

THE KENYA ANTI-CORRUPTION COMMISSION (KACC) AND THE ANGLO-LEASING CASE

The Commission's attention has been drawn to a lead story appearing in the Sunday Standard of 23rd October 2005 entitled "Ministers in a Spot over Anglo Leasing"

In the Story, remarks were attributed to the Hon. Minister for Economic Planning, Prof. Anyang Nyong'o, in which he made wide ranging comments and raised a number of questions regarding the status of investigations into what has become known as the Anglo Leasing Scandal.

Although the Hon. Minister appeared to be directing his questions to fellow cabinet ministers and the Government in General, he is reported to have questioned the role played by KACC regarding investigations into the Anglo Leasing case. The Minister also cast aspersions on the manner in which KACC is pursuing other cases of corruption.

It is in view of the foregoing that the Commission has felt constrained to respond, by way of clarification, to certain of the Hon. Minister's comments and questions.

In particular, the Hon. Minister is reported to have questioned the "progress so far made" in its investigations by the Kenya Anti-Corruption Commission. The Minister sought to know who had been investigated and why the Anglo Leasing investigations were taking too long.

The statements by the Hon. Minister which, in the Commission's opinion, are patently political to give the wrong impression to the effect that since the Anglo Leasing matter came to the fore, very little has been done by KACC in terms of investigations. An impression is also likely to be created to the effect that the people who have been investigated if at all, are not known.

On the contrary however, it is public knowledge that KACC has expended a lot of time, energy and resources investigating the Anglo Leasing matter. As a result of these investigations, three former Permanent Secretaries and three other former senior public officials are facing charges in Courts of Law.

In the process of investigations, KACC did on several occasions interview a number of prominent personalities in the former and current regimes, with a view to establishing whether they were involved in the scandal. These investigations did not unearth any concrete or credible evidence to sustain a recommendation for prosecution of the individuals in question. Suffice it to say that KACC will only recommend someone for prosecution on the basis of available and credible evidence. NOT on the basis of political or any other clamour.

The Hon. Minister is also on record as questioning why it is easier for the Director of KACC "to go to Berlin to pursue a few millions stolen by some embassy official but refuses to pursue Anglo Leasing Billions"

The Commission wishes to put it on record once again that it carries out its functions independently in accordance with the dictates of law and professional integrity. KACC does not act at the behest of any person or authority be they cabinet ministers, senior public servants, or private sector personages. In this regard, all persons engaged in activities leading to the loss of public money or other property will be pursued by the Commission with equal zeal whether they be embassy officials or other public servants. By the same token, all acts of corruption whether petty or grand are investigated by the Commission.

The Commission wishes to reiterate that it continues to pursue any leads that may result in the arrest and prosecution of any other person who may have been involved in the Anglo Leasing matter. Indeed, if the Hon. Minister has in his possession any credible information which implicates any of his cabinet colleagues or any other person with regard to the Anglo Leasing matter, he should hand over the same to the Commission.

Finally, as a matter of public interest and the rule of law, the Commission wishes to remind the Hon. Minister that the Anglo Leasing matter is now a criminal case before a competent court of law. The *Sub Judice Rule* therefore applies to the case. Statements that are likely to be contemptuous of court proceedings should be avoided at all costs.

Below we provide the factual particulars of the **ANGLO LEASING CASES**

1. **SUPPLY AND INSTALLATION OF NEW PASSPORT ISSUING SYSTEM FOR DEPARTMENT OF IMMIGRATION TO ANGLO LEASING AND FINANCE LTD**

Inquiry No. KACC/INQ.14/29.04.04

Case No. CR 113/25/05 CF ACC 8/04

Accused:

1. Sylvester Mwaliko, former Permanent Secretary for Home Affairs
2. Joseph Mbui Magari, former Permanent Secretary in Treasury
3. Wilson Sitonik, former Director of Government Information Technology Services at Treasury.
4. David Lumumba Onyonka, former Head of Debt Management Department at Treasury.

PROMINENT PERSONS INTERVIEWED

1.	Hon. David Mwiraria	-	Minister for Finance
2.	Henry Ole Ndiema	-	former Principal Immigration Officer
3.	Hon. Amos Wako	-	Attorney General

Defence applied for the case to be referred to a Constitutional Court. Prosecution is in the process of replying to defence submissions before the Anti-Corruption Court.

2. CONTRACT FOR SUPPLY AND INSTALLATION OF FORENSIC SCIENCE LABORATORIES FOR CID TO ANGLO LEASING AND FINANCE LTD

Inquiry No. KACC/INQ/21/16.06.04
Case No. CR 113/24/05 CF 338/2005

- Accused Persons:
1. Zakayo Cheruiyot, former Permanent Secretary in charge of Internal Security in Office of the President.
 2. John Agili Alao, former Chief Finance Officer, Office of the President.

PROMINENT PERSONS INTERVIEWED

1. Chris Okemo - former Minister for Finance
2. Dan Ameyo - Postmaster General and Former Chief State Counsel (Treaties and Agreements) in the office of the Attorney General
3. Francis Sang - former Director of Criminal Investigations Department (CID)
4. Dr. Sally Koskey - former Head of Civil Service and Secretary to the Cabinet.
5. Mwangazi Mwachofi - former Permanent Secretary in Treasury
6. Dave Mwangi - former Permanent Secretary in charge of Internal Security, Office of the President.

DATE CASE TAKEN TO COURT

16th February 2005

CURRENT STATUS

The Defence Counsel have applied for the case to be referred to a Constitutional Court. The Defence Counsel are currently making submissions to the Chief Magistrate's Court after which the prosecution will reply before the court determines whether or not to refer the case to the Constitutional Court.

DATED the 24th Day of October 2005.


NICHOLAS SIMANI
SENIOR PUBLIC RELATIONS OFFICER
KENYA ANTI CORRUPTION COMMISSION