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## THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT

(No. 3 of 2003)

KENYA ANTI-CORRUPTION COMMISSION

ANNUAL REPORT 2007 - 2008

### MISSION STATEMENT

#### OUR MANDATE

To combat corruption and economic crime in Kenya through law enforcement, prevention and public education as stipulated in The Anti-Corruption and Economic Crimes Act, 2003.

#### OUR VISION

To be a world class institution fostering zero tolerance to corruption in Kenya.

#### OUR MISSION

To combat corruption and economic crime through law enforcement, prevention and public education.

#### OUR CORE VALUES

Courage, Integrity, Teamwork, Nationalism, Fidelity to the law, Excellence in service

### MESSAGE FROM THE CHAIRMAN

I welcome the opportunity to address members of your office for the Commission, as outlined in this report. The members of the mandate conferred by the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), members of the Advisory Board have demonstrated courage, their wealth of experience and high commitment to the Commission, thus ensuring the scope and quality of its work.

Many Kenyans are aware that corruption is the enemy of development in the country. They were united in their determination to bring about change through the 2002 elections with the mandate of the Kenya Anti-Corruption Authority (KACA). In December 2002, the Authority was then dissolved as the government was re-constituted. In December 2003, looking to all the past attempts at dealing with corruption in this country, I now believe we can eventually conclude that the Kenya Anti-Corruption Commission, inaugurated in 2003, is the most mature, experienced, effective and robust anti-graft agency the nation has ever had. The result is that all the issues we have to deal with, ranging from reports analysis, evidence and intelligence gathering to the preparation of recommendations to the Attorney-General, are all handled with high levels of skill and efficiency.

#### Code of Conduct for Members of the Board

The Advisory Board attaches great importance to the benefits of good corporate governance. To lead by example, the Board has developed and operationalized a Code of Conduct aimed at guiding its business and conduct of members. In addition, the Board has developed and put in place an appraisal mechanism for assessing its own performance including that of the Chairman, so as to gauge its effectiveness in carrying out its mandate.

The factors to be considered in the evaluation exercise will be reviewed on a regular basis.

#### *Brief to Nominating Bodies*

The Advisory Board consists of members drawn from twelve professional and civil society organizations as outlined in the ACECA. The Board considers it important to have the nominating bodies briefed by the Commission on its activities. This year's forum was held on 11<sup>th</sup> June 2008. The forum provides a good opportunity for feedback between the Commission and the nominating bodies, and we have benefited immensely from the views and suggestions generated at those meetings.

#### *Synergy*

The Advisory Board has continued to work with the Commission in strategy interventions through its various sub-committees of Finance and Administration, Legal Services, Investigation and Asset Tracing, and Prevention Services. Through its Committees, the Board is able to share in operation interventions and dilemmas and to give its advice in a timely manner. In addition, Board members make themselves available for participation in all major Commission events. This has enhanced synergy between the Advisory Board and the Commission.

#### *Reconstitution of the Board*

The term of the first nine members of the Board came to an end in August, 2008. The members are eligible for reappointment for one more term and in compliance with the law, The Minister for Justice, National Cohesion and Constitutional Affairs has set in motion, with the nominating bodies, the process of filling the positions. The law provides, however, that the term of the current members continues until they are reappointed or replaced.

#### *Vacancies in Management*

During the last reporting year, the Board commenced the process of filling the position of the Assistant Director Finance and Administration. The position of the Assistant Director Investigation and Asset Tracing fell vacant on 10<sup>th</sup> September 2008 and the Board has also commenced the process of filling the position. It is expected that both processes will be concluded in the current year.

#### *Appreciation*

On behalf of the Advisory Board, I would like to thank the Management and all employees of the Commission for yet another successful year. We very much appreciate the dedication, professionalism, integrity and courage which they bring to bear on all aspects of their onerous tasks, even when as a Commission we face so much underserved negative criticism.

I would also like to thank my fellow Board Members for their sacrificial commitment to the work of the Commission, its values and objectives in our efforts to foster zero tolerance to corruption in Kenya.

ALLAN N. NGUGI, OGW

Chairman

Kenya Anti-Corruption Advisory Board

#### MESSAGE FROM THE DIRECTOR

I am delighted to invite you once again, to share our achievements and challenges of the year ended June, 2008. This is the fourth year since formation of the Commission in September, 2004. Our mandate as stipulated in The Anti-Corruption and Economic Crimes Act, 2003 remains our faithful compass and constant touchstone. As you will notice from the report, our achievements last year exceeded that of years preceding it both in significance and value. Over the years, we have built a strong character as an institution and this has enabled us to weather the storms of challenges whenever they appeared as corruption fought back. We have continued to challenge ourselves with high expectations and demanding goals; holding ourselves accountable and being pragmatic enough to deal with harsh criticism and negative perceptions. Our systems are now tested and we continue to perfect them based on emerging demands.

#### *Commission and Vision 2030*

The Government recently rolled out a long term vision, namely the Vision 2030, which envisions a competitive and prosperous nation with a high quality of life for its citizenry. The Commission continues to work within the Vision's pillar of enhanced governance and this places it strategically as a relevant vehicle in the achievement of the Vision. Our areas of immediate focus and the interventions in aggressive enforcement of the anti-graft laws, recovery of assets on behalf of the citizens, and taking proactive preventive measures as outlined in this report all attest to our commitment to the Vision. We are energized by our past achievement and have sharpened our strategies towards making greater contribution towards the achievement of the Vision.

#### *Intelligence Led Interventions*

Continuous improvement has been our constant focus. We recognize the need to review our capability against the increasing demands on our resources and the expectations of our stakeholders. To this end, the Commission undertook a strategic assessment of its strategies and initiatives based on corruption reports and interventions since its inception. From the assessment and feedback, we have developed and adopted a management tool named the Intelligence Led Investigations Model (ILIM). The model is aimed at ensuring that timely intelligence is available to inform interventions so that the resources available to the Commission are deployed in a focused manner in tackling corruption and economic crimes in areas where these vices are prevalent and cause most harm to our people and the economy. The model will also assist the Commission in the preemptive strategy of disrupting corruption before it happens. It is also designed to address intelligence gathering, research and information development for use in public education and the wider advisory role of the Commission. The new Model is expected to boost the Commission's operations in the coming year.

#### *Recovery of Grand Regency Hotel*

I report with great pleasure and satisfaction that during the year under review, the Commission made a land mark recovery of the property known as the Grand Regency Hotel on behalf of the Central Bank of Kenya. This is in addition to other recoveries as detailed in this report. We will continue to pursue all avenues and apply all resources available to the Commission to ensure that more assets obtained corruptly are recovered.

#### *Judicial Challenges*

The year under review has, however, not been without challenges. Owing to the transnational nature of certain cases such as the "Anglo Leasing" type contracts, the Commission sent out letters of request to relevant authorities in various countries to assist in investigations within their jurisdictions. In some of these cases, the persons being investigated have gone to court to challenge the Commission's authority to issue such letters. In one such case, the High Court has held that the Commission lacks the legal competence to issue letters of request and barred the Commission from using evidence obtained from those requests. The Commission has filed an appeal against the said decision. The decision highlights the many judicial challenges which have had the effect of impeding the Commission's exercise of its mandate.



**Strengthening the Commission**

To effectively carry out its mandate, the Commission needs to be anchored on a stronger legal framework. As the country undertakes constitutional reform, it is my hope that the Commission will be entrenched in the Constitution and vested with sufficient powers to undertake investigations, prevent corruption, educate the public on corruption, recover assets and verify wealth declarations. This is informed by the fact that many of the judicial challenges against the Commission have hinged on the constitutionality of its powers and functions.

**The Inter-Agency Forum**

In recognition of the capabilities of a powerful network, we initiated the coming together of eleven (11) investigative and oversight agencies to form the Inter-Agency Tasking and Information Sharing Forum. The main objectives of the Forum are to task each other as well as share intelligence and other information on corruption, economic and related crimes in a timely manner. Through the Forum, a lot of information has been exchanged to aid operations within the member agencies. This has given a new meaning to partnership and we remain committed to strengthening our ties and making the Forum more robust. In the coming year, we expect to witness several other agencies mandated with oversight and enforcement responsibilities joining the Forum in order to widen the network and multiply the benefits.

**National Integrity Review**

The Commission has continued to coordinate the implementation of the National Anti-Corruption Plan (NACP). The NACP is the national blueprint outlining the role of all the sectors and was developed on realization that the war against corruption can only be won through a multi-pronged, collaborative and all-inclusive approach. The NACP is also a milestone towards the fulfilment of our national obligation under the UN Convention Against Corruption to ensure that each state party takes measures to foster collaboration among public institutions, the private sector and civil society organizations in the fight against corruption. The 2<sup>nd</sup> Integrity Review Conference to review the implementation progress was held on the 5<sup>th</sup> July, 2007 at the Bomas of Kenya. From the presentations, it was evident that all sectors have covered a lot of ground in promoting governance but a lot remains to be done. The various sectors have committed themselves in redoubling their efforts in order to bring corruption to a halt. The Commission remains with the challenge of leading the war.

**International Partnerships and Networks**

The Commission has continued to team up with international associations and initiatives aimed at enhancing the fight against corruption. In the East African Region, the Commission joined with the national anti-corruption bodies of Uganda, Tanzania, Rwanda and Burundi to form the East African Association of Anti-corruption Authorities (EAAACA). The Association will lead robust efforts in areas of asset tracing and joint training at the regional level. The Director of the Commission is also an active member of the International Corruption Hunter Network which is organized and funded by the Norwegian Government.

**International Institutional Support**

The Commission is held in high esteem internationally. Consequently, its staff have been invited to offer institutional support to various anti-corruption agencies abroad for their establishment and technical operation. The most recent is the Southern Sudan Anti-Corruption Commission (SSACC) where Commission staff facilitated a broad based training programme for strengthening internal anti-corruption knowledge and technical skills. The Commission also gives presentation on many international forums, sharing the experience and expertise of its staff in anticorruption initiatives.

**Commission Headquarters**

The Commission welcomes the growth and complexity in assignments. Growth calls for strengthening of institutions and systems. We have outgrown the current rented space at Integrity Centre. To allow for continued growth and enhanced performance, we have acquired with the support of Government a piece of Land in Karen on Langata South road for development of the Commission headquarters. This will ease congestion and provide an enhanced capacity to match the changing complexities in our operating environment while relieving the tax payers significant amounts in rent by providing a permanent home to the Commission. As reported last year, our Mombasa Branch is now fully operational. In addition, the Commission will soon operate mobile clinics throughout the country to enhance its accessibility by members of the public.

**Our Team**

The achievements we have made in the course of the year would not have been possible without the unrelenting support of the Advisory Board, direction by Management and the commitment of the staff. The team has continued to uphold high levels of integrity and professionalism at all times and has remained focused on our mandate despite the turbulent environment we operate in. We will continue to develop, strengthen and nurture our human resource to strategically position them for a more challenging and dynamic future.

**Looking Ahead**

The year ahead will be challenging given the legal hurdles outlined above. Our work volume and complexity is expected to increase. But we face the future with a lot of confidence and determination to rid the country of corruption by executing our mandate through law enforcement, prevention and public education. We sincerely thank all stakeholders for their unwavering commitment in the war against corruption. We encourage them to continue furnishing us with useful tip-offs in person or through our anonymous whistle-blower system. We look forward to working closely with each one of them and contribute to the building of a prosperous Kenya.

**JUSTICE (RTD) AARON G. RINGERA, EBS**

Director/Chief Executive

Kenya Anti-Corruption Commission

16<sup>th</sup> October 2008

## 1. BACKGROUND

### 1.1 INTRODUCTION

The Kenya Anti-Corruption Commission was established by The Anti-Corruption and Economic Crimes Act, 2003 (hereinafter referred to as the Act) with a mandate to spearhead the fight against corruption through law enforcement, prevention and public education.

### 1.2 MANDATE OF THE COMMISSION

Section 7 of the Act specifically bestows on the Commission the following functions:

- a) to investigate any matter that, in the Commission's opinion, raises suspicion that any of the following have occurred or are about to occur:
  - i) conduct constituting corruption or economic crime;
  - ii) conduct liable to allow, encourage or cause conduct constituting corruption or economic crime;
- b) to investigate the conduct of any person that, in the opinion of the Commission, is conducive to corruption or economic crime;
- c) to assist any law enforcement agency of Kenya in the investigation of corruption or economic crime;
- d) at the request of any person, to advise and assist the person on ways in which the person may eliminate corrupt practices;
- e) to examine the practices and procedures of public bodies in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures that, in the opinion of the Commission, may be conducive to corrupt practices;
- f) to advise heads of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such bodies that the Commission thinks necessary to reduce the likelihood of the occurrence of corrupt practices;
- g) to educate the public on the dangers of corruption and economic crime and to enlist and foster public support in combating corruption and economic crime;
- h) to investigate the extent of liability for the loss of or damage to any public property and -
  - i) to institute civil proceedings against any person for the recovery of such property or for compensation; and
  - ii) to recover such property or enforce an order for compensation even if the property is outside Kenya or the assets that could be used to satisfy the order are outside Kenya; and
- i) to carry out any other functions conferred on the Commission by or under this Act or any other law.

### 1.3 STRUCTURE

#### 1.3.1 THE KENYA ANTI-CORRUPTION ADVISORY BOARD

The Kenya Anti-Corruption Advisory Board is an unincorporated body which is independent and answerable to Parliament. It consists of twelve members nominated by various sectors and interests through civic, religious, professional and business organizations/associations, and the Director, as enumerated in Section 16 of the Act. The Chairman and board members are nominated by the specified organizations, then vetted by Parliament and appointed by the President. Currently the members are:

1. Mr. Allan N. Ngugi, OGW	-	Kenya Association of Manufacturers
2. Mrs. Shehnaz N. Sumar	-	Federation of Kenya Employers
3. Mr. Richard B. Ndung'u	-	Institute of Certified Public Accountants of Kenya
4. Prof. Alfred V. Otieno	-	Institution of Engineers of Kenya
5. Prof. Miriam K. Were	-	Kenya Medical Association
6. Mr. Kipng'etich K. Bett	-	Kenya Bankers Association
7. Mrs. Mariamu El-Maawy	-	Architectural Association of Kenya
8. Mrs. Anna Muchungu	-	Association of Professional Societies of East Africa
9. Mr. Francis Atwoli	-	Central Organization of Trade Unions
10. Mr. Charles Kariuki Wambugu	-	Joint Forum of Religious Organizations
11. Mr. Eric Okong'o Omogeni	-	Law Society of Kenya
12. Ms. Naomi N. Wageraka	-	International Federation of Women Lawyers (FIDA) Kenya Chapter; and
13. Justice (RTD) Aaron Ringera, EBS	-	Secretary to the Advisory Board

The Board's functions are to:

- i). Advise the Commission generally on the exercise of its powers and the performance of its functions under the Act;
- ii). Recommend to Parliament persons to be appointed as Director or Assistant Directors of the Commission;
- iii). Initiate the process of removal from office of the Director or Assistant Directors for specified reasons; and
- iv). Approve grants and donations to the Commission.

#### 1.3.2 THE COMMISSION

The Kenya Anti-Corruption Commission is established by the Act as a body corporate. It comprises of the Director, Assistant Directors and staff. The Commission has organized its functions into four directorates based on its mandate as follows:

Investigation and Asset Tracing;  
Legal Services and Asset Recovery;  
Preventive Services; and  
Finance and Administration.

The Commission activities and programmes are guided by a 3 - Year Strategic Plan (2006/7 - 2008/9).

### ACTIVITIES OF THE COMMISSION

#### 2. INVESTIGATION AND ASSET TRACING

One of the core mandates of the Commission is to conduct investigations into corruption and economic crimes and related matters reported to or detected by the Commission. Upon completion, the files are forwarded to the Attorney General with recommendation for prosecution, administrative



action or closure for lack of evidence. As opposed to the past, during the year the Commission placed more emphasis on proactive detection of corruption and economic crimes to disrupt corrupt activities. This preemptive approach saves the public money that would have otherwise been lost through corruption, dismantles corruption networks and saves on time and resources that would have been spent on post facto investigation and prosecution.

## 2.1 REPORTS

In the period July 2007 to June 2008 the Commission received 4,485 complaints at the Commission's headquarters and a further 359 reports at the Mombasa regional office which became operational in June 2007. In comparison, the Commission received 8,188 reports in 2006-2007 and 7,888 reports in 2005-2006.

The drop in the number of reports received may be attributed to two main reasons, namely:

- General Elections campaigns which witnessed increased political activity in the period September to December 2007, and
- Post Election violence covering the months of January to March 2008.

In the year under review, 75% of the reports received were matters outside the Commission's mandate and hence were referred to relevant agencies for appropriate action. This compares to 80% and 85% in the period 2006-2007 and 2005-2006 respectively.

### 2.1.1 REPORTS WITHIN COMMISSION'S MANDATE

During the period under review, 1,232 reports were taken up for investigation by the Commission as compared to 1,614 in 2006-2007 and 1,150 in 2005-2006.

Although the number of reports during the period significantly dropped, the proportion that comprises corruption matters increased to 25% compared to 20% in 2006-2007 and 15% in 2005-2006. This may be an indicator of increasing public awareness and understanding of the mandate of the Commission.

### 2.1.2 BREAKDOWN OF REPORTS BY NATURE OF ALLEGATION

The reports received during the year comprised: 31% administrative issues, 16% bribery related matters, 17% civil matters, 5% embezzlement or misappropriation of public funds, 4% fraudulent acquisition of public land and 27% others assorted matters.

### 2.1.3 BREAKDOWN OF REPORTS BASED ON ORGANIZATIONS/SECTOR OF OCCURRENCE

The reports received by the Commission during the year under review cut across public and private organizations.

## 2.2 INVESTIGATIONS

During the year under review, 389 investigations were completed while 25 cases were referred to external agencies for investigations. The investigations resulted in the arrest of 62 suspects.

### 2.2.1 SOME OF THE MAJOR INVESTIGATIONS THE COMMISSION CONTINUED TO UNDERTAKE

#### i) *Security Contracts (Anglo Leasing Contracts) investigations*

As reported previously the investigations on security contracts covered local and international aspects. Largely, it is the international aspects which are so far pending to complete the investigations.

In the year under review the Commission continued to pursue international assistance through Mutual Legal Assistance and Agency to Agency cooperation in an endeavour to cover the international aspects but with varied successes and challenges. These international investigations, through the assistance of foreign agencies, are covering jurisdictions including the United Kingdom, Spain, the United States, Jersey, Netherlands and Switzerland and extend to other jurisdictions as the investigation progresses.

#### ii) *Pending Bills*

The Commission continued to receive reports from the Pending Bills Closing Committee with recommendations for criminal investigations and civil recovery. The Commission has opened eighty (80) files with claims estimated at Kshs. 80 billion.

#### iii) *The Judiciary*

The Commission has instituted five (5) inquiries targeting procurement and financial irregularities in the Judiciary involving senior officials of the Judiciary.

#### iv) *National Aids Control Council*

The Commission continued focus on the management of funds by the National Aids Control Council. Three (3) investigations on financial irregularities by officials and agents of the National Aids Control Council have been instituted.

#### v) *Devolved Funds – CDF, LATF and Fuel Levy*

The Commission continued to focus attention on the usage of devolved funds and has opened several inquiries on the use of Constituency Development Funds, the Local Authority Transfer Funds and the Fuel Levy. Investigations have focused on the misuse of the funds by constituency development committees and parliamentarians, local authority staff and irregularities in the award and performance of road repair contracts through the use of fuel levy.

#### vi) *Sugar Sector*

Investigations continued in the sugar sector where the Commission has managed, through intelligence gathered, to disrupt irregular payment of huge sums of money. Several other inquiries are ongoing.

vii) *Immigration*

After incessant complaints by the public in regard to irregular issuance of work permits, residence permits and citizenship, the Commission instituted investigations at the Directorate of Immigration Services. The Investigations are on-going.

## 2.2.2 ASSET TRACING INVESTIGATIONS

In the year 2007-2008, 50 inquiry case files were opened. Some of the ongoing asset tracing investigations are outlined below:

- i). Investigation into allegations that a financial controller of a state corporation is engaged in corruption/economic crimes and is in possession of unexplained assets. It was detected that the subject had suspect deposits amounting to over Kshs. 128 million within one year. A search carried out in both the office and residence of the official recovered a total of Kshs. 4,308,000/= in cash. Valuation of his immovable assets is approximately Kshs. 56 million.
- ii). Investigation into allegations that a chief accountant in a government ministry has accumulated wealth whose value is disproportionate to his known sources of income. A search carried out in the suspect's residence recovered Kshs. 1,990,000/= in cash. Valuation of the unexplained assets is approximately Kshs. 73.7 million.
- iii). Investigation into allegations that the Nucleus Estate of Miwani Sugar Company (1989) Limited (under receivership) which comprises of 9,394 acres of land and developments thereon with an estimated value of over Kshs. 2.3 billion was irregularly disposed of through a public auction.
- iv). Investigation into allegation of illegal acquisition of public land in Mombasa estimated at Kshs. 5 million.
- v). Investigation into allegations that the Kenya Sugar Board made irregular payments in the form of legal fees to the tune of Kshs. 181 million to an advocate.

*Cases Recommended for Recovery*

- i). Eldoret Municipal Council properties and public utility land irregularly sold by a former Mayor of the Council.
- ii). Illegally acquired (grabbed) property valued at approximately Kshs 61 million belonging to the Municipal Council of Nakuru.

## 2.2.3 PROACTIVE INTERVENTIONS BY THE COMMISSION

During the review period, the Commission undertook the following preemptive actions:

## 2.2.3.1 Kenya Sugar Board

In November 2007, the Commission detected and proactively disrupted a transaction involving Kenya Sugar Board in which Kshs. 2.2 billion was about to be irregularly approved and granted to a non-qualified applicant.

## 2.2.3.2 Mombasa Old Port

A tax evasion ring at the Mombasa Old Port in which unscrupulous traders evaded taxes running into millions of shillings was detected by the Commission. It involved importation of various un-customed goods from Somalia including sugar, anti-biotic drugs, batteries and diversion of cigarettes meant for export back into the local market. In the first operation, two consignments of un-customed goods brought in from Somalia were seized and from which KRA recovered around 2 million shillings in taxes.

## 2.2.3.3 Kenya Ports Authority

KACC Preventive services officers on routine systems examination at the Mombasa Port detected and reported flawed procurement in progress for two ship-to-shore cranes by KPA at a cost of Kshs. 1 billion. The Commission intervened and the contract was stopped after preliminary investigation which revealed that the procurement exceeded the budgeted provision of Kshs 840 million and the excess was not authorized by the board, the parent Ministry, and the Treasury.

## 2.2.3.4 Ministry of Education

The Commission intervened and stopped an irregular payment of Kshs. 63 million to a contractor by the Ministry of Education.

## 2.2.4 DEVELOPMENTS IN INVESTIGATION

During the year under review the Commission adopted an Intelligence-Led Investigation Model (ILIM) aimed at providing a forum within which decision-makers can draw upon strategic and tactical intelligence in order to deal with current and emerging corruption trends.

The model is implemented through two committees, namely; Strategic Tasking and Coordination Group (ST&CG) and Tactical Tasking and Coordination Group (TT&CG). The committees consider strategic and tactical intelligence assessments respectively with a view to setting corruption control strategies to guide prompt prevention and enforcement interventions.

The Commission also undertook an assessment of corruption trends for the last three years and established that corruption was still rampant in public procurement, service delivery points and revenue collection points.

## 3. LITIGATION AND ASSET RECOVERY

Another Commission core function is to investigate the extent of liability for the loss of, or damage to any public property and in appropriate cases to institute civil proceedings against any person for the recovery of such property or for compensation. This function underscores the fundamental need to deprive the corrupt the benefit of their ill-gotten wealth, thereby removing the motivation to engage in corruption and economic crimes generally.



During the period under review, the Commission robustly pursued its mandate of tracing and recovering corruptly and or illegally acquired public assets.

### 3.1 RECOVERY OF CORRUPTLY ACQUIRED PUBLIC ASSETS AND ILLICIT WEALTH

Investigations undertaken by the Commission are geared towards, among other things, the tracing, freezing, preserving, recovery and/or forfeiture of corruptly acquired wealth. These processes, as observed above, serve to deprive the motivation invariably underlying every corrupt transaction and break the corruption vicious cycle. Moreover, the effective implementation of these recovery processes is one of the criteria by which status of compliance by state parties which are signatory to United Nation Convention Against Corruption (UNCAC) and African Union Convention for Preventing and Combating Corruption (AUCPCC) are evaluated.

The data set out below analyses the nature and extent of activities undertaken by the Commission towards realizing this mandate

### 3.2 RECOVERED PUBLIC ASSETS

During the period, the Commission recovered corruptly acquired assets valued at Kshs. 3,779,099,324.80. This represents manifold increase in terms of value of recovered public assets, way above the previous year's Kshs. 111.9 million. The most important recovery so far is L. R. No. 209/9514 [Grand Regency Hotel] on behalf of the Central Bank of Kenya, following the settlement of High Court Miscellaneous Application No. 1111 of 2003, Kenya Anti-Corruption Commission versus Kamlesh M. D. Patti & 16 Others in terms of section 56A (2) of The Anti-Corruption and Economic Crimes Act, 2003. The hotel has one hundred and ninety six (196) rooms which include one (1) presidential suite, one (1) royal suite, two (2) deluxe suites and thirty two (32) executive suites, among other facilities.

Other significant recoveries by KACC include land hived off Karura forest which is a gazetted forest. This forest, dubbed the "lungs of Nairobi," is one of the public utility land identified by the Ndungu Commission of Inquiry as having been plundered over time resulting in the reduction of its acreage from about 1,062 ha (in 1964) to 564 ha (in 1996). The most rapid reduction occurred in the 1990s when the acreage reduced from 1,042 ha to a mere 564 ha.

