



Contract Enforcement in Ugandan Business Transactions

The Case of Small and Medium Enterprises

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Declaration

This report that presents the results of the 2009 exploratory study on “Contract Enforcement in Ugandan Business Transactions” is an original piece of work done by us and submitted to ICBE. We are not aware of any similar piece of work in Uganda.

Executive Summary

The study focused on studying the nature of contracts, contract enforcement and dispute resolution in SMEs in Uganda. The study was motivated by the fact that SMEs and suppliers in Uganda have adversarial relationships which are often characterized by many problems which would otherwise have been resolved by effective contracts. These problems often lead to conflicts that are left unresolved, affecting the survival and continuity of the small and medium enterprises.

Ugandan SMEs rely on oral and informal contracts to regulate their dealings with suppliers. As a result, contract aspects relating to pricing, terms of payment, quality, quantity and delivery are not well articulated, becoming breeding grounds for conflict. When faced with conflict in business dealings with suppliers, majority of the SMEs do not know what to do although some seek redress from the Police and Local Councils (LCs). Minority of the SME's who go to the commercial court for redress find it costly and time consuming. Furthermore, although the CADR believes that ADR is time and cost efficient, our study produces contradictory results. Contrary to the popular position of ADR, our study reveals that those who are familiar with arbitration find ADR is costly and time consuming, while those who are not familiar with ADR believe that ADR is cost and time efficient.

The level of unethical behavior by suppliers towards SMEs is also very high as evidenced by incidents like lying, exaggeration and breaking of promises. It is paradoxical to note that, despite the fact that SMEs have low levels of trust in suppliers due to such behavior, they do not make formal contracts that will try to control such behaviour.

The findings raise major implications for the Commercial Court and trade associations Uganda Small Scale Industries Association (USSIA), Uganda Manufacturers Association (UMA), Uganda National Chamber of Commerce and Industry (UNCCI) and Private Sector Foundation Uganda (PSFU). Implications include creating awareness of arbitration and other forms of ADR, creation of a special desk at the commercial court for SMEs, teaching SMEs and suppliers the importance of formal contracts and how to write them, providing legal help to SMEs, training of SMEs and suppliers in ethical business behaviour and building the capacity of the police and local councils in the area of dispute resolution.

Map of Uganda



1. Introduction

1.1. Contracts and Conflicts in the Supply Chain

Uganda's private sector is dominated by Small and Medium-Sized Enterprises (SMEs), which account for the majority of the entire business community. Their commercial activities represent on average 75% of Uganda's annual Gross Domestic Product (GDP). They employ over 80% of the total workforce in the country and produce largely for the domestic market. These SMEs are run under the idea that what the seller gains the buyer must lose, that is, the “we win – you lose” type of game. The adversarial posture of firms brings power issues and conflicts into the buyer-supplier relationship. SMEs buyer-supplier relationships in Uganda are often characterized as being problematic as evidenced by late deliveries, lack of concern for end customer and delays caused by disruptions, to mention but a few.

Recognizing the importance of contractual discipline and contract enforcement in Uganda's SME buyer-supplier relationship is important in promoting business growth. Business growth is difficult in countries where the courts of law are slow. In Uganda resolving disputes in courts of law takes long, yet the number of cases arising out of business disputes continue to pile, damaging the buyer-supplier relationship. According to the Justice Law and Order Sector (JLOS) Progress Report (2008), there is a cumulative growth of backlog cases because the rate of disposing of cases does not match the rate at which new cases come up. As a consequence of this in many developing countries, sub-optimal contract enforcement by formal legal institutions in the economic system becomes rigid and inflexible. Buyers and suppliers therefore tend to select trusted business partners and are very reluctant to switch between partners. For example the number of cases pending in the High Court as at 30th July 2009 was close to 120,000 and those disposed of were only 20,000 yet some of them (the disposed ones) had been carried forward from 2006 Justice Law and Order Sector Report (2009).

Several initiatives to improve commercial dispute resolution have been undertaken in Uganda under the Arbitration and Conciliation Act in 2000 (Cap 4 Laws of Uganda). The Act created a specialist statutory body which would guide the country on the use of alternative dispute resolution (CADER)¹. Although these are important steps, there are some clear restrictions in

¹ www.jlos.go.ug – Justice Law and Order Sector

the effectiveness of the alternative dispute resolution (ADR) institutions in Uganda. First, from the report of the committee on Legal and Parliamentary Affairs on the Arbitration and Conciliation (Amendment) Bill (2007) it is clear that the ADR Act is not being used adequately. Secondly, it is clear that there are marketing problems associated with it (Justice Kiryabwire, 2005). Commercial parties often do not find the way to ADR institutions. The Justice Law and Order Sector in its sector investment plan (SIP II) intends to promote the use of ADR in addition to solve the problem of back log of cases given the fact that ADR has not been effectively used.

To be able to effectively enforce contracts and improve the buyer-supplier relationship there is a clear need for adequate quantitative and qualitative information. We need to know how often disputes occur during commercial transactions, and the origin of those disputes. We need to know how problems and grievances transform into disputes. We need to know when and which kind of mediation/arbitration might help and what emotional reactions follow Ugandan SMEs after a dispute resolution. However, there is up to now no large scale systematic knowledge about dispute resolution in buyer-supplier relationships in Uganda and emotional outcomes of the dispute resolution.

1.2. The Ugandan Business Environment and SMEs in Uganda

Uganda is a developing English speaking country located in the Eastern Part of the African Continent. It is a low – income country that is agriculture based. The current population is estimated at about 32 Million. The Gross Domestic Product (GDP) per capita is about USD 1,000. The economy has shown solid growth over the last 15 years, with annual GDP growth averaging around 5%. While there have been some improvements, development is still constrained by corruption and lack of political transparency.

The Small and Medium Enterprise (SME) sector in Uganda is extensive. There are an estimated 1,069,848 SMEs² in urban and rural areas which account for 90% of the private sector. They employ some 2.5 million people and are the prime source of new jobs, playing a vital role in income generation. Their ownership is diversified by ownership, type of enterprise and stage of development. According to the Uganda Small Scale Industries Association, SMEs are spread across all sub-sectors of the economy with the majority

² Uganda Bureau of Statistics Census Figures

operating in the informal sector. Many SMEs are operated by women especially in food processing, textiles and clothing manufacturing and handicrafts³.

SMEs face certain constraints that are less applicable to large companies in Uganda. They are more dependent on business development services for growing their businesses, face major constraints in their access to finance and markets, and are disproportionately affected by regulatory barriers⁴. The government is actively promoting the SME (including micro enterprise) sector in its Poverty Eradication Action Plan⁵.

1.3. Research Design, Sampling and Data Collection Methods

In order to answer the research questions generated for the study, a large scale comprehensive survey among Ugandan small and medium sized firms was undertaken. The study adopted a descriptive and qualitative approach.

The target population SMEs for the sectors studied comprised of 45,832. These were categorized under the following industrial groupings; manufacturing, construction, hotels and restaurants, education, wholesale and retail trade. This survey aimed at covering a total sample of 839 composed of 422 Small Scale Businesses and 417 medium enterprises drawn from the above listed sectors.

To create a sampling frame, the list of SMEs was obtained from Uganda Small Scale Industries Association (USSIA) and Uganda Manufacturers Association (UMA). Respondents were managers who deal with the purchasing function because of their knowledge of the subject matter in the survey instrument. The respondent firms were selected using stratified and simple random sampling. Stratified sampling was used because SMEs are categorized according to industrial grouping. From each stratum a sample representing the population was chosen using simple random sampling.

Data was collected using a fixed response format questionnaire which was made up of closed ended questions. Open ended questions were also developed to collect data from respondents through interviews

³ Uganda - BiD Country Guide series, 2008

⁴ Uganda - BiD Country Guide series, 2008

⁵ Uganda - BiD Country Guide series, 2008

2. Presentation of findings

2.1. Introduction

In this section we present the findings of the study. The first part of this section describes the characteristics of the respondent firms. Also described in this section are issues related to contracting, disagreement with suppliers and ethical behavior.

2.2. Response Rate

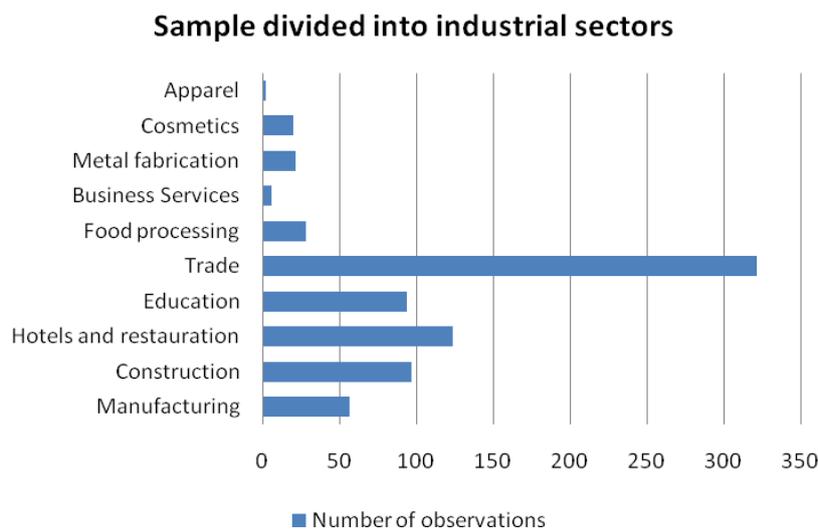
We collected 802 usable questionnaires from the respondents firms. The data that were collected was entered into the SPSS software and Microsoft Excel in order to be analyzed.

