



**THE SECOND QUARTERLY REPORT FOR THE YEAR 2010  
COVERING THE PERIOD  
1<sup>ST</sup> APRIL, 2010 TO 30<sup>TH</sup> JUNE, 2010**

**THE KENYA ANTI-CORRUPTION COMMISSION**

## PREAMBLE

The Kenya Anti-Corruption Commission is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003, to prepare quarterly reports setting out the number of reports made to the Attorney General under section 35.

Section 35 provides that:

1. Following an investigation, the Commission shall report to the Attorney General on the results of the investigation.
2. The Commission's report shall include any recommendation the Commission may have that a person be prosecuted for corruption or economic crime.

Section 36 provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the Attorney General under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney General.
4. The Attorney General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of the Anti-Corruption and Economic Crimes Act, 2003. The report covers the first quarter of the year 2010, and is for the period commencing 1<sup>st</sup> April, 2010 to 30<sup>th</sup> June, 2010.

## **INVESTIGATIONS COVERING THE PERIOD 1<sup>ST</sup> APRIL 2010, TO 30<sup>TH</sup> JUNE, 2010**

### **1. KACC/MSA/INQ/FI/18/2009**

Inquiry into allegations that unscrupulous importers and clearing agents collude with Kenya Bureau of Standards (KEBS) and Kenya Revenue Authority (KRA) officers to allow illegal importation of over age used motor vehicles into the country in contravention of Clause 2:5 of the Kenya Standard 1515:2000 code of the Kenya Bureau of Standards. The evidence gathered showed that the KRA and KEBS officers who were assigned the responsibility of ascertaining that imported vehicles complied with the Kenya Standard passed two vehicles which were over 8 years old from the date of manufacture contrary to the regulation. The investigation further established that the same officers and the clearing agents were usually compromised through bribes so as to ignore the importation requirements. A report dated 30<sup>th</sup> March, 2010 was compiled and forwarded to the Attorney General on 1<sup>st</sup> April, 2010 recommending that the suspects be charged with wilful neglect of official duty contrary to section 128 of the Penal Code. It was further recommended that the importers be ordered to re-ship the vehicles back to their country of origin.

The Attorney General accepted the recommendation for prosecution on 28<sup>th</sup> April, 2010.

### **2. KACC/MSA/FI/INQ.16/2009**

Inquiry into allegations that an importer and a clearing agent colluded with Kenya Bureau of Standards and Kenya Revenue Authority officers to allow importation of four (4) used vehicles into Kenya in contravention of clause 2:5 of the Kenya Standard 1515:2000 code of the Kenya Bureau of Standards. Information obtained from Toyota East Africa revealed that all the four (4) vehicles were outside the age limit prescribed in Clause 2.5. Further investigations revealed that the vehicles were not inspected by the Japan based JEVIC Company, and that the certificate of roadworthiness was issued by a firm known as Car Auto Appraisal Centre

(CAAC) which is not a KEBS appointed body for purposes of pre-export verification. A report dated 30<sup>th</sup> March, 2010, was compiled and forwarded to the Attorney General on 1<sup>st</sup> April, 2010, recommending that the suspects face three (3) charges of attempting to commit an offence involving corruption contrary to section 47A of the Anti-Corruption and Economic Crimes Act, wilful neglect of official duty contrary to section 126 of the Penal Code, and disobedience of statutory duty contrary to section 130 of the Penal Code.

The Attorney General accepted the recommendation for prosecution on 28<sup>th</sup> April, 2010.

### **3. KACC/INQ/FI/12/2010**

Inquiry into allegations of misappropriation of public funds allocated to Onjiko Secondary School. It was alleged that the said funds were siphoned into an account belonging to a Senior Officer with the Ministry of Education. Investigations established that the Principal of the said school failed to comply with the laid down procurement regulations by single sourcing a supplier to supply stationery to the School. The investigations also revealed that payments to the said supplier were made although the books were not delivered. A report was compiled and forwarded to the Attorney General on 15<sup>th</sup> June, 2010, with the recommendation that the suspects be charged with the offences of fraudulent acquisition of public property contrary to section 45(1) (a), making fraudulent payment from public revenue for goods not supplied contrary to section 45(2) (a) (ii) and wilful failure to comply with applicable procurement procedures contrary to section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, 2003. The Attorney General accepted the recommendation for prosecution on 1<sup>st</sup> July, 2010.