Table 2: Recovered Public Properties

Item	Particulars of Recovery process	Particulars of Public Body on Whose Behalf Recovery has been Achieved	Approximate Value of Recovered Properties (Kshs.)
1	Nbi. C.M.C.C. No. 281 of 2007 KACC vs. Patrick Anyango Orege	National Aids Control Council; being monies irregularly paid as sitting allowances.	1,233,825.00
2	Nbi. H.C.C.C. No. 83 of 2007 KACC vs. Eunice Kyanda & Another	L.R. No.209/13539/78, Woodley Estate/Joseph Kang'ethe, recovered on behalf of City Council of Nairobi.	6,000,000.00
3	Nbi. H.C.C.C. No. 169 of 2007 KACC vs. Kennedy Nyabuto Ogeto	L.R. No.209/13539/65, Woodley Estate/Joseph Kang'ethe, recovered on behalf of City Council of Nairobi.	6,000,000.00
4	Nbi. H.C.C.C. No.2225 of 2007 KACC vs. George Philip Investment Limited	L.R. No. 209/13539/139, Woodley Estate/Joseph Kang'ethe, recovered on behalf of City Council of Nairobi.	6,000,000.00
5	Nbi. H. C. C. C. No 946 of 2006 KACC v. Praise Place Limited	L.R. No. 209/13539/163, Woodley Estate/Joseph Kang'ethe, recovered on behalf of City Council of Nairobi.	6,000,000.00
6	Nbi. H.C. Misc. Appl. No. 5 of 2008, KACC vs. Atafor Limited	L.R. Nos. 22181; 22191; 22194; 22176 [Karura Forest, recovered on behalf of Kenya Forest Service]	100,000,000.00
7	Nbi. H.C. Misc. Appl. No. 6 of 2008, KACC vs. Lamu Enterprises Limited	Recovery of L.R. Nos. 22189; 22188; 22187; 22186; 22190, [Karura Forest, recovered on behalf of Kenya Forest Service]	50,181,000.00
8	Nbi. H.C. Misc. Appl. No. 7 of 2008, KACC vs. Josko Enterprises Limited.	Recovery of L.R. No. 22195 [Karura Forest, recovered on behalf of Kenya Forest Service]	43,318,000.00
9	Nbi. H.C. Misc. Appl. No. 8 of 2008, KACC vs. Brown Cooper Limited	Recovery of L.R. Nos. 22184; 22178; 22183; 22182 [Karura Forest, recovered on behalf of Kenya Forest Service]	39,882,000.00
10	Nbi. H.C. Misc. Appl. No. 9 of 2008, KACC vs. Bafana (EA) Limited	Recovery of L.R. No. 22164 [Karura Forest, recovered on behalf of Kenya Forest Service]	9,886,000.00
11	Nbi. H.C. Misc. Appl. No. 10 of 2008, KACC vs. Wembly Limited	Recovery of L.R. No. 22163 [Karura Forest, recovered on behalf of Kenya Forest Service]	32,890,000.00
12	Nbi. H.C. Misc. Appl. No. 11 of 2008, KACC vs. Erythrin Limited	Recovery of L.R. Nos. 22171; 22172; 22173; 22174; 22175 [Karura Forest, recovered on behalf of Kenya Forest Service]	49,854,000.00
13	Nbi. H.C. Misc. Appl. No. 12 of 2008, KACC vs. Aprilo Limited	Recovery of L.R. No. 22162 [Karura Forest, recovered on behalf of Kenya Forest Service]	35,188,000.00
14	Nbi. H.C. Misc. Appl. No. 15 of 2008, KACC vs. Mayden Limited	Recovery of L.R. No. 22161 Karura Forest, on behalf of Kenya Forest Service]	43,417,000.00
15	Nbi. H.C. Misc. Appl. No. 16 of 2008, KACC vs. Vibco Limited	Recovery of L.R. No. 22169; 22170; 22177; 22179; 22180 [Karura Forest, recovered on behalf of Kenya Forest Service]	49,850,000.00
16	H.C. Misc. Appl. No. 17 of 2008, KACC vs. Thiaga Limited	Recovery of L.R. No. 22167 [Karura Forest, recovered on behalf of Kenya Forest Service]	10,030,000.00

Item	Particulars of Recovery process	Particulars of Public Body on Whose Behalf Recovery has been Achieved	Approximate Value of Recovered Properties (Kshs.)
17	Nbi. H.C. Misc. Appl. No. 18 of 2008, KACC vs. Sondate Limited	Recovery of L.R. No. 22166 [Karura Forest, recovered on behalf of Kenya Forest Service]	10,032,000.00
18	Nbi. H.C. Misc. Appl. No. 19 of 2008, KACC vs. Tairo Investments Limited	Recovery of L.R. No. 22168 [Karura Forest, recovered on behalf of Kenya Forest Service]	9,970,000.00
19	Nbi. H.C. Misc. Appl. No. 8 of 2007, KACC vs. Kennysam Investments Limited	Recovery of L.R. No. 22165 [Karura Forest, recovered on behalf of Kenya Forest Service]	9,886,000.00
20	Nbi. H.C. Miscellaneous Appl. No. 1111 of 2003, Kenya Anti-Corruption Commission vs. Kamlesh M.D. Pattni & 16 others	a) Recovery of L.R. No. 209/9514 [Grand Regency Hotel] built using public funds unlawfully acquired from Central Bank of Kenya Limited.	2,900,000,000.00
		b) Recovery and transmission to Central Bank of Kenya of Kshs. 342,000,000.00 collected by Receiver Manager of Grand Regency Hotel.	342,000,000.00
21	Others	a) National Aids Control Council, being monies irregularly paid as sitting allowances.	3,098,999.80
		b) Ministry of Finance, being un-surrendered imprest	242,500.00
		c) City Council of Nairobi, being irregular house allowance.	240,000.00
		d) Parliamentary Service Commission, being illegal sitting allowance(s) paid to a member of the Parliamentary Service Commission.	5,600,000.00
		e) Municipal Council of Mombasa, being land reference No. Msa Block XI/938 earmarked for use as a road reserve	8,300,000.00
Total Value of the Recovered Properties			3,779,099,324.80

During the year under review, the Commission recovered 14 parcels of land hived off Karura forest with an estimated value of Kshs. 495,384,000 through consent orders recorded in court whereby the respective allottees agreed to surrender the land back to the Government of Kenya. Herebelow is a map of Karura forest showing the portion of the forest that was grabbed, and the recovery made by the Commission so far.

### 3.3 SYNOPSIS OF ON-GOING CASES FOR RECOVERY OF ASSETS

During the year, the Commission also filed one hundred (100) suits for recovery of lost public property or for compensation for damage to or loss of public assets, all valued at approximately Kshs. 858,634,130.05, as tabulated here below:

Table 3: Recovery Cases

Item	Particulars of Case	Particulars of Claim	Approximate Value of Property (Kshs.)	Current Status of Suit
1	Nbi. H.C.C.C. No. 1294 of 2007 [ELC] KACC vs. Simon Kuria Kanyingi & 2 others	For recovery of L.R. No. 22008/25 a portion measuring 3.9 ha illegally hived off L.R. No. 164/4 [original No. 164/3/1], which is registered in the name of Lands Limited.	9,000,000.00	Pending before Court
2	Nbi. H.C.C.C. No. 1295 of 2007 [ELC] KACC vs. Susan Wangu K Kanyingi & 2 others	For recovery of L.R. No. 22008/13 a portion measuring 0.8 ha illegally hived off L.R. No. 164/4 [original No. 164/3/1], which is registered in the name of Lands Limited.	2,000,000.00	Pending before Court
3	Embu H.C.C.C. No. 117 of 2007 KACC vs. Michael Kibuchi Gituto	For recovery of Kshs. 7,987,775.30 being monies embezzled by the Defendant, formerly an Accounts Assistant at Kirinyaga District Treasury.	7,987,775.50	Judgment in default of defence entered. The Defendant has applied to set aside the Judgment.
4	Nbi. H.C.C.C. No. 1114 of 2007 [ELC] KACC vs. Gathiru Enterprises Limited	For recovery of L.R. No. 209/13539/94, a portion of Woodley/Joseph Kang'ethe Estate.	6,000,000.00	Pending before Court
5	Nbi. H.C.C.C. No. 1115 of 2007 [ELC], KACC vs. Yatta Tomados Limited	For recovery of L.R. No. 209/13539/73, a portion of Woodley/Joseph Kang'ethe Estate.	6,000,000.00	Awaiting Service of Summons to Enter Appearance
6	Nbi. H.C.C.C. No. 1116 of 2007	For recovery of L.R. No. 209/13539/74, a	6,000,000.00	Awaiting Service of



Item	Particulars of Case	Particulars of Claim	Approximate Value of Property (Kshs.)	Current Status of Suit
	[ELC] KACC vs. Wariwax Generation Limited	portion of Woodley/Joseph Kang'ethe Estate.		Summons to Enter Appearance
7	Nbi. H.C.C.C. No. 1117 of 2007 [ELC] KACC vs. Sattelite Industrial Supplies Limited	For recovery of L.R. No. 209/13539/42, a portion of Woodley/Joseph Kang'ethe Estate.	6,000,000.00	Awaiting Service of Summons to Enter Appearance
8	Nbi. H.C.C.C. No. 1118 of 2007 [ELC] KACC vs. Parkside Medical Centre Limited	For recovery of L.R. No. 209/13539/39, a portion of Woodley/Joseph Kang'ethe Estate.	6,000,000.00	Pending before Court
9*	Msa. H.C.C.C. Nos. 201, 202, & 204 of 2007 KACC vs. Bhangra Limited & Another	For recovery of Mombasa Island/Block XI/936, 937 & 939 public utility land reserved for road reserve	20,700,000.00	Pending before Court
10	Msa. H.C.C.C. No. 203 of 2007 KACC vs. Ahmed Mwidani & Others	For recovery of Mombasa Island/Block XI/940, a public utility land reserved for a road reserve	6,200,000.00	Suit struck out. An appeal there from is pending hearing.
11	Nbi. H.C.C.C. No. 2133 of 2007 [ELC] KACC vs. Cones Machinery Limited & 2 others	For recovery of L.R. No. 22008/7, a portion measuring 0.4048ha illegally hived off L.R. No. 164/4 [original No. 164/3/1], which is registered in the name of Lands Limited.	1,000,000.00	Pending before Court
12	Nbi. H.C.C.C. No. 2134 of 2007 [ELC] KACC vs. Peter Gikura & 2 others	For recovery of L.R. No. 22008/24, a portion measuring 0.8027 ha illegally hived off L.R. No. 164/4 [original No. 164/3/1], which is registered in the name of Lands Limited.	2,000,000.00	Pending before Court
13	Nbi. H.C.C.C. No. 2135 of 2007 [ELC] KACC vs. Irene Wanjiru & 2 others	For recovery of L.R. No. 22008/17, a portion measuring 0.8569 ha illegally hived off L.R. No. 164/4 [original No. 164/3/1], which is registered in the name of Lands Limited.	2,000,000.00	Pending before Court
14	Nbi. H.C.C.C. No. 2136 of 2007 [ELC] KACC vs. Geoffrey Kuria Muriuki & 2 others	For recovery of L.R. No. 22008/5, a portion measuring 0.4053 ha illegally hived off L.R. No. 164/4 [original No. 164/3/1], which is registered in the name of Lands Limited.	1,000,000.00	Pending before Court
15	Nbi. H.C.C.C. No. 2137 of 2007 [ELC] KACC vs. John Gathara & 2 others	For recovery of L.R. No. 22008/22, a portion measuring 0.6689ha illegally hived off L.R. No. 164/4 [original No. 164/3/1], which is registered in the name of Lands Limited.	1,500,000.00	Pending before Court
16	Nbi. H.C.C.C. No. 2138 of 2007 [ELC] KACC vs. Wilfred T Waweru & 2 others	For recovery of L.R. No. 22008/9, a portion measuring 0.7603 ha illegally hived off L.R. No. 164/4 [original No. 164/3/1], which is registered in the name of Lands Limited.	2,000,000.00	Pending before Court
17	Nbi. H.C.C.C. No. 21339 of 2007 [ELC] KACC vs. David Kamunya Runo & 2 others	For recovery of L.R. No. 22008/6, a portion measuring 0.4048 ha illegally hived off L.R. No. 164/4 [original No. 164/3/1], which is registered in the name of Lands Limited.	1,000,000.00	Awaiting Service of Summons to Enter Appearance
18	Nbi. H.C.C.C. No. 2140 of 2007 [ELC] KACC vs. Thomas Kariuki & 2 others	For recovery of L.R. No. 22008/12, a portion measuring 0.8092ha illegally hived off L.R. No. 164/4 [original No. 164/3/1], which is registered in the name of Lands Limited.	2,000,000.00	Pending before Court
19	Nbi. H.C.C.C. No. 461 of 2007, KACC vs. Johnson Jackson Githaka & 2 others	For recovery of Kshs. 5,423,183.00 being monies embezzled by the Defendants, formerly Managers with Kenya Reinsurance Corporation	5,423,183.00	Pending before Court
20	Nbi. H.C.C.C. No. 1492 of 2007 [ELC] KACC vs. Wairimu Kanja	For recovery of L.R. No. 209/13539/184, a portion of Woodley/Joseph Kang'ethe Estate.	6,000,000.00	Awaiting Service of Summons to Enter Appearance
21	Nbi. H.C.C.C. No. 2130 of 2007 [ELC] KACC vs. John Muturi Thumi	For recovery of L.R. No. 209/13539/87, a portion of Woodley/Joseph Kang'ethe Estate.	6,000,000.00	Defendant deceased. Awaiting substitution.
22	Nbi. H.C.C.C. No. 1571 of 2007 [ELC] KACC vs. Gigiri Court Limited	For recovery of Nbi Block 91/386 being a portion of land owned by KTTC	60,000,000.00	Pending before Court

Item	Particulars of Case	Particulars of Claim	Approximate Value of Property (Kshs.)	Current Status of Suit
23	Nbi. H.C.C.C. No. 2182 of 2007 [ELC] KACC vs. Renege Project Ltd & Another	For recovery of a portion measuring 9.3881 ha of land illegally hived off L.R. No. 164/4, which is registered in the name of Lands Limited.	14,000,000.00	Pending before Court
24	Nbi. H.C.C.C. No. 2183 of 2007 [ELC] KACC vs. David Kamau & 2 others	For recovery of a portion measuring 0.4080ha of land illegally hived off L.R. No. 164/4 [original No.164/3/1], which is registered in the name of Lands Limited.	1,000,000.00	Pending before Court
25	Nbi. H.C.C.C. No. 2181 of 2007 [ELC] KACC vs. Jerioth Wangui	For recovery of a portion measuring 0.8093ha of land illegally hived off L.R. No. 164/4 [original No.164/3/1], which is registered in the name of Lands Limited.	2,000,000.00	Pending before Court
26	Bungoma CMCC No. 1571 of 2007, KACC vs. Dan Okoth	For recovery of Kshs. 2,311,970.75 being monies embezzled by the Defendant formerly a District Accountant at Bungoma.	2,311,970.75	Awaiting Service of Summons to Enter Appearance
27	Nku. H.C.C.C. No. 225 of 2007 KACC vs. Paul Muriithi Theuri	For recovery of Kshs. 3,200,405.75 being monies embezzled by the Defendant formerly an employee of Egerton University.	3,200,405.75	Pending before Court
28	Nbi. H.C.C.C. No. 2226 of 2007 [ELC] KACC vs. Thomas Kipkoech Koros	For recovery of L.R. No. 209/13539/102, a portion of Woodley/Joseph Kang'ethe Estate.	6,000,000.00	Pending before Court
29	Nbi. H.C.C.C. No. 2172 of 2007 [ELC] KACC vs. Francis Mwithukia & 2 others	For recovery of Nairobi Block 60/474, being a portion of land measuring 0.2063 ha reserved for public utility within Otiende Estate	2,500,000.00	Pending before Court
30*	Msa. H.C.C.C. Nos. 272, 273, 274, 275, 276, 277, 278, 279 & 280 of 2007 KACC vs. Succo Enterprises Limited & 2 others	For recovery of L.R. Nos. Kwale/Diani Beach Block 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375 & 1376	54,000,000.00	Hearing set for 9 <sup>th</sup> October, 2008.
31*	Msa. H.C.C.C. No. 281, 282 & 283 of 2007 KACC vs. Succo Enterprises Limited & 2 others	For recovery of L.R. No. Kwale/Diani Beach Block 1094 [since subdivided]	18,000,000.00	Hearing set for 9 <sup>th</sup> October, 2008.
32	Msa. H.C.C.C. No. 2277 of 2007 KACC vs. Boinaje Services Limited	For recovery of L.R. No. 209/13539/179 Woodley Estate/Joseph Kang'ethe	6,000,000.00	Settlement negotiations on-going
33	H.C.C.C. No. 2278 of 2007 [ELC], KACC vs. Sotken Limited	For recovery of L.R. No. 209/13539/179 Woodley Estate/Joseph Kang'ethe	6,000,000.00	Pending before Court
34	Nbi. H.C.C.C. No. 2279 of 2007 [ELC] KACC vs. Tambayya Enterprises Limited	For recovery of L.R. No. 209/13539/124 Woodley Estate/Joseph Kang'ethe	6,000,000.00	Pending before Court
35	Nbi. H.C.C.C. No. 2280 of 2007 [ELC] KACC vs. Valeview Plaza Limited	For recovery of L.R. No. 209/13539/140 Woodley Estate/Joseph Kang'ethe	6,000,000.00	Pending before Court
36	Nbi. H.C.C.C. No. 2281 of 2007 [ELC] KACC vs. Esther Mumbi Kironjo	For recovery of L.R. No. 209/13539/70 Woodley Estate/Joseph Kang'ethe	6,000,000.00	Pending before Court
37	Nbi. H.C.C.C. No. 2282 of 2007 [ELC] KACC vs. Rosemary Njeri	For recovery of L.R. No. 209/13539/68 Woodley Estate/Joseph Kang'ethe	6,000,000.00	Settlement negotiations on-going
38	Nbi. H.C.C.C. No. 2283 of 2007 [ELC] KACC vs. Jacqueline Yvonne Amoiti	For recovery of L.R. No. 209/13539/152 Woodley Estate/Joseph Kang'ethe	6,000,000.00	Pending before Court
39	Nbi. H.C.C.C. No. 2284 of 2007 [ELC] KACC vs. Irene Wanjiru Mugambi	For recovery of L.R. No. 209/13539/6, Woodley Estate/Joseph Kang'ethe	6,000,000.00	Pending before Court
40	Nbi. H.C.C.C. No. 2285 of 2007 [ELC] KACC vs. Peter Mwangi	For recovery of L.R. No. 209/13539/4, Woodley Estate/Joseph Kang'ethe	6,000,000.00	Pending before Court
41	Msa. H.C.C.C. No. 299 of 2007 KACC vs. Abdilahi Farah & 2 others	For recovery of L.R. No. Msa/Island Block XI/946	8,000,000.00	Pending before Court
42	Msa. H.C.C.C. No. 300 of 2007	For recovery of L.R. No. Msa/Island Block	14,000,000.00	Pending before



Item	Particulars of Case	Particulars of Claim	Approximate Value of Property (Kshs.)	Current Status of Suit
	KACC vs. Ahmed Karama Said & 2 others	XI/839		Court
43	Msa. H.C.C.C. No. 301 of 2007 KACC vs. Harith Swaleh & Another	For recovery of L.R. No. Msa/Island Block XI/950	8,100,000.00	Pending before Court
44	Nbi. H.C.C.C. No. 5 of 2008 [ELC] KACC vs. Wilson Gacanja & 3 others	For recovery of L.R. No. 209/6238 I.R. No. 74856 Kenya School of Law property.	22,000,000.00	Pending before Court
45	Nku. H.C.C.C. No. 6 of 2008 KACC vs. Manoah Kipyego Kilach	For recovery of Kshs. 8,146,477.45 being funds embezzled by Defendant in a payroll fraud at Egerton University	8,146,477.45	Pending before Court
46	Msa. H.C.C.C. No. 8 of 2008 KACC vs. Bhangra Limited.	For recovery of L.R. No. Msa/Island Block XI/934, Tudor Road reserve	7,500,000.00	Pending before Court
47	Msa. H.C.C.C. No. 9 of 2008 KACC vs. Julius Mwamsae & others	For recovery of L.R. No. Msa/Island Block XI/983, Tudor Road reserve	10,000,000.00	Pending before Court
48	Nbi. H.C.C.C. No. 8 of 2008 [ELC] KACC vs. Judith Marilyn Okungu & Another	For recovery of L.R. No. 209/16441 I.R. No. 10069 belonging to Racecourse Primary School.	225,000,000.00	Defendants have nixed the court seeking to strike out the suit.
49	Nbi. H.C.C.C. No. 55 of 2008 [ELC] KACC vs. Harun Muhtro Mathu	For recovery of L.R. No. 209/13539/101, Woodley Estate/Joseph Kang'ethe	6,000,000.00	Pending before Court
50	Nbi. H.C.C.C. No. 105 of 2008 [ELC] KACC vs. Carolizane Gathoni Kuria & 2 others	For recovery of L.R. No. 209/11855, [Woodley open spaces]	6,000,000.00	Pending before Court
51	Nbi. H.C.C.C. No. 106 of 2008 [ELC] KACC vs. Hammerheads Limited & 2 others	For recovery of L.R. No. 209/11851, [Woodley open spaces]	6,000,000.00	Pending before Court
52	Nbi. H.C.C.C. No. 107 of 2008 [ELC] KACC vs. Catherine Njeri Kuria & 2 others	For recovery of L.R. No. 209/11854 [Woodley open spaces]	6,000,000.00	Pending before Court
53	Nku. H.C.C.C. No. 43 of 2008, KACC vs. Hilary Kipkorir Mwaita & Another	For recovery of Nakuru Municipality/Block 245 & 246. [Survey Camp]	8,000,000.00	Pending before Court
54	Nbi. H.C.C.C. No. 124 of 2008 [ELC] KACC vs. Jamma Consolidated Limited	For recovery of L.R. No. 209/13539/61 Woodley Estate/Joseph Kang'ethe	6,000,000.00	Pending before Court
55	Msa. H.C.C.C. No. 30 of 2008 KACC vs. Jones Kavivya Nzau & 2 others	For recovery of L.R. No. Machakos Municipality Block 4/ 611	500,000.00	Pending before Court
56	Msa. H.C.C.C. No. 31 of 2008 KACC vs. Damaris Muringi Gathiti & 3 others	For recovery of L.R. No. Machakos Municipality Block 4/ 712	500,000.00	Pending before Court
57	Msa. H.C.C.C. No. 32 of 2008 KACC vs. Janice Kamene Masika & 3 others	For recovery of L.R. No. Machakos Municipality Block 4/ 664	500,000.00	Pending before Court
58	Msa. H.C.C.C. No. 33 of 2008 KACC vs. Martha Wanjumbi & 4 others	For recovery of L.R. No. Machakos Municipality Block 4/ 609	500,000.00	Pending before Court
59	Msa. H.C.C.C. No. 34 of 2008 KACC vs. Francis Mwanzia Nathan & 3 others	For recovery of L.R. No. Machakos Municipality Block 4/ 639	500,000.00	Pending before Court
60	Msa. H.C.C.C. No. 35 of 2008 KACC vs. John Mutua Kivuva & 3 others	For recovery of L.R. No. Machakos Municipality Block 4/ 644	500,000.00	Pending before Court
61	Nbi. H.C.C.C. No. 134 of 2008 [ELC] KACC vs. Jenifer Wanjiru Njiru	For recovery of L.R. No. 209/13539/107, Woodley Estate/Joseph Kang'ethe	6,000,000.00	Pending before Court
62	Nbi. H.C.C.C. No. 135 of 2008 [ELC] KACC vs. Hadjah Wanjiru Gathika	For recovery of L.R. No. 209/13539/181, Woodley Estate/Joseph Kang'ethe	6,000,000.00	Awaiting Service of Summons to Enter Appearance

Item	Particulars of Case	Particulars of Claim	Approximate Value of Property (Kshs.)	Current Status of Suit
63	Nbi. H.C.C.C. No. 136 of 2008 [ELC] KACC vs. Kimeo Stores Limited	For recovery of L.R. No. 209/13539/84. Woodley Estate/Joseph Kang'ethe	6,000,000.00	Awaiting Service of Summons to Enter Appearance
64	Nbi. H.C.C.C. No. 181 of 2008 [ELC] KACC vs. Chemusian Company Limited	For recovery of L.R. No. 209/13539/41. Woodley Estate/Joseph Kang'ethe	6,000,000.00	Settlement negotiations on-going
65	Nbi. H.C.C.C. No. 182 of 2008 [ELC] KACC vs. Tradeworld Company Limited	For recovery of L.R. No. 209/13539/50. Woodley Estate/Joseph Kang'ethe	6,000,000.00	Settlement negotiations on-going
66	Nbi. H.C.C.C. No. 183 of 2008 [ELC] KACC vs. Elizabeth Cherotich Mibey	For recovery of L.R. No. 209/13539/101. Woodley Estate/Joseph Kang'ethe	6,000,000.00	Pending before Court
67	Nbi. H.C.C.C. No. 184 of 2008 [ELC] KACC vs. Helen Njambi Mbugua	For recovery of L.R. No. 209/13539/122. Woodley Estate/Joseph Kang'ethe	6,000,000.00	Pending before Court
68	Eld. H.C.C.C. No. 37 of 2008 KACC vs. William S. Ruto & 2 others	For recovery of Eldoret Municipality Block 8/574	8,500,000.00	Pending before Court
69*	Eld. H.C.C.C. Nos. 38, 40, 41, 42, 43, 44, 47 & 48 of 2008 KACC vs. Magut Agencies Limited & 2 others	For recovery of Eldoret Municipality Block 8/575, 577, 580, 581, 582, 583, 587 & 588	68,000,000.00	Pending before Court
70	Eld. H.C.C.C. No. 39 of 2008 KACC vs. Ramji V. Devji & 3 others	For recovery of Eldoret Municipality Block 8/576	8,500,000.00	Pending before Court
71	Eld. H.C.C.C. No. 45 of 2008 KACC vs. David Koross & 3 others	For recovery of Eldoret Municipality Block 8/584	8,500,000.00	Pending before Court
72	Eld. H.C.C.C. No. 46 of 2008 KACC vs. Hoseah Ruto & 3 others	For recovery of Eldoret Municipality Block 8/585	8,500,000.00	Pending before Court
73	Ksm. H.C.C.C. No. 33 of 2008 KACC vs. Maywood Limited & 4 others	For recovery of Kisumu Municipality Block 8/456	12,000,000.00	Pending before Court
74	Ksm. H.C.C.C. No. 34 of 2008 KACC vs. Charles Oyoo Kanyangi & 4 others	For recovery of Kisumu Municipality Block 8/307	5,000,000.00	Pending before Court
75	Eld. H.C.C.C. No. 61 of 2008 KACC vs. Kipsirgoi Investments Limited & Another	For recovery of Eldoret/Municipality Block 3/28, which is public land illegally alienated to private persons	20,000,000.00	Pending before Court
76	Nku. H.C.C.C. No. 102 of 2008 KACC vs. Jeremiah Njiri Karanja	For recovery of Kshs. 5,957,462/70 being monies embezzled by the Defendant formerly an employee of Egerton University.	5,957,462.70	Awaiting Service of Summons to Enter Appearance
77	Nku. H.C.C.C. No. 103 of 2008 KACC vs. Moses Cheruiyot	For recovery of Kshs. 3,606,854/90 being monies embezzled by the Defendant formerly an employee of Egerton University.	3,606,854.90	Awaiting Service of Summons to Enter Appearance
78	Mks. H.C.C.C. No. 79 of 2008 KACC vs. Mark M. Maundu & 3 Others	For recovery of public land set aside for use by the Prisons Department	500,000.00	Pending before Court
79	Mks. H.C.C.C. No. 80 of 2008 KACC vs. Jacinta Karoki & 3 Others	For recovery of public land set aside for use by the Prisons Department	500,000.00	Pending before Court
80	Mks. H.C.C.C. No. 81 of 2008 KACC vs. Thomas Kyalo & 2 Others	For recovery of public land set aside for use by the Prisons Department	500,000.00	Pending before Court
Total Value of Properties Sought to be Recovered			858,634,130.05	

\* More than one case

### 3.4 PRESERVATION OF SUSPECT ASSETS

#### 3.4.1 Applications for Prohibitory Orders

In a bid to enhance and accelerate asset tracing and recovery initiative, the Commission is mandated to seek ex-parte time-bound prohibitory orders (also known as preservative orders) to bar any dealings with suspect property which is the target of investigations, and ultimately the subject of



recovery proceedings. During the period under review, the Commission filed one hundred and three (103) applications under Section 56 of ACECA in various courts in the country. It successfully prosecuted and obtained prohibitory orders in all these applications, which orders have since been registered against the properties. These orders have the effect of stopping any transfer or other dealings with the properties for a period of six (6) months pending finalization of investigations, thereby preserving the property before the filing of recovery proceedings in appropriate instances. In a few of these applications, the Commission altogether managed to recover the property the subject of the preservative applications without filing separate recovery proceedings. The value of property preserved through the 103 applications/orders is estimated at over Kshs. 932,882,986.70.

