

A new High Court ruling reignites Busoga cane war as regulators reconsider CN Sugar licence, exposing legal vacuum, mill oversaturation fears, and bitter rivalry within Uganda's sugar industry.

BY DERRICK KIYONGA

Reports that the sugar council is considering granting a licence to CN Sugar in the eastern lakeside district of Namayingo, have once again opened a can of worms, with the Uganda Sugar Manufacturers Association (USMA) having already obtained a High Court Judgement blocking the same move.

The protracted fight over Busoga's cane, which had taken a break after a High Court judgment, was given a new lease of life when Rajbir Singh Rai, the chairperson of the Uganda Sugar Industry Stakeholder Council, told the press that they would consider CN's application at their next sitting, whose date has not yet been established.

"Their application was only submitted by them and received by the Council in the last meeting, and a team was formed to visit them and verify; we will consider it in the next meeting," Rai said.

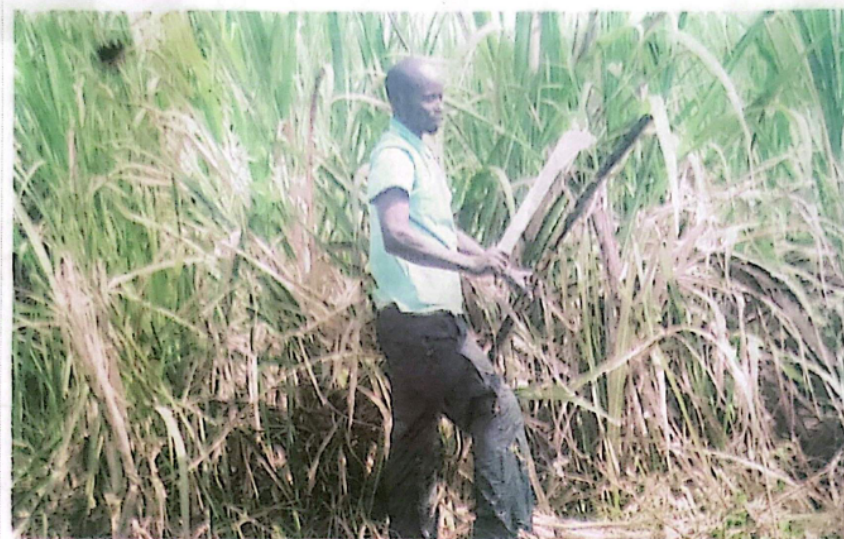
In 2024, USMA went to the High Court asking to issue prerogative orders against the Attorney General and Minister of Trade, Industry and Co-operatives (MTIC), who were in the process of giving CN Sugar and Shakti Sugar (Shakti) the all clear to establish sugar and jaggery mills. USMA objected on grounds that 745,000 acres had no requisite licences.

USMA argued that the sugar industry in Uganda is regulated mainly by the Sugar Act, within which provision is made for the establishment of the Uganda Sugar Board (USB). USMA further insisted that the mandate of the USB is to license sugar mills, jaggery mills, and other plants that process sugarcane byproducts.

Consequently, the Trade minister was deemed by USMA to have deliberately refused to operationalise the USB. USMA contends that the Board continues to issue licences disguised as 'letters of no objection' to new sugar-producing companies, as was the case with CN and Shakti, an act that violates the law and the existing government policy.

In court documents seen by *Saturday*

Battle for Busoga cane leaves bittersweet taste



A farmer cuts sugarcane in Buyende District, Busoga Sub-region last year. PHOTO/FILE

Monitor, USMA's lawyers singled out the acts of Namayingo's Resident District Commissioner (RDC), Eve Kwesiga Nalongo, who, together with her assistant are accused of illegally encouraging the development of sugar mills in the area, leading to an oversaturation of actors there.

"The oversaturation of [sugar] mills in certain regions of the country is presented as a problem that has facilitated the poaching of sugarcane and other anti-competition practices," USMA's lawyers told court.

Revoking CN's licence

USMA's lawyers also told the presiding judge, Douglas Singiza, that the irony in this case was that MTIC had initially absolved itself of its earlier errors by revoking the CN's licence, but later recanted this in August 2024.

Permission was again granted, with CN and a yet-to-be identified sugar company illegally resuming sugar-milling operations.

USMA's case is anchored in a 2010 government policy that requires sugar-mill

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CN officials insist that the company should be allowed to operate since many cane farmers have nowhere to sell their produce. The officials and the Attorney General say that the Namayingo district council's political leadership is highly supportive of their operations, and that the policy guide, together with the presidential directive that requires sugar factories to be established within a distance of 25 kilometres (or 50 kilometres) of each other, is not backed up by the law. Invariably, such a policy guide, as well as a presidential [executive] order, is problematic to enforce, they say.

factories to be within a radius of 25 kilometres of each other. This policy, per USMA, was amplified by President Mu-

seveni's directive of 2017, which was to the effect that no sugar factories should be permitted within a radius of 50 kilometres of each other.

Jurist's take

In his judgment, Justice Singiza described as "ridiculous" CN's argument that the proposed amendments to the Sugar Act (which seek to delete the provisions dealing with the board and replace the latter with a 'Sugar Industry Stakeholders Council') were to blame.

"The reasoning that it was impracticable to perform such a statutory duty, as argued by the respondents, is rejected because no such difficulty has been demonstrated. In the deliberate refusal to put in place a proper regulatory system in the form of the USB, a dereliction of a statutory duty emerges, one which in turn creates a legal (and policy) vacuum. It is thus the firm determination of this court that the failure to put the USB in place was a breach of a statutory duty by the MTIC (a line ministry in the sugar sector), a manifestly illegal breach," Justice Singiza said.

In terms of allowing CN to operate within the radius of 25 kilometres, Justice Singiza said there was no doubt that a clear and coherent government policy is in place with a major objective of orienting towards free market systems that support private-public cooperation.

"The policy intends to mitigate the disruptively high costs of sugar production, costs which, if left unregulated, could weaken the sugar sector. The policy's specific objectives are to establish [sugar] cane growing zones so that sugar mills can be located at viable economic distances within an area where sugarcane is grown," Justice Singiza said, adding that the policy's guiding principle focuses on equitable and productive development of sugar enterprises, such that that any sugarcane growing areas must be at a distance of 25 kilometres radius.

"This is clear even to the ordinary person: the undeniable fact is that the policy prohibits the grant of any sugar mill licences within the prohibited spaces. The idea is that, of the entire land in a given area, only 30 percent of it should be under sugarcane cultivation, with the rest reserved for food security and related activities," Justice Singiza proceeded to note.

He further pointed out that Uganda's sugar policy is clear in terms of who may grant a sugar mill licence: only the government, through the Uganda Investments Authority (UIA), may do so to an enterprise with a nucleus estate of 500 hectares outside the prohibited space.

"The key consideration—that land must remain on which communities can grow food for their own survival—is too overwhelming to ignore. It was a misconstruction of the government policy by the MTIC and UIA to attach a different meaning to otherwise clear and unambiguous words. There is no doubt that the policy document under examination does not make room for the establishment of any sugar mills, or even nucleus estates, within the prohibited distances of a 25-kilometre radius," Justice Singiza said, adding that he was ordering police to immediately remove all of CN's and Shakti's sugar and jaggery mills and related enterprises from the prohibited zones in terms of section 19 of the Sugar Act within 14 days from delivery of this ruling.