2.3. Characteristics of the Respondent Firms

2.3.1. Categorization of Firms by Sector

The trade sector had the highest number of respondents (41.7%). This was followed by hotels/ restaurants (16.1%), education (12.2%), construction (12.6%), manufacturing (7.4%), food processing (3.6%), metal fabrication (2.8%) and cosmetics (2.6%). Apparel (0.3%) and business services (0.8%) had the lowest number of respondents. These results are shown in the figure 1 below:

Figure 1: *Categorisation of Firms by Sector*

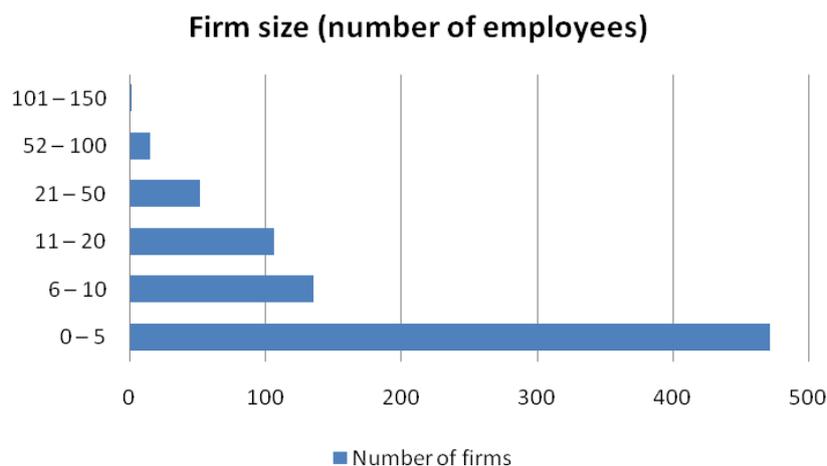


2.3.2. Number of Employees

This survey covered businesses that employed up to 150 employees. The majority of the firms (60.3%) were very small and had only 0-5 employees. This was followed by a smaller

group of small firms that employed between 6-10 people accounting for 17%. The following groups may be considered to be medium sized firms, the first category of firms in this group 13.7% of the firms employed between 11-20 while 6.5% employed between 21-50. This group was followed by two relatively small categories of firms with 1.9% and 0.3% employed 51-100 and 101-150 employees respectively. Figure 2, below shows a graphical presentation of this information.

Figure 2: Number of Employees



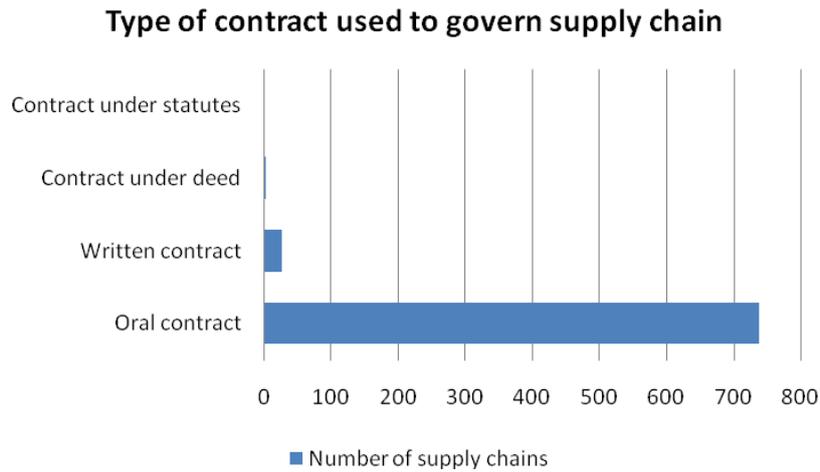
2.3.3. Number of Suppliers in the Firms

Most Small and Medium sized buyers in Uganda have about five main suppliers. However, there is variation in the number of suppliers that SMEs in Uganda have. Many (about 30%) firms have 10 or more suppliers. On a monthly basis, a typical supplier supplies items worth about 750.000-1.000.000 UGX, which is on average about 35% of the total purchase volume of a Ugandan SME. About 10% of purchases are over UGX 5,000,000. Most of the buyers (39%) receive a weekly delivery from the supplier while 23% receive deliveries daily from suppliers. The average relationship between the buyers and suppliers had lasted for an average of 3 years. Average distance between buyer and supplier was 9 kilometers. However, 1% of the suppliers were located at a distance of more than 100 kilometers away from the buyer.

2.4. Contracts between Buyers and Suppliers

One of the main findings of our survey is that majority of the SMEs (83.4%) use oral agreements in their dealings with suppliers. Only a very few (16.6%) use written contracts as shown in figure 3 below:

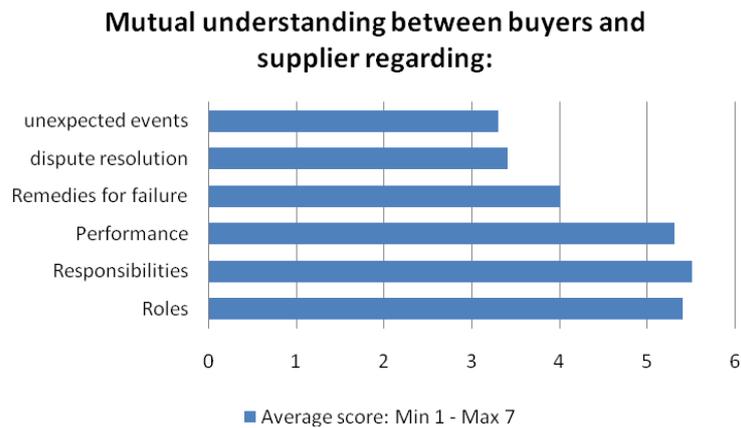
Figure 3: Types of Contracts Used to Govern Transactions



Mutual Understandings (Implicit Contracts between Buyers and Suppliers).

Although the firms do not use written contracts in their dealings with each other, some implicit contracts between the two parties, consisting of mutual understandings, do exist. Figure 4, below reveals that especially in the case of unexpected events, failures and dispute resolution the two parties’ understandings of what should happen diverge. Contrary to the above situation, respondents revealed that they had a mutual understanding on the roles of each party, responsibilities of each party, and how each party is to perform.

Figure 4: Mutual Understanding between SMEs and their Suppliers



2.5. Case on Contracting

Below is case on contracting in one of the SMEs from which data was collected:

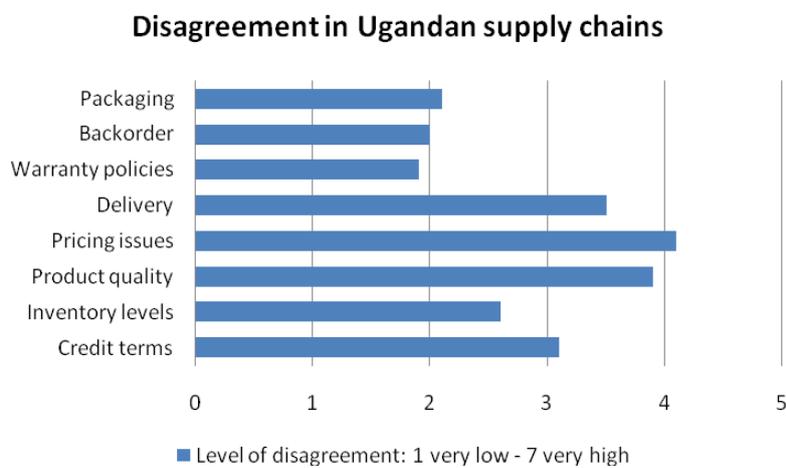
Our business dealings are governed orally. Being that these people are Chinese who do not know English and those who know are not all that well versed with the language. So it would seem difficult to have a formal contract. What we do is to have a face to face negotiation with them or a physical touch on a commodity. Our decisions to order consignment are based mainly on prices. Here a supplier gives us a form composing of prices ranges. The reason for this is that we are foreigners in the country. This list guides us in making purchase order decisions especially during price fluctuations.the goods supplied usually have a lengthy expiry date. We have had two serious problems with two major suppliers i.e. Kakira sugar works and Britania. For Britania they gave us expired biscuits and refused to exchange it. For Kakira they have now taken a month without supplying us with sugar. Whenever we used to call these people of Kakira they used to say that they have a machine break down and that they were not manufacturing sugar. So we decided to go to Kikubo and purchase from there. For the case of Britania we tried to explain to them and even showed them the expired biscuits supplied to us, but they completely denied responsibility. They said that we may have bought them from somewhere else. These two companies think that they are very important and powerful and that's why they take us for a ride. And indeed may be they are. We are too small to successfully take action against them. We therefore ignored these two cases and bore the loss. We also wanted to maintain the relationship with them. For Britania we decided to throw the biscuits away. But we didn't stop purchasing from them because their goods are on demand. We are dissatisfied with the two cases. For Kakira up to know they haven't started supplying us making us to incur a lot of money on transport to go to Kikubo and at the moment we do not have a vehicle we use a boda boda in times of urgency. For Britania we are extremely dissatisfied though we have to continue dealing with them. We felt very bad being a new business getting such an embarrassment (Britania) at the start we felt much discouraged for the future.

The above findings support, Bhardan (2001) and Soysa and Jutting (2006) who contend that informal dealings are important in developing countries where formal law is relatively weak. As seen from the above discussions informalities are associated with both problem creation and problem solving. This is further supported by World Bank (2007) enterprise survey which has rated Uganda at over 70% informality index as against the regional average of 63.8% and a global average of 63.2%. It is worth noting that SME business decisions are made in a setting of conflicting signals from owner managers, thus creating ethical dilemma. All these factors force SME's to compromise their moral standards due to the existing moral climate. This comprise is weighed against the consequences at stake in business.

