



Republic of Malawi
SOLIDARITY SPEECH BY
HON. THABO CHAKAKA-NYIRENDA
THE ATTORNEY GENERAL OF THE REPUBLIC OF MALAWI
AT THE
MALAWI INTERNATIONAL DISPUTES DAY

ON
21ST MARCH 2025, AT SUNBIRD MOUNT SOCHE HOTEL, BLANTYRE,
MALAWI

SALUTATION

- The Honourable the Chief Justice of the Republic of Malawi, Chief Justice Rezine Mzikamanda, SC
- Justice of the Malawi Supreme Court of Appeal, Justice Frank D. Kapanda, SC
- Justice Masauko Msungama, judge of the Commercial Division of the High Court

- President of the Malawi Law Society and Chairman of the Malawi International Arbitration Centre-Patrick Gray Mpaka
- The Chairperson, Arbitration Foundation of Southern Africa-SADC, -Des Williams
- Dr Wisely Phiri, Director of MIAC and President of the Malawi Confederation of Chambers of Commerce and Industry (MCCCI)
- Mrs. Emily Makuta, Director of MIAC
- Pempho Likongwe , MIAC Company Secretary
- Her Excellency Dr Nancy Saungwene, Ambassador for the Embassy of Zimbabwe, your Deputy and all heads of diplomatic Missions Resident in Malawi
- MCCCI CEO- Diasy Kambalame
- Hon. Dr Kalekeni Kaphale, SC, former Attorney General of the Republic of Malawi
- Mr Andile Nikani, Chief Executive Officer for the Arbitration of Southern Africa
- Michael Sullivan, KC, Barrister, One Essex Chambers
- Mr Hendrik Puschmann, Partner, Trowers and Hamlins LLP
- Prof. Ronald Mangani, Chief Executive Officer for Press Corporation, Plc
- Mrs Temwanani Simwaka, Deputy Chief Executive Officer, NBS Bank Plc
- Dr Rowland Cole, Chief Advisor-Rule of Law and Human Rights at UNDP and Malawi Development Partners here present
- Mr Graham Coop from Pinsent Mason LLP, London, United Kingdom
- Ms Sara Gabriel from Peters and Peters LLP, London, United Kingdom
- Representative of the Zambian High Commission, His Excellency Wezi Kaunda,

Her Excellency Maureen Simwemba, Deputy High Commission, Zambian High Commission, Kazhiben Kuliye, First Secretary, Zambian High Commission

- Kaumbi Mwondela, Vice Chairperson, Anti-Corruption Commission, Managing Partner Kaumbi Mwondela Legal Practitioners
- All Panelists and Moderators
- Government officials here present
- Members of the MCCCCI and Malawi Law Society
- Members of the Business Community
- Members of the Diplomatic Corp
- Members of the Press

Theme: *The State of Alternative Dispute Resolution and Prospects of Viable Commerce in Malawi – Resolving Disputes, Unlocking Opportunities.*

Honourable Guests, Distinguished Ladies and Gentlemen,

On behalf of the Government of the Republic of Malawi, and indeed on my own behalf, I wish to extend my heartfelt congratulations to the Malawi Confederation of Chambers of Commerce and Industry (MCCCCI) and the Malawi Law Society (MLS) for their remarkable initiative in establishing the Malawi International Arbitration Centre (MIACC).

This momentous occasion, the Malawi International Dispute Day, marks a significant milestone in our collective efforts to strengthen dispute resolution mechanisms, enhancing access to justice and the business environment in Malawi.

The Ministry of Justice is both proud and delighted to be part of this transformative journey. As you are all aware, the Government fully supports Alternative Dispute Resolution (ADR) mechanisms, particularly arbitration, as an essential tool for business facilitation, risk reduction, and economic growth. Studies indicate that arbitration can reduce the cost of doing business by up to 50%, making it a highly effective means of fostering a competitive and attractive investment climate. Sensible investors carefully assess the legal frameworks of potential investment destinations, and a robust arbitration system is a crucial indicator of a country's commitment to a secure and efficient business environment.

The journey towards the establishment of the Malawi International Arbitration Centre has been a deliberate and strategic effort by the Government in recognition of the economic significance of arbitration and its role in upholding the rule of law. The journey began with the ratification of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, effective 2nd June 2021, making Malawi the 167th Contracting State to the 1958 Convention. The ratification of the New York Convention signified Malawi's commitment to providing a reliable and internationally recognized alternative dispute resolution framework.