The Commission however suffered a major set-back when the Court of Appeal in Court of Appeal Civil Application Nbi 255 of 2007 Dakane A. Ali v. KACC and 2 others (an application under rule 5 (2) (b) of the Court of Appeal Rules) observed in passing that it was doubtful whether an application for a prohibitory order under section 56 of ACECA could be initiated without a suit for recovery by way of plaint. The delivery of the aforesaid ruling in January, 2008 has slowed down filing of applications under section 56 of ACECA. This has adversely affected the investigative processes. However, all is not lost and the Commission presently makes applications for prohibitory injunctions simultaneously with the filing of recovery suits. In the meantime, the Commission is contesting the adverse interpretation of section 56 of the ACECA in the main appeal now pending hearing before the Court of Appeal.

Here below are details of applications for prohibitory orders filed during the period under review.

Table 4: Prohibitory Orders Applications

No.	Particulars of Application	Nature of Application	Approximate Value of preserved Property (Kshs.)
<b>I. Applications for Prohibitory Orders Resulting in Direct Recovery</b>			
1	Nbi H.C. Misc. Appl. No. 8 of 2007, KACC vs. Kennysam Investments Limited	An application to preserve and recover part of Karura Forest (0.4001 ha)	10,000,000.00
2	Nbi H.C. Misc. Appl. No. 9 of 2007, KACC vs. Bafana East Africa Limited	An application to preserve and recover part of Karura Forest (0.4001 ha)	10,000,000.00
3	Nbi H.C. Misc. Appl. No. 10 of 2007, KACC vs. Wembley Limited	An application to preserve and recover part of Karura Forest (1.331 ha)	30,000,000.00
4	Nbi H.C. Misc. Appl. No. 11 of 2007, KACC vs. Erythin Limited	An application to preserve and recover part of Karura Forest (2.017 ha)	50,000,000.00
5	Nbi H.C. Misc. Appl. No. 12 of 2007, KACC vs. April Holdings Limited	An application to preserve and recover part of Karura Forest (1.424 ha)	35,000,000.00
6	Nbi H.C. Misc. Appl. No. 15 of 2007, KACC vs. Mayden Holdings Limited	An application to preserve and recover part of Karura Forest (1.757 ha)	40,000,000.00
7	Nbi H.C. Misc. Appl. No. 16 of 2007, KACC vs. Vibeo Investments Limited	An application to preserve and recover part of Karura Forest (2.017 ha)	50,000,000.00
8	Nbi H.C. Misc. Appl. No. 17 of 2007, KACC vs. Thinga Developers Limited	An application to preserve and recover part of Karura Forest (0.4059 ha)	10,000,000.00
9	Nbi H.C. Misc. Appl. No. 18 of 2007, KACC vs. Sondate Holdings Limited	An application to preserve and recover part of Karura Forest (0.4060 ha)	10,000,000.00
10	Nbi H.C. Misc. Appl. No. 19 of 2007, KACC vs. Tairo Investments Limited	An application to preserve and recover part of Karura Forest (0.4035 ha)	10,000,000.00
<b>II. Applications for Preservation Orders not Resulting in Direct Recoveries</b>			
11	Nbi H.C. Misc. Appl. No. 21 of 2007, KACC vs. Gigiri Court Limited	An application to preserve and recover part of Karura Forest (7.11 ha)	175,000,000
12	Ksm. H.C. Misc. Appl. No. 134 of 2007 [Kisumu], KACC vs. Charles Oyoo Kanyangi	An application to preserve Kisumu Municipality/Block 8/307 (0.390 ha) and 458 (0.1816 ha) belonging to the Judiciary	20,000,000.00
13	Msa. H.C. Misc. Appl. No. 356 of 2007 KACC vs. Samu Limited	An application to preserve Mombasa Island/Block XXVI/286, 309, 310, 312, 313 & 973, measuring 0.1301 ha, 0.2263 ha, 0.2263 ha, 0.2975 ha, 0.1469 ha, 0.1627 ha and 0.1494 ha respectively, consisting of Government houses illegally alienated to private persons	100,500,000.00
14	Msa. H.C. Misc. Appl. No. 359 of 2007 KACC vs. Pwani Warehousing Limited	An application to preserve Mombasa Island/Block XXVI/289, a Government house illegally alienated to private persons (0.1112 ha)	9,700,000.00
15	Msa. H.C. Misc. Appl. No. 361 of 2007 KACC vs. Tawakal Holdings Limited	An application to preserve Mombasa Island/Block XXVI/298, a Government house illegally alienated to private persons (0.1219 ha)	10,500,000.00
16	Msa. H.C. Misc. Appl. No. 363 of 2007 KACC vs. Samu Limited	An application to preserve Mombasa Island/Block XXVI/1469, a Government house illegally alienated to private persons (0.02641 ha)	4,580,000.00
17	Msa. H.C. Misc. Appl. No. 366 of 2007 KACC	An application to preserve Mombasa Island/Block 11/825	10,000,000.00

No.	Particulars of Application	Nature of Application	Approximate Value of preserved Property (Kshs.)
	vs. Dr. Jenifer Othigo	and 826 being part of a road which was illegally alienated to a private person (0.0339 ha and 0.0452 ha respectively)	
18	Msa. H.C. Misc. Appl. No. 364 of 2007 KACC vs. Elias Mjomba	An application to preserve Mombasa Island/Block XI/840, a portion of a road reserve illegally alienated to private persons(0.0830 ha)	6,500,000.00
19	Msa. H.C. Misc. Appl. No. 358 of 2007 KACC vs. Charles Munywoki Chamia	An application to preserve Mombasa Island/Block XI/829, a portion of a road reserve illegally alienated to private persons( 0.0368 ha)	6,000,000.00
20	Msa. H.C. Misc. Appl. No. 360 of 2007 KACC vs. Jusan Limited	An application to preserve Mombasa Island/Block XXVI/284, a portion of a road reserve illegally alienated to private persons( 0.1305 ha)	11,000,000.00
21	Msa. H.C. Misc. Appl. No. 357 of 2007 KACC vs. Azania Holdings Limited	An application to preserve Mombasa Island/Block XXVI/287, a portion of a road reserve illegally alienated to private persons (0.1076 ha)	9,500,000.00
22	Msa. H.C. Misc. Appl. No.362 of 2007 KACC vs. Sajun Limited	An application to preserve Mombasa Island/Block XXVI/288, a portion of a road reserve illegally alienated to private persons ( 0.0957 ha)	8,600,000.00
23	Msa. H.C. Misc. Appl. No.365 of 2007 KACC vs. Comen Limited	An application to preserve Mombasa Island/Block XXVI/285, a portion of a road reserve illegally alienated to private persons(0.1431 ha)	12,000,000.00
24	Eld. H.C. Misc. Appl. No. 225 of 2007 KACC vs. Magut Agencies Limited & 2 others	An application to preserve Eldoret Municipality/Block 8/574, land reserved for Municipal houses(0.3700 ha)	8,500,000.00
25	Eld. H.C. Misc. Appl. No. 226 of 2007 KACC vs. Magut Agencies Limited & Another	An application to preserve Eldoret Municipality/Block 8/575, land reserved for Municipal houses(0.5800 ha)	8,500,000.00
26	Eld. H.C. Misc. Appl. No. 227 of 2007 KACC vs. Magut Agencies Limited & 3 others	An application to preserve Eldoret Municipality/Block 8/576, land reserved for Municipal houses(0.6321 ha)	8,500,000.00
27	Eld. H.C. Misc. Appl. No. 228 of 2007 KACC vs. Magut Agencies Limited & Another	An application to preserve Eldoret Municipality/Block 8/577, land reserved for Municipal houses( 0.3501 ha)	8,500,000.00
28	Eld. H.C. Misc. Appl. No. 229 of 2007 KACC vs. Magut Agencies Limited & Another	An application to preserve Eldoret Municipality/Block 8/580, land reserved for Municipal houses(0.1411 ha)	8,500,000.00
29	Eld. H.C. Misc. Appl. No. 230 of 2007 KACC vs. Magut Agencies Limited & Another	An application to preserve Eldoret Municipality/Block 8/581, land reserved for Municipal houses (0.1800 ha)	8,500,000.00
30	Eld. H.C. Misc. Appl. No. 231 of 2007 KACC vs. Magut Agencies Limited & Another	An application to preserve Eldoret Municipality/Block 8/582, land reserved for Municipal houses (0.300 ha)	8,500,000.00
31	Eld. H.C. Misc. Appl. No. 232 of 2007 KACC vs. Magut Agencies Limited & Another	An application to preserve Eldoret Municipality/Block 8/583, land reserved for Municipal houses(0.1600 ha)	8,500,000.00
32	Eld. H.C. Misc. Appl. No. 233 of 2007 KACC vs. Magut Agencies Limited & 2 others	An application to preserve Eldoret Municipality/Block 8/584, land reserved for Municipal houses(0.0947 ha)	8,500,000.00
33	Eld. H.C. Misc. Appl. No. 234 of 2007 KACC vs. Magut Agencies Limited & 2 others	An application to preserve Eldoret Municipality/Block 8/585, land reserved for Municipal houses(0.1159 ha)	8,500,000.00
34	Eld. H.C. Misc. Appl. No. 235 of 2007 KACC vs. Magut Agencies Limited & Another	An application to preserve Eldoret Municipality/Block 8/586, land reserved for Municipal houses(0.1261 ha)	8,500,000.00
35	Eld. H.C. Misc. Appl. No. 236 of 2007 KACC vs. Magut Agencies Limited & Another	An application to preserve Eldoret Municipality/Block 8/587, land reserved for Municipal houses(0.1234 ha)	8,500,000.00
36	Eld. H.C. Misc. Appl. No. 237 of 2007 KACC vs. Magut Agencies Limited & Another	An application to preserve Eldoret Municipality/ Block 8/588, land reserved for Municipal houses ( 0.1411 ha)	8,500,000.00

No.	Particulars of Application	Nature of Application	Approximate Value of preserved Property (Kshs.)
37	Eld. H.C. Misc. Appl. No. 266 of 2007 KACC vs. Kipsirgoi Limited	An application to preserve Eldoret Municipality/Block 3/28 [L.R. No. 778/246] measuring 0.1672 ha land reserved for public open space but illegally alienated.	20,000,000.00
38	Kisii H.C. Misc. Appl. No. 130 of 2007 KACC vs. Lucy Kerubo Ogeto	An application to preserve Kisii Municipality/Block 3/420 (0.912 ha), land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
39	Kisii H.C. Misc. Appl. No. 131 of 2007 KACC vs. Simon Hudlay Onchiri	An application to preserve Kisii Municipality /Block 3/421 (0.0431 ha), land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
40	Kisii H.C. Misc. Appl. No. 132 of 2007 KACC vs. Rachel Moraa Aburi	An application to preserve Kisii Municipality/Block 3/422 (0.0900 ha), land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
41	Kisii H.C. Misc. Appl. No. 133 of 2007 KACC vs. Samuel Rogers Mogoba	An application to preserve Kisii Municipality/Block 3/423 (0.0686 ha), land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
42	Kisii H.C. Misc. Appl. No. 134 of 2007 KACC vs. Richard Nyakundi Kemanga	An application to preserve Kisii Municipality/Block 3/424 (0.05 ha), land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
43	Kisii H.C. Misc. Appl. No. 135 of 2007 KACC vs. Chrsanthus Orey Mariita	An application to preserve Kisii Municipality/Block 3/425 (0.0520 ha), land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
44	Kisii H.C. Misc. Appl. No. 136 of 2007 KACC vs. Alice Nyamasege Onkoba	An application to preserve Kisii Municipality/Block 3/426 (0.0530 ha), land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
45	Kisii H.C. Misc. Appl. No. 137 of 2007 KACC vs. Peter Momanyi Mogaka	An application to preserve Kisii Municipality/Block 3/427(0.050 ha), land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
46	Kisii H.C. Misc. Appl. No. 138 of 2007 KACC vs. Joseph Oroko Ongera	An application to preserve Kisii Municipality/Block 3/429, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
47	Kisii H.C. Misc. Appl. No. 139 of 2007 KACC vs. Esther Nyabate Ngare	An application to preserve Kisii Municipality /Block 3/430(0.0540 ha), land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
48	Kisii H.C. Misc. Appl. No. 140 of 2007 KACC vs. Andrew Peter Gisora	An application to preserve Kisii Municipality/Block 3/431(0.0540 ha), land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
49	Kisii H.C. Misc. Appl. No. 141 of 2007 KACC vs. Abel Sangonde Momanyi	An application to preserve Kisii Municipality /Block 3/434(0.0470 ha), land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
50	Kisii H.C. Misc. Appl. No. 142 of 2007 KACC vs. Jackson Mondiri Ontegi	An application to preserve Kisii Municipality/Block 3/435(0.0450 ha), land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
51	Kisii H.C. Misc. Appl. No. 143 of 2007 KACC vs. Pauline Kemuma Anunda	An application to preserve Kisii Municipality/Block 3/437(0.0329 ha), land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
52	Kisii H.C. Misc. Appl. No. 144 of 2007 KACC vs. Samson Kegengo Onger	An application to preserve Kisii Municipality/Block 3/258(0.0439 ha), land reserved for Kisii Municipal Market but illegally alienated.	2,000,000.00
53	Kisii H.C. Misc. Appl. No. 145 of 2007 KACC vs. Samson Nyambati & Another	An application to preserve Kisii Municipality/Block 3/260 (0.0372 ha), land reserved for Kisii Municipal Market but illegally alienated.	2,000,000.00
54	Kisii H.C. Misc. Appl. No. 146 of 2007 KACC vs. Isaac Atandi Machuka & 4 others	An application to preserve Kisii Municipality/Block 3/334 (0.0540 ha), land reserved for Kisii Municipal Market but illegally alienated.	2,000,000.00
55	Kisii H.C. Misc. Appl. No. 147 of 2007 KACC vs. James Gisemba Orik	An application to preserve Kisii Municipality/Block 3/376 (0.381 ha), land reserved for Kisii Municipal Market but illegally alienated.	2,000,000.00
56	Kisii H.C. Misc. Appl. No. 160 of 2007 KACC vs. Benjamin Onkoba Nyaachi	An application to preserve Kisii Municipality/Block 3/428 and 448 land reserved for Gusii Technical Institute but illegally alienated measuring 0.09 and 0.0517 ha	500,000.00



No.	Particulars of Application	Nature of Application	Approximate Value of preserved Property (Kshs.)
		respectively.	
57	Kisii H.C. Misc. Appl. No. 161 of 2007 KACC vs. David Ongega Nyaboga	An application to preserve Kisii Municipality/Block 3/432 measuring 0.0480 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
58	Kisii H.C. Misc. Appl. No. 162 of 2007 KACC vs. Joseph Ouko Onger	An application to preserve Kisii Municipality/Block 3/433, land reserved for Gusii Technical Institute but illegally alienated (0.0653 ha).	500,000.00
59	Kisii H.C. Misc. Appl. No. 163 of 2007 KACC vs. Lydia Kemunto Ongati	An application to preserve Kisii Municipality /Block 3/436 measuring 0.075 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
60	Kisii H.C. Misc. Appl. No. 164 of 2007 KACC vs. Grace Kerubo Muma	An application to preserve Kisii Municipality/Block 3/438 measuring 0.0336 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
61	Kisii H.C. Misc. Appl. No. 165 of 2007 KACC vs. Samson Ongera	An application to preserve Kisii Municipality/Block 3/439 measuring 0.04 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
62	Kisii H.C. Misc. Appl. No. 166 of 2007 KACC vs. Wilkester Moige Samwel	An application to preserve Kisii Municipality/Block 3/440 measuring 0.0440 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
63	Kisii H.C. Misc. Appl. No. 167 of 2007 KACC vs. Edward Obiero Onwonga	An application to preserve Kisii Municipality /Block 3/441 land measuring 0.04 ha reserved for Gusii Technical Institute but illegally alienated.	500,000.00
64	Kisii H.C. Misc. Appl. No. 168 of 2007 KACC vs. Charles Maranga Matundura	An application to preserve Kisii Municipality/Block 3/442 measuring 0.04 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
65	Kisii H.C. Misc. Appl. No. 169 of 2007 KACC vs. Jane Nyaboke Nyariki	An application to preserve Kisii Municipality/Block 3/443, land reserved for Gusii Technical Institute but illegally alienated measuring 0.05 ha.	500,000.00
66	Kisii H.C. Misc. Appl. No. 170 of 2007 KACC vs. James Simon Nyachae Ombese	An application to preserve Kisii Municipality/Block 3/447 measuring 0.0450 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
67	H.C. Misc. Appl. No. 171 of 2007 KACC vs. Richard Onsario Nyachio	An application to preserve Kisii Municipality/Block 3/444 measuring 0.0450 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
68	Kisii H.C. Misc. Appl. No. 172 of 2007 KACC vs. Irene Ogega	An application to preserve Kisii Municipality/Block 3/445 measuring 0.0450 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
69	Kisii H.C. Misc. Appl. No. 173 of 2007 KACC vs. Florence Moraa Morande	An application to preserve Kisii Municipality/Block 3/446 measuring 0.0490 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
70	Kisii H.C. Misc. Appl. No. 174 of 2007 KACC vs. Charles Ombwori Mokora	An application to preserve Kisii Municipality/Block 3/450 measuring 0.0450 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
71	Kisii H.C. Misc. Appl. No. 175 of 2007 KACC vs. Daniel Rasugu Onyanchio	An application to preserve Kisii Municipality /Block 3/449 measuring 0.0450 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
72	Kisii H.C. Misc. Appl. No. 176 of 2007 KACC vs. Banchiri Bienda Nyabwari	An application to preserve Kisii Municipality/Block 3/451 measuring 0.0450 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
73	Kisii H.C. Misc. Appl. No. 177 of 2007 KACC vs. Stephen Keuku Ongori	An application to preserve Kisii Municipality/Block 3/452 measuring 0.0450 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
74	Kisii H.C. Misc. Appl. No. 178 of 2007 KACC vs. Turfena Kemunto Onsomu	An application to preserve Kisii Municipality/Block 3/453 measuring 0.0490 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
75	Kisii H.C. Misc. Appl. No. 179 of 2007 KACC vs. Ibrahim Nyakundi Onsongo	An application to preserve Kisii Municipality/Block 3/454 measuring 0.045 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
76	Kisii H.C. Misc. Appl. No. 180 of 2007 KACC vs. Charles Alex Onyancha	An application to preserve Kisii Municipality/Block 3/455 measuring 0.0450 ha, land reserved for Gusii Technical	500,000.00

No.	Particulars of Application	Nature of Application	Approximate Value of preserved Property (Kshs.)
	Marwanga	Institute but illegally alienated.	
77	Kisii H.C. Misc. Appl. No. 181 of 2007 KACC vs. Haron Bisengi	An application to preserve Kisii Municipality/Block 3/456 measuring 0.0450 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
78	Kisii H.C. Misc. Appl. No. 182 of 2007 KACC vs. Jason Nyachae	An application to preserve Kisii Municipality/Block 3/457 measuring 0.0460 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
79	Kisii H.C. Misc. Appl. No. 183 of 2007 KACC vs. Tabitha Manwa	An application to preserve Kisii Municipality/Block 3/458 measuring 0.0390 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
80	Kisii H.C. Misc. Appl. No. 184 of 2007 KACC vs. Yabesh Monari	An application to preserve Kisii Municipality/Block 3/459 measuring 0.0330 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
81	Kisii H.C. Misc. Appl. No. 185 of 2007 KACC vs. Julius Omariba	An application to preserve Kisii Municipality/Block 3/460 measuring 0.0530 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
82	Kisii H.C. Misc. Appl. No. 186 of 2007 KACC vs. Joseph Makuge	An application to preserve Kisii Municipality/Block 3/461 measuring 0.0475 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
83	Kisii H.C. Misc. Appl. No. 187 of 2007 KACC vs. Lawrence Onkoba Omayio	An application to preserve Kisii Municipality/Block 3/462 measuring 0.0450 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
84	Kisii H.C. Misc. Appl. No. 188 of 2007 KACC vs. Benjamin Oreni Kenyenga	An application to preserve Kisii Municipality/Block 3/463 measuring 0.0450 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
85	Kisii H.C. Misc. Appl. No. 189 of 2007 KACC vs. Ratemo Denis Arasa	An application to preserve Kisii Municipality/Block 3/464 measuring 0.0450 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
86	Kisii H.C. Misc. Appl. No. 190 of 2007 KACC vs. George Nyakundi Onkoba	An application to preserve Kisii Municipality/Block 3/465 measuring 0.0450 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
87	Kisii H.C. Misc. Appl. No. 191 of 2007 KACC vs. Richard O. Orande	An application to preserve Kisii Municipality /Block 3/466 measuring 0.0352 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
88	Kisii H.C. Misc. Appl. No. 192 of 2007 KACC vs. Mary Mageto	An application to preserve Kisii Municipality /Block 3/467 measuring 0.04 ha, land reserved for Gusii Technical Institute but illegally alienated.	500,000.00
89	Mks. H.C. Misc. Appl. No. 271 of 2007 KACC vs. Simon Mbwika	An application to preserve land (0.0400 ha) illegally excised from land reserved for AP Camp and Machakos Prison (0.0400 ha)	500,000.00
90	Mks. H.C. Misc. Appl. No. 272 of 2007 KACC vs. Charles Muendo	An application to preserve land (0.0400 ha) illegally excised from land reserved for AP Camp and Machakos Prison ( 0.0400 ha)	500,000.00
91	Mks. H.C. Misc. Appl. No. 273 of 2007 KACC vs. John Masai David	An application to preserve land (0.0400 ha) illegally excised from land reserved for AP Camp and Machakos Prison (0.0400 ha).	500,000.00
92	Mks. H.C. Misc. Appl. No. 274 of 2007 KACC vs. Reuben Musembi	An application to preserve land (0.05 ha) illegally excised from land reserved for AP Camp and Machakos Prison (0.05 ha)	500,000.00
93	Mks. H.C. Misc. Appl. No. 275 of 2007 KACC vs. Rose Nthenya	An application to preserve land (0.0372) illegally excised from land reserved for AP Camp and Machakos Prison (0.0372 ha)	500,000.00
94	Mks. H.C. Misc. Appl. No. 276 of 2007 KACC vs. Jacinta Kariuki	An application to preserve land (0.0372) illegally excised from land reserved for AP Camp and Machakos Prison ( 0.0372 ha)	500,000.00
95	Mks. H.C. Misc. Appl. No. 277 of 2007 KACC vs. Joseph Mutuku	An application to preserve land (0.0400 ha) illegally excised from land reserved for AP Camp and Machakos Prison (0.0400 ha)	500,000.00
96	Mks. H.C. Misc. Appl. No. 278 of 2007	An application to preserve land illegally excised from land	500,000.00

No.	Particulars of Application	Nature of Application	Approximate Value of preserved Property (Kshs.)
	KACC vs. Stanley Kioko	reserved for AP Camp and Machakos Prison measuring 0.04 ha	
97	Mks. H.C. Misc. Appl. No. 279 of 2007 KACC vs. Mark Maundu	An application to preserve land illegally excised from land reserved for AP Camp and Machakos Prison measuring 0.0499 ha	500,000.00
98	Mks. H.C. Misc. Appl. No. 280 of 2007 KACC vs. John Mutuku	An application to preserve land (0.0499 ha) illegally excised from land reserved for AP Camp and Machakos Prison (0.0499 ha)	500,000.00
99	Mks. H.C. Misc. Appl. No. 281 of 2007 KACC vs. Thomas Kyalo	An application to preserve land (0.0600 ha) illegally excised from land reserved for AP camp and Machakos prison (0.0600 ha)	500,000.00
100	Mks. H.C. Misc. Appl. No. 282 of 2007 KACC vs. Judith Mumbua	An application to preserve land (0.0600 ha) illegally excised from land reserved for AP Camp and Machakos Prison	500,000.00
101	Mks. H.C. Misc. Appl. No. 283 of 2007 KACC vs. Flora Munyesi	An application to preserve land (0.0467 ha) illegally excised from land reserved for AP Camp and Machakos Prison	500,000.00
102	Nbi H.C. Misc. Appl. No. 100 of 2007 [JELC], KACC vs. Patrick Ochieno Abachi & 5 others	An application to preserve unexplained wealth suspected to have been accumulated by the 1 <sup>st</sup> Respondent through corrupt conduct.	100,000,000.00
103	Kibera C. M. Misc. Appl. No. 96/2008 KACC Vs Stanley Momho Amuti	An application to preserve cash in various bank accounts held by the Respondent who is suspected of possessing assets not commensurate with his known legitimate income	25,582,986.70
	Total Value of Suspect Properties Preserved		932,882,986.70

#### 3.4.2 Other Investigatory Applications

The Commission during the year enhanced and accelerated its investigative activities geared towards, among other objectives, tracing and recovery of illicit wealth. During the period under review, it filed ninety eight (98) applications for warrants to investigate bank accounts and search premises of persons or associates of persons suspected of engaging in corruption, economic crimes or related offences. Warrants were obtained and executed in all the applications. Herebelow is a table showing the applications made during the period covered by this report.

Table 5: Applications for Warrants

No.	Date	Application No.	Nature of Application
1*	25.7.07	Kericho Misc. Criminal Application Nos. 13,14,15,16, 17,18,19,20,21,22,23,24,25,26, 27,28 and 29 of 2007	Application for search warrants to investigate bank accounts in respect of an investigation of embezzlement of Kshs. 20,000,000 through manipulation of the pay roll system at Egerton University.
2	25.7.08	Kericho Misc. Criminal Application No. 30 of 2007	An application for warrants to investigate the bank account of Municipal Council of Nakuru.
3	15.8.08	Kibera Misc. Criminal Application No. 202/2007	An application for warrants to investigate a bank account of an individual suspected of involvement in the procurement of Anglo-Leasing Project dubbed 'Project Nexus' for provision of communication equipment for the Department of Defence.
4	15.8.08	Kibera Misc. Criminal Application No. 203/2007	An application for warrants to investigate bank accounts of an individual suspected of involvement in the procurement of Anglo-Leasing Project dubbed 'Project Nexus' for provision of communication equipment to the Department of Defence.
5*	15.8.07	Kibera Misc. Criminal Application Nos. 205, 206, 207 and 208 of 2007	An application for warrants to investigate bank accounts held by three persons in various banks in the country suspected of corruption.
6	23.8.07	Kibera Misc. Criminal Application No. 209/07	An application for warrants to investigate a bank account in a matter relating to irregular procurement of goods by the Anti-Stock Theft Police Unit in Gilgil
7	27.8.07	Kibera Misc. Criminal Application No. 210/07	An application for warrants to investigate an account of a senior official in the Ministry of Agriculture suspected of possessing assets not commensurate with known legitimate income.
8*	30.8.08	Kibera Misc. Criminal Application Nos. 213 and 214 of 2007	An application for warrants to investigate bank accounts of a former senior Manager of Kenya Wine Agencies Ltd suspected of fraudulent dealings.
9	14.9.07	Kibera Misc. Criminal Application No. 221/2007	An application for warrants to investigate a bank account of Kenya Pipeline Company Limited.