2.6. Level of Disagreement between Buyers and their Suppliers

To investigate the level of disagreement and the occurrence of problems in Ugandan supply chains a number of questions were asked of the respondents. Although on average the level of disagreement is rather low, compared to other issues disagreements on pricing issues, product quality and delivery are higher. Pricing issues ranked high (M=4.05), product quality (M=3.89, S.D=2.04), delivery (M=3.54, S.D=2.01), credit terms (M=3.06, S.D=1.84), inventory levels (M=2.56, S.D=1.56), packaging (M=2.10, S.D=1.57), back orders (M=1.98, S.D=1.40) and warranty policies (M=1.91, S.D=1.22). These results are shown in the figure below:

Figure 5: Disagreement between SMEs and Suppliers



2.7. Level of Ethical Behavior

According to our results, SMEs and their suppliers on average show reasonably high levels of unethical behavior. The tendency to exaggerate supplies contrary to the terms of the contract had the highest mean (Mean = 5.29). Sometimes the supplier exaggerates his/her offer in order to get what he/she really needs from the buyer. The second high ranking unethical behavior was lying (Mean = 5.10). On occasion, the supplier has lied about certain things in order to protect his/her interests. This unethical conduct was followed by the practice of altering facts (Mean = 5.02). These results are shown in the figure below:

Figure 6: Ethical Behavior of SMEs and their Suppliers



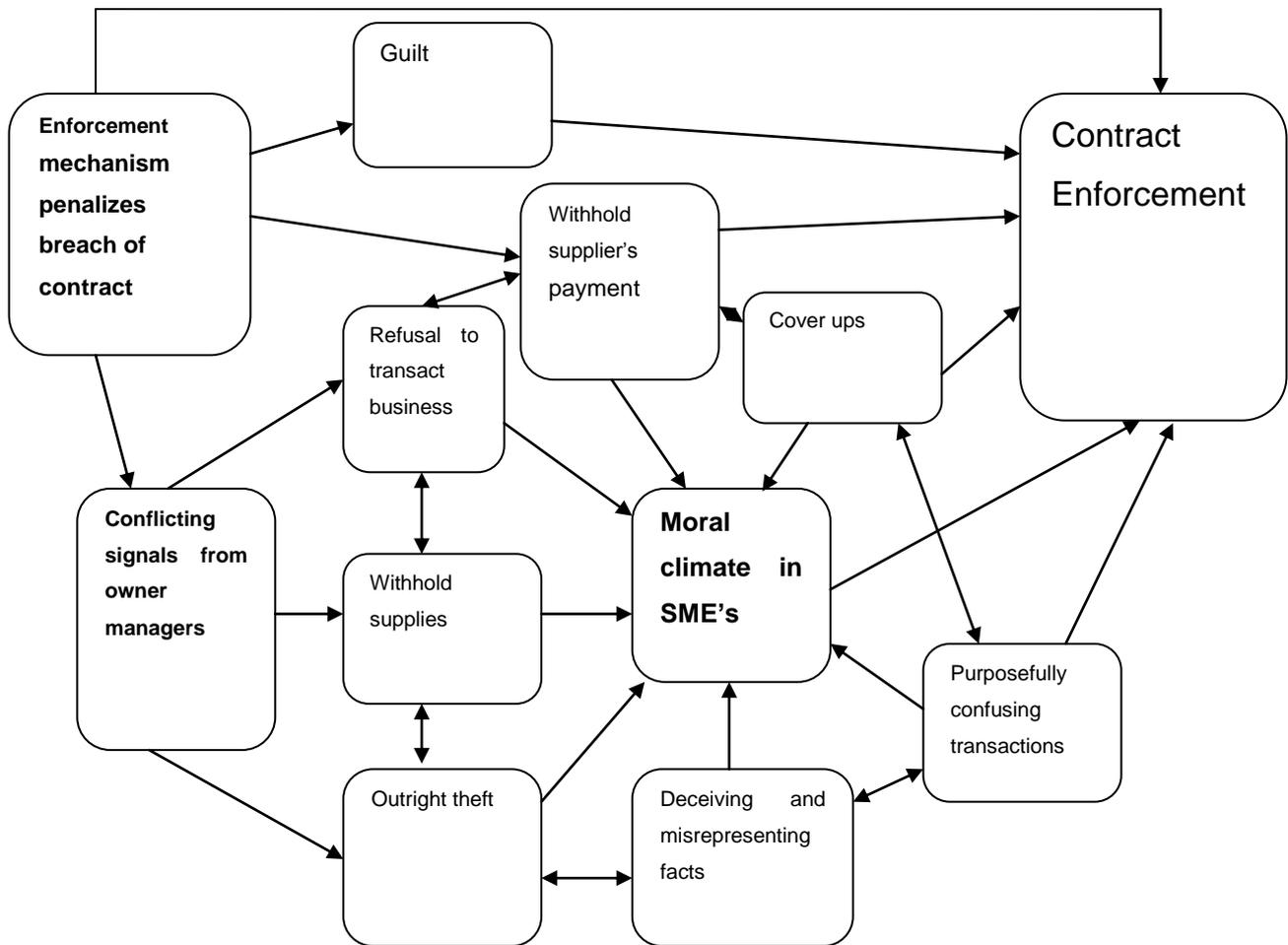
Suppliers also frequently alter facts in order to get what they need. The supplier has sometimes promised to do things and did not do them later. The mean response for truthful (Mean = 3.33), reveals the opaqueness of the suppliers. Additionally self interests (Mean = 4.92, SD= 1.71) and failure to keep word (Mean = 4.88, SD= 1.92) were found to exist in buyer-supplier contracts.

2.8. Cases on Unethical Behavior

Results from qualitative interviews further confirm our finding that unethical behavior is not uncommon. See case 1 for details.

CASE 1: “We do not have any clearly stated procedure that we follow when buying supplies. Suppliers of routine products usually come to our company with samples of their products. As long as these suppliers have what we want, we make orders. However, for strategic items, our company has tried to pre-qualify suppliers, using referrals and market research. In actual sense we only pre-qualify suppliers who are trustworthy, reliable and known by our business partners. Sometimes we prefer to deal with a company which has what we want and at the same time we have what they want. This is because our line of business is so wide and we have been in this business for a number of years. Most of our dealings have been informal and based on trust but of recent we introduced a system of signing contracts with new suppliers due to the changing face of business in Uganda. This is because we have experienced cases of outright theft, cheating, breach of the gentleman’s agreement, distorting data, purposefully confusing transactions, making false threats and promises, cutting corners, cover ups, deceiving and misrepresenting. We have done this for now a year but in the past we weren’t doing it. This was a development which was also introduced to us by one of our old suppliers who required us to sign a contract. This supplier also introduced the same concept to all his clients. What brought this was the failure to meet the previous set conditions, that’s failure to clear payments in time. He also claimed that the current economic crunch forced him to do this. We now use formal contracts on new suppliers and informal contracts for our old suppliers apart from the one old one who decided to introduce it to us. To be sincere the major aim of our business is profit maximization so our contracts are developed to cater for things like; where we prefer cash payments and a receipt is issued and for our distant customers a bank deposit on the company account has to be made before deliveries are made. Credits are only given to our old trust worthy customers and people we already know with already stationed old firms. In most cases we avoid dealing with people who come bragging with brief cases in most cases they are strangers/thieves who want things for nothing in return. Issues covered in our formal contracts include credit terms, time of payment, Delivery time and how to handle faulty goods. There’s nothing great being done in managing contracts. It’s all about signing our papers and each party keeps her own copy. We do not use lawyers, trustees because they seem to be costly to us, though we have a company Lawyer. But of resent we have drafted a contract having learnt from our mistakes and to reduce on the losses we decided to draft a contract. We have recently tasted the sour part of the business. The name of the client is confidential but has of recent supplied a faulty machine to us where the chemicals supplied with the machine were not compatible. I can’t tell the cause of the problem. But we called them and they dispatched a team of technicians who proved our claims. They then agreed to replace the machine, though they haven’t yet done it but we know they are going to do it according to what they said. We have made sure that we do what is expected from us and in time so as to avoid inconveniences in our work schedules and avoid making double losses. I have ever had a dispute; in the criminal court I think it was the Buganda road court. We had to go to court and testify against him many times. It takes a lot of time and some of us do not have time to follow the cases up. Additionally police and judges think that reporting a case is an investment. So in order for your side to succeed you have to invest in it. Though I haven’t yet got the machine am convinced that I will get the machine making me certified. Feelings after dispute were not all that good since my work has been put on a stand still.

Figure 1: Causal network relating moral climate and contract enforcement in Ugandan SME's



Themes obtained from interviews revealed that these informalities are characterized by business traditions and customs, personalized trust, strong social ties, affective commitment, relational contract and moral values which are unwritten, socially shared and enforced outside the officially sanctioned business laws. Informal business relationships carry the business community's prevailing perceptions of the business world, accumulated wisdom, practices and customs of the past and current set of values. These have been maintained from one generation to another through various transmission mechanisms such as imitation, oral tradition and teaching. Case 2 below illustrate this point.