### **4. KACC/FI/INQ/4/2010**

Inquiry into allegations that an Accounts Assistant attached to the Ministry of Education embezzled Kshs.4,508,337.10 meant for the participants of a workshop held for Teacher Advisory Centre Tutors (TAC), organized within

the provisions of the framework of World Bank/Government of Kenya Education Sector Support Program (KESSP). The investigations established that the Accounts Assistant received an imprest of the sum of Kshs.4,508,337.10 to facilitate the workshop. The investigation revealed that the suspect embezzled the funds and made false payment schedules and purported to surrender the imprest using false documents. A report was compiled and forwarded to the Attorney General on 26<sup>th</sup> May, 2010, with the recommendations for the prosecution of the suspect for the offences of fraudulent acquisition of public property contrary to section 45(1) (a), abuse of office contrary to section 46 and deceiving Principal contrary to section 41(2) of the ACECA, as well as false accounting by a public officer contrary to section 331(1) and (2) of the Penal Code.

The Attorney General accepted the recommendation for prosecution on 14<sup>th</sup> June, 2010.

#### **5. KACC/MSA/INQ/FI/6/2009**

Inquiry into allegations of fraudulent acquisition of a road reserve within the Kenya Ports Authority, and its subsequent registration as two parcels in the name of a private company. Investigations established that the plot was part of the property owned by the defunct East African Harbours Corporation that was vested in Kenya Ports Authority vide Legal Notice No. 160 of 2001. The registration was executed using a forged Part Development Plan, beacon certificates and lease documents presented by the private company. A report was compiled and forwarded to the Attorney General on 26<sup>th</sup> May, 2010 with recommendations that the two directors of the private company be charged with the offence of uttering a false document contrary to section 353 of the Penal Code.

The Attorney General accepted the recommendation for prosecution on 1<sup>st</sup> July, 2010.

## **6. KACC/FI/INQ/95/2008**

Inquiry into allegations that a freight and logistics company colluded with clearing agents to defraud their client as well as the government through non-payment of import duty amounting to Ksh.2,767,260.00. Investigations established that Duty and VAT payable on the consignment was Kshs.2,767,260 but the actual sum paid to KRA by the said company using fake entries and bank receipts, was Kshs.318,443. A report was compiled and forwarded to the Attorney General on 27<sup>th</sup> May, 2010 with recommendations that the Directors and Operation Managers of the companies concerned be charged with the following offences;

1. Fraudulent failure to pay taxes payable to a public body contrary to section 45(1) (d) as read with Section 48 of the Anti-Corruption and Economic Crimes Act, 2003.
2. Uttering a false document contrary to section 353 of the Penal Code.
3. Conspiracy to commit an offence of corruption or economic crime contrary to section 47A (3) as read with Section 48 of the Anti-Corruption and Economic Crimes Act, 2003.
4. Conspiracy to defraud contrary to Section 317 of the Penal Code.

The Attorney General accepted the recommendation for prosecution on 14<sup>th</sup> June, 2010.

## **7. KACC/MSA/FI/INQ./8/2009**

Inquiry into allegations of failure to adhere to Public Procurement Laws and Regulations in the procurement of seven tractors and ploughs by officials of Lamu West Constituency Development Committee. The investigations established that three officials of the Lamu West Constituency Development Fund Tractor Project Committee procured seven tractors and their accessories by way of direct procurement contrary to the provisions of the applicable law therein viz the Public Procurement and Disposal Act, 2005. They did not also involve the tender committee in the procurement of the tractors. A report was compiled

and forwarded to the Attorney General on 14<sup>th</sup> April, 2010 with the recommendation that the three officials be charged with the offence of wilful failure to comply with the law relating to procurement of goods, contrary to section 45(2) (b) of the Anti-Corruption and Economic Crimes Act, 2003.

The Attorney General accepted the recommendation for prosecution on 14<sup>th</sup> May, 2010.