No.	Date	Application No.	Nature of Application
10	14.9.08	Kibera Misc. Criminal Application No. 222/2007	An application for warrants to investigate a bank account held in the name of a senior official of the Security of Government Buildings (SGB) Unit.
11	15.9.07	Kibera Misc. Criminal Application No. 215/2007	An application for warrants to investigate a bank account of a Community Based Organization whose officials were alleged to be involved in misappropriation of funds from National Aids Control Council.
12	15.10.07	Kibera Misc. Criminal Application No. 229/2007	An application for warrants to investigate a bank account of a senior official of National Museums of Kenya who was alleged to have misappropriated funds belonging to the said institution.
13	15.10.08	Kibera Misc. Criminal Application No. 230/2007	An application for warrants to investigate an account of a law firm whose proprietor was alleged to have misappropriated funds belonging to Lake Basin Development Authority which had been paid to him on account of rates for onward transmission to the Municipal Council of Kisumu.
14	25.10.07	Kibera Misc. Criminal Application No. 231/2007	An application for warrants to investigate an account into which a cheque for a sum payable on account of stand premium for LR No. 1870/1/217, the property of City Council of Nairobi, was deposited.
15	25.10.07	Kibera Misc. Criminal Application No. 233/2007	An application for warrants to investigate a bank account held in the name of a senior trustee of Local Authority Pension Trust Fund on allegations of impropriety.
16	25.10.07	Kibera Misc. Criminal Application No. 232/2007	An application for warrants to investigate a bank account held by a senior trustee of Local Authorities Pension Trust Fund to verify alleged double payment of his salary.
17	31.10.08	Kibera Misc. Criminal Application No. 234/2007	An application for warrants to investigate a bank account of a former official of Kenya Wine Agencies Ltd suspected of fraudulent dealings.
18	31.10.07	Kibera Misc. Criminal Application No. 235/2007	An application for warrants to investigate a bank account held by Kenya Wine Agencies Ltd.
19	21.11.07	Kibera Misc. Criminal Application No. 243/2007	An application for warrants to investigate an account held in the names of the Regional Programme for Sustainable Utilization of Dry Lands Diversity on allegations that a former senior official was involved in fraudulent misappropriation of funds meant for the National Museums of Kenya
20	22.11.07	Kibera Misc. Criminal Application No. 244/2007	An application for search warrants to search the offices, residence and business premises of a public official suspected of possessing assets whose value was not commensurate with his known legitimate income.
21	22.11.07	Kibera Misc. Criminal Application No. 245/2007	An application for search warrants to search the offices, residence and business premises of a public official suspected of possessing assets whose value was not commensurate with his known legitimate income.
22	11.12.07	Kibera Misc. Criminal Application No. 249/2007	An application for warrants to investigate an account held by an individual suspected of involvement in corruption.
23	21.12.07	Kibera Misc. Criminal Application No. 253/2007	An application for search warrants to search the offices, residence and business premises of a public official suspected of possessing assets whose value was not commensurate with his known legitimate income.
24	21.12.07	Kibera Misc. Criminal Application No. 254/2007	An application for search warrants to search the offices, residences and business premises of six (6) public officials suspected of possessing assets whose value was not commensurate with his known legitimate income.
25	23.1.08	Kibera Misc. Criminal Application No. 2/2008	An application for warrants to investigate an account held by Department of Pensions "Pensions Fund Account" at National Bank of Kenya, Nairobi.
26	23.1.08	Kibera Misc. Criminal Application No. 3/2008	An application for warrants to investigate an account held by Department of Pensions "Pensions Fund Account" at Post Bank Kenya Ltd.
27	11.2.08	Kibera Misc. Criminal Application No. 7/2008	An application for warrants to investigate a bank account held at Co-operative Bank, Nairobi by a Police Constable attached to Gilgil Weighbridge alleged to have engaged in corrupt activities.
28*	11.2.08	Kibera Misc. Criminal Application No. 8,9,10,11,12, and 19 of 2008	Applications to investigate bank accounts in respect of transactions involving a Chief Accountant at the Ministry of Agriculture alleged to have assets not commensurate with his known legitimate income
29	14.2.08	Kibera Misc. Criminal Application No. 15/2008	An application for warrants to investigate a bank account of Ndia Administration Police Welfare Society
30	14.2.08	Kibera Misc. Criminal Application No. 16/2008	An application for warrants to investigate the account of the Administration Police Welfare Society

No.	Date	Application No.	Nature of Application
31	20.2.088	Kibera Misc. Criminal Application No. 18/2008	An application for warrants to investigate the account of Rick Seaside Limited
32	20.2.08	Kibera Misc. Criminal Application No. 19/2008	An application for search warrants to search the offices, residence and rural home of a Senior Official at the City Council of Nairobi suspected of corruption
33	20.2.08	Kibera Misc. Criminal Application No. 20/2008	An application for search warrants to search the offices, residence and rural home of a Senior Official at the City Council of Nairobi suspected of corruption.
34	20.2.08	Kibera Misc. Criminal Application No. 21/2008	An application for search warrants to search the offices, residence and rural home of a Senior Police Officer suspected of corruption.
35	20.2.08	Kibera Misc. Criminal Application No. 22/2008	An application for warrants to investigate thirteen accounts of a senior official of Kenya Sugar Board suspected of corruption.
36	20.2.08	Kibera Misc. Criminal Application No. 23/2008	An application for warrants to investigate a bank account of an officer suspected of conflict of interest.
37	21.2.08	Kibera Misc. Criminal Application No. 24/2008	An application for search warrants to search the offices, residence and rural home of an individual suspected of corruption.
38	25.2.08	Kibera Misc. Criminal Application No. 25/2008	An application for warrants to investigate a Pension Fund Account held by Department of Pensions at Barclays Bank of Kenya Ltd, Queensway Branch, Nairobi
39	25.2.08	Kibera Misc. Criminal Application No. 26/2008	An application for warrants to investigate a Pension Fund Account held by Department of Pensions at Habib Bank, Kimathi Street Branch, Nairobi.
40	25.2.08	Kibera Misc. Criminal Application No. 27/2008	An application for warrants to investigate a Pension Fund Account held by Department of Pensions at CFC Bank, Chiromo Branch, Nairobi.
41	25.2.08	Kibera Misc. Criminal Application No. 28/2008	An application for warrants to investigate a Pension Fund Account held by Department of Pensions at Bank of Baroda, Tom Mboya street Branch, Nairobi.
42	25.2.08	Kibera Misc. Criminal Application No. 29/2008	An application for warrants to investigate a Pension Fund Account held by Department of Pensions at Kenya Commercial Bank, Moi Avenue, Nairobi.
43	25.2.08	Kibera Misc. Criminal Application No. 30/2008	An application for warrants to investigate a Pension Fund Account held by Department of Pensions at Standard Chartered Bank, Moi Avenue Branch, Nairobi.
44	25.2.08	Kibera Misc. Criminal Application No. 31/2008	An application for warrants to investigate a Pension Fund Account held by Department of Pensions at Equity Bank Ltd, Ngong Road, Nairobi.
45	25.2.08	Kibera Misc. Criminal Application No. 32/2008	An application for warrants to investigate a Pension Fund Account held by Department of Pensions at Housing Finance of Kenya, Kenyatta Avenue, Nairobi.
46	25.2.08	Kibera Misc. Criminal Application No. 33/2008	An application for warrants to investigate a Pension Fund Account held by Department of Pensions at Family Finance Bank, Moi Avenue, Nairobi.
47	25.2.08	Kibera Misc. Criminal Application No. 34/2008	An application for warrants to investigate a Pension Fund Account held by Department of Pensions at Commercial Bank of Africa, Mara Road Branch, Nairobi.
48	25.2.08	Kibera Misc. Criminal Application No. 35/2008	An application for warrants to investigate a Pension Fund Account held by Department of Pensions at Co-operative Bank of Kenya, Haile Sellasie Avenue, Nairobi.
49	7.3.08	Kibera Misc. Criminal Application No. 37/2008	An application for warrants to investigate a bank account of a Senior Public Official suspected to be holding public funds corruptly acquired from the Department of Immigration.
50	7.3.08	Kibera Misc. Criminal Application No. 38/2008	An application for warrants to investigate bank accounts of two persons suspected to be holding funds corruptly obtained from the Department of Immigration.
51	7.3.08	Kibera Misc. Criminal Application No. 39/2008	An application for warrants to investigate a bank account of a public official and his wife suspected to be holding funds corruptly obtained from the Department of Immigration
52	7.3.08	Kibera Misc. Criminal Application No. 40/2008	An application for warrants to investigate a bank account of a public officials suspected to have engaged in corruption
53	7.3.08	Kibera Misc. Criminal Application No. 41/2008	An application for warrants to investigate a bank account of a public official suspected to have engaged in corruption
54	7.3.08	Kibera Misc. Criminal Application No. 42/2008	An application for warrants to investigate a bank account held by two public officials and a company suspected to have engaged in corruption

No.	Date	Application No.	Nature of Application
55	7.3.08	Kibera Misc. Criminal Application No. 43/2008	An application for warrants to investigate a bank account of a public official suspected to have engaged in corruption
56	11.4.08	Kibera Misc. Criminal Application No. 54/2008	An application for warrants to investigate a bank account of an associate of a Police Constable attached to Gilgil Weighbridge which account was suspected of holding funds acquired through corruption
57	11.4.08	Kibera Misc. Criminal Application No. 55/2008	An application for warrants to investigate a bank account of an associate of a Police Constable attached to Gilgil Weighbridge which account was suspected of holding funds acquired through corruption
58	16.4.08	Kibera Misc. Criminal Application No. 58/2008	An application for warrants to investigate a bank account held by KPCU Ltd in an investigation of alleged embezzlement of money paid out for hire of Administration Police Officers to guard the Kirinyaga District Treasury
59	16.4.08	Kibera Misc. Criminal Application No. 59/2008	An application for warrants to investigate a bank account held in the name of Administration Police Welfare whereby three public officials operating the account are alleged to have received money paid by KPCU Ltd for hire of APs to guard its Sagana Station and converted it to their use
60	29.4.08	Kibera Misc. Criminal Application No. 66/2008	An application for warrants to investigate a bank account of an associate of a Police Officer suspected to be in possession of assets whose value was not commensurate with his known legitimate income.
61	29.4.08	Kibera Misc. Criminal Application No. 67/2008	An application for warrants to investigate a bank account of a senior official at Mumias District Treasury suspected to have corruptly received Kshs. 60,000 from a road Contractor so as to influence payment to the contractor despite the fact that the contractor had not finished the works.
62	28.5.08	Kibera Misc. Criminal Application No. 86/2008	An application for warrants to investigate a bank account held by a Police Officer suspected of corruption and economic crime.
63	28.5.08	Kibera Misc. Criminal Application No. 87/2008	An application for warrants to investigate a bank account held by a Police Officer suspected of engaging in corruption and economic crime.
64	30.5.08	Kibera Misc. Criminal Application No. 88/2008	An application for warrants to investigate a bank account held by a senior district official, Ministry of Works, Narok on suspicion of possessing assets not commensurate with his known legitimate income.
65	30.5.08	Kibera Misc. Criminal Application No. 89/2008	An application for warrants to investigate a bank account held by a senior official in the Ministry of Roads on suspicion of possessing assets not commensurate with his known legitimate income.
66	30.5.08	Kibera Misc. Criminal Application No. 90/2008	An application for warrants to investigate a bank account held by a Company alleged to have given kickbacks to a senior official in the Ministry of Roads headquarters and a senior official at the district level in Narok
67	18.6.08	Kibera Misc. Criminal Application No. 96/2008	An application for warrants to investigate bank accounts of a public official suspected of having assets which are not commensurate with his known legitimate income.
68	18.6.08	Kibera Misc. Criminal Application No. 98/2008	An application for warrants to investigate a bank account held by a law firm which was being investigated for holding funds paid to the firm by PTA Re-insurance Company intended for onward transmission to the Statutory Manager of United Insurance Company Ltd as purchase price for United Insurance Towers.
69	18.6.08	Kibera Misc. Criminal Application No. 97/2008	An application for warrants to investigate an account held by PTA Re-insurance Company Ltd in an investigation where a law firm is alleged to have withheld funds meant to be paid as purchase price for United Insurance Towers.
70	26.6.08	Kibera Misc. Criminal Application No. 103/2008	An application for warrants to investigate an account held by Kenya Reinsurance Corporation in an investigation involving alleged diversion of a cheque for payment of outstanding premium credit due to Kenya Re from Kenya Alliance Insurance Co. Ltd to purchase a house in Villa Franca Estate.
71	26.6.08	Kibera Misc. Criminal Application No. 104/2008	An application for warrants to investigate a bank account held by Kenya Alliance Insurance Co. to confirm that payments of outstanding premium balances were made to Kenya Re, which money was diverted to personal use to purchase a house in Villa Franca Estate by an employee of Kenyan Alliance Insurance Company.
72	26.6.08	Kibera Misc. Criminal Application No. 105/2008	An application for warrants to investigate a bank account held by a Contractor in an investigation involving loss of Kshs. 5,137,986 from the Nakuru District Treasury.

\* More than one application



## 3.5 SCHEDULE OF CONSTITUTIONAL AND JUDICIAL REVIEW APPLICATIONS

In the course of discharging its mandate, the Commission has faced numerous legal challenges in the form of constitutional and judicial review applications. In the main, the applications usually challenge the standing of the Commission in the performance of its investigative function and recovery of illicit wealth. Yet in others, the applicants raise all manner of constitutional issues, often times in an effort to postpone the day of reckoning. To a significant extent, this has adversely affected the momentum in key functional areas, including investigations and prosecution of cases for preservation and/or recovery of lost or damaged public assets.

The following table is a status report on some constitutional and judicial review applications made against the Commission.

Table 6: Schedule of Constitutional and Judicial Review Applications

Item	Particulars of case/application	Nature of Complaint	Status	Remarks
1	Nbi. H.C.C.C No. 834/2005 Anthony Gachoka Vs. KACC & 3 others	Suit against the Director, KACC among others, founded on defamation. Filed on 6.7.05	The case against the Director, KACC was struck off. Plaintiff has filed an appeal	Pending before Court of Appeal
2	Nku. H. C. Misc. App. No. 384 of 2006 Rep. Vs. KACC & Egerton University Ex-parte Sylvester Kiptoo & others	Judicial Review application for Mandamus to compel the Commission to act on their complaint. Filed on 14.7.07	File transferred to Nairobi from Nakuru.	Pending hearing
3	Nbi. H. C. P. No. 390 of 2006 Nedemar Technology BV Ltd Vs KACC & the A.G.	Constitutional petition challenging the constitutionality of KACC's investigations in security type contracts. Filed on 14.7.06	Judgment on 11.11.08	Investigation by KACC stopped by Court
4	Nbi. H.C. Misc. App. No. 366 of 2006 Rep. vs KACC & 2 others EX-parte Nyandoro Yambesh Kambi	Judicial Review application to stop the prosecution of the applicant on corruption charges. Filed on 5.7.06	Charges against the Ex-parte applicant withdrawn	Judicial review application overtaken by events
5	Nbi. H.C. Misc. App. No. 483 of 2006 Rep Vs. KACC & A.G. Ex-parte Guy Spencer Elms	Judicial Review application challenging the propriety of Warrant to Search advocates premises in security type contracts investigations. Filed on 31.8.06	Pending directions before the Honourable Chief Justice	Pending hearing
6	Nbi. H.C. Misc. App. No. 273 of 2006 Rep Vs. KACC & A.G. Ex-parte Dol International (K) Ltd	Judicial Review application challenging the propriety of investigations into the Ministry of Health tender process by the Commission. Filed on 26.5.06	Awaiting response from the Ex-parte Applicant	Pending hearing
7	Nbi. H. C. Misc. App. 626 of 2005 Renege Project Ltd. Vs. KACC & A.G.	Constitutional application for declarations against the Commissioner of Lands, The Republic, KARI and KACC not to interfere with L.R. No.22008/1.	Petitioner ordered to change representation	Pending hearing
8	Nbi. H. C. C. Petition No. 468 of 2006 Renege Project Ltd. Vs. KACC	Constitutional petition challenging the constitutionality of KACC's demand notice and investigations aimed at recovery of L.R. No. 22008/1	Petitioner ordered to change representation	Pending hearing
9	Nbi. H. C. C. Petition No. 469 of 2006 Kuria Greens Ltd Vs. KACC & others	Constitutional petition challenging the constitutionality of KACC's demand notice and investigations aimed at recovery of L.R. No. 15410/1	Petitioner ordered to change representation	Pending hearing
10	Nbi. H.C. Misc. App. No. 569 of 2006 Rep Vs. KACC & A.G. Ex-parte George Wambua	Judicial Review application challenging abuse of office charges preferred against the applicant. Filed on 5.10.06	Application Dismissed. Applicant has appealed and filed an application for stay of the criminal case against him pending appeal. Hearing of the said application on 1.10.08	Pending appeal
11	Nbi. H. C. Petition No. 359 of 2007 Midland Finance & Securities & another Vs. KACC & A.G.	Constitutional petition challenging the constitutionality of KACC's investigations into security type contracts entered into with the Government. Filed on 4.4.07	The petition was allowed on 20.6.2008 and the court prohibited the Commission from relying on information gathered by Price Waterhouse Coopers. The Commission has filed a Notice of Appeal against the judgment of the Court.	Pending before the Court of Appeal

Item	Particulars of case/application	Nature of Complaint	Status	Remarks
12	Nbi. H. C. Petition No. 114 of 2007 Alldan Satellite Networks Ltd. Vs. KACC & Another	Constitutional petition challenging the constitutionality of KACC's investigations into security type contracts entered into with the Government. Filed on 19.2.07	Mention on 22.9.08 to confirm compliance with court order.	Pending hearing
13	Nbi. H. C. Petition No. 575 of 2006 Euro Marine Industries & others Vs. KACC & Another	Constitutional petition challenging the constitutionality of KACC's investigations into security type contracts entered into with the Government. Filed on 6.10.06	Hearing on 24.9.08	Pending hearing
14	Nbi. H. C. Misc. App. No. 647 of 2007 Rep. Vs. KACC Ex-parte Wilson Kipkoti & others	Judicial Review application challenging investigations by KACC in respect of a property formerly owned by Kenya School of Law. Filed on 20.6.07	Pending hearing	Pending hearing
15	Nbi. H. C. Petition No. 318 of 2007 James Kanyotu Vs. KACC & Another	Constitutional petition challenging the constitutionality of notices issued under sections 26 of ACECA. Filed on 28.3.07	Applicant deceased.	Petition abated
16	Nbi. H. C. Petition No. 61 of 2007 Kenya (RTF) Ltd. Vs. P.S Ministry of Lands & KACC-Interested Party	Constitutional petition challenging the constitutionality of investigations by the Commission relative to L. R. No. 209/10777. Filed on 5.2.07	Conservatory orders granted in favour of the Petitioner	Petition Pending Hearing
17	Nbi. H. C. Petition No. 61 of 2007 Rep. Vs. KACC & 3 Others Ex-parte Jason Mworira	Judicial Review application challenging termination of employment contract with the KACC. Filed on 22.3.07	Pending directions before the Honourable Chief Justice	Pending hearing
18	Nbi. H. C. Petition No. 584 of 2006 Anthony Cherogony Vs. CDF. KACC and 5 others	Constitutional petition challenging the constitutionality of the laws passed by the 9th Parliament for failure to take oath of office.	Further hearing on 16.10.08	Pending hearing
19	Nbi. H. C. Petition No. 459 of 2006 Joshua Kulei Vs. KACC & 2 Others	Constitutional petition challenging the constitutionality of sections 26, 27, and 28 of ACECA	Further hearing on 8-9.10.08.	Pending hearing
20	Nbi. H. C. Petition No. 695 of 2007 First Mercantile Securities Vs. KACC & Another	Constitutional petition challenging the constitutionality of a Mutual Legal Request made by the Commission to Swiss authorities.	Petition allowed. The Court declared that the Commission has no power to issue a Mutual Legal Request. The Commission has filed an appeal.	Pending before the Court of Appeal
21	Nbi. H. C. Misc. App. No. 800 of 2007 Rep. Vs. KACC & the A.G Ex-parte Mohamed Kuriow Nur	Judicial Review application challenging the propriety of charges presented on evidence collected on entrapment. Filed on 30.7.07	Stay of the trial of the criminal case granted.	Pending hearing
22	Nbi. H. C. Petition No. 875 of 2007 Eliphaz Riungu vs KACC & the A.G	Constitutional petition challenging the propriety of a charge laid upon failure to comply with a notice served under section 26 of ACECA. Filed on 10.8.07	Application for Conservatory order struck out on 19.9.2007	Pending hearing
23	Nbi. H. C. C. C. No. 726 of 2007 Kenugat Publishers & Stationers Ltd. Vs. KACC & another	This is a suit where the plaintiff is vindicating ownership of a parcel of land hived off an open space within Woodley Estate. Filed on 8.8.07	Application to strike out the suit for want of service of summons is pending hearing	Pending hearing
24	Nbi. H. C. Petition No. 864 of 2007 Isaac Kamande Kamau Vs. KACC & Another	Petition challenging the propriety of charges presented on evidence collected on entrapment	Pending hearing	Pending hearing
25	Nbi. H. C. Petition No. 328 of 2007 Joseph Magari Vs. KACC & Another	Constitutional petition challenging the propriety of a charge laid upon failure to comply with a notice served under section 26 of ACECA. Filed on 29.3.07	Matter will be mentioned on 24.11.08	Pending hearing
26	Nbi. H. C. C. C. No. 181 of 2007 Samuel Chepkonga Vs. KACC	This is a claim for damages for malicious prosecution in Acc. No. 16 of 2003 and 2177 of 2005 in which the Plaintiff was the accused. Filed on 21.2.07.	Hearing on 1-2.10.2008	Pending hearing
27	Nbi. H. C. Petition No. 1076/07 Job K. Kilach Vs. KACC & Another	Constitutional petition challenging the propriety of a charge laid upon failure to comply with a notice served under section 26 of ACECA. Filed on 24.9.07	Application for conservatory order dismissed.	Petition Pending hearing
28	Nbi H. C. Petition No. 1092 of 2007	Constitutional application seeking Release	Consent order to release	Petition settled

Item	Particulars of case/application	Nature of Complaint	Status	Remarks
	Gowda Girish Vs. KACC & Another	of the petitioner's passport retained by the Commission	passport recorded	
29	Nbi. H.C. Petition No. 1148 of 2007 Collins Yuda O. Owayo Vs. KACC & Another	A Constitutional application seeking to bar the AG and the Commission from prosecuting the Petitioner in Anti-Corruption case no. 27 of 2007 in which he is charged with Goldenberg related corruption charges. Filed on 18.10.07	Application for conservatory order dismissed.	Pending hearing.
30	Nbi. H. C. Petition No. 1140 of 2007 Wilfred Koinange vs the A.G	This was a Petition of Appeal seeking to stop the AG from prosecuting the Petitioner in the Anti-Corruption Court for failing to comply with a notice issued under section 26 of ACECA.	Petition struck out	Petition struck out
31	Nbi. H. C. Petition No. 1191 of 2007 Michael Chesikaw Vs. KACC	A Constitutional application seeking to bar the Commission from prosecuting the Petitioner in Criminal case no. 7157 of 2007 in which he is charged with Corruptly obtaining Kshs. 1,875,000.00 from NACC. Filed on 23.11.07	Pending hearing	Pending hearing.
32	CA Civil Application No. 245 of 2007 Dakane Abdulahi Ali Vs. KACC & Others	This was an application under section 5 (2) (b) of the Court of Appeal Rules for stay of proceedings in H. C. Misc. App. No. 186/07, KACC vs. Marylyn Okungu & 2 others	Application for stay of proceedings pending appeal dismissed	Pending before the Court of Appeal
33	Nbi. H. C. Petition No. 31 of 2008 Nicholas Muriuki Kangangi Vs. KACC & Another	Constitutional petition challenging the propriety of the proceedings taken before the Anti-Corruption Court on Corruption Charges	Petition struck out by the Court.	Pursuing costs
34	Nbi. H. C. Petition No. 38 of 2008 Shem Odongo Ochuodho Vs. KACC & Another	Constitutional Petition seeking to bar the Commission from arresting the Petitioner.	Pending hearing	Pending hearing
35	Nbi. H. C. Misc. App. No. 128 of 2008. Rep. Vs. KACC & Another Ex-parte Apollo Mboya	An application for orders of Mandamus seeking to compel the Commission to investigate the office of the Solicitor General.	Pending hearing	Pending hearing
36	Nakuru HCCC No. 70 of 2008 Dr. Meshack Aluvaala Vs. KACC	This is a claim seeking, <i>inter alia</i> , an injunction to restrain KACC & Municipal Council of Nakuru from dealing with L. R. No. Nakuru Municipality / Block 12/276. Suit filed on 30 <sup>th</sup> April 2008. KACC filed its counterclaim against the Plaintiff on 1 <sup>st</sup> July 2008.	An injunction issued restraining all the parties in the suit from dealing with the suit property.	Pending hearing
37	Nakuru HCCC No. 85 of 2008 Dr. Szumbah Mwanaongoro Vs. KACC	This is a claim seeking, <i>inter alia</i> , an injunction to restrain KACC & Municipal Council of Nakuru from dealing with L. R. No. Nakuru Municipality / Block 12/269. Suit filed on 15 <sup>th</sup> May 2008. KACC filed its counterclaim against the Plaintiff on 1 <sup>st</sup> July 2008.	An injunction issued restraining all the parties in the suit from dealing with the suit property.	Pending hearing

### 3.6 COMMISSION ACCOUNTABILITY

#### 3.6.1 Statutory Reports

In the performance of its functions the Commission is not subject to the direction or control of any other person or authority, and is accountable only to Parliament. The ACECA has an elaborate reporting process aimed at ensuring accountability on the part of the Commission. The Commission is required by Section 35 of the ACECA to report to the Hon. Attorney General on the results of every concluded investigation. Section 36 on the other hand requires the Commission to prepare quarterly reports setting out the number of reports made to the Hon. Attorney General under section 35 and such other statistical information relating to those reports as the Commission considers appropriate.

During the period under review, the Commission prepared and published in the Kenya Gazette four Quarterly Reports as required by law. A total of 111 reports on concluded investigations were made to the Hon. Attorney General. Out of these reports, eighty six (86) of them, representing 77.5 %, recommended prosecution of named suspects; twenty one (21) of them, representing 18.9 % recommended closure of files and four (4) reports, representing 3.6% recommended administrative action.



Table 7: Statistical Summary of Files Forwarded to Hon. Attorney General during F/Y 2007-2008

Cases	July-Sept 2007	October-Dec 2007	Jan- March 2008	April- June 2008	Total No. of Files
No. of files forwarded to the Hon. Attorney General	26	29	33	23	111
No. of files recommended for prosecution	21	24	26	15	86
No. of files recommended for administrative or other action	1	0	2	1	4
No. of files recommended for closure	4	5	5	7	21
No. of files where recommendation to prosecute accepted	17	21	24	12	70
No. of files forwarded to the Hon. Attorney General with recommendation to prosecute and the cases are already lodged in Court	17	20	22	11	70
No. of files where recommendation for administrative or other action accepted	0	0	0	0	0
No. of files where recommendation for closure accepted	2	2	2	1	7
No. of files returned for further investigations	1	0	2	0	3
No. of files where recommendation to prosecute not accepted	0	0	0	1	1
No. of files where administrative or other action not accepted	0	0	0	0	0
No. of files forwarded in previous quarters and received during this quarter	2	2	9	19	32
No. of files where closure not accepted	0	0	0	0	0
No. of files awaiting Hon. Attorney General's directions	6	6	6	9	27

### 3.6.2 Some High Profile Cases Investigated and Forwarded to the Hon. Attorney General

#### i). *Embezzlement of Funds at the Kenyan Embassy in Germany*

This was an inquiry into allegations that a former Kenyan ambassador to Germany and an accountant in the same mission obtained a sum of Kshs. 6,205,343.17 by claiming that the money was due to the John F. Kennedy School in Berlin, Germany on account of school fees for their children. Investigations by the Commission have since established that the school does not charge fees.

The investigation file was forwarded to the Hon. Attorney General on 10<sup>th</sup> July 2007 with recommendation that the officers be charged with various counts of obtaining money by false pretences. The Hon. Attorney General's advice was that the Commission first attempts to recover the money fraudulently appropriated by the officers failing which prosecution may follow. The Commission has since recovered Kshs. 2,800,000.00 on this account from one of the officers.