Formal contracts only accounted for 16.6%. These formal contracts are intended to create order and harmony among the contracting partners. This is consistent with Nobel Prize Winner Williamson (2000) who avers that contracts support the concept of order advocated for using contracts is a governance effort to create order, lessen conflict and realize gains. Out of the proportion making up formal contracts, clauses covering price (Mean=1.03), terms

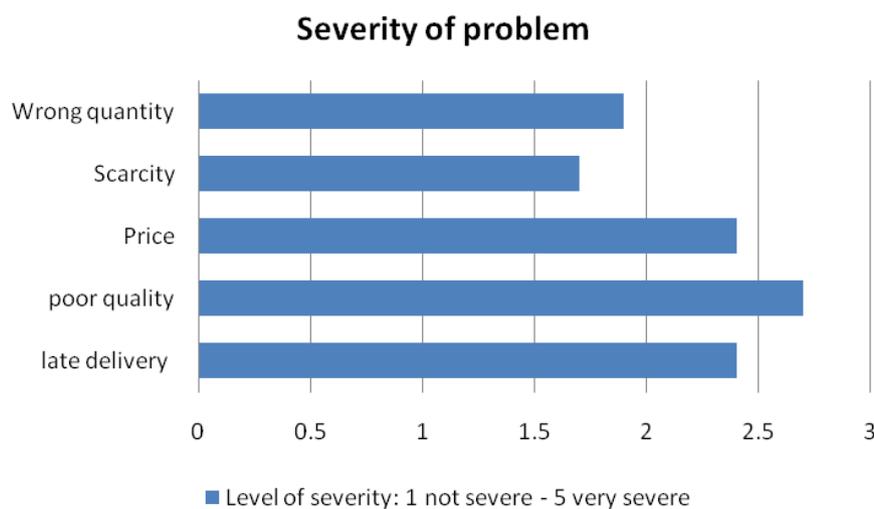
of payment (Mean=1.05), quality aspects (Mean=1.12), quantity aspects (Mean=1.11), delivery time (Mean=1.29) were not clearly catered for and/or articulated in the contract. These areas as indicated earlier were breeding grounds for conflict. This is consistent with Durkheim (1933), who noted that the biggest challenge of contracts rests in making a contract that is comprehensive catering for each of the components in the business transaction. However, clauses covering warranties (Mean=1.50, SD=0.503), dispute resolution (Mean=1.74, SD=0.44), sanctions on late payment, (Mean=1.55, SD=0.50) and sanctions on late delivery (Mean=1.62, SD=0.49) were clearly spelt out.

3. Transaction Specific Conflicts and their Resolution

3.1. Introduction

In the previous section we presented conflicts in the supply chain. In this section we focus on transaction specific conflicts. Respondents were asked to mention the most recent (non-trivial) problem they experienced in a transaction with the supplier. The average problem occurred about 2 months before the survey interview. The problems mentioned in their order of severity were; poor quality, late delivery, price, wrong quantity and scarcity. These were consistent with Kiryabwire (2001) who noted that growth in the private sector resulted in a corresponding increase in disputes associated with delivery of goods not fit for the purpose or according to description; non delivery of goods and services paid for, nonpayment for goods and services given and contract interpretation.

Figure 7: *Severity of the Problem Faced*

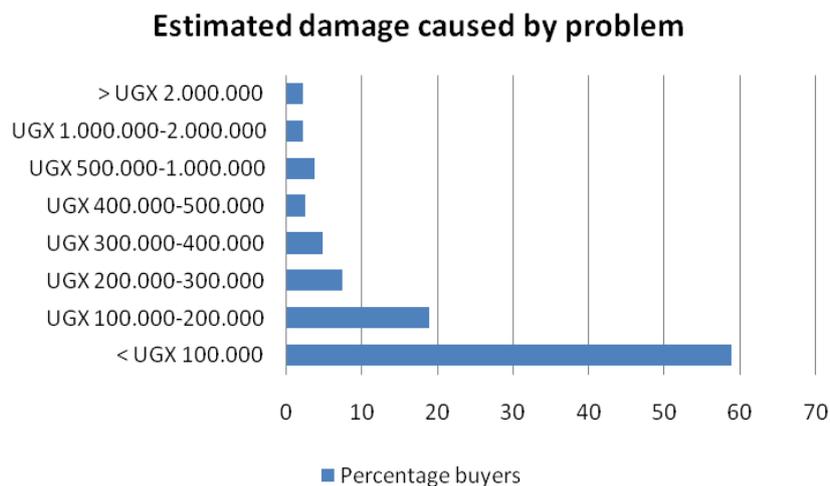


Kiryabwire (2001) further avers that the value of these disputes must be worth billions of shillings clogging up the smooth flow of trade. This study established that more than 4% of the most recent problems are quite substantial (larger than Two Million Uganda Shillings) as revealed by the bar graph above otherwise the estimated damage is trivial.

3.2. Estimated Damage Caused by the Problem

By and large most of the problems are rather small in terms of financial damage. Note however, that many of the buyers are small in size. A large fraction of the buyers experienced problems that were more substantial. About 40% of the problems were associated with damage larger than 100,000 Ugandan Shillings. More than 4% of the most recent problems are really substantial (larger than Two Million Uganda Shillings as shown in the table below.

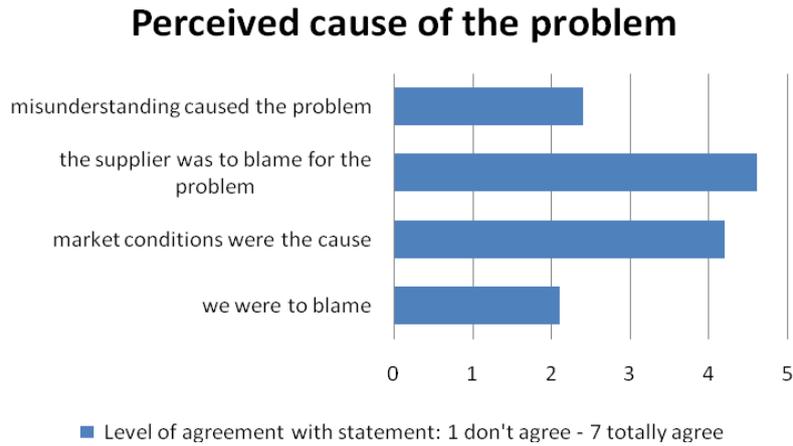
Figure 8: *Estimated Damage Caused By Problems*



3.3. Perceived Cause of the Problem

Survey results reveal that on average misunderstandings between the buyer and the supplier were due to the behavior of suppliers, and market conditions like limited availability of the item on the market, high market prices, uncertain market conditions, to mention but a few were to blame for the conflicts that arise out of the contractual obligations.

Figure 9: Perceived Causes of the Problems between Buyers and Suppliers



3.4. Problem Solving / Conflict Resolution

Majority of SME's expressed attempts to solve contractual problems and/or resolve conflicts in five major ways: talked about the problem; threatened to stop buying; complained but no action; no action but became less committed; no communication and threatened to go to court. Details are presented in the diagram below. Of critical importance is the role assumed by mediation in problem solving compared with litigation and arbitration. Threatening to stop buying is a normative practice which can enforce compliance because parties benefit from fulfillment of basic social need such as dependency and belonging

Figure 10: Measures Taken to Solve the Problem



3.5. Cases on Conflict Resolution

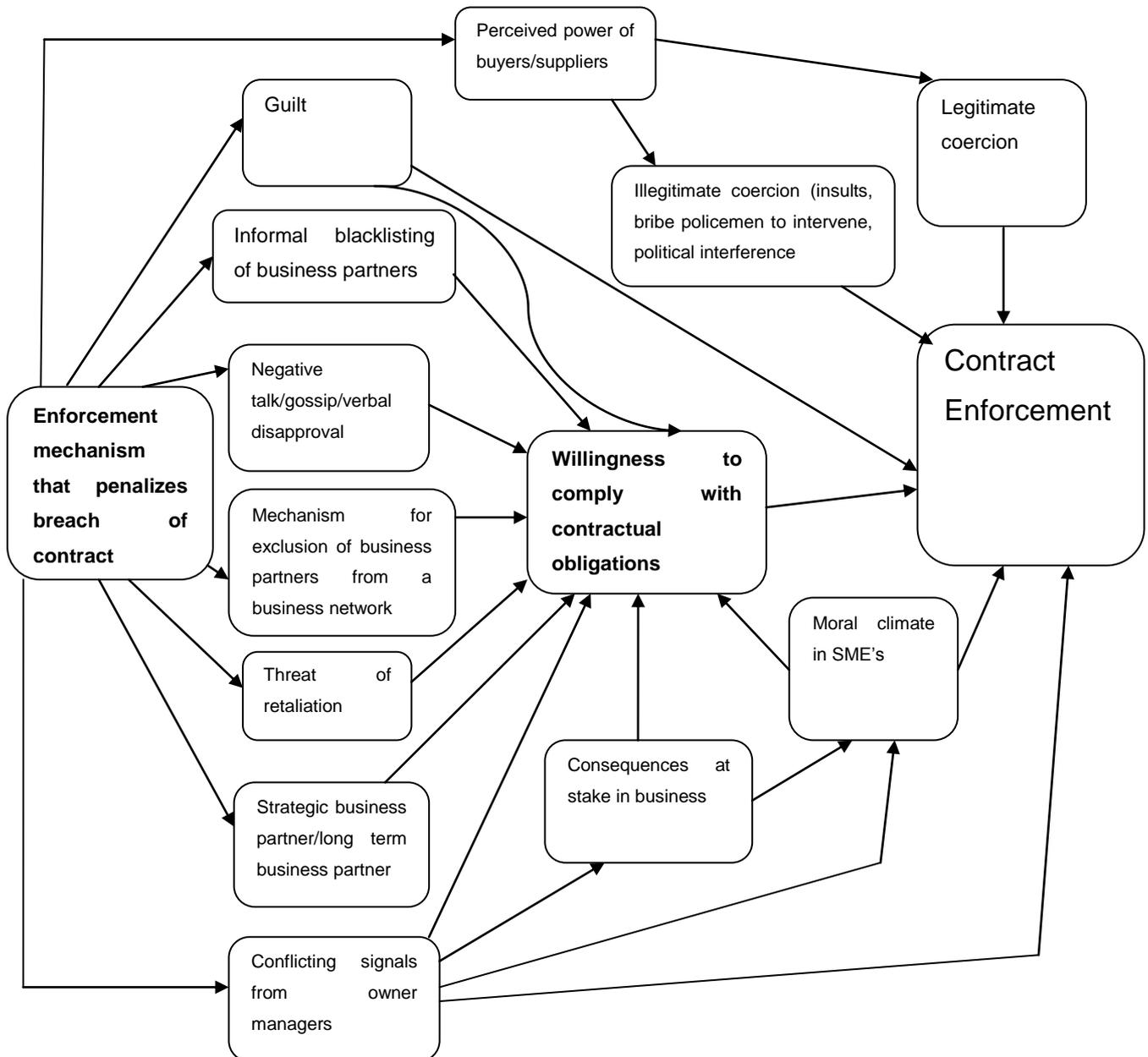
Below are some cases on conflict resolution in some of the SMEs