But our commitment did not stop there. Building on this foundation, the Government took an additional step by enacting the International Arbitration Act, of 2024, further solidifying our arbitration framework. This legislation is fully aligned with the UNCITRAL Model Laws, ensuring that Malawi's arbitration framework meets international best practices. Beyond the legal framework, the Government has

continuously provided moral and institutional support for the realization of MIACC, recognizing its potential to transform the dispute resolution landscape in the country.

It is worth recalling that His Excellency, the State President, Dr Lazarus McCarthy Chakwera, personally graced the Pre-Launch Conference for the Establishment of an International Commercial Arbitration Centre in Malawi on 15th August 2022. His presence underscored the Government's unwavering commitment to strengthening the rule of law and creating an enabling environment for business and investment.

Distinguished Ladies and Gentlemen,

The establishment of the Malawi International Arbitration Centre is not just a triumph for Malawi but a significant victory for Africa as a whole. Statistics reveal that the continent has been losing over US\$5 billion annually to Western and Far Eastern countries due to the arbitration of commercial disputes in foreign jurisdictions. It is deeply concerning that parties to international commercial and investment disputes have been compelled to seek arbitration in locations such as Paris, London, New York, and Hong Kong—favouring well-resourced litigants and discouraging less financially capable entities from pursuing justice due to prohibitive costs.

Ironically, many of these arbitrations involve African parties, African lawyers, and African witnesses who travel outside the continent at an exorbitant expense. This has been an unfair system that the establishment of MIACC seeks to correct. By housing arbitration proceedings within our borders, we not only cut costs but also

create opportunities for local legal professionals, businesses, and the broader economy.

The benefits of the Malawi International Arbitration Centre are extensive. It will:

- (a) Enhance investor confidence;
- (b) Attract international investments;
- (c) Generate foreign currency inflows;
- (d) Create employment opportunities;
- (e) Promote tourism;
- (f) Strengthen Malawi's global economic footprint;
- (g) Reduce case backlogs in our courts and enhance access to justice.

Allow me, distinguished guests, to also mention that this development aligns seamlessly and congruently with His Excellency Dr. Lazarus McCarthy Chakwera's vision for upholding the rule of law. This vision, which the State President has passionately championed, would remain an illusion if those seeking justice and safeguarding their constitutionally protected rights cannot meaningfully access it. As John F. Kennedy once remarked, 'Effort and courage are not enough without purpose and direction.' But let me add that purpose and direction are meaningless without effort, courage, and determination. Our collective effort and determination to establish effective ADR mechanisms, with arbitration at the forefront, signify our firm commitment to the rule of law and economic progress.

However, the success of MIACC will not be automatic. Government institutions, private sector stakeholders, legal practitioners, and all relevant players must actively embrace the Centre. We must incorporate the Malawi International Arbitration Centre in dispute resolution clauses of contracts and agreements. Failing to do so would mean forfeiting the opportunities this Centre presents, ultimately rendering it ineffective.

By actively utilizing MIACC, we will also be advancing key global and national development agendas, including the UN 2030 Sustainable Development Goals and Malawi 2063. Countries such as the United Kingdom, the United States, and Singapore have demonstrated that arbitration is not only a means of dispute resolution but also a significant contributor to GDP. Malawi must follow suit.

Therefore, I urge all of us to remain steadfast and committed. Let us not be complacent with our achievements thus far. Instead, let us strive for continuous improvement and collaborate even more closely with the Government and stakeholders in the justice sector to transform Malawi's business environment through the promotion of ADR.

I am confident that the partnership between the Malawi Law Society and the Malawi Confederation of Chambers of Commerce and Industry will continue to grow stronger, benefiting our nation tremendously.

By collectively engaging the government and relevant stakeholders, we can transform our business environment and foster sustainable development, contributing towards the UN 2030 Agenda and Malawi Vision 2063.

The office of the Attorney General will not rest on its past laurels at this significant juncture but will be astute to provide the necessary support to the private sector and the professional bodies that are interested in promoting ADR including the membership of the Malawi Arbitration Centre.

I wish the Malawi Law Society and the Malawi Confederation of Chambers of Commerce and Industry success in their noble endeavours.

May the Almighty God bless you all!

Thabo Chakaka-Nyirenda
Attorney General of the Republic of Malawi

21st March 2025