#### **8. KACC/FI/INQ/7/09**

Inquiry into allegations that the Managing Director of Kenya Ports Authority (KPA) irregularly approved payment of Kshs.9 million to ten members of staff to attend a training program in the USA. Investigations established that the only authorized allowance that KPA was to bear was Kshs.2,089,600 instead of the Kshs.9,000,000 approved by the Managing Director. The ten members of staff therefore received public funds they were not entitled to. A report was compiled and forwarded to the Attorney General on 31<sup>st</sup> May, 2010, with the recommendation that the suspect be charged with the offence of wilful failure to comply with applicable procedures and guidelines relating to management of public funds contrary to section 45 (2)(b) of the ACECA. It was further recommended that the funds irregularly paid to the members of staff attending the training be recovered.

The Attorney General accepted the recommendation for prosecution on 2<sup>nd</sup> July, 2010.

#### **9. KACC/FI/INQ/35/09**

Inquiry into allegations that the Director General of National Environmental Management Authority (NEMA) abused his office by irregularly paying Kshs.1,500,000/= for Iko Toilet Project. Investigations established that the Director and his chief officers abused their offices and flouted financial regulations and procedures by expending NEMA's funds on a project not budgeted for. A report was forwarded to the Attorney

General on 11<sup>th</sup> June, 2010, with the recommendation that the suspects be charged with the offence of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No.3 of 2003, wilful failure to comply with the applicable procedures and guidelines relating to incurring of expenditure contrary to section 45(2)(b) as read with section 48 of ACECA, making false statement to principal contrary to section 41(1) as read with section 48 of ACECA, conspiracy to commit an offence of corruption contrary to section 47A(3) as read with section 48 of the ACECA, conspiracy to defraud the public contrary to section 317 of the Penal Code and fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48 of ACECA.

The Attorney General's response is being awaited.

#### **10. KACC/MSA/INQ/FI/17/2009**

Inquiry into allegations that Kenya Revenue Authority Customs Department officers at Kilindini Customs Warehouse sold by public auction container number ECMU 9724447 containing motor vehicles, used computers and personal effects by passing them off as plastic buckets and paper towels thereby fetching a much lower price than it would have had its contents been correctly declared. The investigation revealed that after the importer of the said container failed to clear the goods thereon, the container was moved to the KRA warehouse. This attracted huge costs as storage costs and a decision was made to auction the container as abandoned goods. The customs officers charged with the responsibility of verifying the contents of the container, made a false declaration of the goods. When the misdeclared goods were auctioned, they fetched a lower amount of money than what should have been realized had the correct declaration been made. A report was compiled and forwarded to the Attorney General on 7<sup>th</sup> June, 2010, with the recommendation that the officers involved in the fraud be charged with the offence of committing a fraud affecting the public contrary to section 127 (1) as read with section 127 (2) of the Penal Code; and the offence of deceiving principal contrary to section 41 (2) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.



The Attorney General accepted the recommendation for prosecution on 2<sup>nd</sup> July, 2010.

**11. KACC/FI/INQ.40B/2006**

Inquiry into allegations that the Nandi South District Agricultural Officer (DAO) misappropriated Kshs. 5 million meant for the construction of an office block through irregular tendering and falsification of documents. The investigation established that the DAO consulted the Ministry of Public Works (MOPW) for technical advice before commencing the project. Quotations for the proposed project were floated to seven pre-qualified contractors. Upon receipt of the quotations from the contractors, they were opened and forwarded to the MOPW for technical evaluation. The District Tender Committee (DTC) awarded the contract to the second lowest bidder since the lowest bidder's quotation was found to be non-responsive. A report dated 30<sup>th</sup> March, 2010, was compiled and forwarded to the Attorney General on 1<sup>st</sup> April, 2010, recommending that the inquiry file be closed since the money received by the Nandi South District Agricultural Officer, for construction of the Agricultural block was not misappropriated through irregular procurement and falsification of documents as alleged. All the money allocated was properly accounted for, and the building completed.

The Attorney General accepted the recommendation for closure on 28<sup>th</sup> May, 2010.