#### ii). *Mavoko Municipal Council*

This was an inquiry into allegations of fraud against the Mayor and the chief officers of Mavoko Municipal Council in concert with a private contractor in the project of rehabilitation of Kenya Meat Commission Road. Investigations undertaken by the Commission revealed that Mavoko Municipal Council embarked on rehabilitation of the then dilapidated Kenya Meat Commission Road whose repair cost was estimated by the Municipal Engineer at Kshs. 12,340,336/-. The Tender Committee of the said Council awarded the tender at a price of Kshs. 12,417,138.80. The construction went on and a total amount of Kshs. 13,523,474.30 was paid to the Contractor representing a variation in the sum of Kshs. 1,106,335.50. Investigations carried out revealed that the variation of works and contract price was never referred to the Tender Committee for approval as required under the Exchequer and Audit (Public Procurement) Regulations 2001 as amended in 2002.

The investigation file was forwarded to the Hon. Attorney General on 16<sup>th</sup> August, 2007 recommending the prosecution of the then Municipal Engineer, Town Clerk, and Town Treasurer of Municipal Council of Mavoko with the offences of careless failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48(1) of the ACECA. The recommendation was accepted by the Hon. Attorney General and the suspects have since been charged in court.

#### iii). *Ministry of Health*

This was an inquiry into allegations of corruption in the award of tender for supply of 50,000 packs of Amoxycillin 250 mgs valued at Kshs. 43,991,500 to Excelsior Mithaso Ltd by the Ministry of Health. The investigations revealed that there was a conspiracy between the Director of Excelsior Mithaso Ltd and two senior procurement officials at the Ministry of Health to manipulate the tender process to favour the Company. In furtherance of the charade, the Ministerial Tender Committee proceeded to award the tender to the aforesaid company in spite of the fact that it was not the lowest evaluated tenderer.

The investigation file was forwarded to the Hon. Attorney General on 6<sup>th</sup> September 2007 with recommendation that the members of the Ministerial Tender Committee be charged with the offence of awarding tender to a candidate other than the lowest evaluated bidder. It was also recommended that Excelsior Mithaso Ltd and its director, together with the two senior procurement officials at the Ministry of Health be charged with conspiracy to commit an offence. The recommendation was accepted and the suspects have since been arraigned before court.

iv). *Bribe Demand by Chief Surveyor, City Council of Nairobi*

Inquiry into allegations that the Chief Surveyor with the City Council of Nairobi had solicited for a benefit of Kshs. 2.5 million from the complainant as inducement to facilitate the unconditional authorization for the subdivision of his Karen Plot No. 1160/40. The investigation established the solicitation. It was further established that the suspect had involved his lawyer in a conspiracy to disguise the anticipated receipt of the bribe and make it appear that it was payment for survey services rendered to the complainant, to which end he made documents in the complainant's name without his authority.

The file was forwarded to the Hon. Attorney General on 12<sup>th</sup> October, 2007 with recommendation that the former Chief Surveyor and the Advocate be arrested and prosecuted for soliciting for a benefit contrary to section 39(3) (a) of ACECA and conspiracy to effect an unlawful purpose contrary to section 395(f) of the Penal Code, Chapter 63 of the Laws of Kenya. The recommendation was accepted by the Hon. Attorney General and the suspects have since been arraigned before court.

v). *Fraudulent Claims against Ogembo Tea Factory*

This was an inquiry into an allegation of conspiracy to defraud Kenya Tea Development Agency (KTDA) and UAP Insurance Company Ltd of about Kshs. 5 million as payment for general and special damages from claims regarding an accident alleged to have occurred on 31<sup>st</sup> August, 2004 involving an Isuzu lorry Registration No. KZK 214, belonging to Ogembo Tea Factory. Investigations established that no such accident occurred and that this was an elaborate charade to defraud KTDA involving the alleged victims, their advocate, traffic policemen at Ogembo Police Station and a medical practitioner based at Awendo.

The file was forwarded to the Hon. Attorney General on 17<sup>th</sup> October, 2007 with recommendation that the suspects be charged with conspiracy to defraud; giving false information to a person employed in the public service and perjury contrary to sections 317, 129 and 108(1), respectively, of the Penal Code, Chapter 63 of the Laws of Kenya. The recommendation was accepted by the Hon. Attorney General and the trial of the accused persons is on-going.

vi). *Loss of Funds at KEMRI*

This was an inquiry into allegations of misappropriation of Government funds disbursed by Treasury through the Ministry of Health, to Kenya Medical Research Institute (KEMRI) during the financial year 1999/2000 amounting to Kshs. 142 million. Investigations established that the funds were intended to purchase some property on L. R. No. 209/10683 under a purchase-financed arrangement with a developer, but the money was never put to the intended use.

The file was forwarded to the Hon. Attorney General on 7<sup>th</sup> November, 2007 with a recommendation that the Director of the contracted company be charged with obtaining Kshs. 8,500,000/- by false pretences and uttering a false document contrary to sections 313 and 353 of the Penal Code, Chapter 63 of the Laws of Kenya. It was further recommended that the Director of KEMRI and KEMRI's lawyer in the transaction be jointly charged with the offence of stealing contrary to section 275 of the Penal Code. The file was returned by the Hon. Attorney General with the advice that further investigations be undertaken by the Commission.

vii). *Fraudulent Financing Contract for Kshs. 2 billion between Kenya Pipeline Company and Triple A Capital Ltd*

This was an inquiry into a purported borrowing-contract involving Kshs. 2 billion between Triple A Capital Ltd. and Kenya Pipeline Company Ltd. Investigations revealed a conspiracy to defraud between senior officials of KPC and the directors of Triple A Capital Ltd, leading to a loss of public funds in excess of Kshs. 285,597,362/-.

The file was forwarded to the Hon. Attorney General on 12<sup>th</sup> November, 2007 with recommendation that the suspects be charged with conspiracy to defraud, contrary to section 317 of the Penal Code; fraudulent acquisition of public property, contrary to section 45(1)(a) of the ACECA; fraudulent payment from public revenue for services not rendered contrary to section 45(2)(a)(iii) of the ACECA; and abuse of office contrary to section 46 of ACECA. His directions are awaited.

viii). *Irregular Procurement of Motor Vehicles Lease and Stationery by New KCC Ltd*

This was an inquiry into allegations of irregular procurement of motor vehicles and stationery by M/s New KCC Ltd.; and fraudulent false accounting by officers in the company's Sales Department. It was alleged that a car hire company was irregularly awarded a contract to lease vehicles to New KCC Ltd. and that a firm owned by the wife of the then Minister for Co-operative Development was irregularly awarded a contract to supply stationery to New KCC Ltd. The investigations revealed that the procurement of motor vehicle hire services was regularly undertaken, and that the firm owned by the wife of the then Minister for Co-operative Development was competitively awarded the tender to supply stationery, having been pre-qualified through a transparent evaluation process in compliance with the Exchequer & Audit (Public Procurement) Regulations, 2001.

As regards an allegation that three companies supplied with products by managers of the New KCC Ltd. had failed to pay for the goods, investigations by the Commission established that the goods were paid for in full and that the allegations were not well founded.

The file was forwarded to the Hon. Attorney General on 28<sup>th</sup> November, 2007 with recommendation that the inquiry file be closed. The recommendation was accepted on 24<sup>th</sup> January, 2008.

ix). *Irregularities in the Tender Award and Implementation of Migori and Awendo Bus Parks*

This was an inquiry into allegations of corruption against the former Director and Assistant Director of the Urban Development Department (UDD) in the Ministry of Local Government in respect of the award of tender and implementation of the project for construction of Migori and Awendo Bus Parks. Investigations revealed a number of irregularities in connection with the tender processes for which the Director and Assistant Director were to blame. The investigations also unearthed irregular payments to the contractor on premature Payment Certificates approved by the two suspects.

The file was forwarded to the Hon. Attorney General on 3<sup>rd</sup> December, 2007 with recommendation that the Director and Assistant Director of UDD as well as the contractor be charged with various counts of willful failure to comply with applicable procedures and guidelines relating to management of public funds, abuse of office, fraudulent acquisition of a public benefit and receiving a benefit contrary to sections 39(3) (a), 45(1) (a), 45(2) (b) and 46 of the ACECA. The recommendation was accepted on 29.1.08. Trial of the accused persons is on-going.

x). *Fraudulent Disposal of Kenya Reinsurance Corporation's Property*

This was an inquiry into allegations of fraudulent sale of Kenya Reinsurance Corporation's property L. R. No. 1160/613 to Rockhound Properties Ltd. The investigations established that the said property had been fraudulently transferred to Rockhound Properties Ltd. who never paid any monies.

The file was forwarded to the Hon. Attorney General on 18<sup>th</sup> January 2008 with the recommendation that the former Managing Director and the Corporation Secretary of Kenya Reinsurance Corporation be charged with fraudulent disposal of public property. It was also recommended that Rockhound Properties Ltd. and one of its directors, as well as the former Finance & Corporate Services Director of Kenya Re. be charged with the offence of fraudulent acquisition of a public property. The former Finance and Corporate Services Director was further to be charged with the offence of conflict of interest. The recommendations were accepted by the Hon. Attorney General on 17<sup>th</sup> March 2008. The suspects have since been arraigned before court and the trial is on-going.

xi). *Illegal Excision of South Western Mau Forest*

This was an inquiry into an allegation that a part of South Western Mau Forest was irregularly excised and alienated to various companies as parcel numbers 20629, 20630 and 20597. Investigations established that the allocation of land to Kericho Multipurpose Co-operative Society Ltd was irregular and the land ought to revert to the Government.

The file was forwarded to the Hon. Attorney General on 9<sup>th</sup> January, 2008 with, among other recommendations, that the then Permanent Secretary in the Ministry of Lands and the former Commissioner of Lands be charged with abuse of office. The recommendations were accepted by the Hon. Attorney General on 29<sup>th</sup> February, 2008. The suspects have since been arraigned before court and the case is pending hearing.

xii). *Embezzlement of Funds Meant for Micro and Small Enterprises Development Projects in Embu*

This was an inquiry into an allegation that the Provincial Applied Technology Officer (PATO) based in Embu, had mismanaged public funds from an AIE allocation of Kshs. 6.5 million on account of the Department of Micro and Small Enterprises Development (MSED) in Eastern Province for the F/Y 2005/6. The investigations established that the PATO, alongside the manager of a youth polytechnic embezzled money meant for the MSED projects in Eastern Province.

The file was forwarded to the Hon. Attorney General on 25<sup>th</sup> April, 2008 with a recommendation that the PATO and the manager of the youth polytechnic be charged with eleven counts of fraudulent acquisition of public property. It was further recommended that the PATO be charged with an additional count of careless failure to comply with the law relating to procurement. The recommendations were accepted by the Hon. Attorney General and the accused persons have been arraigned before court.

xiii). *Irregular Exemption of Kinondo Holdings Ltd from Payment of Stamp Duty*

This was an inquiry into allegations that a former Minister for Finance had abused his office by irregularly exempting M/S Kinondo Holdings Ltd. from payment of stamp duty amounting to Kshs. 814,000. Investigations established that after the former Minister received the request for exemption, he assigned the matter to a Deputy Secretary who sought the Hon. Attorney General's legal advice as to whether the case qualified for stamp duty waiver. A State Counsel in the Hon. Attorney General's Chambers advised that the waiver could be granted under Section 106(1) of the Stamp Duty Act as the Section does not provide criteria for waiver. The investigation established that the Act does not outline any procedure as to how the Minister should determine public interest. In view of the lacuna in the law on what amounts to public interest, the investigations did not disclose criminal culpability on the part of the former Minister.

The file was forwarded to the Hon. Attorney General on 29<sup>th</sup> April, 2008 with the recommendation that the inquiry file be closed. Advice of the Hon. Attorney General is awaited.

xiv). *Offering a Benefit to KACC Investigators*

This was an inquiry into an allegation that the Chief Procurement Officer of Kenya Meteorological Department and the proprietor of Kenya Auto Electrical Company had offered a benefit of Kshs. 1,000,000 to KACC investigators as an inducement to prepare a favourable report in respect of an investigation on procurement of automatic weather station equipments by the Kenya Meteorological Department. Investigations established that the offer was made to the investigators. In a subsequent trap operation, the suspect gave Kshs. 1,000,000.00 to the investigators. The suspects were arrested and charged with offering and giving a benefit contrary to Section 39(3) (b) of the ACECA.

The Chief Procurement Officer passed on in the intervening period. Nevertheless, the file was forwarded to the Hon. Attorney General on 4<sup>th</sup> April, 2008 with the recommendation that the case against the proprietor of Kenya Auto Electrical Company be prosecuted to its logical conclusion. The Hon. Attorney General has returned the file with the direction that the same be closed. The Commission has since closed its file on the matter.

## 3.7 CRIMINAL CHARGES PRESENTED BEFORE COURT

During the period under review, a total of sixty four (64) charges were presented before Court following successful investigations of complaints against persons suspected of corruption, economic crimes and related offences. Here below is a table with details of criminal cases instituted upon investigations and acceptance of recommendations of the Commission by the Hon. Attorney General.

Table 8: Criminal Cases Presented Before Court

No.	Case Number	Name of Accused	Position/Institution	Nature of Charge	Date of Plea	Status
1	CR 142/111/07 NAIROBI ACC 37/07	Abdulahi Mohammed Adan	AP, Eastleigh Chief's Camp	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	20.7.07	Hearing on 3.7.08
2	CR 921/549/07 KAKAMEGA CF 2413/07	Charles Mwangi	Police Officer attached to Luanda Police Station	Soliciting for and receiving a benefit C/S 39(3)(a) of	20.08.07	Hearing on 20.10.08



No.	Case Number	Name of Accused	Position/Institution	Nature of Charge	Date of Plea	Status
				ACECA		
3	CR 411/110/07 EMBU ACC 7/07	Wilson Nzau Kinyala	Lands Officer, Meru	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	31.7.07	Hearing on 3.10.08
4	CR 021/55/07 MOMBASA ACC 10/07	Mohammed Mwaramuno Mwalimu	I/C Forest Guards, Dept of Forestry, Taita Taveta District	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	12.7.07	Hearing on 11.9.08
5	CR 021/62/07 MOMBASA ACC 11/07	Caerlon Matsaki Mtsonga	Chief, Kambe Location	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	23.7.07	Hearing on 8.9.08
6	CR 142/503/07 NAIROBI ACC 38/07	Francis Leki Marawoshu	Security Investigator, U.S. Embassy, Nairobi	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	3.8.07	Hearing on 28.9.08
7	CR 030/28/07 KISUMU ACC 361/07	Kennedy Lulizi Chandai; Edward Ambeng	Police Officers attached to Migori CID	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	29.6.07	Hearing on 22.10.08
8	CR 141/503/07 MAKADARA ACC 43/07	Millitonic Mwenda Kimanzi; Miki Muthami Kasingi	Private persons	Impersonating KACC investigators and stealing	10.8.07	Hearing on 18.09.08
9	CR 142/117/07 NAIROBI ACC 39/07	Judy Wanjiku Wambugu	Forest Guard, Dept of Forestry, Min. of Environment	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	13.8.07	Hearing on 21.10.08
10	CR 142/123/07 NAIROBI ACC 40/07	Justus Muthini Muthama; Livingstone Kidiga Isagi	Police Officers, Kenya Railways Corp.	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	21.8.07	Hearing on 16.10.08
11	CR 142/126/07 NAIROBI ACC 41/07	Michael Waweru Ndegwa	Higher Clerical Officer, Min. of State, Internal Security	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	24.8.07	Hearing on 9-11. 9.08
12	CR 011/94/07 NAIROBI ACC 43/07	Emily Muhonja Ajimbi	City Council of Nairobi Inspectorate Officer	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	29.8.07	Withdrawn under Section 87(a) of the CPC on 3.6.08
13	CR 921/612/07 KAKAMEGA ACC 2578/07	Erastus Kariuki Kaifa	District Officer II, Kakamega North	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	28.8.07	Hearing on 18.9.08
14	CR 141/541/07 NAIROBI ACC 44/07	Simon Solomon Abura	Supervisor, KPLC	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	31.8.07	Hearing on 7.10.08
15	CR 142/135/07 NAIROBI ACC 45/07	Edison Kipkemoi Sigei	Police officer, Tigoni Police Station	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	10.9.07	Hearing on 22-23.10.08
16	CR 032/35/07 KISUMU ACC 478/07	James Mihango Kinuthia	Private person	Impersonating KACC investigator and extortion by threats	7/9/07	Hearing on 6.8.08
17	CR 141/530/07 MAKADARA ACC 48/07	Millitonic Mwenda Kimanzi	Private person	Impersonating KACC investigator	20.9.07	Hearing on 11.9.08
18	CR 141/587/07 NAIROBI ACC 48/07	Martin Nzuki Maluts	Police officer, Central Police Station	Soliciting for and receiving a benefit C/S 39(3)(a) of	21.9.07	Hearing on 26.9.2008

No.	Case Number	Name of Accused	Position/Institution	Nature of Charge	Date of Plea	Status
				ACECA		
19	CR 141/602/07 NAIROBI ACC 53/07	Joshua Kairima Kiambati	Police officer attached to CID Hdqrs	-DO-	28/9/07	Hearing on 13/14.10.08
20	CR 141/606/07 NAIROBI ACC 55/07	Florence Mwendarani Efeza	Private person	Offering a benefit C/S 39(3)(b) of ACECA	2.10.07	Withdrawn under Section 89(5) of CPC on 10.6.08
21	CR 121/754/07 NAIROBI ACC 59/07	Geoffrey Njogu Kiragu	Chief, Kiratina Location	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	4.10.07	Hearing on 22.9.08
22	CR 142/144/07 NAIROBI ACC 58/07	David Evans Nyambogo	Debt Controller, KPLC	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	4/10/07	Hearing on 8/9.10.08
23	CR 141/610/07 NAIROBI ACC 57/07	Moses Otieno Solo	Computer Analyst, KRA	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	3.10.07	Withdrawn under Section 87(a) of the Criminal Procedure Code on 23.4.08
24	CR 141/290/07 NAIROBI ACC 23/07	Hon. Reuben Ndolo	Former Member of Parliament	Obstruction contrary to Section 66(1) of ACECA	24.4/07	Judgment on 16.10.08
25	CR 141/628/07 NAIROBI ACC 63/07	Peter Ng'ang'a Kagori	Disconnection/Reconn ection officer, KPLC	Soliciting for and receiving a bribe C/S 39(3)(a) of ACECA	11.10.07	Hearing on 24.9.2008
26	CR 141/629/07 NAIROBI ACC 62/07	Joseph Kamanda Macharia	City Council of Nairobi Inspectorate Officer	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	11.10.07	Hearing on 2/3.10.08
27	CR 921/723/07 KAKAMEGA 2839/07	Philip Kiptai Kiptoom	DCS, Kapsokwony Police Station	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	18.10.07	Hearing 23.10.2008
28	CR 141/632/07 NAIROBI ACC 65/07	Samuel Njoroge Njuguna	Chief, Njathani Kasarani Location	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	17.10.07	Ruling on case to answer on 9.9.08
29	CR 141/641/07 NAIROBI ACC 66/07	Samuel Mburu Njathi	Officer, Ministry of Local Government	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	23.10.07	Hearing on 13/14.10.08
30	CR 141/692/07 MAKADARA ACC 62/07	Alfred Mwai Karuki Julius Mwangi Mugo	Chief Surveyor, City Council of Nairobi - Advocate	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	23.11.07	Hearing on 1- 3.10.08
31	CR 011/135/07 MAKADARA ACC 65/07	Timothy Omutoko Ndengu	Assistant Chief, Savannah Sub- Location	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	11.12.07	Hearing on 23.10.08
32	CR 141/682/07 NAIROBI ACC 68/07	Evans Roger Nyacheo	Meter Reader, Nairobi Water & Sewerage Company	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	14.11.07	Hearing on 8- 9.9.08
33	CR 440/29/08 NAIROBI ACC 1/08	Johnson Wambua Ndonye	District Elections Co- ordinator, Machakos	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	25.1.08	Hearing on 27- 29.10.08
34	CR 760/148/08 KERICHO ACC 1/08	John Morris Ogola Ger	Clerical Officer, Provincial State Law Office, Nakuru	Soliciting for and receiving a benefit C/S 39(3)(a) of	13.2.08	Hearing on 28.10.08

No.	Case Number	Name of Accused	Position/Institution	Nature of Charge	Date of Plea	Status
				ACECA		
35	CR 141/58/08 KERICHO ACC 2/08	Justus Musyoka Mutune & Devance Ogweno Ojwang	Administration Police officers attached to Rongai Chief's Camp	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	26.2.08	Hearing on 30.9. 08
36	CR 461/87/08 EMBU ACC 1/08	Ammon Oluoch Ojwang	Deputy Chief State Counsel	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	23.2.08	Case stayed pending hearing of constitutional reference
37	CR 011/29/08 NAIROBI ACC 6/08	George Mbindyo Masingi	Police Officer attached to CID Central	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	12.3.08	Hearing on 10.9.08
38	CR 255/117/08 NYERI ACC 1/08	Aaron Moriasi Mbeo	OCS, Ndaragwa Police Station	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	11.3.08	Hearing on 16.10.08
39	CR 142/21/08 NAIROBI ACC 7/08	Justus Kariuki Mate	Acting Personal Assistant to the Minister for Local Government	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	13.3.08	Hearing on 24/27.10/08
40	CR 011/24/08 NAIROBI ACC 5/08	Maurice Mikima Oungo	Clerical Officer, Planning Section, City Council of Nairobi	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	6.3.08	Hearing on 13/14.10.08
41	CR 112/144/08 NAIROBI ACC 8/08	Nancy Waihera Kamau & Others	City Council of Nairobi Inspectorate Superintendent	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	14.3.08	Hearing on 18- 19.9.08
42	CR 142/29/08 NAIROBI ACC 10/08	Dickson Manyasi	Assistant Commissioner, Domestic Tax Department of KRA	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	25.3.08	Hearing on 24- 25.9.08
43	CR 141/168/08 NAIROBI ACC 15/08	Bernard Omondi Nyandiri	Public Health Officer, City Council of Nairobi	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	16.4.08	Hearing on 11.9.08
44	CR 141/169/08 NAIROBI ACC 13/08	Patrick Mwanzia Kyungu	Mortuary Attendant, City Council of Nairobi	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	16.4.08	Hearing on 15.9.08
45	CR 141/132/08 NAIROBI ACC 12/08	Stanley Chebet alias Kibet	Police Officer, Ruiru Police Station	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	31.3.08	Hearing on 7.8.08
46	CR 032/10/08 KISUMU ACC 147/08	Mathias Mutisya Mativo	Police Officer, Nyamiro Police Station	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	17.4.08	Hearing on 1.10.08
47	CR 011/52/08 NAIROBI ACC 15/08	Job Nguka Orifah	Police Officer, Muthaiga Police Station	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	2.5.08	Hearing on 16- 17.10.08
48	CR 030/15/08 NAKURU ACC 2/08	Stanley Manore Nguthu	Police Officer, CID, Nakuru	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	21.5.08	Hearing on 17.9.08
49	CR 030/8/08 NAKURU ACC 1/08	John Njiru Kamau	Revenue Officer II, KRA	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	15.4.08	Hearing on 28.10.08
50	CR 030/17/08 NAKURU ACC 3/08	Zadock Mumasi Wepukhulu	Police Officer, Rongai Police Station	Soliciting for and receiving a benefit C/S 39(3)(a) of	29.5.08	Hearing on 24.9.08



No.	Case Number	Name of Accused	Position/Institution	Nature of Charge	Date of Plea	Status
				ACECA		
51	CR 141/262/08 NAIROBI ACC 17/08	Ronald Morara Onduso	City Council of Nairobi Inspectorate Official	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	3.6.08	Hearing on 6.10.08
52	CR 141/281/08 NAIROBI ACC 18/08	George Mbugua Ngugi; Simon Mwai Gateru	Chairman of the School Board of Governors & Principal, Gichuru High School	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	17.6.08	Hearing on 19.9.08
53	CR 142/62/08 NAIROBI ACC 20/08	Lydia Lubanga Masakhajia	Valuer, Kiambu District Lands Office	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	20.6.08	Hearing on 28/29.10.08
54	CR 444/133/08 NAIROBI ACC 19/08	Joseph Ngumba Ndolo; Raphael Wambua Mainya	Members of Kajiado District Land Disputes Tribunal	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	19.6.08	Hearing on 16-17.10.08
55	CR 032/16/08 KISUMU ACC 139/08	Mose Jones Meroka	Clinical Officer, Ministry of Health	Soliciting for and receiving a benefit C/S 39(3)(a) of ACECA	23.6.08	Hearing on 1.10.08
56	CR 230/61/08 Nyeri ACC No. 2/08	Peter Gitahi Gichuhi	District Labour Officer, Muranga, Ministry of Labour	Soliciting and receiving a benefit C/S 39(3) a of ACECA	12.04.08	Pending in Court
57	CR 032/11/08 Kisumu ACC No.202/08	Titus Muriithi	Administration Police Officer, Kibingo Chiefs Camp	Soliciting and receiving a benefit C/S 39(3) a of ACECA	30.04.08	Pending in Court
58	CR 141/557/07 MAKADARA ACC 44/07	John Ndung'u Njenga	Deputy Managing Director, Kenya Wines Agency Ltd	Unlawful acquisition of public property	17/09/07	Hearing 22.10.08
59	CR 141/585/2007 KIAMBU CF 7157/2007	Job Kipsang Keltany; Michael Chesikaw	Herbalist & Treasurer of a CBO called Par Aid respectively	Obtaining by false pretences C/S 313 of the Penal Code and uttering a false document	21.9.07	Hearing on 4.11.08
60	CR 141/43/08 NAIROBI ACC 1/08	Zackary Awino Dr. Kijana Baya F.K. Karimba Agnes Waudo Dr. Isirio Aligula F.J. Otieno	Members of the Ministerial Tender Committee, Ministry of Health	Deceiving Principal, Conspiracy to commit a misdemeanour and Awarding tender to a candidate other than the lowest bidder	13.2.08	Hearing on 17-18.9.08
61	CR 141/51/2008 NAIROBI ACC 3/2008	Eng. Barnabas Ariga; Eng. Nyamweya Nyariki; Hudson Ratemo Okindo; Sacci Engineering Ltd	Director & Ass. Director, Department of Urban Development (UDD) Contractor	Economic Crime (4 counts); Abuse of office C/S 46 of ACECA; Giving a benefit C/S 39(3)(b) of ACECA; Receiving benefit C/S 39 (3) (a)	3.3.08	Hearing on 15-19 9.08
62	CR 691/71/08 OGEMBO CF 230/08	Mohammed S. Khan Dr. Maurice Ajuoga Alfred Ashihuma Osman Mohammed Mauti Mogoi Mongige David Omambia Nyambogi & 27 others	Advocate Doctor Police Officer Police Officer Private citizens -ditto-	Conspiracy to defraud C/S 317 of Penal Code and Burglary C/S 108(1)	26.3.08	Hearing on 21-22.10.08

No.	Case Number	Name of Accused	Position/Institution	Nature of Charge	Date of Plea	Status
63	CR 141/148/08 CF NAIROBI 468/08	Joseph Kimutai Sang Wilson Gacanja	Former PS, Ministry of Lands & former Commissioner of Lands.	Abuse of office C/S 46 of ACECA	22.4.08	Hearing on 22.9.08
64	CR 141/725/07 MAKADARA ACC 64/07	Gideon Muindi Manyenje Moses Kerumbo Njenga Raymond Kamundi Mugambi	Former Town Clerk, Municipal Treasurer and Municipal Engineer, Municipal Council of Mavoko	Careless failure to comply with law relating to procurement C/S 45(2)(b) of ACECA	10.12.07	Hearing on 9.9.08

### 3.8 LEGAL RESEARCH AND DOCUMENTATION

The fight against corruption must of necessity be pegged on strong legislative framework bearing in mind the global and dynamic nature of the vice. Kenya has enacted various anti-graft legislations and adopted laudable strategic initiatives in the fight against corruption. These legislative initiatives however require regular review to keep pace with new corruption trends and emerging jurisprudence.