Case 2: REPORT FROM ALLIAZ PHARMARCY: “...We use informal contracts. We agree with the supplier that the drug supplied to us should be advertised so that the drugs are known to the patients/clients. Drugs should also be readily available not to put us on tension in search for the drug. Should the supplier fail to deliver in time we get another person to supply, we do not entertain late deliveries since it results in loss of business. But if the supplier delivers the drug later after we have obtained deliveries from alternative suppliers, then the old supplier should either leave the drug and payments made after selling them. But if they expire before the whole consignment is sold, it's not our fault, and they have to take back the drug. We also cut off our dealings with suppliers who completely fail to deliver drugs unless one gives a genuine reason. The drug should be readily available therefore the supplier should be checking with us if his drugs are still in stock. The price of the drug should be affordable and bearable. We stock more drugs incase we expect scarcity of a drug in the coming time. We also stock drugs incase there's an out break of an epidemic like; hepatitis. When the drug is out of stock. The supplier should have various brands of drugs depending on manufactures say England, South Africa, China, America, etc this is because our patients/clients have specific brands they like. Emergency of the drug like when there's an accident, e.g. of resent when UPDF soldiers got an accident. This is a common instance, here one is requested to supply a drug and takes long without any communication and after getting a drug some where the same person then brings the drug yet we already got the drug. (Name of the supplier with held). A person supplied less quantities of the drug and claimed to have delivered the full amount. Some suppliers fail to supply completely while others supply wrong quantities. Poor packaging by the people in the stores is also a common phenomenon. For the case of failure to supply- When the drug is completely out of stock, Robbery during transportation especially imported drugs, Accidents some drugs are transported in fragile cans/jars so at times they break during their transportation. In business there's supposed to be harmony so these problems didn't turn into disputes .For one who failed to supply gave us genuine reason and we became considerate and the one for less quantities completely denied the case and we also took it simple”

For the case of failure to supply, We called the person we had given the order, asked why he didn't supply us with drugs and told us he got an accident (breakage) of the transportation jar being fragile but he promised to supply later. But in most cases we consider this problem depending on the urgency of the drug. We have also had a dispute in a law enforcing body with the National Drug Authority and the Kampala City Council. With National Drug Authority my experience was bad. NDA was phasing out Anti Malarial Drugs (Monotherapy Anti Malarials.) But they said people with old stock should first dispense it away .But even before selling it they came and took our stock with out even remembering what they had said earlier. They took the drugs and promised to communicate earlier but up to its now a month minus the communication. With KCC they had told us that we are to pay one license for both the over counter drugs (cosmetics) and the prescription drugs. But the very people without any communication came and said we are supposed to pay two different licenses after paying so we made a double payment. My experience with both wasn't good at all since I was embarrassed, made losses for the double payment and the taken drugs.

Case 3: "...I have learnt from my parents throughout the years to be good to people. If problems to our business dealing(s) emerge, we do not have to become too formal and legalistic but rather exercise mutual understanding and restraint. This helps us to avoid authoritative and confrontational procedures. I hate business people who behave like kids wanting to report to authorities all the time. If you become too formal then I will never deal with you again and I also inform my business partners how horrible you are, so that you are alienated. I cannot give you business. LC's, Police and court have never brought people together again. They instead split them yet it's Better to forgive one another and build relationships with a supplier. When we give you work we assume that we are going to work together and when you take us to court, we may comply with a court order but cease our business dealings with you. We find a way of eliminating you since you are an impossible person to work with. When a problem associated with a business transaction occurs come to us and we amicably deal with the matter. We small businesses are cash strained sometimes we fail to pay for deliveries on time or even fail to deliver and request the buyer to advance us some money. But if you simply rush to court or police and court orders us to pay painfully, our properties are attached etc. we blacklist you and also inform other business partners. We also consult in the network before we select you as a supplier. We usually offer contracts on the basis of trust.

Figure 2: Causal network for outcomes of enforcement mechanisms and contract enforcement in Ugandan SME's



Case 2 reveals that contract compliance is enforced through informally blacklisting non-compliant SME's, negative gossip and verbal disapproval, alienation or exclusion from a business network. Under this arrangement contract compliance and flexibility is enforced by peer pressure, or network members. This pressurizes buyers and suppliers to perform as per their informal agreements. It should also be born in mind that pressure to perform; relational norms and buyer's power have an impact on the firm's likelihood to behave opportunistically. Often unethical behavior occurs because of pressure on meager resources, limited competencies of business partners and the demands of the supplying organizations. This

study revealed that in most of the business dealings, SME's suppliers were required to supply on time without any down or timely payments from buyers. In almost all transactions, payments to suppliers were delayed by the buyers. Most of the buyers tried to fidget and make payment to the supplier after realizing that they need the next batch of supplies. 89% of buyers reported substantial amount of financial pressure on contractual obligations. The study identified the most frequent illegal actions as cutting corners on quality control, cover ups, inflated costs, outright deceit, dishonesty, cheating, shirking contractual obligations and violating an unwritten understanding with a supplier. Excessive pressure to deliver results was significantly correlated with willingness to compromise ethics to cushion SME's from financial shocks. Traces of opportunistic tendencies are mainly found in contract administration. See case 3 below for details.

Case 4: Traditions, Beliefs and customs: "...we have been running our business for the last eight years. We have in the past considered various peaceful methods that do not involve use of an authority in case of a contractual dispute. My experience shows that businesses can proceed and prosper without basing on any philosophy. Challenges are normal. Any business that must succeed is expected to face challenges. Sometimes it pays to ignore the challenges and problems if they do not involve heavy losses. When contracts are not written it is hard to prove that the other party (supplier) is guilty so we opt for other methods that do not involve authorities to solve the problem thereby creating an environment that attracts suppliers and not discouraging them. For the case of fairness ADR is good but I still do not know if it can be done fairly. Good relationship does not mean exploitation of one party. I feel am cheated when I use such a thing so I do not think I can use it. I inform the supplier about the problem thereby keeping good reputation with the supplier.

Case 5: Personalized Trust: "... In order to build confidence and trust among those served, we just replace what has gone bad and we resolve the issue without going to court of law neither local council. If the problem is not so big we just live the supplier and the problem works out its self. If there is no documentation in business transaction there is no need to go to court. we ignore the conflict and may be they are financially stressed and experiencing a lot of losses, I look for another business buyer or supplier, whichever is applicable at that time. Serving customers diligently, trustworthiness, faithfulness in all our business transactions, Service delivery and timely accomplishment of our tasks and respect for each other are key business tenets. In many times it pays to Ignore the problem and trust in God.

3.6. Handling Disputes in Ugandan supply chains.

In this section we report results on respondents who worked at resolving the dispute. Out of 180 SME's that sought dispute resolution (Table 2), 18.3% reported the problem to an official body while the remaining 81.7% worked at resolving the dispute through informalities. Those

who sought assistance from an official body reported to: Local Councils -36.6%, Police - 36.6%, District Leaders/ Authorities -4.9%, Commercial Court -12.2% and others - 9.8%. 65.2% of those who sought assistance from official bodies received assistance as opposed to 34.8% who were not assisted.

3.7. Attempts to Resolve the Buyer-Supplier Disputes

This section presents results on what suppliers contemplated doing to resolve the buyer-supplier disputes. We subjected the responses to exploratory factor analysis using principal components analysis using an extraction method based on Eigen values greater than unity. The factor analysis varimax rotation and Kaiser-Meyer-Olkin (KMO) Measure of Sampling Adequacy and Bartlett's Test of Sphericity were used to determine whether there were components within the item scales which warrant subjecting the data to exploratory factor analysis. A KMO of 0.819 was obtained from test and a Bartlett's Test of Sphericity with a $P \leq 0.01$ consistent with the recommended KMO cut off point value of 0.60 and Bartlett's Test of Sphericity of $P \leq 0.05$. In determining the number of components to be determined, we used Catell's scree plot, which involves plotting the Eigen value against each component number and observe the point at which the graph becomes horizontal. The Scree plot revealed 5 component factors that could be retained. Factor analysis results produced 5 factors interpreted as: threatening to pull out of the contractual undertaking, threatening to take court action, solving disputes using mutuality, buying time and complaining (CC) to the supplier, accounting for 54.10 percent of the variance in what SME's contemplated doing in solving disputes.

3.7.1. Threatening To Pull Out From Buyer-Supplier Relationship

Threatening to pull out from buyer-supplier relationship ranked first accounting for 16.44 percent of the variance. 5 item scales loaded on this factor with factor loadings of over 0.7. These factors were: the dispute strongly reduced our enthusiasm to buy the suppliers' products (0.833), this resulted in giving the supplier consideration by telling them that we intended to leave (quit) the relationship (0.825), the buyer threatened to stop buying from the supplier (0.819), and started making plans to look for another supplier (0.787), this resulted in a behavior of the supplier becoming less vigorous in buying and recommending the supplier's products (0.748). The above accounts explain why many buyers quietly withdraw from a business relationship. It may also explain why the mortality rate of SMEs in Uganda is quite high. It is also worthy noting that many SME buyers do not retain suppliers for a relatively long time. This study revealed that the average relation between buyer and a supplier had a

duration of about 3 years. This does not enable SME's to develop a conducive atmosphere required to support exchange and promote long-term process of interaction. This is contrary to Roehrich, Spencer & Valette-Florence (2002) who have revealed that the atmosphere of a relationship determines the degree of stability within which exchanges occur. "This atmosphere can be described in terms of the power dependence relationship which exists between the companies, the state of conflict or co-operation and overall closeness or distance of the relationship as well as by the companies' mutual expectations." (IMP Group, 2002 p. 28) To a large extent, much of the degree of stability of a relationship depends on the existence of norms (Gundlach & Achrol, 1993). Two item scales were dropped because they did not have a minimum cut off point of 0.5. These statements were: we expressed our unhappiness to the supplier and other suppliers regarding the supplier's action (0.395) and although we did not voice our displeasure, our motivation to purchase from the supplier's product significantly decreased (.379).