**12. KACC/FI/INQ/14/09**

Inquiry into allegations of fraudulent alterations of Revenue figures by Central Bank (CBK) officers resulting to a probable revenue loss of Kshs.523,649,826.00. It was further alleged that CBK officials manipulated the transfer vouchers made from the Central Bank of Kenya Revenue Deposit Account to the Exchequer account at Treasury. It was further alleged that the Transfer vouchers were not original and that they contained cancelled amounts and altered figures, and were not

authorized. The investigation showed that satisfactory explanations for and documents supporting the alterations and cancellations were provided. The investigation did not show that there was any loss of revenue as alleged or at all. A report was compiled and forwarded to the Attorney General on 14<sup>th</sup> April, 2010 recommending the closure of the inquiry.

The Attorney General accepted the recommendation for closure on 31<sup>st</sup> May, 2010.

**13. KACC/MSA/INQ/FI/2/2009**

Inquiry into allegations of fraudulent acquisition of land belonging to ICDC by a private developer. The investigation revealed that, contrary to the allegations that land belonging to ICDC had been fraudulently acquired, what existed was a partnership between the developer and ICDC to jointly set up a container freight station on the plot belonging to ICDC. The land is still fully owned by ICDC and has not been illegally acquired. A report was compiled and forwarded to the Attorney General on 15<sup>th</sup> June, 2010, recommending the closure of the inquiry file.

The Attorney General accepted the recommendation for closure on 2<sup>nd</sup> July, 2010.

**14. KACC/FI/INQ/57/09**

Inquiry into allegations of abuse of office against the Managing Director of Kenya Bureau of Standards (KEBS), by clearing 6350 metric tonnes of contaminated maize imported by the National Cereals and Produce Board (NCPB). The investigations revealed that after the government approved the importation of maize to replenish the available stocks, 6350 metric tonnes was shipped into the country. Doubts arose as to the suitability for consumption of some of the maize consignment. KEBS was consulted and after examining the maize, found some of it to be contaminated. While consultation was on going as to what to do with the contaminated maize, NCPB had the maize offloaded and stored in the

KRA warehouses. After it was decided that the maize be resold to an external buyer who was to reshipe it out of the country, KRA made it a condition precedent that for it to release the maize, warehouse rent had to be paid. NCPB paid the rent amounting to Kshs. 48 million. The investigation revealed that it was the conflicting decisions by KEBS on the issue of the contaminated maize that led to NCPB paying the money to KRA. The management of NCPB could not be faulted for making the payment to KRA, as no offence was disclosed. A report was compiled and forwarded to the Attorney General on 4<sup>th</sup> May, 2010 with recommendations that the file be closed and further that NCPB be advised to continue pursuing the waiver of the rent paid from Treasury in order for KRA to refund the money paid to it by NCPB on account of go down rent.

The Attorney General accepted the recommendation for closure on 2<sup>nd</sup> July, 2010.

#### **15. KACC/FI/INQ/40/2009**

Inquiry into allegations that public officers requested the National Cereals and Produce Board (NCPB) management to favour some customers in the sale of maize during a period of scarcity. The investigations revealed that the Strategic Grain Reserve Fund Trustees comprising 3 line Ministries had authorized the sale of the Strategic Grain Reserve maize through the NCPB, between the period December 2007 and October 2008. During this period, the country was experiencing a serious shortage of maize and a number of prominent personalities took advantage of the prevailing situation to write introductory notes cum letters to the NCPB Management seeking their help in the allocation and sale of maize to persons and companies that were known to them. A total of 3.4 million bags of maize were sold to various individuals and/or companies during the material period. Evidence obtained did not show that the holders of the introductory note/letters were more advantaged than those who did not have them. Moreover, the discretion as to whom to allocate and sell the maize largely remained in the hands of the NCPB Management. No evidence of culpable wrongdoing against any of the public officers who

wrote notes to NCPB has been obtained to warrant any action against them. A report was compiled and forwarded to the Attorney General on 20<sup>th</sup> April, 2010 with the recommendation that the inquiry file be closed. It was further recommended that KACC's Preventive Services Directorate do examine the practices and procedures of NCPB with a view to advising them on administrative loopholes which may be conducive to corrupt practices.