Regular legal research and documentation is undertaken to ensure pro-active participation of the Commission in legislative and other initiatives. The Commission regularly makes appropriate proposals for reform to be considered by the relevant executive and legislative organs.

#### 3.8.1 Legal Reforms

The Commission made representations to the Parliamentary Committee on Administration of Justice and Legal Affairs in response to issues raised by the Committee concerning the Statute Law (Miscellaneous) Amendment Bill, 2007. The Bill was subsequently passed into law, thereby amending amongst others, The Anti-Corruption and Economic Crimes Act, 2003 and The Public Officer Ethics Act, 2003. Worthy of note amongst the proposals made by the Commission and enacted into law by Parliament are:

1. The introduction of paragraph (k) to section 42 of the Limitation of Actions Act (Cap 22) whose effect is to preclude the operation of the statute of limitation in actions in which recovery or compensation in respect of the loss of or damage to any public property is sought.
2. The enhancement of penalties with regard to abuse of office offences in the Penal Code whose effect is to harmonize punishment meted out for corruption and economic crimes.
3. The introduction of inchoate offences like attempt, conspiracy and incitement under section 47A of ACECA.
4. A new section 56A introduced to ACECA giving the Commission authority, with the leave of the court, to appoint Receivers to manage property suspected to have been acquired through corrupt conduct.
5. Introduction of section 56B of ACECA giving the Commission statutory authority to negotiate amicable settlement with persons against whom the Commission intends to bring, or has actually brought, a civil claim or application in court.
6. The introduction of section 61A of ACECA to insulate the Commission from the coercive execution processes.

However, not all the proposals the Commission made to relevant organs were accepted. Proposals to enhance the Commission's investigative powers by amending sections 26, 27 and 28 of the ACECA were rejected. Instead, the Legislature introduced a new sub-section (4) to section 23 which significantly curtails investigative processes. It also introduced a new section 25A to regulate, on such terms as the Minister and the Hon. Attorney General may prescribe, the termination or continuation of investigations commenced by the Commission under ACECA.

#### 3.8.2 United Nations Convention Against Corruption

Kenya was the first country to sign and ratify the United Nations Convention against Corruption (UNCAC) on 9<sup>th</sup> December 2003 in Merida, Mexico. The Convention requires member states to domesticate the Convention by enacting appropriate legislation and putting in place other facilitative initiatives.

The Commission is spearheading a multi-sectoral GAP Analysis to evaluate compliance of the national legislative framework with UNCAC and make recommendations to redress governance lacunae and make Kenya UNCAC compliant.

#### 3.8.3 Collaborative Initiatives

The Commission participated in a national forum initiated by the United Nations Office on Drugs and Crimes to evaluate Kenya's compliance with the United Nations Convention against Corruption with a view to identifying areas where technical assistance in the fight against corruption may be required.

In order to meet its obligations under various international conventions addressing the problem of money laundering and related offences, Kenya is required to also enact an anti-money laundering legislation. In an effort to realize this objective, the Government has introduced the Proceeds of Crime and Anti-Money Laundering (PCAML) Bill, 2008. The Commission submitted proposals to the Parliamentary Committee on Administration of Justice and Legal Affairs on the need to align and harmonize the provisions in the proposed Bill with ACECA, to obviate duplication or competition between institutions established under the two sets of laws and to ensure focused employment of scarce public resources.

## 4. PREVENTION

## 4.1 PREVENTION PROGRAMMES

The Commission has developed programmes to implement its mandate under Section 7 (d), (e), (f) and (g) and these include examining systems, policies, procedures and practices in public and private sector agencies with a view to identifying corruption loopholes and recommending measures for sealing such loopholes. This involves systems review; training integrity assurance officers in the public and private sectors; facilitating the development of codes of conduct and formation of corruption prevention committees; offering advisory services to organizations, agencies, departments and institutions on anti-corruption and good governance measures upon request; forging partnerships and coalitions and creating linkages with other organizations and institutions involved in the fight against corruption; and designing critical areas of interface between the Commission and other Government Agencies.

## 4.1.1 Partnerships and Coalitions

During the year under review the Commission engaged in a number of partnership and coalition activities mainly in public procurement; management of records in public institutions; development of governance instruments to support performance contracting, formulation of a template for use by public institutions to monitor the "corruption eradication indicators under the performance contracts; development of the Public Service Integrity Award Scheme; and enhancing good governance and integrity among private sector/professional associations.

## 4.1.1.1 Review of Standard Tender Documents

The Commission collaborated with the Public Procurement and Oversight Authority (PPOA) to review the standard tender documents which provide the framework and the basis for procurement in public institutions. There are 39 prescribed Standard Tender Documents, but the review exercise targeted 14 documents which are most frequently used in the procurement process. The exercise addressed loopholes exploited for corrupt practices and devised safeguards to reduce opportunities for corruption; and integrating anti-corruption conditions in the documents. Specific suggestions to be incorporated in the documents include:

i) *Instructions to Bidders*

Clear definition of various corruption malpractices in the documents to compel suppliers, contractors and subcontractors to observe the highest standards of ethics during the procurement process - e.g. "corrupt practices", "fraudulent practices", "collusive practices", "coercive practices", "obstructive practices", etc

ii) *General Conditions of Contract*

To design a process to compel timely payment for goods and services and eliminate rent-seeking delays. Clauses are proposed in the general conditions of contract to require that:

Payments shall be made promptly by the procuring entity as specified in the contract.

The contract price, including any advance payments, if applicable, is paid as specified in the special conditions of the contract.

Payment is made within a specified period after submission of an invoice which is accepted by the purchaser or after request for payment by the supplier.

iii) *Selection of Consultants*

It was recommended that to avoid conflict of interest, employees, members of various committees prescribed in the Regulations, board members and their relatives (spouse and children) should not be eligible to participate in consultancy procurement because they would have undue advantage over competitors.

iv) *Selection of Individual Professional Consultants*

It was also recommended that where a procuring entity intends to apply standard conditions and scales of fees for professional services, such scale of fees, should have been approved by the relevant professional association or authority.

v) *Procurement of Works*

In order to ensure performance by contractors and avoid stalling of works, it is recommended proviso be made to compel Contractors to pay liquidated damages to the Employer at the rate to be specified in the contract for each day that the actual completion date is later than the intended completion date.

vi) *Prequalification Document*

To curb abuse resulting in prequalification of unqualified bids or disqualification of others on flimsy grounds, it was recommended:

Provision of a clear separation of mandatory requirements from the technical requirements in the evaluation process. Documents such as tax clearance certificates and those specific to the superiority of the bid should be categorized and evaluated separately.

Pre-qualification should be based on meeting minimum pre-set requirements.

Bidders be compelled to provide accurate information on any litigation, arbitration or blacklisting resulting from contracts completed or under their execution over the last five years.

vii) *Confidential Business Questionnaire Form (CBQ)*

The Commission further proposed amendments to the Confidential Business Questionnaire Form (CBQ) to compel prospective suppliers/ contractors, subcontractors to disclose more information about their firms. It has been observed that the current CBQ does not provide for adequate information necessary to undertake due diligence. The purpose of this requirement is to rein in unscrupulous suppliers/contractors and subcontractors who register many "briefcase firms," which are used to facilitate collusive tendencies, for example, bid rigging.

viii) *Anti-Corruption Declaration/ Commitment/ Pledge Form.*

The Commission also recommended the introduction of the Anti-Corruption Declaration/Commitment/Pledge Form to oblige the suppliers/



contractors and subcontractors to commit themselves to and comply with the provisions of The Public Procurement and Disposal Act 2005 (sections 39, 40, 41, 42, 43 & 44).

#### 4.1.1.2 Enhancing Good Governance in Local Authorities Procurement Systems

The Commission, the Public Procurement Oversight Authority, and other stakeholders are implementing a programme targeting chief officers and members of Tender Committees in Local Authorities. The programme aims to build capacity and enhance good governance in their procurement process and systems. Phase one of the programme exposes participants to the requirements of The Public Procurement and Disposal Act (PPDA) 2005, The Public Procurement and Disposal Regulations (PPDR) 2006, and how to address corruption loopholes in the procurement cycle. A practical module guides participants on the design and process of Corruption Risk Assessment (CRA) and consequent formulation of Corruption Prevention Plans (CPP) to address identified risks. In the period under review, 170 chief officers and members of tender committees from Local Authorities from 5 provinces were trained.

Table 9: Procurement Training of Local Authorities Officials

<i>Province</i>	<i>Local Authorities Covered</i>	<i>No. of Officers Trained</i>
Eastern	25	47
Central	22	48
Coast	12	17
North Eastern	6	14
Western	21	44
Total	86	170

#### 4.1.1.3 Management of Records in Public Institutions

Proper records are critical in enhancing service delivery and good governance in any institution. To help in streamlining records creation, tracking, control and maintenance in public institutions KACC collaborated with the Kenya National Archives and Documentation Services in the following activities:

##### i) *Records Management in the Ministry of Lands*

This entailed physical working with the ministry staff to review the records and records office facilities and storage; training of 24 records personnel on sound records management; sensitization of Heads of Departments, and senior management on their role in keeping proper records in enhancing good governance and organizational management; training officers on how to review their systems, procedures and practices in records management; and development of implementation matrices for 5 departments. The Ministry has embarked on implementation of the recommendations.

##### ii) *National Policy on Records Management*

The Commission is participating in the formulation of a National Policy on Public Records Management. The policy, once promulgated, will provide a framework for efficient and effective creation, use, storage, maintenance, access and disposal of public records. It will enhance transparency and accountability in management in the public sector. A Consultative workshop and forum with Professionals and Records Management officers was conducted on the draft Policy.

#### 4.1.1.4 Corruption Eradication Indicators for Performance Contracts

The Commission collaborated with the Office of the Prime Minister-Public Sector Reforms and Performance Contracting to develop measurable components of the "Corruption Eradication" indicators which were incorporated in the Performance Contracts (PC) of all public institutions in 2007/08. The five performance targets for the "Corruption Eradication" indicator were reviewed for incorporation into the performance contracts for 2008/09 for Ministries, State-Corporations, Local Authorities and Tertiary Institutions. Two components were added for implementation in the year 2008/09. A reporting template for use by public institutions to monitor implementation indicators was developed for quarterly and annual reporting. The "Corruption Eradication" indicator, Guidelines, and Reporting template are available on the Commission website, [www.kacc.go.ke](http://www.kacc.go.ke).

Following the incorporation of the "Corruption Eradication" indicators in the Performance contracts, it is now mandatory for all public institutions on performance contracts to mainstream mechanisms for detection and prevention of corruption. The implementation of the "Corruption Eradication" performance indicators is expected to enhance internal controls based on corruption risk assessment surveys and implementation of the corruption prevention plans. This is reflected in the number of requests made to the Commission for corruption prevention training and development of governance instruments like; Anti-Corruption Policies and Codes of Conduct. During the year, and in response to requests, the Commission studied and advised on many draft governance instruments prepared by public institutions including Kenya Broadcasting Corporation, Tea Board of Kenya, Jomo Kenyatta Foundation, Kenya National Examinations Council, Ministry of Gender and Social Services, Municipal Council of Muranga, Ministry of Transport, Kenya Utalii College, Agricultural Finance Corporation, Lake Victoria Water Services Board, Ministry of Co-operative Development and Marketing among others.

#### 4.1.1.5 Integrity Awards Scheme

The award scheme sets standards for anti-corruption management system. It is an opportunity for organizations to review their positions on corruption and identify further actions to minimize corruption risks.

The Integrity Award Scheme aims to support efforts to institutionalize good governance, accountability and transparency in public institutions by recognizing organizations that achieve excellence in this area. The Scheme was launched in 2007, and an adjudication committee comprising representatives from the Cabinet Office, Ministry of State for Public Service, Office of the Prime Minister-Public Sector Reforms and Performance Contracting, the State Corporations Advisory Committee and the Kenya Anti-Corruption Commission was formed. The Committee finalized

adjudication for the 2007 awards and embarked on preparations for the 2008/09 awards. The overall awards winners for 2007 were Ministry of Defence and Industrial Commercial Development Corporation in the Ministries and State Corporations categories respectively.

#### 4.1.1.6 Enhancing Governance and Integrity in Private Sector/Professional Associations

The Commission, in collaboration with the Association of Professional Societies of East Africa (APSEA) started outreach activities to enhance ethics and good corporate governance among professionals and the private sector as a corruption prevention strategy. A workshop held in 2006 under the auspices of APSEA devised a plan to address ethical issues among the professionals.

The KACC/APSEA 2006 workshop Report on "Governance, Ethics and Integrity Among Professionals" was published. A consultative workshop to review implementation progress of the 2006 workshop resolutions was conducted in 2007;

A framework Code of Conduct was developed to guide professional Associations in developing their specific Codes of conduct; and two (2) draft Codes of Conduct for two professional associations were developed using the framework;

A module on ethics and integrity was developed and incorporated in the continuous development training programme of the Institution of Surveyors of Kenya;

The Commission participated in the 3<sup>rd</sup> Professional Services & Careers Exhibition and Symposium that showcased the role of the Professionals in enhancing good corporate governance in service delivery;

Memorandum of Understanding (MOUs) between ICPAK/KACC was formulated and finalized to provide a framework of cooperation between ICPAK and the KACC; and

A draft KEPSA/KACC MOU was formulated to set a framework of cooperation between the two institutions.

#### 4.1.2 Integrity Training Programme

In the year under review the Commission continued to undertake the training of Integrity Assurance Officers and Integrity/Corruption Prevention Committees. Other related activities involved follow up in two institutions to determine the efficacy of the programme.

##### 4.1.2.1 Integrity Assurance Officers (IAO) Training Programme

A total of 488 Integrity Assurance Officers (IAOs) drawn from various sectors in the public service were trained by the Commission. The trained Integrity Assurance Officers are instrumental in institutionalizing and mainstreaming integrity for their respective institutions to realize corruption prevention indicators.

Table 10: Integrity Assurance Training 2007-2008

No.	Organization	No. of Officers
1	Ministry of Agriculture	37
2	Nairobi Province Public Officers	81
3	Water Resources Management Authority (WRMA) Officers	33
4	Kenya Revenue Authority	32
5	Ministry of Planning & National Development	58
6	Ministry of Transport	28
7	Kenya Pipeline Company	34
8	Kenya Seed Company	12
9	Agricultural Finance Corporation	40
10	M.F.A, K.T.D.C, E.P.Z, Sisal Authority, Cotton Regulatory Board	38
11	Ministry of State for Provincial Administration (Nairobi province)	47
12	Ministry of State for Provincial Administration (Coast, Eastern and North Eastern provinces)	48
	Total	488

##### 4.1.2.2 Corruption Prevention Committees (CPC) and Senior Management Training

This training targeted senior management and members of the Corruption Prevention Committees. The objective of this training is to equip senior managers and their Committees on process of mainstreaming anti-corruption strategies through the development of appropriate policies and structures and to complement the work of Integrity Assurance Officers.

Table 11: Corruption Prevention Committees and Senior Management Training  
2007 - 2008

No.	Institution	Composition of Participants	No. of Officers
1	Kenyatta National Hospital	Senior Management CPC Members IAO's	80
2	Kenya Wildlife Service	CPC Members IAO's	6
3	Postal Corporation of Kenya	Senior Management CPC Members	20

No.	Institution	Composition of Participants	No. of Officers
4	Kenya Sugar Board	Directors Senior Management CPC Members	30
5	Kenya Agricultural Research Institute	Senior Management CPC Members IAO's Stake Holders	35
6	Kenya Seed Company (Nairobi Region)	Senior Management CPC Members IAO's	10
7	Ministry of Housing (Nairobi)	CPC Members IAO's	15
8	National Council for Persons with Disabilities	Senior Management	7
9	Kenya Roads Board	Senior Management CPC Members IAOs	15
10	Ministry of Planning and National Development	Senior managers CPC Members	17
11	Kenya Pipeline Company	Senior Managers/Chief Officers. CPC Members	12 26
12	Industrial and Commercial Development Corporation	Senior managers CPC Members IAOs	10
13	Utalii Hotel	Senior managers CPC Members	40
14	State Law Office	Senior Managers CPC Members IAOs	26
15	Kenya Revenue Authority	Commissioner General Commissioners & CPC	28
16	Agriculture Finance Corporation	Senior managers CPC Members	18
17	Kenya Meat Commission	Senior Managers CPC Members	17
18	Export Processing Zones Authority	Senior Managers CPC Members	18
19	Kenya Airports Authority	Senior managers CPC Members	21
	Total		178

#### 4.1.2.3 Follow-Up on Integrity Assurance Officers

A follow-up was conducted in Kenya Ports Authority and Kenya Wildlife Services to identify gaps that required intervention in the IAO training programme and to determine the impact of the IAOs in their organizations. It was observed that some top level managers in these institutions were not committed to the implementation of integrity initiatives.

In the two institutions visited the Corruption Prevention Committees (CPCs) were not properly constituted and there was no evidence that any meetings took place. The IAOs trained expressed frustration due to inadequate management support and commitment to their work. Anti corruption policy, codes of conduct and corruption prevention plans were yet to be developed.

In spite of the shortcomings as in the two institutions above, it is generally evident that integrity training has helped in the building of strong and dedicated whistle blowers who have reported many cases of corruption. Furthermore, there is increasing sense of ownership of corruption prevention initiatives by institutions where trained officers and the respective Corruption Prevention Committees are putting in place systems and structures to prevent and detect corruption. This has assisted in mainstreaming anti-corruption strategies in organizations. Training of top managers and Corruption Prevention Committee (CPC) members has enhanced appreciation of their obligations for corruption prevention and the need to own and drive the process. Many organizations are now setting aside finance and other resources to mainstream integrity through training and development of governance instruments in their respective organizations. These instruments include Corruption Prevention Plans (CPP) which profile corruption prevention initiatives in public organizations and set out levels of responsibility for implementation of the Plans thereby enhancing accountability.

#### 4.1.3 Examination and Corruption Prevention Guidelines

In accordance with its mandate, the Commission conducts examination of systems, policies, procedures and practices in the public and private sector agencies. The Commission also provides advisory services to various organizations on various corruption prevention methods. Some of the advisory briefs have been provided in the form of corruption prevention guidelines.



## 4.1.3.1 Examination

The Commission conducted examination of systems relating to procurement, storage and distribution of drugs and medical supplies; Registration and Licensing of Motor Vehicles and Enforcement of Traffic Laws; Municipal Council of Mombasa; Ministry of Immigration and Registration of Persons - Department of Immigration; the City Council of Nairobi; the Teacher Service Commission; the Roads Sub Sector and the Department of Pensions. Recommendations of these examinations are now being implemented.

In the period under review the Commission conducted two examinations and a follow-up activity to assess degree of implementation of agreed recommendations.

## i) The Civil Registration Department

An examination into the systems, policies, procedures and practices of this Department was triggered by numerous complaints received by KACC and in the media on bribery demands and delays in the issuance of birth and death certificates by the Department. Furthermore, the National Corruption Perception Survey Report released by the Commission in June 2006, featured the Department among public institutions with high incidence of corruption. The National Registration Bureau and Registration of Births and Deaths were ranked 7<sup>th</sup> and 11<sup>th</sup> respectively among the most corrupt institutions. The examination identified several areas that present opportunities for corruption as a result of the manual system of operations and poor management of births and deaths registers. The Commission made several recommendations for sealing identified corruption loopholes key among them, the computerization of the registration system and networking with other departments that utilize civil registration data, decentralization of Civil Registration services, recruitment and training of additional staff.

## ii) The National Registration Bureau

Major corruption issues reported to the Commission and in the media included illegal registration of foreigners, irregularities in the procurement of registration materials and equipment, and unwarranted delay in the issuance of identity cards. The examination brought out the weaknesses in the policy and legal framework, including a lack of a clear national integrated policy and system on registration of persons, and lack of procedures manuals to guide officers in performance of registration activities. There are also major problems with production of IDs, including lack of a proper mechanism to monitor and address the causes of delays in dispatch and issuance of ready Identity Cards (IDs) and lack of an effective complaints redress mechanism.

However, the Ministry and other agencies are involved in the development and implementation of a centralized automated national population register - Integrated Population Registration System (IPRS) - which will improve data gathering, storage, access and analysis capabilities across all the relevant government agencies. Key recommendations include, among others, development of a national integrated policy on registration of persons, review of The Registration of Persons Act and its Subsidiary Legislation and the introduction of tamper proof birth certificates and identity cards.

## 4.1.3.2 Follow-up on the Implementation of Recommendations of the Examination Report on the Registration and Licensing of Motor Vehicles and Enforcement of Traffic Laws

Follow-up to ascertain the implementation of recommendations gives impetus to the examined institutions to implement proposed corruption prevention programmes. In addition, follow up enables the Commission to appreciate the challenges the implementing institutions face and the emerging issues that require attention. In the period under review, the follow-ups covered the Ministry of Transport; Kenya Revenue Authority (KRA); Transport Licensing Board (TLB); Motor Vehicle Inspection Unit (MVIU), the Traffic Police Department, the City Council of Nairobi and Machakos Municipal Council.

The actions taken by the implementing agencies to implement the recommendations include:

- New Customs system, 'Simba 2005' at KRA to facilitate online lodging of import documents and increase revenue collection;
- The integration of Simba System and Vehicle Management System (VMS) to improve licensing and registration of vehicles;
- Modernization programmes in the Road Transport Department (RTD) aiming at minimizing duplication of effort, such as use of Management Information System (MIS);
- Issuance of security printed logbooks by KRA;
- Strengthening of the Transit Monitoring Unit by introducing a car tracking system;
- Issuance by MVIU of one standard inspection sticker for all categories of motor vehicles;
- Maintenance of accurate statistics to facilitate an informed procurement process for inspection stickers;
- A directive to Police officers to declare if they have PSVs;
- Provision of details of vehicles suspended by TLB to the Traffic Commandant to facilitate enforcement;
- Crackdown on illegal driving schools; and
- Provision of adequate equipment to driving test centers.

## 4.1.3.3 Corruption Prevention Guidelines

Corruption Prevention Guidelines advise on ways of improving systems in key operational areas by addressing loopholes that lead to corruption.

During the year under review, the Commission prepared guidelines for corruption prevention in 4 functional areas and an area unique to the functions of Local Authorities. These included ICT projects, Public Procurement, Records Management, the Health Sector and Public Private Partnership (PPP) in Local Authorities in Kenya.

The Guidelines on ICT have been uploaded on the KACC website and have been mailed to public institutions. They address various loopholes in the implementation of ICT projects and in the management of ICT in the public sector. Some of the issues addressed include:

- IT governance
- Feasibility studies
- Procedures for acquisition of IT solutions
- Risk management
- Back up procedures
- Disaster recovery and continuity plans

The guidelines suggest generic solutions for corruption prevention in the ICT functions in the public sector institutions. If adopted, they can preempt wastage of resources which occurs through acquisition of inappropriate ICT solutions. The Guidelines will also empower Public Sector managers to

play their roles properly in the management of ICT in their organizations.

Corruption prevention programmes promoted by the Commission are contributing to enhancement of good corporate governance in public and private sector institutions. In the year under review there was marked improvement in the development of structures to combat corruption and formulation of governance instruments. These will form a sound basis for strengthening corruption prevention initiatives in the coming years.

## 4.2 EDUCATION PROGRAMMES

Achievement in the war against corruption shall increase as citizens actively embrace integrity and good governance practices. Education is central in inculcating desired knowledge, skills and values that promote national cohesion, development and positive culture. Corruption frustrates efforts to achieve these noble goals. In response, the Commission designs, develops and implements education programmes that cover training on anti-corruption, good governance, ethics and integrity in the public, private and formal spheres.

### 4.2.1 Public Integrity Education

#### 4.2.1.1 Media Education Programming

The Commission broadcast a radio programme "This Thing Called Corruption" a pre-recorded series of 27 episodes of 15 minute on the Commission's mandate, the anti-corruption legal framework, and the concept of corruption. The topics were illustrated through case study stories. The programme then discussed the achievements and challenges the Commission faced. The Programme was aired on English service of all major radio stations during prime time. Preliminary feedback indicates that the programme reached millions of Kenyans during the 6 months it was broadcast.

Another programme, "The Anti-Corruption Dialogue" was broadcast on selected radio channels. This programme carried messages to raising awareness by engaging Kenyans in discussion on corruption. These messages were translated into Kiswahili, Kikuyu, Kikamba and Kisomali languages. During the same period, the Commission also broadcast a 15 minute programme series on "Arenas of Corruption" focusing on corrupt practices in high risk areas such as the Judiciary, Public Service, education, procurement, co-operative societies and finance.

#### 4.2.1.2 Community Based Anti-Corruption Programme

Grassroots communities are increasingly demanding high probity in relation to accountability, transparency and effectiveness in the management of public institutions and resources. These communities want to pro-actively participate in their governance institutions and processes. They are insisting on having their voice heard, especially on service delivery.

In our efforts to enlist public support, the Commission piloted one component of the programme, namely, the Community Based Corruption Monitors Programme. A total of 66 participants drawn from civil society in 8 provinces were trained in two workshops. This programme seeks to build an effective country-wide grassroots anti-corruption network to empower communities to demand accountability, uphold basic good governance practices and engage in proactive community interventions that will prevent corruption from taking root.

#### 4.2.1.3 Young Farmers Clubs of Kenya

Youth play a critical role in national development and transformation of society. In recognition of this function, the Commission sponsored the 100,000 member strong Young Farmers Clubs of Kenya National Camp. The event was attended by 250 participants drawn from 8 regions countrywide. The Camp's theme was *Youth for a Corruption Free Society*. It was accepted to integrate anti-corruption, integrity, ethics and Character education content into the clubs' activities.

#### 4.2.1.4 National and International Days Commemorations

The Commission participated in the event of Public Service Week and the World Anti-Corruption Day. The World Anti-Corruption Day held on 9<sup>th</sup> December 2007 had the theme "*Corruption: Your No Counts*". For the occasion, the Commission broadcast a 15 minute pre-recorded radio programme and 40 -second messages on national and regional radio stations. A supplement focusing on the Commission's achievements and challenges featured in the print media.

### 4.2.2 Formal Integrity Education

The Commission offered strategic leadership and technical support for stakeholders to design the mainstreaming of anti-corruption, good governance, integrity, and character education content into the school curricula.

#### 4.2.2.1 School based Anti-Corruption Curriculum Support Materials Development

The Commission collaborated with the Ministry of Education, Kenya Institute of Education (KIE), Kenya Literature Bureau (KLB), Jomo Kenyatta Foundation (JKF) Aryan and Nairobi Primary Schools to develop Anti-Corruption and Character Development Curriculum Support Materials designed to build positive values, attitudes and behaviour among learners - focusing on virtues such as honesty, respect, sharing, obedience, hard work, responsibility and patriotism. The materials target learners ranging from early childhood to primary school.

#### 4.2.2.2 End-Term Evaluation of the Training, Research, Advocacy and Governance (TRAG) Certificate Course

The TRAG training programme was a joint venture between the Government of Kenya and UNDP and the Government of Denmark. The latter two partners funded the programme. The programme created awareness about corruption; promoted good governance in the management of public affairs, and raised a cohort of change agents within a wide range of organizations.

During the year under review, the main activities carried out under the programme were: (a) development of an Anti-Corruption Training Manual on Governance and (b) Conducting and End-Term Evaluation of the programme.