Table 2: Rotated Component Matrix^a

	Component				
	Threatened to pull out	Court action	Harmonization of conflict	Buy time	Emotion
The act strongly reduced enthusiasm to buy the suppliers' products	.833				
We gave consideration to telling the supplier that we intended to leave the relationship	.825				
We threatened to stop buying from the supplier	.819				
We started to make plans to look for another supplier	.787				
We became less vigorous in the buying and recommending the supplier's products	.748				
We expressed our unhappiness to the supplier and other suppliers regarding the supplier's action	.395				
Although we did not voice our displeasure, our motivation to purchase from the supplier's product significantly decreased	.379				
We threatened to go to the courts		.689			
We contemplated going to the courts		.679			
We discussed the possibility of arbitration with the supplier		.626			
We discussed the possibility of a mediator with the supplier		.625			
We internally discussed the possibility of arbitration		.614			
A mediator helped resolving the problem by suggesting mutually acceptable changes		.584			
An arbitrator helped resolve the problem		.487			
We tried to solve the problem by suggesting mutually acceptable changes			.835		
We discussed the problem in a positive manner with the supplier to identify ways to alleviate the negative impact on our firm			.818		
We talked constructively to the supplier about how we felt about the action in order to improve the situation			.771		
we waited patiently for the problem to work itself out without complaining to the supplier				.720	
We said nothing about the act and remained loyal to the supplier				.625	
We gave the supplier the benefit of the doubt and did not say anything to the supplier about it				.596	
We complained to the supplier but took no action about the matter					.621
We expressed to the supplier our outrage and displeasure about the act					.508
I just quit the relationship		.407			-.432
Percentage of variance explained	16.44	13.16	10.40	7.82	6.28
Cumulative percentage of the variance	16.44	29.60	40.00	47.82	54.10
Extraction Method: Principal Component Analysis.					
Rotation Method: Varimax with Kaiser Normalization.					

3.7.2. Taking Action

The second factor which accounted for 13.16% of the variance was termed – threatening to take action. Contemplating (.689) and threatening to take grievances to the court of law (.679) were major issues of concern for buyers. Boyle et al. (1992), has revealed that requests, legalistic pleas, and threats are associated negatively with relationalism while promises are associated positively with relationalism. Given the nature of item loadings, Uganda's SME's prefer to use a combination of threats and discussion methods in handling contractual disputes.

In most cases, buyers discussed the possibility of following arbitration procedure (.626) and the possibility of utilizing a mediator to resolve their grievance with the supplier (.625). Another item scale that loaded on this factor was that a mediator helped resolving the problem by suggesting mutually acceptable changes (.584). However one item scale - an arbitrator helped resolve the problem (.487) did not significantly load on this factor because it had a factor loading less than the cut off point of 0.5.

3.7.3. Harmonization of Conflict

Harmonization of conflict was the third factor accounting for 10.40% of the variance. This factor brought together attempts buyers had undertaken to reach mutually-satisfactory compromise with suppliers. This included talking constructively to the supplier and describing how they felt about the action (.771). This aimed at improving inter-firm cooperation. Additionally the two cooperating firms tried to solve contractual problem by suggesting mutually acceptable changes (.835). This was done through discussions of problems attendant to the contract with the supplier in a positive manner with a possibility of identifying ways to alleviate the negative impact on the buyer firm (.818). Solidarity norms enable parties to project exchange into the future when resolving conflict from adaptation pressures and to ideally maximize the joint value of the exchange (Palay, 1984; Heide and John, 1990). This was a method of attempting to avoid a situation described by Brenner and Molander (1977). Brenner and Molander (1977) have revealed that under excessive pressure to deliver results, parties to the contract may be willing to compromise institutional values to fulfil their contractual obligations. Through such prosocial interactions described above, parties to a relationship establish relational norms that govern exchanges without reference to explicit contracts. This is consistent with Lusch and Brown (1996) who have revealed that relational norms fill gaps in explicit contracts and formal understandings, and are manifest in relational behaviors.

3.7.4. Buying Time

The fourth factor for dispute resolution was buying time. This factor accounted for 7.82% of the variance. This is an interesting factor since time is of essence in resolving contractual disputes. One possible explanation for this behavior is the fact that Ugandan courts are perceived to be too slow and costly in enforcing contractual provisions. Under such situations buyers would prefer to use personal connections and social institutions to govern market transactions as compared to the use of more-formal institutions (North, 1990; Li, Park, and Li, 2003; Peng, 2003). (Williamson, 1996) has revealed that contracts mitigate some of the inefficiencies that arise from exchange hazards, namely asset specificity and uncertainty. Buyers indicated that they waited patiently for the problem to work itself out without complaining to the supplier (.720). Buyers said nothing about the act and remained loyal to the supplier (.625). They gave the supplier the benefit of the doubt and did not say anything to the supplier about it (.596). Given the above results, it is evidently clear that some buyers sometimes fail to air out their grievances. The level of informalities in Ugandan SME is great. This may be attributed to social influences in Uganda which discourages the use of a legal system and contract law. This points to the need to set up a social institution that governs and guides exchange partners of the SME's so that they behave in a mutually beneficial and supportive fashion. This is consistent with Macneil (1980) and Poppo and Zenger (2002) who contend that social institutions direct the behavior of exchange partners based on a common understanding of cooperative norms and collaborative activities. Social institutions can for instance offer punishment to enforce contractual obligations by refusing to deal with a trading partner in the future and/or driving the partner out of the network. This mechanism is likely to be highly effective because establishing and maintaining one's network reputation is critical in uncertain environments (Johnson, McMillan, and Woodruff, 2002; Zhou et al., 2003). Research further indicates that network membership offers legitimacy and therefore helps businesses secure access to capital as well as commerce, since network membership influences partner selection (Nee, 1992; Keister, 2001).

3.7.5. Expressing Negative Emotion

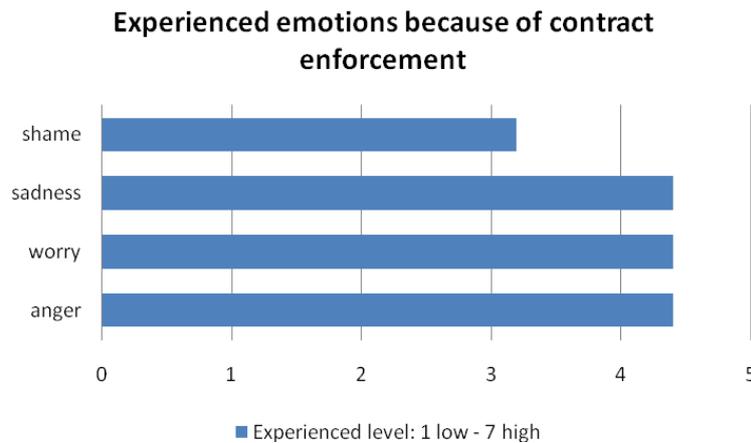
The final factor was expressing emotions accounting 6.28% of the variance. Buyers complained to the supplier but took no action about the matter (.621). Buyers expressed to the supplier their outrage and displeasure about the act (.508). This was done but did not quit the relationship (-.432), a factor which did not load significantly on this factor. Reasons for expressing negative emotions include

- a) fear of the unknown due to having to start new contractual relationships with new suppliers,
- b) uncertainty on the continuity of supplies by the supplier
- c) loss of confidence in the supplier

3.7.6. Emotions after the Conflict

Respondents were asked to indicate the emotions they experienced as a result of contract breach. Anger, worry and sadness ranked highest while shame ranked lowest.

Figure 12: Emotions Experienced as a Result of Breaching a Contract



3.8. Opinions on Alternative Dispute Resolution

Respondents presented their opinions on ADR. These opinions are presented below:

Figure 13: Familiarity with Arbitration

Majority of the respondents were not familiar with arbitration as method of dispute resolution as shown in the figure below:



Figure 14: Knowledge of Implementation of Arbitration

Majority agreed that they did not know how to implement arbitration though they were familiar with the possibility as shown in the table below: .



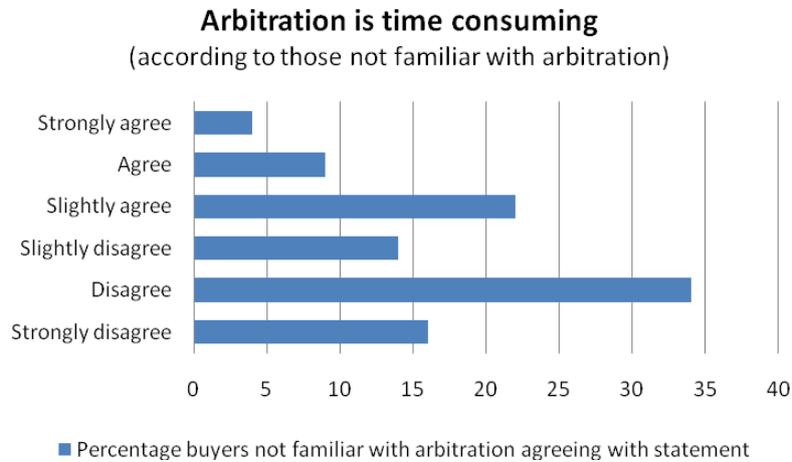
Figure 15: Perception on Cost of Arbitration

Majority of those who are familiar with arbitration as a method of conflict resolution believe that it is costly.



Figure 16: Knowledge of Duration of Arbitration

Majority of the respondents did not believe that arbitration is time consuming.