The Attorney General accepted the recommendation for closure on 14<sup>th</sup> May, 2010.

#### **16. KACC/FI/INQ/30/09**

Inquiry into allegations that the management of the National Aids Control Council (NACC) fraudulently paid a total sum of Kshs.1.4 million to a service provider for the development of a 4-year MIS Strategic Plan, services which were not rendered. The investigations revealed that the idea of NACC developing an MIS Strategic Plan was mooted in August 2005 and was subsequently budgeted for by the Council in the financial year 2007-2008. NACC's Tender Committee awarded the tender for the development of the Strategic Plan to the service provider. Contrary to the allegations made, the strategic plan was in deed prepared satisfactorily and NACC paid for the services in terms of the contract with the consultants. There was no evidence of wrongdoing against any of the officials of NACC. A report was compiled and forwarded to the Attorney General on 26<sup>th</sup> May, 2010, with the recommendation that the inquiry file be closed.

The Attorney General accepted the recommendation for closure on 2<sup>nd</sup> July, 2010.

#### **17. KACC/FI/INQ/80/2009**

Inquiry into allegations that the Managing Director of Mumias Sugar Company, offered bribes to witnesses in a criminal case in which he was the complainant. Investigations established that the evidence was not

sufficient to prove the allegations of corruption or conspiracy to subvert justice made against the Managing Director. A report was compiled and forwarded to the Attorney General on 11<sup>th</sup> June, 2010, with the recommendation that the inquiry file be closed.

The Attorney General accepted the recommendation for closure on 2<sup>nd</sup> July, 2010.

**18. KACC/ INQ/FI/85/2009**

Inquiry into allegations that officials of the National Social Security Fund (NSSF) irregularly procured 30 obsolete and defective internet servers which could not therefore be put to use. It was further alleged that the servers were procured from the same firm that prepared the tender specifications, and that they were being concealed at Bruce House to avoid detection of the irregularity. The investigations established that contrary to the said allegations, the servers were regularly procured, duly delivered, installed and commissioned and are being utilized by the respective branches of NSSF to their satisfaction. A report was compiled and forwarded to the Attorney General on 16<sup>th</sup> June, 2010, recommending closure of the inquiry file.

The Attorney General accepted the recommendation for closure on 2<sup>nd</sup> July, 2010.

**19. KACC/AT/INQ/53(b)/2008**

Inquiry into allegations that a former Chief Executive Officer of Miwani Sugar fraudulently made payments of Kshs. 330 million to a commercial Bank to clear an outstanding loan on behalf of Miwani Sugar Company Ltd (in receivership). The investigations revealed that the negotiations that culminated in the payment of Kshs.330 million to the commercial bank were initiated, sanctioned and approved by the Ministry of Agriculture and the Kenya Sugar Board, in consultation with other key government ministries and the creditors of Miwani Sugar Company. It was not an initiative or personal decision of the CEO, nor was it fictitious as alleged.

There was no evidence that the CEO breached any law or was otherwise culpable to warrant any action against him. A report was compiled and forwarded to the Attorney General on 26<sup>th</sup> May, 2010, recommending the closure of the file.

The Attorney General accepted the recommendation for closure on 14<sup>th</sup> June, 2010.

## **20. KACC/FI/INQ/54/2010**

Inquiry into allegations of abuse of office and conflict of interest against the Permanent Secretary, office of the Prime Minister, in influencing the allocation of Strategic Grain Reserve Maize (SGR) to a certain company. The investigation revealed that the company was incorporated in 2004 and the PS was a director in the said company. However, the company never proceeded with the objects for which it was incorporated. The investigation revealed that, the PS's associate decided to use the company's name to apply for allocation of maize. The evidence gathered did not reveal that the PS either knew of his associate's application or influenced the allocation of maize to the company. He also did not write any introductory letter for the company to be allocated maize. No evidence of culpable wrong doing was ascertained to warrant any action against the PS. A report was compiled and forwarded to the Attorney General on 28<sup>th</sup> June, 2010, recommending closure of the inquiry file.