#### (a) Development of an Anti-Corruption Training Manual on Governance

Globally, Anti-Corruption Studies is a new area of inquiry: Available training has tended to be shallow leading to inadequate treatment and poor understanding of governance and the phenomenon of corruption.

During the year, the Commission collaborated with the Kenya Institute of Education, Kenya Technical Teachers College, Kenya Science Teachers College, Kenya Union of Savings and Credit Cooperatives and the Criminal Investigation Training School to draft a Governance and Anti-Corruption Training manual to meet our current local needs.

(b) *TRAG End Term Review*

The TRAG Programme covered the period 2004 – 2007. Consequently the partners conducted an End-Term Evaluation of the programme. The results revealed that the TRAG course graduates were spearheading the mainstreaming of good governance and initiating many proactive reforms in their organizations. Both the Danish Embassy and the UNDP highly commended the Commission on execution of the programme and indicated willingness to support future programmes in the area of governance.

4.2.2.3 Mainstreaming Anti-Corruption and Integrity Content in Co-curricula Activities.

The Commission partnered with the Ministry of Education by sponsoring special categories in both the Kenya National Music and Drama Festivals. Presentations on corruption and integrity consisted of plays; choral and solo verses; narratives; dramatized dance and mime items. In recognition of the Commission continued support, the Ministry of Education presented the Commission an appreciation plaque.

Music and Drama Festivals reach a wide range of listeners and viewers including students, teachers, parents and members of the general public. During these festivals the Commission sensitized about 200,000 people who attended the presentations at the zonal, district, provincial and national levels.

4.2.2.4 Governance Training for Ministry of Education Officers

The United Nations has identified key focus development priorities for the global community, among them the Millennium Development Goals and Education For All (EFA). The Millennium Development Goals focus on human development goals while the EFA Framework sets out the global educational agenda.

As part of the mechanisms deployed to ensure the enormous resources allocated for Education for All are not diverted or mismanaged the Commission designed and conducted governance training seminars where 117 newly appointed District Education Officers and 134 Quality Assurance and Standards Officers of the Ministry of Education attended. The Commission will hold similar training workshops in all the coming years.

4.2.2.5 Schools/Colleges Visits and Opportunity Lectures

The Commission also used visits and opportunity lectures to engage with learners and stakeholders. The visits involved a total 14 institutions comprising of 4 primary schools, 7 secondary schools, 2 colleges and 1 polytechnic. The audiences included students, teachers, Parents/Teachers Association members, Board of Governors, the clergy and members of the community.

4.2.3 Sectoral Integrity Education

4.2.3.1 Spiritual Sector Anti-Corruption Education

During the reporting year, the Commission partnered with the Evangelical Alliance of Kenya (EAK) to mount five (5) regional anti-corruption workshops where 100 Bishops, Assistant Bishops and clergy from the regions of Rift Valley, Western, Nyanza, Central and Coast provinces were trained.

This collaboration led to the development of a Scripture Study Guide. The purpose of the Scripture Study Guide is to assist to focus on anti-corruption biblical teachings to advance integrity in society. The Scripture Study Guide will be used in churches and para-church institutions throughout Kenya.

Discussions were also started with the Supreme Council of Kenya Muslims (SUPKEM), the Hindu Council and the Young Muslims Association to develop similar Scripture Guides for anti-corruption and integrity training by these faiths.

4.2.3.2 Law Enforcement Agencies Anti-Corruption/Integrity Education and Curriculum Development

i). *Kenya Prisons Service*

During the reporting period, the Commission sensitized and trained 85 additional officers of the Kenya Prisons Services in Nyanza, Coast and North Eastern Provinces. Another twenty one (21) instructors drawn from PSTC, Headquarters, and other stations were trained on how to amend and enrich the PSTC curriculum by integrating anti-corruption and integrity components. The trained staff are set to start revision of PSTC curriculum.

ii). *Administration Police (AP) Curriculum Development*

A Training of Trainers workshop on the infusion of integrity/anti-corruption in the curriculum was conducted for 60 instructors from Administration Police Training College (APTC) - Embakasi. The syllabus of APTC will target the Administration Police, Chiefs and Assistant Chiefs and senior cadres of provincial administrators who under go training at APTC.

iii). *Kenya Institute of Administration (KIA) Trainers and Lecturers*

A Training of Trainers (TOT) workshop was conducted for 25 lecturers from Kenya Institute of Administration (KIA). The training equipped lecturers from KIA with the appropriate knowledge, skills and attitudes to enable them mainstream and integrate anti-corruption and integrity in the training of public sector officers. This institution is critical in the delivery of management training for all senior level public servants.

4.2.3.3 The Cooperatives Sector Integrity and Anti-Corruption Training

The Commission implemented a country-wide partnership programme focusing on the training of cooperators in collaboration with the Ministry of Cooperatives Development and Marketing. Five hundred and eighty (580) public servants and shareholders were sensitized and trained on the dangers of corruption and how to prevent it through transparency, accountability and introduction of sound governance and management systems and practices.



Table 12: Training in Cooperative Societies by Province

Province	Level & Category of Cooperators	No. Trained
Nairobi	Jamii Cooperative Leaders drawn from various SACCOs in Nairobi	120
	1st Group Cooperatives Societies Managers	21
Central	Leaders' Baraza in Central Province	150
	Middle - Senior Level Managers (Ministry of Cooperatives Development & Marketing)	40
Coast Province	Middle - Senior Level Managers (Ministry of Cooperatives Development & Marketing)	9
Western & Nyanza	District and Provincial Cooperatives Training Officers	40
All Provinces	Provincial and District Co-operatives Officers and Auditors	200
Total		580

## 4.2.3.4 Community Based Organizations (CBO) Anti-Corruption Project

During the year, the Commission implemented a Community Based Organization anti-corruption project in collaboration with the Ecumenical Justice and Peace (ECJP) and German Technical Cooperation (GTZ). One hundred and fifty (150) ECJP and Civic Education and Advocacy Committees (CEAC) members in ten districts were trained to mobilize local communities against corruption.

The Commission also conducted Community Hearings in three districts on a pilot basis offering Kenyans at the grassroots the opportunity to discuss and report corruption. The Hearings were held in Teso, Lugari and Meru North Districts. During the exercise, ordinary Kenyans learnt about corruption and were also able to apply this knowledge by reporting corruption. Nineteen (19) reports of alleged corruption were filed with the Commission during the Hearings.

## 4.2.3.5 Public Service Integrity Program (PSIP)

The Public Service Integrity Program (PSIP) is supported by the Kenya Anti-Corruption Commission to foster efficiency and effectiveness in the discharge of service by public servants.

During the year under review, the Commission supported the training of Integrity Assurance Officers (IAOs) and managers in public institutions and conducted training seminars for public servants to improve and enhance their knowledge, skills and attitudes in service delivery.

## 4.2.3.6 Summary of Sensitization Seminars conducted by Education Department

Training was conducted for 48 institutions involving 17,846 participants.

Table 13: Sensitization Seminars Organized by the Commission

Institution	No. of Officers
Kenyatta National Hospital (KNH)	79
Department of Children's Services	83
Kenya Investment Authority	73
Kenya Film Corporation	11
Kenya Police	53
Kenya Education Staff Institute (KESI)	200
Kenya Prisons Service	106
City Council of Nairobi	57
Ministry of State for Defence (DOD)	58
Ministry of Local Government	72
Ministry of Labour - Directorate of Industrial Training (DIT)	50
Kenya Roads Board (KRB)	20
Coffee Development Fund	15
Kenya Prisons Service	35
Kenya Institute of Special Education (KISE)	30
Kenya Broadcasting Corporation (KBC)	30
Export Promotion Council (EPC)	50
Nyeri Water Services Company (NYEWASCO)	110
Utalii College	93
Kenya Union of Savings Cooperative and Credit Limited (KUSCCO)	5
Kenya Re-Insurance	76
Tea Board of Kenya	13
African Youth Trust	20

New KCC	20
Institute of Certified Public Accountants	170
Ministry of Cooperatives	580
Ministry of Education	251
Kenya Institute of Administration	25
Administration Police Training College	60
Integrity Assurance Officers	488
Community Based Organizations	497
Community Based Anti-Corruption Monitors	66
Evangelical Alliance of Kenya	100
Visits to schools and colleges	14,000
Young Farmers Club	250
<b>TOTAL</b>	<b>17,846</b>

### 4.3 RESEARCH AND POLICY PROGRAMMES

#### 4.3.1 Research and Analysis

##### 4.3.1.1 National Corruption Perception Survey – 2007

The Survey measured perceived corruption and compared the outcome with findings of the 2005 and 2006 surveys. The 2007 Survey was carried out during the months of August and September 2007 involving 5,207 respondents spread across the country. The report has been disseminated to the various stakeholders. The highlights of the survey findings were:

- More than three quarters of the respondents (77.9%) understood corruption to mean giving and taking bribes. Other manifestations of corruption recognized include misuse of public resources, tribalism/nepotism/favoritism, extortion, fraud, illegal acquisition of public property and tax evasion.
- Over three quarters of the respondents (77.6%) perceive corruption to be a major problem today while nearly all respondents (91.8% and 83%) believe that "grand" and "petty" corruption respectively is very harmful to the economy.
- On average, 44 percent of the respondents indicated that corruption level within public institutions has decreased, 34.3 percent believe it has increased, while 16 percent felt it has not changed.
- Respondents perceived the Police (Traffic, Regular and Administration) and the Provincial Administration to top the list of public agencies most involved in bribery. Government Hospitals, Local Authorities, National Registration Bureau, Lands Office, the Judiciary and Department of Immigration were also perceived as dens of corruption.
- Figure 5 shows that the size of bribe increases with income brackets. It further shows that in the lower income bracket, there was a marked decline in the size of bribe between 2005 and 2007.

Among some of the recommendations arising from the findings were: that best practices ought to be adopted in public service delivery; corruption prevention programmes should be expanded to have more outreach in influencing institutional operations and change in attitude among Kenyans, and that, public institutions perceived to be corrupt must take a central, demonstrated and active role in instituting meaningful anti-corruption measures.

##### 4.3.1.2 Health Sector Survey 2008

The main objective of this study was to assess the magnitude, nature and impact of corruption in Kenya's public health care sector and the healthcare systems. The study sought to assess policy, legal, institutional and operational frameworks and explore their impact on the state of corruption and governance. Special focus was directed at procurement of drugs and equipment, including construction; provider-patient interaction, and financing.

The survey findings indicate existence of procurement of sub-standard/poor quality medical supplies; manipulation of the tendering systems; misappropriation of supplies, and bribery. These are attributed to lack of effective systems of accountability, bureaucracy, and poor supervision. Obsolete policies and laws were also cited as conducive to corruption.

#### 4.3.2 Policy Formulation and Reform

##### 4.3.2.1 Traffic Police Policy Paper

This policy study examined the reasons behind corrupt activities within the road transport system. Specifically, the study looked at the traffic police and scrutinized the efficacy of the traffic roadblocks as a mechanism for enhancing road safety in Kenya. The main objective was to establish and understand the root causes of corruption in the Traffic Police Department and to propose measures to be considered in addressing the problem.

Key findings of the study were:

- The legal and regulatory framework remains weak and in some aspects outdated. There is need to review the Police Act (Cap. 84) to infuse and facilitate change in the Police Force. The Traffic Act (Cap 403 of the Laws of Kenya) was rarely complied with thus leading to abuse and corruption.
- Bribery and Abuse of Office allegations are more against the police compared to the other public institutions. Reports made to KACC indicate that the police was leading (32%) followed by Local Authorities (13.7%) and Provincial Administration (9.4%). Furthermore, bribery allegations against the police stood out to be most prevalent (80.99%) with the traffic department being worst affected (41.3%). In fact the traffic police alone accounted for 10.7% of the total bribery and abuse of office allegations against officers in the entire public service.
- Corruption on public roads – traffic checks, roadblocks and weighbridges – translates to billions of Kenya shillings annually.

Some of the recommendations arising from the report include: (i) strict, consistent enforcement of The Traffic Act to improve compliance (ii) The Traffic Act should be amended to give Traffic Base Commanders powers to effectively deal with traffic offenders (iii) clear guidelines ought to be developed on the enforcement of Police Standing Orders on Traffic Police Officers including those manning roadblocks.

#### 4.3.2.2 Sugar Sector Policy Review

This was a review of the policy, legal and regulatory framework of the Sugar Sector seeking to understand how existing operating frameworks have created corruption loopholes. The review was undertaken in October 2007 and involved key informant interviews with various stakeholders in the sugar sector including line government ministries, the Kenya Sugar Board (KSB), Millers and Manufacturers, Out-grower associations, various sugar bodies and associations and farmers.

The review revealed weaknesses and shortcomings in the policy, legal and regulatory environment of the sector that have led to gross mismanagement and corruption witnessed in the sector over time. The Commission has made recommendations which if adopted will trigger a number of actions needed to revitalize the sector and rid it of bad governance and corruption. The details are contained in a report to be disseminated to the stakeholders.

#### 4.3.3 Planning and Information

##### 4.3.3.1 Investment Programme – Economic Recovery Strategies (IP-ERS) End Evaluation of the Anti-Corruption Programmes

An end term evaluation of the Economic Recovery Strategy for Employment and Wealth Creation (2003-2007) was conducted in the period under review. The Commission, in collaboration with the Office of the Prime Minister-Ministry of State for Planning National Development and Vision 2030, undertook an evaluation of the governance and anti-corruption measures outlined in the ERS. The findings and recommendations are contained in a report to be released by the ministry.

##### 4.3.3.2 Governance and Anti-Corruption Programmes for the Medium Term Plan (MTP) 2008- 2012 for Vision 2030

The Commission, in collaboration with other stakeholders in the Governance, Security and Rule of Law Sector, took part in formulating priority programmes for the Medium Term Plan (2008-2012) of the Vision 2030. The key anti-corruption, ethics and integrity priorities include:

- i). Developing and implementing a national anti-corruption policy;
- ii). Strengthening the legal framework for anti-corruption, ethics and integrity to guarantee a transparent and accountable public service through review of the Anti-Corruption and Economic Crimes Act, 2003 and Public Officer Ethics Act, 2003;
- iii). Enhancing National Anti-Corruption awareness campaign;
- iv). Enacting the Mutual Legal Assistance Bill and the Proceeds of Crime and Anti-Money Laundering Bill;
- v). Enacting a legislation on whistleblower protection; and
- vi). Mainstreaming anti-corruption, ethics and integrity in the public sector.

### 5. FINANCE AND ADMINISTRATION

During the year under review, the Commission implemented measures to enhance institutional capacity, effectiveness and efficiency.

#### 5.1 FINANCE AND ACCOUNTS SERVICES

##### 5.1.1 Funding

The Commission was allocated Kshs 1.248 billion in its Recurrent Vote and Kshs 60 million in the Development Vote for FY 2007-08.

The Development funds were earmarked for the acquisition of land and construction of the Commission's office premises and land has been purchased for the purpose.

Development partners through the Governance, Justice, Law and Order Sector (GJLOS) also supported some Commission activities.

##### 5.1.2 Financial Compliance

The Commission endeavoured to prudently and efficiently manage the financial resources allocated and maintained proper books of accounts, adequate financial controls and ensured timely reporting, while adhering to the requirements of the Government Financial Management Act, 2004 and other set financial guidelines.

##### 5.1.3 Procurement Compliance

The Public Procurement and Disposal Act, 2005 and The Public Procurement and Disposal Regulations, 2007 came into effect on 1st January, 2007. In line with the provisions of the Act, the Commission has established Tender and Procurement Committees to ensure that all procurement practices comply with the applicable laws and to deliver maximum value for money. These committees are complemented by committees for Evaluation, Inspection & Acceptance, Disposal, Standards and Specification. Deliberations on procurement are conducted independently, guided by the applicable laws and regulations but in conformity with the principles of:

- Accountability and Transparency
- Economy and Value for money
- Efficiency and effectiveness
- Highest levels of integrity
- Fairness, equity and objectivity
- Responsibility

##### 5.1.4 Performance Reporting

As part of its accountability responsibilities and in compliance with section 15(6) of the Anti-Corruption and Economic Crime Act, 2003, the Commission, published regularly the Annual and the Quarterly reports in the Kenya Gazette and other suitable media such as the print and KACC website. In addition efforts were made to inform the public and other stakeholders about the performance of the Commission and the progress of the implementation of its mandate under the Act.



## 5.2 HUMAN RESOURCE SERVICES

### 5.2.1 Capacity Building

The Commission recruited to fill vacant positions in its establishment. However in light of the intended regional expansion, there is need for additional resources.

### 5.2.2 Training and Development

Staff continued to receive professional training to deepen critical skills and enhance performance. They also attended seminars abroad for exposure to best practices and for building networks for a concerted global action on corruption.

### 5.2.3 The Commission's Governance Framework

The Commission has established an elaborate governance framework to ensure compliance with the law and application of best practices in all areas of operation.

### 5.2.4 Health, Safety and Employee Welfare

The Commission continues to ensure a safe and conducive working environment for its staff.

### 5.2.5 Corporate Social Responsibility

In recognition of the effects of the post election crisis, our staff joined other Kenyans in helping those in need by donating materials for use by those affected.

## 5.3 INFORMATION COMMUNICATION TECHNOLOGY (ICT)

### 5.3.1 Information and Communication Systems

The Commission continuously reviewed and updated its ICT systems in order to enhance operational efficiency and address challenges of expansion, security and disaster preparedness. Our offices in Nairobi and Mombasa are linked through the Wide Area Network (WAN).

## 5.4 CORPORATE COMMUNICATION

### 5.4.1 Publicity Programmes

The Commission maintained an active interaction with the media. Various programmes and activities of the Commission were well profiled in the media.

The Commission produced and distributed locally and internationally various IEC materials, Calendars, Newsletters and BKMS Brochures as a way of communicating critical messages on corruption and creating greater understanding of the role of the Commission and other actors in anti-corruption.

### 5.4.2 Clarifying Perceptions

While the Commission continues to receive criticism about its effectiveness in the war against corruption, it will be appreciated that some perceptions stem largely as a result of misunderstanding about its mandate.

### 5.4.3 KACC Website

The Commission website continued to be an effective tool for dissemination of information and receipt of corruption reports. During the year under review, the Commission's website received the 1st runners-up award at the 2007 Public Relations Society of Kenya (PRSK) awards for excellence. The website receives an average of 144 hits per day demonstrating popularity among local and international users.

## 6. NATIONAL AND INTERNATIONAL ENGAGEMENTS

### 6.1 SEMINARS/WORKSHOPS PRESENTATIONS

The Commission participated in a number of workshops, conferences and seminars. The Commission presented papers sharing strategies in combating corruption. The events provided an opportunity for the Commission to establish contacts with a wide range of institutions and individuals which assisted in forging closer working collaborations. The Commission also show-cased the achievements and challenges faced in the fight against corruption. The workshops/conferences include:

1. The Second Advisory Board Nominating Bodies Meeting – Nairobi, June 2008
2. Inter-Agency Forum Meeting - Naivasha, June 2008
3. Implementation of the UNCAC Provisions on Corruption Prevention - Chongqing, China May 2008
4. Regional Conference on the optimization of Public Funds - Cape Town, South Africa April 2008
5. Corruption Hunter Network Meeting - Dar es Salaam, Tanzania- 26th February 2008
6. The first Annual General Meeting of the East African Association of Anti-Corruption Authorities - Arusha, Tanzania 14th February 2008
7. United Nations Convention Against Corruption - Nusa-Dua, Indonesia January 2008
8. The 2nd Annual Conference and General Meeting of the International Association of Anti-Corruption Authorities - Indonesia November 2007
9. The Commonwealth Law Conference 2007, September 2007

### 6.2 NATIONAL GOVERNANCE AND ANTI-CORRUPTION COALITION

#### 6.2.1 Implementation of the National Anti-Corruption Plan (NACP)

The Commission continues to collaborate with other sectors to implement the National Anti-Corruption Plan. The Plan incorporates and coordinates multi-sectoral efforts involving The Legislature; Judiciary; the Executive; Enforcement Agencies; Watchdog Agencies; the Media; Kenya Anti-Corruption Commission; Private Sector; Religious Sector; Civil Society; Labour and Education. During the year under review, the Commission implemented its part of the Plan by addressing the key issues identified in the Plan. These issues focus on:

- Inadequate legal framework and instruments;
- Insufficient knowledge of Anti Corruption Laws;
- Inadequate specialized skills;
- Limited facilities and inadequate equipment;
- Absence of a strategic plan;
- Lack of Coordination of various anti-corruption and governance agencies;
- Lack of anti-corruption curriculum/materials in the education system;
- Lack of local networks & outreach programmes; and
- Self-regulation mechanisms.

The Commission supported the 2<sup>nd</sup> Annual Integrity Review Conference which was held on 5<sup>th</sup> July 2007. The conferences reviewed sectoral progress in implementing the NACP and also made resolutions to guide future activities.

For the 2<sup>nd</sup> year of NACP implementation, the Commission continued to facilitate the Kenya Integrity Forum Secretariat, which supports sectors in the implementation of the Plan and also services the National Anti-Corruption Plan National Coordinating Committee and the KIF Annual Integrity Review Conferences. The Commission facilitated the printing of the Progress Report on the Implementation of the Plan 2006 – 2007, which has been circulated to all stakeholders.

The Commission also supported a countrywide survey to monitor and evaluate Plan implementation at operational level, which was carried out by the Secretariat in collaboration with the sectors. According to the survey a majority of the respondents (68.4 %) assessed the anti-corruption activities/programmes/strategies being implemented as either very effective or moderately effective in fighting corruption.

#### 6.2.2 Inter Agency Forum

The Commission is represented in the Inter-Agency working forum where intelligence information is shared to aid in combating corruption in the country.

### 6.3 STRENGTHENING GLOBAL ANTI-CORRUPTION NETWORKS

The year also saw the formation of the East African Association of Anti-Corruption Authorities which brings together anti-corruption agencies in Kenya, Tanzania, Uganda, Rwanda and Burundi. The Commission played an integral role in the formation of the association including the drafting of its constitution and draft East African Anti-Corruption Protocol that is currently in the offing.

The Commission also participated in initiatives geared towards enactment of Mutual Legal Assistance legislation, one under the auspices of the Inter-Ministerial Task Team on Mutual Legal Assistance and a similar initiative by the Kenya Law Reform Commission.

In the same period, collaboration mechanisms were established with the Botswana Directorate of Corruption and Economic Crime (DCEC) and a further international collaboration was established with the Southern Sudan Anti-Corruption Commission (SSACC) in March 2008. Being a new institution that started operations in September 2007, the Southern Sudan Commission sought KACC facilitation in a workshop for inducting officers of the SSACC.

The Commission also received and responded to several requests from other countries, among them one from the Government of Southern Sudan for comments on the Southern Sudan Anti-Corruption Bill, 2007.

## 7 CHALLENGES

The Commission continues to experience many administrative and operational challenges in the course of carrying out its mandate. These challenges are summarized here below:

### 7.1 RESOURCES

#### i). Office Accommodation

The Commission has operated from rented premises since its inception at the Integrity Centre. This space can no longer accommodate its needs. Apart from Mombasa, the Commission has not set up field offices in the rest of the country.

#### ii). Staff Complement

The Commission currently has a staff complement of 270. This number includes management, operational and support staff. Projections for optimal human capacity for the Commission indicate that the desirable number of staff is 400-500 which indicates need for more human resources.

### 7.2 LAW ENFORCEMENT

The enforcement of anti-corruption law the world-over is fraught with many challenges, and Kenya is no exception. In addition to physical threats to the person of officers of front-line anti-corruption agencies, there are many obstacles which impede enforcement of the law. The following are some of the challenges encountered by the Commission in enforcement of anti-corruption laws in Kenya:

#### i). Misuse of Judicial Processes

Persons under investigation by the Commission or suspects arraigned before Court for corruption, economic crimes or related offences have routinely petitioned the High Court or filed judicial review applications to stop on-going investigations and frustrate or derail criminal proceedings. A good number of these applications are not grounded on substantial constitutional issues or valid complaints against the Commission or other investigative bodies. They are solely intended to buy time for the applicants as the determination of such petitions and judicial review applications is excruciatingly

slow. This has the effect of frustrating investigations and prosecution of corruption and related cases, besides occasioning litigation fatigue and/or wearing down prospective witnesses.

This, coupled with the somewhat tedious judicial processes and huge backlog of cases in the judiciary, has delayed the conclusion of investigations geared towards prosecution of suspects and tracing and recovery of lost or damaged public properties. Presently, the hearing and determination of numerous constitutional and judicial review applications have been held back by needless requests for adjournments by litigants thereby derailing proceedings in the Anti-Corruption Courts. Although the ACECA stipulates that trials before the special magistrates should be heard on a day to day basis, it has not been practicable to strictly follow the law as the special magistrates are also required to hear other criminal matters, alongside performing other judicial assignments.

ii). *Poor Record Keeping in Public Offices*

Non-availability in Government offices of crucial public records, which invariably form the main source of the Commission's evidential material in both criminal trials and civil claims, poses a big challenge to investigations. Most of the cases under investigation by the Commission relate to past corruption incidences, and material original documents necessary to prove the cases in a court of law are often unavailable for various reasons associated with poor record keeping in Government.

General malaise and less-than-enthusiastic public servants make it very difficult for the Commission's investigators to gather evidence which is necessary to sustain credible prosecution of suspects or marshal viable recovery proceedings.

iii). *Inhibitive Legal Provisions*

Recent amendments to the ACECA through the Statute Law (Miscellaneous Amendment) Act, 2007 have made it mandatory for the Commission to obtain court orders to facilitate investigations through notices issued to suspects and their associates under sections 27, 28 and 30 of the Act and, further, barred the use of any information gathered through such notices in any criminal proceedings against the suspect. In essence we have moved from "disclosure on statutory notices" to "disclosure orders". In a nutshell the Commission must obtain a disclosure order at an inter-partes hearing to compel a suspect or his associate to disclose material information to the Commission. This is a clear departure from the law governing disclosure of evidential material and information to an investigative body. The amendments have made the process of investigation convoluted and somewhat prolix thus significantly reducing the Commission's investigative capacity.

iv). *Anti-Corruption Law and the Commission - Constitutional Challenges*

There have been several constitutional and judicial review applications challenging, among other things, the constitutionality of the anti-graft laws and the Commission's mandate and powers. For instance, the High Court of Kenya sitting as a Constitutional Court in Nairobi High Court Petition No 199 and 200 of 2007 Deepak Kamani and Rashmi Kamani vs. AG & another, struck out section 31 of ACECA on, among other grounds, that it unduly impeded the citizen's right of movement and was thus inconsistent with among other provisions, section 81 of the Constitution of Kenya. Whereas the Commission's appeal to the Court of Appeal is pending hearing and determination, the striking out of section 31 of ACECA portends that persons under investigation for corruption or economic crime may now abscond from jurisdiction with impunity.

In yet another "high water-mark" decision in Nairobi High Court Petition No 695 of 2007 Mercantile Financial Securities Corporation v. KACC, a matter in which the petitioner was challenging the investigative powers of the Commission, the court held that the Commission lacked the mandate to directly request for assistance from any foreign government or law enforcement agency by way of mutual legal assistance in international investigations. These developments have had the result of significantly whittling down the Commission's investigative powers.

v). *Appointments/Transfers of Magistrates*

Transfers of Special Magistrates appointed to the Anti-Corruption Courts are a cause of delay in court proceedings, particularly when they occur frequently. This also has the effect of multiplying the number of fruitless court attendances which often-times result in witness fatigue. Ultimately, it becomes very difficult and frustrating on the part of the Commission to secure the attendance of such witnesses, to complete the hearing of such matters.