3.9. Alternative Dispute Resolution (ADR)

We conducted an exploratory factor analysis, a principal component analysis, in order to determine the underlying dimensions of Alternative Dispute Resolution (ADR). The chosen solution with 10 principal components was constructed using the varimax rotation technique and can explain 55.94 percent of the total variance. In this study we considered the rotated factor loading of 0.5 as a threshold. The ranking of factor 1-10 reflect the declining Eigen values. Kaiser-Meyer-Olkin Measure of Sampling Adequacy, Bartlett's Test of Sphericity and Scree Plot were selected as technical criteria for determining the number of factors. The Kaiser-Meyer-Olkin criterion with Eigen values greater than unity was chosen as the minimum requirement.

The ten components resulting from the factor analysis (Table 4 in annex) are described below as follows:

Factor 1– Perceived Usefulness of ADR. An SME that scores high on the use of ADR feels comfortable using ADR methods when faced with a contractual dispute compared to following the courts of law. Here, enforcing formal contracts following court procedures is considered hectic and time wasting. Using ADR is highly correlated with the statement that the use of courts consumes a lot of business time (.800). ADR is also generally associated with lower costs (.826). SME's view ADR as a cost saving approach to resolving contractual disputes. Despite this view, SME's do not have qualified personnel who keep track of transactional costs and other historical costs associated with past transactions and/or conflicts.

Respondents believe that the court system in Uganda is ineffective at settling commercial disputes (.515). This means that SME's would always prefer exploring alternative dispute resolution methods prior to filing a court suit (0.640). The general feeling is that, ADR promotes review of the terms in the contract which are freely negotiated and agreed upon with other parties before the contract is enforced (.692). It was further observed that the use of ADR is correlated with the statement that the culture within this organization is to promote the use of alternative methods of dispute resolution (.782). This implies that ADR can be a value and norm of an organization. Accordingly, ADR encourages autonomy to the parties involved and minimizes judicial intervention.

Factor 2– Exposure and interaction with CADR. This factor deals with the SME's exposure and interaction with Centre for Arbitration and Dispute Resolution activities. Exposure highly correlated with the statements; we know about the existence of the Centre for Arbitration and Dispute Resolution (.693), our business keeps in contact with the Centre for Arbitration and Dispute Resolution (.563) and we have good relations with the Centre for Arbitration and Dispute Resolution (.595). This simply means, SME's that intend to use ADR's develop interest in the CADR. They collect material such as the Arbitration and Conciliation Act of 2000. Similarly Exposure and interaction with CADR was highly correlated with statement like We know about the Arbitration and Conciliation Act of 2000 (.757), The Arbitration and Conciliation Act 2000 is an appropriate law in handling disputes (.609) and We have benefited from the Arbitration and Conciliation Act 2000 (.716). Exposure and interaction makes SME's aware that disputes do not necessarily have to be resolved in an adversarial method of dispute resolution. Questions like Our legal team is involved in the drafting of the contracts (.414), Our company has allocated sufficient financial and human resources to support alternative dispute resolution efforts (.396) and We use the Decision Analysis Aids-a process that helps our company make an informed judgment about liability and damages (.333) did not significantly correlate with exposure and interaction. This means that SME's have not committed resources to managing contractual disputes. They lack competencies to effectively handle buyer-supplier conflict. Attendant to this issue is the fact that law firms in Uganda need to be trained in issues relating to the nature of cases so that they give proper advice to the clients instead of always filing cases in court. Lawyers do not like ADR, which the commercial court tries to exploit before a case goes for full hearing. They claim that ADR makes them lose income given the fact that when they appear in court, they are paid for per fifteen (15) minutes. Judging from the various

complaints, lawyers try to make ADR in the commercial court difficult so that the case can go on for full hearing where they earn more.

Factor 3– institutional support for ADR. This factor measures whether the SME has developed an organizational framework to handle contractual disputes or not. Institutional support was highly correlated with statements like the culture within this organization is not to ignore conflicts with suppliers (.673) but to promote resolving conflicts outside the court system (.615). In deciding whether to use alternative dispute resolution SME's consider the type of dispute at issue (.598), whether the dispute is one of the recurring type (.539), the estimated transaction costs in terms of outside counsel, experts etc (.569) and the indirect costs of the dispute (.529).

Factor 4– Costs - Expensive. This dimension captures the concept of how costly the courts of law in Uganda are. Costs were highly correlated with statements like Court cases take a lot of time to be disposed off (.835) and that Court Judges ask for a lot of money to dispose off business cases (.784). Additionally, there is a general perception from SME's that judges are corrupt. This is in agreement with the Global Corruption Barometer of 2009 which ranked the Judiciary in Uganda among the institutions in Uganda that are perceived as the most corrupt (Transparency International, 2009). The National Integrity Survey Report (2008) released by the Inspectorate of Government Uganda ranked the Judiciary as the most corrupt together with the Police Force. This also may be partly correlated with increasing costs of litigation in Uganda. This is partly linked to the delays in disposing of court cases. This factor of costs brought together items like “If you do not have money no judge will be willing to touch (.762)” and/or expedite your case (.719). Respondents also revealed that their companies did not have time and money to pursue a court case (.710). The traditional litigation process is associated with delays and prohibitive high costs. The following present a summary of ideas from an in-depth interview.

Litigation

Response time and cost

“...If courts of law were quick to respond to our suits, conflict resolution mechanism by courts of law would be preferable and very effective. Going to court would be the most logical thing to do because; the supplier must be compelled to honor his obligation. The only problem we face as businessmen is that we never sit down to write meaningful and detailed agreements spelling out the obligations for each party. Our suppliers are not straight forward, when you complain, they refuse to respond to the complaint calmly and instead make you to

walk until you give up. What can I have to do in such a situation; I have to refer him to the court. Unfortunately Ugandan court is laborious and time consuming; it makes you move from one place to another and besides it involves a lot of expenses. It is really costly and wastage of money and resources only big businesses can afford such. It is for big business. One should get what is worth his money. During my involvement in business for the last 15 years. I have noted that Judges are lazy; they come to office late, work for very few hours and eventually go on leave. Judgments take long to be written and when your lawyers pester the Judges by writing to them, in most cases you lose the case. Can you get justice from such a rotten institution? I wish the name of the ministry is changed from Justice to injustice.

Formalities involved.

“...Filing a case in court and getting a hearing is not easy. You have to file for the right case or else risk to lose the case or be dismissed from court. Assembling witnesses is sometimes difficult because some of our transactions are conducted in confidence. The litigation process is so legalistic in handling our contractual disputes. Almost all our contracts are informal. We rarely document our contracts, even when we do; we do not document every detail like time, quality descriptions, size, weight, packaging, lot size, warranty, credit terms and pricing. You just pick a phone, call your supplier and ask him to deliver say two tones of the raw material and trust that he will deliver. Sometimes he may ask for a deposit of say Uganda Shillings 10 Million before deliveries are made and because he is a regular supplier you just trust that he will execute this informal contract. You will never know when he will default. In this arrangement remember it is an informal contract governed by trust, there are no witnesses, the contract involves financing him to deliver, yet no discussions on this issue is raised, no specific time and date for the delivery is made, it is not clear whether he will deliver peace meal or as a whole lot, no proper evaluation was made to know whether he is operating as an individual or as a body corporate with a legal personal and with capacity to contract, we do not know how financially sound his business is. All these issues raised plus others complicate our dealings. Yet requires that all these issues be made explicitly and requires us to adduce evidence in court to prove that there was a valid contract between us. When a suit is filed, court usually fears to dispose off the case and requests you the plaintiff to have a series of scheduling conferences before a hearing is fixed. This process may take between 5 years and over and in the process you forget the facts of the case, you change location of business, your capital is tied up or even you lose your partner who was privy to this contract. Court requires that even the person who has taken over the business adduces credible evidence, which you

may not be having. You end up losing. The formal litigation process is fair although, it involves many procedures that are very painful to small business like ours.

The litigation process is too formalized for the small business community to handle, there is actually need if possible to teach the business people what is involved.

Corruption

I think it's good to involve court. If it's implemented by court and the judge who is consistent and impartial, you get a fair deal. I am afraid It appears to me as if some judges are corrupt. They delay making judgments, our original documents submitted in court get lost and yet photocopies are not admissible in court

The whole court process involves a lot of corruption.

-So legalistic and yet no justice is obtained in resolving most of the problems. That is why I prefer going to the police. They ask you to give them paper, ink, transport and tea etc. if you facilitate them appropriately, they can compel the supplier to comply. These police officers actually settle some business cases properly.

-We have now learnt from experience. Experience is the best teacher. We do not involve officials in our business conflicts. When misunderstandings arise we involve Local Councils.

Factor 5- Consensual Alternative Dispute Resolution. This dimension corresponds to informal, non-confrontational and more consensual approach in the resolution of disputes. Consensual ADR highly correlated with statements like my company and the supplier favour consensual alternative dispute resolution (.820). SME's were generally in favour of negotiating their own settlement with the help of an independent intermediary. This is reflected in the loadings of the statement that outside counsel is an incentive for our company to resolving conflicts with our suppliers (.587).

Factor 6- Expertise. This factor measures whether the SME tends to use internal staff or external staff to handle conflicts with suppliers. expertise correlated highly with statements like our organization has hired a fulltime staff (internal mediator) to handle conflicts with our suppliers (.747), Whenever our company has a conflict with a supplier, we schedule a meeting with an external conflict resolution practitioner/provider (.654) and Whenever we have a grievance with a government department we take it to the ombudsman office (.548).

Factor 7- Mediation. This factor brought together items suggesting that SME's use external mediators to resolve conflicts with suppliers (.751). We always explore alternative dispute resolution methods after filing suits (.584) .Our Company lost a lot of money because of the delays by the court to handle our cases (.493). Our legal team is involved in designing of dispute resolution programmes (.343)

Factor 8- Company collaboration and Training

Dispute resolution and training is provided for companies in Uganda (.758). Companies also revealed that they usually collaborate with the opposing supplier to determine dispute resolution procedures and/or neutrals (.693)

Factor 9- Litigation

This factor brought together items: my company and the supplier favor litigation (.663) and our company participates in the industry alternative dispute resolution commitments (.491).