The Attorney General's response is awaited.

## **21. KACC/FI/INQ/53/2010**

Inquiry into allegations that the Chief of Staff in the office of the Prime Minister, influenced the award of a contract to supply 75,000 metric tonnes of maize to a South African company. The investigations revealed that after the Cabinet approved the import of maize by the National Cereals and Produce Board (NCPB), several supplier firms were identified through tendering and negotiation with the suppliers. The investigation

revealed that the award of the contract to the South African firm to supply maize was done in accordance with the provisions of the Public Procurement and Disposal Act, 2005. Contrary to the allegations made against the Chief of Staff in the Prime Minister's office, the investigation showed no indication that the said officer influenced the award of the contract to supply maize to the aforementioned company. There was no evidence of culpability on the part of the said public officer to necessitate either criminal or administrative action against him. A report was compiled and forwarded to the Attorney General on 28<sup>th</sup> June, 2010 recommending closure of the inquiry file.

The Attorney General's response is awaited.

## **22. KACC/FI/1NQ/92/08**

Inquiry into allegations of irregular sale of 3.4 million bags of maize from the Strategic Grain Reserve (SGR). The investigations revealed that the cabinet authorized the importation of maize duty free through NCPB to address the food shortage that was being experienced after a prolonged drought and the post election violence. The government further directed the implementation of a subsidized maize scheme by selling the stock from the Strategic Grain Reserve. The trustees of the SGR Trust Fund who were the Permanent Secretaries, Ministry of Agriculture, Ministry of Finance and Ministry of State for Special Programmes were to oversee the process and give guidelines on the sale of the SGR maize by NCPB. The investigations revealed that while authorizing NCPB to dispose off the SGR maize, the trustees did not give guidelines and policies to operationalize the sale of the maize. Owing to the lack of supervision by the Trustees, unscrupulous businessmen, middlemen and other interested persons bought maize from NCPB at subsidised prices and later sold it at exorbitant prices. The investigation also showed that there were weaknesses in the regulation and sale of the SGR maize stock. Whereas the evidence obtained did not disclose any offence, it was observed that the three trustees of the SGR failed to carry out their duties as required. A report was compiled and forwarded to the Attorney General on 30<sup>th</sup> June, 2010, recommending that administrative action be taken against the

following persons;

- The three trustees of the SGR Trust Fund.
- The managing Director, NCPB
- The General Manager Sales and Operations, NCPB
- The Sale and Marketing Manager, NCPB

The Attorney General's response is awaited.

### **23. KACC/INQ/FI/58/2010**

Inquiry into allegations of irregular award of tender by the National Cereals and Produce Board (NCPB) for the supply of 75,000 metric tonnes of maize to two private companies. The specific allegation was that the Chief of Staff in the office of the Prime Minister influenced the award of the tender for the supply of maize in respect of the two firms. The investigation has revealed that after the Cabinet approved the importation of maize by the National Cereals and Produce Board (NCPB), several supplier firms were identified through tendering and negotiation with the suppliers. The investigation revealed that the award of the contract to the said firms to supply maize was done in accordance with the provisions of the Public Procurement and Disposal Act, 2005. There was no evidence obtained to show that the Chief of Staff in the office of the Prime Minister influenced the award of the contract to the two firms. No culpability on the part of the said public officer has been ascertained to necessitate either criminal or administrative action against him. A report was compiled and forwarded to the Attorney General on 30<sup>th</sup> June, 2010 recommending closure of the inquiry file.

The Attorney General's response is awaited.

### **24. KACC/FI/INQ/57/2010**

Inquiry into allegations of irregular sale of 150,000 bags of Strategic Grain Reserve (SGR) maize to a trader at a profit in contravention of a directive issued by the Cabinet. The investigation revealed that the National Cereals and Produce Board (NCPB) was authorized to sell maize from the



SGR. The trader purchased maize from NCPB at the government subsidized prices and sold it to millers at a profit, thus defeating the purpose of the subsidy that was intended to benefit the consumers. The investigation further revealed that there were no procedures or guidelines to guide the allocation and sale of maize by NCPB. No register of millers was maintained by NCPB, and therefore anybody posing as a miller would successfully apply for the allocation. However, the investigation did not disclose any evidence of culpability on the part of the officers at NCPB or the trader. A report was compiled and forwarded to the Attorney General on 30<sup>th</sup> June, 2010, recommending closure of the inquiry file.