The appointment of special magistrates under section 3 of the Act has not helped to enhance efficiency and to ensure speedy disposal of corruption cases as envisaged. The magistrates so appointed are very few and have limited geographical jurisdiction. This has led to logistical problems in the prosecution of corruption cases. The problem of geographical jurisdiction has led to a lot of inconvenience to witnesses. When only one special magistrate is appointed for a big area, logistical problems are occasioned whenever they go on leave or proceed on transfer.

vi). *Inadequate Protection for Informers*

The ACECA does not provide for an effective mechanism of encouraging and protecting informers. Though the Commission has installed the BKMS system to enable online anonymous reporting, informers who do not have access to the system do not enjoy adequate protection. With regard to those persons who make reports to the Commission, Section 65 of the Act fails to provide adequate legal framework for dealing with deliberate or inadvertent disclosures. This lacuna needlessly exposes informers to grave risks, thus discouraging a major source of intelligence and data on corruption.

vii). *Transnational Investigations*

Corruption by its very nature is transnational. Quite often, it has become necessary for the Commission to carry out investigations outside Kenya. Investigative bodies outside jurisdiction have also sought assistance from the Commission. To enable the Commission to successfully make requests for assistance, to foreign investigative agencies in furtherance of investigations with an international slant, it is now imperative for Kenya to create bilateral and/or multilateral agreements with other countries. This will ensure reciprocity and mutuality of obligation to offer and receive assistance. However, Kenya has signed very few bilateral or multilateral agreements which would enable the Commission to broaden its investigative activities. Moreover, it is also necessary to enact mutual legal assistance law and amend our evidence law to govern gathering and use of evidential material obtained through mutual legal assistance.

*Other Challenges in law enforcement include:*

- a) The Official Secrets Act restricts access to information by the Commission and discourages whistle blowers.
- b) Unavailability of documentary evidence due to destruction or concealment by suspects.



- c) Reluctance of witnesses to testify for fear of reprisal.
- d) The time lapse between the commission of the crime and the detection which affects collection of evidence.
- e) Unlike many traditional crimes such as robbery or murder, in most incidences, corruption does not have a clear victim likely to complain and there is no overt occurrence likely to be reported by witness (es).
- f) Negative perception towards the Commission: It is evident that the mandate of KACC is not well understood by both the media and the public. For example the Commission is often put to task to explain why it has not prosecuted and convicted suspected corrupt individuals, yet, it is clear that KACC has no prosecutorial powers. This is the role of the Attorney General, while the courts administer justice. While we laud the media for its role in exposing corruption, sometimes there are cases of irresponsible misrepresentation of the work of the Commission.

### 7.3 CORRUPTION PREVENTION

#### i). Erosion of social values

Corruption is deeply ingrained in the Kenyan society so much so that in some cases it has been seen as a way of life. Given this situation, honest and hardworking Kenyans have sometimes been despised as fools while the corrupt have been glorified and admired for their riches. The corrupt are regarded as clever and shrewd people who should be emulated by others including children. This attitude has seeped through the Kenyan society including religious bodies where the rich are usually given preferential treatment. The result is the erosion of positive cultural and ethical values by the Kenyan society making it very difficult to prevent corruption in Kenya.

#### ii). Bureaucratic processes

Initiating liaison programmes with institutions sometimes takes long because of the peculiar organizational set-ups and necessity for internal activity approvals and adoption.

#### iii). Inadequate support of Governance programmes in some public institutions

There is inadequate support of governance initiatives and activities by some managers of public institutions. This has reduced effectiveness of some of the KACC trained IAOs who are expected to champion integrity and ethics in their institutions. Incidents of alleged threats and lack of support in attempts to roll out the integrity programmes has been cited in certain public institutions.

#### iv). Inadequate political support

It has already been noted that corruption straddles the entire socio, economic, political and cultural landscape of our country. This means that to combat the scourge effectively, a multifaceted approach is needed. Apart from comprehensive laws and independent anti-corruption institutions, wholehearted political will is necessary. Yet in its four year existence, there have been many occasions when the Commission has carried out its work in an environment where supportive political will has been lacking.

### 7.4 WAY FORWARD

The fight against corruption in Kenya will be greatly enhanced if the already existing legal and institutional framework can be further strengthened through a number of amendments, new enactments and administrative reforms.

#### 7.4.1 Resources

- a) There is need for more resources to enable the Commission to construct its own headquarters and to establish regional offices countrywide to enhance its presence and facilitate public reporting of corruption. Already the Government has made an allocation which has enabled the Commission to acquire land (5 acres) for the purpose of constructing its headquarters.
- b) Regional offices at Provincial level to cut down on costs and bring services closer to the people: the Commission has opened a branch office in Mombasa, to serve the coastal region. However, from the increased number of reports received countrywide, and the Commission's own surveys, it is very clear that there is need for a country-wide presence by the Commission. It is proposed that, subject to funding, regional offices be opened in order to increase the Commission's country-wide reach, and reduce operational expenditure associated with staff and prospective witnesses' travel, accommodation and other costs incurred in serving regions where the Commission has no office.

#### 7.4.2 Law Enforcement

- a) It is necessary to undertake a comprehensive overhaul of current anti-graft laws, including the ACECA, to strengthen the fight against corruption and economic crimes: to enact separate pieces of legislation that will complement the fight against corruption and economic crimes, such as legislation on Mutual Legal Assistance, Money Laundering, Proceeds of Crime, Whistleblowers' Protection, International Co-operation (Civil and Criminal Evidence) Law, Witness Protection (already enacted), Freedom of Information, et cetera. A significant part of investigations of corruption and economic crimes involve electronic recordings and downloading and deciphering of computer data. This calls for urgent amendment of our evidence law to facilitate collection, collation and use of digital and related evidence in cases set in motion by the Commission. This will ensure concomitant legal and jurisprudential development that keeps abreast with the rapid technological advancements the world-over.
- b) There is a growing and urgent need to establish special courts and/or division of the High Court to handle asset recovery cases. Whereas the ACECA provides for the appointment of special magistrates to expeditiously try corruption and related cases, there is no similar provision with respect to civil asset recovery cases. Consequently, all the Commission's civil cases aimed at recovering public property lost through corruption, economic crimes and related offences are subject to the existing judicial processes which are somewhat bogged down by the huge backlog of pending cases, and limited judicial capacity. It should be possible for a provision to be introduced in the ACECA enjoining the Chief Justice or the Judicial Service Commission to appoint special civil courts and/or create a new division of the High Court to try civil cases for recovery of public assets and illicit wealth acquired through corruption or economic crimes and cases for compensation for loss of and or damage to such property, and all matters of unjust enrichment. The special Magistrates appointed under ACECA on the other hand should exclusively handle corruption cases, economic crimes and other related offences. This would ultimately enhance the law enforcement initiative by expediting the determination of both civil and criminal cases under the ACECA.
- d) There is still growing necessity to consider granting the Commission prosecutorial powers. Due to lack of prosecutorial powers, the Commission cannot determine the speed at which matters it has investigated are progressed to prosecution. There is also disproportionate time-lag between

the investigation of a matter by the Commission and the decision to prosecute, not to mention the duplication of the evidence evaluation processes.

Despite the challenges highlighted above, the Commission has in our view, performed very well as the lead agency in the fight against corruption in Kenya. With political support and national goodwill, the Commission can only build on this good performance.

## 8 FINANCIAL STATEMENTS

### 8.1 CORPORATE INFORMATION

#### Anti-Corruption Advisory Board Members

The members of the Advisory Board who served during the year and to the date of this report are shown below:

1.	Mr. Allan N. Ngugi, OGW	Chairman
2.	Mrs. Shehnaz N. Sumar	Vice Chairperson
3.	Mr. Richard B. Ndung'u	Member
4.	Prof Alfred V. Otieno	Member
5.	Prof. Miriam K. Were	Member
6.	Mr. Kipng'etich K. Bett	Member
7.	Mrs. Mariam El-Maawy	Member
8.	Mrs. Anna Muchungu	Member
9.	Mr. Francis Atwoli	Member
10.	Mr. Charles Kariuki Wambugu	Member
11.	Mr. Eric Okong'o Omogeni	Member
12.	Ms. Naomi N. Wagerika	Member
13.	Justice (RTD) Aaron Ringera, EBS	Member/ Secretary

#### Secretary

Justice (RTD) Aaron Ringera, EBS  
P.O Box 61130-00200  
Nairobi

Principal Place of Business  
Integrity Centre  
Valley Road/ Milimani Junction  
P.O. Box 61130-00200  
Nairobi, Kenya

#### Auditors

Controller & Auditor General  
Kenya National Audit Office  
P.O Box 30084-00100  
Nairobi

#### Principal Bankers

Kenya Commercial Bank  
Milimani Branch  
P.O Box 69695-00400  
Nairobi

#### Advocates

Various  
A list is available at the Commission

### 8.2 REPORT OF THE DIRECTOR

For the year ended 30th June 2008.

The Director presents the report together with the audited financial statements for the year ended 30th June 2008.

#### Activities

The principal activities of the Commission are to investigate corruption and economic crimes, recover lost public property and obtain compensation for damaged public property, prevent corruption and conduct public education on the dangers of corruption.

#### Results

The results for the year are set out on page 91.

#### Members of the Advisory Board

The members of the Kenya Anti-Corruption Advisory Board who served during the year are listed on page 85.

#### Auditor

The auditor of the Commission for the year ended was the Controller and Auditor General in line with the Public Audit Act, 2003 and Anti-Corruption and Economic Crimes Act, 2003. The auditor for the Commission continues to be the Controller and Auditor General.

On behalf of the Commission

Justice (RTD) Aaron Ringera, EBS  
Director/Chief Executive

10<sup>th</sup> September 2008

### 8.3 STATEMENT OF THE DIRECTOR'S RESPONSIBILITIES

The Anti-Corruption and Economic Crimes Act 2003, requires the Commission to cause to be prepared financial statements for each financial year which give a true and fair view of the financial affairs of the Commission as at the end of the financial year and the operating results for the year.

The Commission is also responsible for keeping proper accounting records which disclose with reasonable accuracy the financial position of the Commission in addition to ensuring that the assets are safeguarded.

The Commission accepts responsibility for the annual report together with the financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgments and estimates, in conformity with the International Financial Reporting Standards and with the requirements of the Public Audit Act, 2003. The Commission is of the opinion that the annual report together with financial statements gives a true and fair view of the state of the financial affairs of the Commission and of its operating results. The Commission further accepts responsibility for the maintenance of accounting records which may be relied upon in the preparation of financial statements, as well as adequate systems of the internal financial control.

Nothing has come to the attention of the Commission to indicate that the Commission will not remain a going concern for at least twelve months from the date of this statement.

Signed on behalf of the Commission by:

Justice (RTD) Aaron Ringera, EBS  
Director/Chief Executive

10<sup>th</sup> September 2008

### 8.4 REPORT OF THE CONTROLLER AND AUDITOR GENERAL



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REPUBLIC OF KENYA



P.O. Box 30000-00100  
NAIROBI

## KENYA NATIONAL AUDIT OFFICE

### REPORT OF THE CONTROLLER AND AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE KENYA ANTI-CORRUPTION COMMISSION FOR THE YEAR ENDED 30 JUNE 2008

I have audited the financial statements of the Kenya Anti-Corruption Commission set out on pages 7 to 16 which comprise the balance sheet as at 30 June 2008 and the income statement, statement of changes in equity and cash flow statement for the year then ended, together with a summary of significant accounting policies and other explanatory notes in accordance with the provisions of Section 20 of the Public Audit Act, 2003. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

#### The Commission's responsibility for the financial statements

The Commission is responsible for the preparation of financial statements which give a true and fair view of the Commission's state of affairs and its operating results in accordance with the International Financial Reporting Standards. This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

#### Responsibility of the Controller and Auditor General

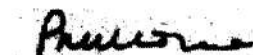
My responsibility is to express an independent opinion on the financial statements based on the audit. The audit was conducted in accordance with the International Standards on Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed with a view to obtaining reasonable assurance that the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal controls relevant to the entity's preparation and fair presentation of the financial statements in order to

design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal controls. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Commission, as well as evaluating the overall presentation of the financial statements. I believe the audit provides a reasonable basis for my opinion.

#### Opinion

In my opinion, proper books of account have been kept and the accompanying financial statements give a true and fair view of the state of the financial affairs of the Commission as at 30 June 2008 and of its surplus and cashflows for the year then ended in accordance with the International Financial Reporting Standards and comply with the Anti-Corruption and Economic Crimes Act, 2003.



**P.N. KOMORA, CBS.  
CONTROLLER AND AUDITOR GENERAL**

Nairobi

18 September 2008

**8.5 BALANCE SHEET**  
As at 30<sup>th</sup> June 2008.

ASSETS	Note	2008 Kshs	2007 Kshs
<b>Non Current Assets</b>			
Property, plant and Equipment	2	223,092,417	118,770,385
Gratuity Fund Investment	3	170,096,469	84,263,580
Asset Recovery Account	4	1,843,628	
		395,032,514	203,033,965
<b>Current Assets</b>			
Inventories	5	9,120,620	10,370,956
Trade and other receivables	6	19,569,168	53,806,346
Cash and Cash Equivalents	7	75,415,101	92,742,002
		104,104,889	156,919,304
<b>Total Assets</b>		<b>499,137,403</b>	<b>359,953,269</b>
<b>EQUITY AND LIABILITIES</b>			
Accumulated Fund	13	178,561,372	111,983,013
Revenue Reserves	14	148,123,886	162,431,708
		326,685,258	274,414,721
<b>Non Current Liabilities</b>			
Gratuity Fund	3	170,096,469	84,263,580
Asset Recovery Account	4	1,843,628	
		171,940,097	84,263,580
<b>Current Liabilities</b>			
Trade and Other Payables	8	12,048	774,968
Accrued Liabilities and Charges	9	500,000	500,000
		512,048	1,274,968
<b>Total Equity and Liabilities</b>		<b>499,137,403</b>	<b>359,953,269</b>

The Financial Statements on Pages 85 to 101 were approved on 10<sup>th</sup> September 2008 and signed on behalf of the Commission by:

**JUSTICE (RTD) AARON RINGERA, EBS**  
Director/Chief Executive

**FATUMA SICHALE (MRS)**  
Deputy Director



**8.6 REVENUE AND EXPENDITURE STATEMENT**  
For the year ended 30<sup>th</sup> June 2008.

REVENUE	Note	2008 Kshs	2007 Kshs
Government Grants (GOK)	10	1,234,000,000	1,294,158,000
Development Partners/ Donor Support	11	60,000,000	13,270,350
Other Income	12	<u>2,393,908</u>	<u>2,438,473</u>
Total Revenue		1,296,393,908	1,309,866,823
EXPENDITURE			
Administration Expenses	19	894,939,948	854,660,266
Operating and Maintenance	20	<u>323,019,780</u>	<u>292,774,849</u>
Total Expenditure		<u>1,217,959,728</u>	<u>1,147,435,115</u>
Surplus for the Year		78,434,180	162,431,7080

**8.7 CASH FLOW STATEMENT**

Cash Flow Statement for the year ended 30<sup>th</sup> June 2008.

	Notes	2008 Kshs	2007 Kshs
From operating activities			
Net income from operations		78,434,180	162,431,708
Add back non-cash payment (Depreciation)		60,309,558	34,649,180
Loss on disposal on property, plant & equipment		118,641	
		138,862,379	197,080,888
Increase/(Decrease) in inventories		1,250,336	(3,713,938)
Increase/(Decrease) in receivables & Prepayments		34,237,178	(11,395,894)
Increase/Decrease in payables		(762,920)	(18,745,595)
Net cash utilized from operating activities		173,586,973	163,225,461
From Investing Activities			
Purchase of property, plant and equipment		(99,520,512)	(58,283,303)
Proceeds from disposal of plant, property and equipment		1,348,640	
Net cash utilized in investing activities		(98,171,872)	(58,283,303)
From Financing activities			
Refund of Surplus to the Treasury		(92,742,002)	(210,688,735)

Net cash used in Financing activities	(92,742,002)	(210,688,735)
Net increase in cash and cash equivalents	(17,326,901)	(105,746,577)
Bank and Cash equivalents at beginning of year	92,742,002	198,488,579
Bank and cash equivalent at end of year	75,415,101	92,742,002

## 8.8 STATEMENT OF CHANGES IN EQUITY

Statement of Changes in Equity for the year ended 30<sup>th</sup> June 2008.

	Accumulated Fund (Kshs)	Revenue Reserve (Kshs)	Total (Kshs)
As at 1 July 2006	127,067,121	210,688,365	337,755,486
Refund of Surplus (FY 2004/5) to the Treasury	-	(210,688,365)	(210,688,365)
Revaluation Surplus/Loss	(15,084,108)	-	(15,084,108)
Surplus for the Year	-	162,431,708	162,431,708
Balance as at 30 June 2007	111,983,013	162,431,708	274,414,721
As at 1 July 2007	111,983,013	162,431,708	274,414,721
Refund of Surplus (FY 2006/7) to the Treasury	-	(92,742,002)	(92,742,002)
Grants	66,578,359	-	66,578,359
Surplus for the Year	-	78,434,180	78,434,180
Balance as at 30 June 2008	178,561,372	148,123,886	326,685,258

The Accumulated Fund represents the surplus for the year and capital transfer of inventory, plant and equipment inherited from the defunct Anti-Corruption Police Unit (ACPU) and Investigation Software received as a grant.

## 8.9 NOTES TO THE FINANCIAL STATEMENTS

For the year ended 30<sup>th</sup> June 2008.

## 1. Summary of Significant Accounting Policies

The principal accounting policies adopted in the preparation of these financial statements are set out below. These policies have been consistently applied to all the years presented.

## (i) Basis of preparation and form of presentation

The financial statements are prepared in compliance with International Financial Reporting Standards (IFRSs). The financial statements are presented in functional currency, Kenya shillings (Kshs), which is the prevailing currency within the primary economic environment, and prepared in accordance with the measurement bases prescribed by IFRSs.

The preparation financial statement in conformity with IFRS requires the use of estimates and assumptions. It also requires management to exercise its judgment in the process of applying the Commission's policies.

The financial statements are prepared in accordance with and comply with International Financial Reporting Standards (IFRS).

(ii) Revenue Recognition

Income is recognized in the period in which it is received. Government and donor funding is only recognized on receipt. Income is not accrued if its recoverability is considered doubtful.

Interest income is recognized on a time proportion basis using the effective interest rate method.

(iii) Revenue

The revenue constitutes all funds accruing to the Commission in the form of exchequer allocations, funds from development partners and other income arising from investment and sale of tenders including proceeds of disposal of assets.

(iv) Grants

Grants related to assets, including non monetary grants at fair value, are recognized when there is reasonable assurance that the grant will be received and the Commission will comply with the conditions attaching to them.

(v) Property, Plant and Equipment

All categories of property, plant and equipment are initially recorded at cost.

Subsequent costs are included in the asset's carrying amount or recognized as a separate asset, as appropriate, only when it is probable that future economic benefits associated with the item will flow to the Commission and the cost can be measured reliably. All other repairs and maintenance are charged to the profit and loss account during the financial period in which they are incurred.

Increases in the carrying amount arising on revaluation are credited to a revaluation surplus reserve in accumulated funds. Decreases that offset previous increases of the same asset are charged against the revaluation surplus; all other decreases are charged to the profit and loss account. Each year the difference between depreciation charged based on the revalued carrying amount of the asset (the depreciation charged to the profit and loss account) and depreciation based on the asset's original cost is transferred from the revaluation surplus to retained earnings. Leasehold land is not depreciated

Depreciation is calculated on a reducing balance basis at rates designed to write down the assets to their estimated residual values over their estimated useful lives using the following annual rates:

	Rate per annum (%)
Computers & Software	33.33
Motor vehicles	25.00
Plant and equipment	12.50
Surveillance Equipment	12.50
Furniture, Fixtures & Fittings	12.50

Property, plant and equipment are periodically reviewed for impairment. Where the carrying amount of an asset is greater than its estimated recoverable amount, it is written down immediately to its recoverable amount. An impairment loss is recognized in the income statement, whenever the carrying amount of an asset exceeds its recoverable amount. Gains and losses on disposal of property, plant and equipment are determined by comparing the proceeds with the carrying amount and taken into account when determining the surplus of the year.

(vi) Inventories

Inventories are valued at the lower of cost and net realizable value. Cost is determined on a first-in-first-out basis.

(vii) Trade and other receivables

Trade receivables are recognized and carried at original invoice amount less an allowance for any uncollectible amounts. An estimate for doubtful debts is made when collection of the full amount is no longer probable. Bad debts are written off as incurred.

(viii) Cash and cash equivalents

Cash and cash equivalents comprise cash on hand; bank balances demand deposits and short-term, highly liquid investments readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash and cash equivalents that are not readily accessible are classified under deferred assets. For the purposes of the cash flow statement, cash and cash equivalents consist of cash on hand and deposits in banks, and short term highly liquid investments.

(ix) Trade and other payables

Liabilities for trade and other amounts payable are carried at cost which is the fair value of the consideration to be paid in the future for goods and services received, whether or not billed to the Commission.

(x) Provisions and accruals

Provisions are recognized when the Commission has a present obligation (legal or constructive) as a result of a past event, and it is probable that an outflow of resources embodying economic benefits.

(xi) Employee benefits

The Commission sets aside on monthly basis the gratuity for its employees. This is managed separately as sinking fund in accordance with section 13(4) of the Anti-Corruption and Economic Crimes Act, 2003.



The Commission also contributes to a statutory defined contribution pension scheme, the National Social Security Fund (NSSF). Contributions are determined by local statute. Any contributions made to the NSSF in respect of current service are charged against income in the year of contribution.

(xii) Income taxes

The Commission being a non trading entity is not subject to taxation. No tax is therefore provided in these accounts.

## 2. PROPERTY, PLANT AND EQUIPMENT

[illegible]

Cost or Valuation	52,101,910	25,232,830	27,500,177	12,661,356	101,592,601	132,202,796	351,291,670
Accumulated Depreciation		(5,557,810)	(6,343,541)	(2,946,843)	(58,826,600)	(54,524,458)	(128,199,252)
Net book value	52,101,910	19,675,020	21,156,636	9,714,513	42,766,001	77,678,338	223,092,417

### 3. Gratuity Fund Investment

The gratuity fund constitutes a proportion of basic salary set aside on monthly basis as a sinking fund to cater for benefits payable to employees when due.

	2008 (Kshs)	2007 (Kshs)
Balance brought forward	84,263,580	142,891,613
Additions	153,448,571	143,581,727
Payments	(67,615,682)	(202,209,760)
Total	170,096,469	84,263,580

### 4. Asset Recovery Account

The asset recovery account comprises of funds received from recovery of corruptly acquired assets on behalf of public organizations.

	2008 (Kshs)	2007 (Kshs)
Funds recovered in the year	2,086,378	2,290,389
Disbursements	(242,750)	(2,290,389)
Total	1,843,628	0

### 5. Inventories

	2008 (Kshs)	2007 (Kshs)
Consumables	5,026,901	6,480,741
Library books	4,093,719	3,890,214
Total	9,120,620	10,370,956

### 6. Trade and other receivables

	2008 (Kshs)	2007 (Kshs)
Imprest Debtors	239,750	844,534
Staff Advances	390,952	
Deposits	3,991,076	4,043,050
Prepayments	14,947,390	48,918,762
Total	19,569,168	53,806,346

### 7. Cash and cash equivalents

	2008 (Kshs)	2007 (Kshs)
Bank balance	66,821,016	91,924,172
Development Account	7,898,090	
Cash on hand	695,995	817,830
Total	75,415,101	92,742,002

### 8. Trade and other payables

	2008 (Kshs)	2007 (Kshs)
Trade payables	180	746,353

Other payables	11,868	28,615
Total	12,04	774,968

## 9. Accrued liabilities and charges

	2008 (Kshs)	2007 (Kshs)
Audit fees	500,000	500,000
Total	500,000	500,000

## 10. Government Grants (GOK)

Government grants represent exchequer receipts during the year.

## 11. Development Partners/Donor Support

	2008 (Kshs)	2007 (Kshs)
Reimbursement from UNDP		13,270,350
Government Grants (GOK)	60,000,000	
Total	60,000,000	13,270,350

## 12. Other Income

	2008 (Kshs)	2007 (Kshs)
Sale of tender documents	1,139,101	635,542
Interest Income	1,254,807	1,802,931
Total	2,393,908	2,438,473

## 13. Accumulated Fund

	2008 (Kshs)	2007 (Kshs)
Balance brought forward	111,983,013	127,067,121
Change during the year	66,578,359	15,084,108
Total	178,561,372	111,983,013

## 14. Revenue Reserve

	2008 (Kshs)	2007 (Kshs)
Balance brought forward	162,431,708	210,688,365
Refund of surplus	(92,342,002)	(210,688,365)
Surplus for the year	78,434,180	162,431,708
Total	148,523,886	162,431,708

## 15. Contingencies

## Contingent liabilities

The Commission has given no guarantees to third parties. In the ordinary course of business, the Commission has been sued in various cases with potential exposure estimated at Kshs 26.5 million.

The Commission is a defendant or co-defendant in various litigations and claims. The outcomes of these litigations and claims is yet to be determined, hence the Commission has not made any provisions in these accounts towards contingent liabilities.

## 16. Operating and maintenance

Included in the operating and maintenance expenditure is an amount of Kshs 26.7million described as security expenses

## 17. Comparative

Where necessary, comparative figures have been adjusted to conform to changes in presentation in the current year

## 18. Reporting Currency

These financial statements are presented in Kenya Shillings (Kshs) as the reporting currency.



## 19. ADMINISTRATION EXPENSES

	2008 (Kshs)	2007 (Kshs)
Personal Emoluments	481,906,013	440,842,212
Gratuity & Pension Contribution	148,053,778	136,472,081
House allowance	90,711,174	86,339,172
Other personal allowances	98,761,747	96,227,844
Medical Insurance Cover	38,111,996	44,182,940
Staff Training	6,216,412	19,107,272
Passage & leave	3,994,933	6,584,298
Board, Committees & Conferences	26,574,895	24,333,046
NSSF - Employer contribution	609,000	571,400
	894,939,948	854,660,266

## 20. OPERATING AND MAINTENANCE

	2008 (Kshs)	2007 (Kshs)
Transport operating expenses	23,975,955	20,824,216
Traveling & Accommodation expenses	14,397,880	20,822,595
External traveling & accommodation	12,400,811	17,914,413
Postal & telegrams	348,751	563,815
Telephone expenses	15,137,034	6,514,054
Official Entertainment	7,482,441	5,622,979
Workshops & Seminars	19,331,554	18,811,812
Electricity expenses	4,589,694	3,557,687
Water & Conservancy	1,110,508	774,444
Gas/fuel expenses	91,700	17,146
Purchase of consumable stores	500	383,915
Publishing & printing	10,273,868	6,341,789
Uniforms & clothes	352,098	352,532
Library expenses	149,001	359,018
Purchase of stationery	3,541,795	5,172,077
Advertising & publicity	16,326,387	14,312,089
Research expenses	11,481,638	10,065,468
Periodicals	2,486,599	1,114,471
Rent & rates	38,283,715	35,080,110
Contracted professional services	31,128,099	41,063,618
Computer expenses	2,334,161	2,902,661
Insurance costs	2,728,121	4,690,668
General office expenses	1,794,583	1,892,659
Court fees & professional legal charges	10,923,938	5,953,062
Security expenses	26,700,000	29,065,000
Subscriptions	337,680	608,380
Maintenance of plant, equipment & buildings	4,191,869	2,589,705
Audit fees	500,000	500,000
Bank charges	191,201	255,285
Loss or disposal	118,641	
Depreciation expenses	60,309,558	34,649,180
Total	323,019,780	292,774,849

