT ON ALTERNATIVE DISPUTE RESOLUTION (ADR)
AT MESTIL HOTEL ON 26th June, 2023**

Theme: The Role of ADR in Transforming Uganda's Dispute Resolution Landscape

Protocol

- The Hon. The Chief Justice of Uganda, Hon. Justice Alfonse Owiny-Dollo
- The Minister of Justice and Constitutional Affairs, Hon. Norbert Mao
- The Hon. Justices & the Supreme Court, Justices of Appeal, High Court Judicature Judges, Registrars of the Courts, Your worships the Magistrates.
- The Head of the EU Union, H.E Jan Sadek, Ambassadors present.
- The Deputy Governor, Bank of Uganda, Mr. Michael Atingi-Ego and the senior management Team of Bank of Uganda Present
- Representatives of Government Ministries, Departments and Agencies
- The President Pepperdine University, Professor Jim Gash and the entire team from Pepperdine University
- The Chairperson, the International Centre for Arbitration and Mediation in Kampala (ICAMEK), Mr. John Kanyemibwa
- Chief Executive Officers of UBA Member Bank Financial Institutions, present
- The Executive Director, Uganda Bankers' Association, Mr. Wilbrod Owor.
- Members and representatives of Uganda Law Society
- All invited guests in your respective capacities
- Ladies and Gentlemen

Good Morning to you All,

It is my pleasure to speak to you this morning and allow me thank the Hon. Chief Justice and the Hon. Minister for convening us here to discuss the role of ADR in transforming Uganda's dispute resolution landscape.

Brief about UBA: Uganda Bankers' Association (UBA) is an umbrella organization for financial institutions supervised and licensed by Bank of Uganda. Currently, our membership comprises 25

Tier Banks, 3 Development Banks (Uganda Development Bank, East African Development Bank and Afreximbank) and 8 (Tier 2 & 3) Financial Institutions

As an umbrella body, UBA promotes and represents interests of member financial institutions; works closely with the regulator and other stakeholders, through partnerships, to promote financial sector growth and acts as a platform for advocacy for a strong, vibrant and respected financial services industry.

The Judiciary is an important and critical stakeholder for the banking sector. In 2019, an MOU was signed between the Uganda Bankers' Association (UBA) and the Judicial Training Institute (JTI) to:

- Collaborate to provide technical support to judicial officers in a bid to strengthen the capacity of the Judiciary to dispense justice in the courts of law.
- Provide a platform for UBA to create awareness about trends and developments in the banking and broader financial sector.
- Sensitize Judicial officers and staff on various aspects of commercial and Banking including products, processes and compliance requirements under the prevailing laws and regulations in the banking /financial sector.

As part of this MOU, we held an engagement/dialogue session with several judges of the various divisions of the high court and upcountry circuits, and registrars. Participants were appraised of the developments in the banking and financial services sector. We will indeed continue to collaborate in this same regard.

The Banking industry commends the Judiciary for the steps that have so far been taken to address this issue of case back-log, notably.

- the establishment of the case back-log committee.
- creation of party led small claims court.
- promoting alternative dispute resolution methods like mediation, and of course most recently.
- the development and implementation of the Electronic Case Management System whose objective is to expedite and ease court processes and cases.

Important to note is that the concept of Alternative Dispute Resolution (ADR) in Uganda is not new to many. The foundation of ADR in Uganda lies in Article 126 of the 1995 Constitution of Uganda, and it is reflected in many other statutes, including the *Judicature Act*, Cap 13. However, it is the enactment of the *Arbitration and Conciliation Act*, Cap 4 that streamlined the practice of ADR in Uganda and is implemented today.

The ingenuity by courts in making use of ADR mechanisms has paved way for better dispensation of justice, and its use has been considered a key case backlog management tool. Still the case backlog remains prevalent (according to the Annual Judiciary Report 2021/2022, the total case backlog stood at 50,592 cases (30.11 %) against 168,007 pending ones).

The banking sector in Uganda has grown in leaps and bounds since independence in 1962 and from 2000s onwards, the sector witnessed regulatory reforms resulting in new entrants and channel expansion both physical (Branches & Agents) as well as virtual (Electronic/Digital channels).

As indicated in the brief above, the classification of financial institutions is multi-tiered and comprises Tier I financial institutions (commercial banks); Tier II financial institutions (micro finance credit institutions); Tier III financial institutions (microfinance deposit-taking institutions (MDIs).

Over the past 15 or so years, since the regulatory reforms, there has also been marked increase in disputes involving financial institutions in the banking & financial sector. In so many of the disputes, the financial institutions have been defendants or respondents in matters before the courts. A significant caseload of the banking disputes has been (and continues to be) before the Commercial Division of the High Court or other branches (Land Division, Family Division) and of even greater significance is the over 7 trillion shillings locked up in pending disputes before the Division as of September 2022.

While the remit of the Division (as well as other divisions of the High Court) is to, among others, rationalize and free cash flows locked up in such disputes, this is not necessarily happening fast enough. The nature of the banking disputes are varied and need to be studied and mapped in order to develop a coherent strategy for speedy resolution or even avoidance and mitigation.

Conclusion

The need for an alternative dispute resolution centre to promote access to justice by supplementing the existing mechanism, offering an alternative avenue for speedy , cost efficient and effective option for the resolution of commercial disputes, gave birth to the International Centre for Arbitration and Mediation in Kampala "ICAMEK", -a partnership between Uganda Bankers' Association and Uganda Law Society, which was officially launched in April 2019 by the then Minister of Justice and Constitutional Affairs Hon. Kahinda Otafire.

During the last year's engagement session with the Judiciary that I spoke about earlier, a proposal was made for the banking industry to consider setting a threshold amount for which the standard approach should be ADR through ICAMEK at least for 12-18 months as first recourse. As such all supervised financial institution (SFI) cases go to the centre, prior to court as a standard operating procedure.

UBA will be happy to support this proposal, given the collaborative role we played in the establishment of the Centre above. ???

The banking sector remains committed to contributing to strengthening the technical support extended to the stakeholders in the justice system and advocating for the embracing of ADR and that is the reason, we are gathered here this morning.

I thank you all for listening to me.

Sarah Arapta

UBA Chairperson.