The Attorney General's response is awaited.

**25. KACC CR.032/52/09 CF KISUMU ACC NO.566/09**

Inquiry into allegations that a clerical officer with the Ministry of Lands, Kisumu had solicited for a benefit from the complainant as an inducement to facilitate the processing of the complainant's title deed. The investigations established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. It was further recommended that the suspect be charged with another count of abuse of office contrary to section 46 as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, No. of 2003. A report was compiled and forwarded to the Attorney General on 14<sup>th</sup> April, 2010, with the recommendation that the case pending before Kisumu court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 1<sup>st</sup> July, 2010.

**26. KACC CR.141/810/2009 – CF. NAIROBI ACC. NO.29/2009**

Inquiry into allegations that a police officer attached to Kilimani Police Station had solicited for a benefit from the complainant as an

inducement to release his motorcycle which had been impounded and to forbear charging him with the alleged offence of failing to produce his driving licence. The investigations established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. A report was compiled forwarded to the Attorney General on 12<sup>th</sup> April, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion and that the suspect's colleague who had initially made the bribe demand should also be arrested and charged.

The Attorney General accepted the recommendation for prosecution on 3<sup>rd</sup> June, 2010.

**27. KACC CR. 410/84/2009 CF. EMBU ACC NO. 4/09.**

Inquiry into allegations that a police officer attached to Makueni Police Station had solicited for a benefit from the complainant as an inducement not to charge him with offences relating to drug peddling and harassing his estranged wife. The investigations established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. A report was compiled and forwarded to the Attorney General on 15<sup>th</sup> April, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 31<sup>st</sup> May, 2010.

**28. KACC CR.021/121/2009 CF. MOMBASA ACC NO.10/2009**

Inquiry into allegations that a High Court Process Server, Mombasa had solicited for a benefit from the complainant as an inducement to forbear him being served with unspecified court orders in respect of a civil suit

pending at the Mombasa Law Courts; in which the complainant was the defendant. The evidence obtained in the investigation was not sufficient to sustain the charges of solicitation and receipt of a benefit that had been preferred against the suspect. A report was compiled and forwarded to the Attorney General on 16<sup>th</sup> April, 2010 with the recommendation that that the case be withdrawn under section 87(a) of the Criminal Procedure Code.

The Attorney General accepted the recommendation for withdrawal on 9<sup>th</sup> June, 2010, but further directed that the suspect be charged with the offence of obtaining by false pretences contrary to section 313 of the Penal Code.

**29. KACC CR.141/1015/2009 CF NAIROBI ACC NO.35/09**

Inquiry into allegations that a police officer attached to Industrial Area Police Station had solicited for a benefit from the complainant as an inducement to forebear charging him with the offence of attempted theft from the New KCC, and instead treat him as a witness. The investigations established solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. A report was forwarded to the Attorney General on 21<sup>st</sup> April, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 3<sup>rd</sup> June, 2010.

**30. KACC CR.141/79/2010 CF. NAIROBI ACC. NO.2/2010**

Inquiry into allegations that a Traffic Police Officer attached to Kitengela Traffic Base had solicited for a benefit from the complainant as an inducement to forbear charging him with the traffic offence of driving a motor vehicle without an inspection sticker and to release his licence

which the accused had confiscated. The investigations established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. A report was compiled and forwarded to the Attorney General on 29<sup>th</sup> April, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 3<sup>rd</sup> June, 2010.