Factor 10- Industry Support

Alternative Dispute Resolution (ADR) training/education is provided in the industry (.735). We use the Early Case Analysis- a process administered within the first two months of a case that helps to develop strategy, limit discovery and chart the use of alternative dispute resolution approach (.547). Clear guidelines exist in industry regarding the selection of external neutrals in alternative dispute resolution methods (.396).

4. Conclusions and Recommendations

4.1. Introduction

In this section, we present the conclusions that we draw from the findings of our study. We also raise recommendations for areas that need to be addressed.

4.2. Conclusions

We make the following conclusions from the findings of our study:

- a) Majority of the SMEs use oral and informal contracts in their dealings with suppliers. From their experience, seeking redress in case of oral and informal contracts is not easy as there is no accurate evidence of the contract terms that was made between the parties. Majority of the SMEs indicated that they believed that employing the services of a lawyer is expensive and they can hardly afford given their low income levels.

- b) Majority of the respondents were not familiar with arbitration and how it was implemented as a method of dispute resolution. Those who were not familiar with ADR think that it is cheap and time saving contrary to those who have used the same method who believe that it is expensive and time consuming. This implies that the few who are familiar with ADR are hesitant to use it again because they believe it is costly and takes a long period of time to resolve conflicts.
- c) There is a high level of unethical behavior amongst suppliers. This includes activities like exaggeration of supplies contrary to the terms of the contract, exaggeration of offers in order to get the firm to make a purchase, lying about products and delivery time, lying in order to protect his/her interests, alteration of facts and failure to do what they promise. The high level of unethical behavior leads to a loss of trust of suppliers. Despite the unethical actions of suppliers, SMEs still do not make formal contracts with them.
- d) In the contracts that SMEs make with their supplies, aspects of pricing, terms of payment, quality, quantity and delivery were not well articulated, becoming breeding ground for conflict between the buyer firms (SMEs) suppliers. Given the fact that these aspects were not well articulated, it becomes very hard to seek redress when things go wrong as roles and responsibilities of each party are not clearly outlined.
- e) SMEs often experience problems with their suppliers on a number of aspects. The problems experienced in order of their severity are aspects relating to quality, late deliveries, price, quantity and scarcity. Problems relating to the quality of products were the most frequent in majority of the respondent firm.
- f) Majority of SMEs seeking solutions to problems with their suppliers reported to Police (36.6%) and Local Councils (36.6%) while very few (12.2%) reported to the commercial court. The implication here is that majority of the SMEs are not very familiar with the commercial court as an avenue for resolving the problems that they face with their suppliers.

4.3. Recommendations

We make the following recommendations from our findings and conclusions:

- a) The Commercial Court should undertake an awareness campaign to market Alternative Dispute Resolution (ADR) as a method of conflict resolution in business dealings. This can be done through the various forms of media to massively reach the SMEs. This will change their attitude towards arbitration and other forms of ADR and make them know that they can actually be used to resolve business problems. During the awareness campaigns, stories of those that have successfully used ADR should be provided so that people are convinced.
- b) In order to create awareness, the Commercial Court should also make use of associations like Uganda Small Scale Industries Association (USSIA), Uganda Manufacturers Association (UMA), Uganda National Chamber of Commerce and Industry (UNCCI) and Private Sector Foundation Uganda (PSFU) to access the SMEs and market ADR to them. This can be done by ensuring that representatives from the commercial court attend events organized by SMEs by the previously mentioned bodies. This implies that the commercial court should start by creating a good working relationship with USSIA, UMA, UNCCI and PSFU.
- c) The commercial court should also consider creating a special desk to handle matters of SMEs. In this way, they will feel well catered for and will no longer fear approaching the commercial court for solutions to problems related to their business dealings.
- d) SMEs need to be taught the importance of using formal contracts as opposed to oral and implicit contracts that make it hard to seek redress in case of problems. The task of teaching them this can be undertaken by the commercial court through the previously mentioned trade associations. While teaching them the importance of formal contracts, they should also be taught how to write contracts, with emphasis on the vital clauses of a good contract and contract management. SMEs should be encouraged to have legal officers to oversee contracting issues if they can afford. For SMEs that cannot afford to employ legal officers, USSIA, UMA, UNCCI or PSFU with the help of the commercial court should create a legal desk that will address the concerns of SMEs in aspects of contracting.

- e) The commercial court should also consider designing model/sample contracts for SMEs. These contracts can then be adapted by the SMEs for different business dealings / situations that they will be faced with. The standard/sample contracts will give the SMEs a starting point as far as coming up with formal contracts. Later, when they are able to, they can design their own contracts to manage transactions.
- f) It is important that suppliers and the SMEs attend trainings in ethical business practices. This will open their eyes to the dangers of unethical business practices and will therefore be encouraged to change. The trainings can be organized by the trade associations or suppliers /SMEs can attend short courses / training in ethics on their own initiative.
- g) Suppliers should also be made aware of the importance of making formal contracts with their buyers. This task can be undertaken by the trade associations, given that their members both suppliers and buying firms.
- h) Majority of the respondents who were seeking redress for their problems reported to the Police and Local Councils (LCs). This shows that the SMEs are more familiar with the Police and LCs in the area of dispute resolution as compared to the commercial court. The Commercial Court should therefore work together with the Police and LCs to build their capacity in the area of ADR so that when faced with problems, firms have a wide option of the commercial court, the police and LCs.

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Annex: Alternative Dispute Resolution (ADR)

Table 4: Rotated Component Matrixa

	Component									
	1	2	3	4	5	6	7	8	9	10
Alternative dispute resolution method is a cost saving approach to resolving conflicts with suppliers	.826									
Alternative dispute resolution method is a time saving approach to resolving conflicts with suppliers	.800									
The culture within this organization is to promote the use of alternative methods of dispute resolution	.782									
In deciding whether to use Alternative dispute resolution methods, we consider the amount of money involved	.773									
Formal contracts are hectic and consume business time	.713									
The terms in the contract are freely negotiated and agreed upon with other parties before the contract is enforced	.692									
We always explore alternative dispute resolution methods prior to filing suit	.640									
Alternative Dispute Resolution is viewed as a cost saving approach to resolve conflicts	.610									
The court system in Uganda is ineffective at settling commercial disputes	.515									
We know about the Arbitration and Conciliation Act of 2000		.757								
We have benefited from the Arbitration and Conciliation Act 2000		.740								
We know about the existence of the Centre for Arbitration and Dispute Resolution		.716								
The Arbitration and Conciliation Act 2000 is an appropriate law in handling disputes		.693								
We have good relations with the Centre for Arbitration and Dispute Resolution		.609								
Our business keeps in contact with the Centre for Arbitration and Dispute Resolution		.595								
Our legal team is involved in the drafting of the contracts		.563								
Our contracts are formally drafted/written		.414								
Our company has allocated sufficient financial and human resources to support alternative dispute resolution efforts		.396								

	Component									
	1	2	3	4	5	6	7	8	9	10
We use the Decision Analysis Aids- a process that helps our company make an informed judgement about liability and damages		.333								
The culture within this organization is not to ignore conflicts with suppliers			.673							
The culture within this organization is to promote resolving conflicts outside the court system			.615							
Our business often encourages solving disputes outside court			.613							
In deciding whether to use alternative dispute resolution our organization considers the type of dispute at issue			.598							
In deciding whether to use alternative dispute resolution our organization considers the estimated transaction costs in terms of outside counsel, experts etc			.569							
In deciding whether to use alternative dispute resolution our organization determines whether the dispute is one of the recurring type.			.539							
In deciding whether to use alternative dispute resolution our organization considers the indirect costs of the dispute			.529							
Court cases take a lot of time to be disposed off				.835						
Court Judges ask for a lot of money to dispose off business cases				.784						
If you do not have money no judge will be willing to touch your case				.762						
If you do not have money no judge will be willing to expedite your case				.719						
Our company does not have time and money to pursue a court case				.710						
My company and the supplier favour consensual alternative dispute resolution					.820					
My company and the supplier favour consensual alternative dispute resolution					.814					
Outside counsel is an incentive for our company to resolving conflicts with our suppliers					.587					
Our organization has hired a fulltime staff (internal mediator) to handle conflicts with our suppliers						.747				

	Component									
	1	2	3	4	5	6	7	8	9	10
Whenever our company has a conflict with a supplier, we schedule a meeting with an external conflict resolution practitioner/provider						.654				
Whenever we have a grievance with a government department we take it to the ombudsman office						.548				
Our organization uses external mediators to resolve conflicts with suppliers							.751			
We always explore alternative dispute resolution methods after filing suit							.584			
Our company lost a lot of money because of the delays by the court to handle our cases							.493			
Our legal team is involved in designing of dispute resolution programmes							.343			
Dispute resolution and training is provided for companies in uganda								.758		
Our company usually collaborates with the opposing supplier to determine dispute resolution procedures and/or neutrals								.693		
My company and the supplier favour litigation									.663	
Our company participates in the industry alternative dispute resolution resolution commitments									.491	
Alternative Dispute Resolution (ADR) training/education is provided in the industry										.735
We use the Early Case Analysis- a process administered within the first two months of a case that helps to develop strategy, limit discovery and chart the use of alternative dispute resolution approach										.547
Clear guidelines exist in industry regarding the selection of external neutrals in alternative dispute resolution methods										.396
Percentage of the variance explained	12.07	8.46	6.46	6.30	5.60	3.70	3.53	3.40	3.36	3.07
Cumulative percentage of the variance	12.07	20.53	26.99	33.29	38.88	42.59	46.11	49.51	52.87	55.94

Extraction Method: Principal Component Analysis.

Rotation Method: Varimax with Kaiser Normalization.

a. Rotation converged in 17 iterations.