**31. KACC CR.021/114/2009 CF. NO.ACC. MOMBASA NO.9/2009**

Inquiry into allegations that two police officers attached to Nyali Police Station, Mombasa had solicited for a benefit from the complainants as an inducement to forebear charging them with the offence of being found in possession of papers that were intended for printing fake currency. The investigations established the solicitation of a benefit. One of the suspects was also found in unlawful possession of papers intended to resemble and pass as special papers used for making bank notes. The suspects were arrested and charged with the offences of soliciting a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003, and unlawful possession of papers intended to resemble and pass as special papers used for making bank notes contrary to section 367 (a) of the Penal Code. A report was compiled and forwarded to the Attorney General on 4<sup>th</sup> May 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion

The Attorney General accepted the recommendation for prosecution on 3<sup>rd</sup> June, 2010.

**32. KACC CR.021/99/2009 CF MSA ACC 08/2009**

Inquiry into allegations that a Police officer attached to Likoni DO's office had solicited for a benefit from the complainant as an inducement to

allow him to continue mining building stones from a quarry at Majengo Mpya Likoni. The investigations established solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. A report was compiled and forwarded to the Attorney General on 17<sup>th</sup> May 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 28<sup>th</sup> June, 2010.

**33. KACC CR.141/327/2009 CF. NAIROBI ACC. NO.14/09**

Inquiry into allegations that police officers attached to the CID, Central Division, Nairobi Area had solicited for a benefit from the complainant as an inducement to forbear charging him with the offence of obtaining money by false pretences. The investigations established solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. A report was compiled and forwarded to the Attorney General on 18<sup>th</sup> May, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 28<sup>th</sup> June, 2010.

**34. KACC CR.251/309/2009 – NYERI ACC NO.15/09**

Inquiry into allegations that a Traffic Base Commandant attached to Kirinyaga District, had solicited for a benefit from the complainant as an inducement to facilitate the release of his motor vehicle registration number KAR 465T which the officer had detained at Kerugoya Police Station for an alleged offence of obstruction. The investigations

established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. A report was compiled and forwarded to the Attorney General on 24<sup>th</sup> May, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 28<sup>th</sup> June, 2010.

**35. KACC CR.032/54/2009 CF. KISUMU ACC. NO. 581/2009**

Inquiry into allegations that a probation officer, attached to Nyando District had solicited for a benefit from the complainant as an inducement to facilitate a favourable judgement in Nyando criminal case number 795 of 2007 in which the complainant and another were the accused persons. The investigations established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. A report was compiled and forwarded to the Attorney General on 25<sup>th</sup> May, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 1<sup>st</sup> July, 2010.

**36. KACC CR.141/82/2010 CF. NAIROBI ACC. NO. 7/2010**

Inquiry into allegations that a student at Moi University, Department of Environmental Health had offered a benefit to the complainant as an inducement to facilitate the employment of his brother at Equity Bank. The investigations established the offering and giving of a benefit by the suspect. The suspect was arrested and charged with the offences of corruptly offering and giving a benefit contrary to section 39(3) (b) as

read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003. A report was compiled and forwarded to the Attorney General on 4<sup>th</sup> June, 2010, with the recommendation that the case pending before court be prosecuted to its logical conclusion.

The Attorney General accepted the recommendation for prosecution on 28<sup>th</sup> June, 2010.

**STATISTICAL SUMMARY OF FILES FORWARDED TO  
THE ATTORNEY GENERAL**

Total No. of files forwarded to the Attorney General	<b>36</b>
No. of files recommended for prosecution	<b>21</b>
No. of files recommended for administrative or other action	<b>2</b>
No. of files recommended for closure	<b>13</b>
No. of files recommended for prosecution and the cases are already lodged before Court	<b>15</b>
No. of files where recommendation to prosecute accepted	<b>20</b>
No. of files where recommendation for administrative or other action accepted	<b>0</b>
No. of files where recommendation for closure accepted	<b>9</b>
No. of files returned for further investigations	<b>0</b>
No. of files where recommendation to prosecute not accepted	<b>0</b>
No. of files where recommendation for administrative or other action not accepted	<b>1</b>
No. of files forwarded in previous quarters and received during this quarter	<b>8</b>
No. of files where closure not accepted	<b>0</b>
No. of files awaiting Attorney General's action	<b>6</b>

**DATED AT NAIROBI THIS                      DAY OF    2010**

**DR. JOHN P. MUTONYI, MBS  
AG. DIRECTOR/CHIEF EXECUTIVE**