

Governing Body Members

The Chairperson



Mrs. Treasure Maphanga

Organised Labour Representatives



Mr. Richard Nxumalo

Organised Business Representatives



Mr. Joseph Shilubane

Government Representatives



Dr. Skhomba Gumbi



Mr. Jimson Gwebu



Mr. Samuel Dlamini



Mrs. Teresa Mlangeni

Special Skills



Dr. Petros Magagula



Mr. Caleb Nkonyane



Mrs. Linda Ntshangase

Executive Director (Ex Officio Member)



Mr. Siphephiso A. Dlamini

Profile

The Conciliation, Mediation and Arbitration Commission (CMAC) was established by the Industrial Relations Act passed in August 2000. It was established to assist provide a harmonious industrial relations climate by providing a speedy, effective and accessible dispute resolution and prevention service on labour disputes.

The honorable Minister for Enterprise and Employment is answerable to Parliament for the activities of the Commission. The Commission falls under category "C" of the Swaziland Public Enterprises.

The Industrial Relations Act of 1996 introduced the concept of resolving labour disputes through conciliation, mediation and arbitration, but did not establish an independent institution to effect them. The Department of Labour therefore facilitated this function during this period.

On realizing the need to have an independent institution to handle labour disputes in accordance with set ILO standards and regional norms, the Swaziland Government created the Commission in the Industrial Relations Act 2000. Promulgation of the Industrial Relations Act 2000 was followed with the immediate appointment of the Governing Body, which assumed the process of setting up the institution. CMAC eventually became operational in January 2001, just six months after the law establishing it was passed. The Minister of Enterprise and Employment, Honorable Lutfo Dlamini officially commissioned it in October of the same year.

To increase its accessibility and ensure speedy service CMAC quickly established offices in all the four geographical regions of the country and now boasts of the least radial distance to be covered to get to its offices.

CMAC is a body corporate that is independent of control of any person, including but not limited to, any statutory body, government, political entity, employer, federation or organization.

It is run by a tripartite Governing Body that consist of an independent Chairman, two members from each of the tripartite partners as well as two additional persons of special skills or knowledge in Industrial Relations. CMAC uses both full time and part Time Commissioners to advance its functions.

The main functions of CMAC include the following;

Shall

- Conciliate disputes referred to it
- Arbitrate disputes that remain unresolved after conciliation.
- Compile and publish information and statistics about its activities annually.
- Conduct, oversee and scrutinize ballots in terms of the Act.
- Compile and maintain a list of persons with different experience in Industrial Relations or labour law to serve as Conciliators, Mediators or Arbitrators.

May

- Provide employees, employers, registered organizations and federations with training and advise relating to the primary objects of this Act including;
- dispute prevention
- disciplinary procedures
- Procedures in relation to dismissals.
- Prevention of discrimination and promotion of equal opportunity programs.

Message from the Chairperson

I feel honored to present the first Annual report for the Conciliation, Mediation and arbitration Commission (CMAC).

CMAC has completed its first two years in operation. These two years were the most challenging due to the process of establishing a new institution which is unique in the context of Swaziland. CMAC is the first truly tripartite institution in the country, mandated to act independently, whilst wholly funded by the Government of Swaziland, in order to fulfill its mandate of providing a speedy, efficient, cheap and accessible dispute resolution and prevention service.

The past year (2002/03) has witnessed great strides being made in establishing the Commission to be well positioned to effectively cope with the challenges of achieving its mandate. The recruitment of all staff members transformed the Commission towards having a dedicated team of full-time and part-time professionals working together with clients from the employer and employee community within Swaziland.

Through concerted effort, the Governing Body and staff members have succeeded in establishing what we believe is an institution with potential to be the best in the Southern African Development Community. Our vision is **“To promote a stable labor relations climate in Swaziland that contributes positively to economic and employment growth by being the best dispute resolution and prevention agency in Southern Africa.**

During the brief history of CMAC there have been some significant milestone achievements, which are outlined in the report. There are however, a number of challenges confronting the organization and its owners (the social partners) under the auspices of the Ministry of Enterprise and Employment. These challenges include under funding, inadequate infrastructure, equipment and



other resources, as well as a need to develop a cadre of professionals (full-time and licensed as part-time Commissioners) who are able to meet the expectations of a diverse group of stakeholders. Finally, the management of performance can be greatly improved through enhanced systems, access to information and best practice as well as client support.

Funding

As CMAC grows to adopt a vibrant and comprehensive approach to maintaining a harmonious industrial relations climate this remains the most critical challenge for the organization especially that it is dependent on funding from the Government. In order to achieve the main priorities of poverty alleviation, job creation, and combating HIV/AIDS, the Government together with the other social partners are challenged to find ways to ensure that the institution is sustainable whilst remaining accessible to all people irrespective of their means. The Governing Body and management were prudent in the management of meager resources, however were challenged with the need to provide an infrastructure to enable service delivery to improve and meet client demands. The support of international organizations and the diplomatic community in Swaziland is duly recognized and we trust that this support will continue until CMAC is able to sustain itself.

Partnerships

As the founding Governing Body of CMAC, we would like to recognize the following partners who have contributed towards CMAC's development from inception to date.

- The Minister for Enterprise and Employment and his team
- The Labour Advisory Board
- The Commissioner of Labour and the Department of Labour Staff
- The Swaziland Federation of Trade Unions (SFTU)
- The Swaziland Federation of Labour (SFL)
- The Swaziland National Association of Teachers (SNAT)
- The Swaziland Federation of Swaziland Employers and Chamber of Commerce
- The Industrial Court represented by the Judge President
- The ILO/Swiss Project based in Pretoria
- The American Embassy
- The British High Commission
- All other donors and supporters

Further Innovations in the Pipeline

Ultimately without the support of the people of Swaziland, and those workers and employers who approach CMAC on a daily basis for a range of services, there would be no progress. However, it remains a challenge for the institution to be known in all walks of life, in all workplaces for its pivotal role in the area of dispute resolution and prevention. As more clients develop confidence in the services of CMAC, it is important to change the mindset prevailing in some quarters of wishing to walk through in order to get to Court. CMAC should be seen as a means to resolving disputes in a climate that is conducive to do so.

The draft Industrial Relations Bill seeks to bring important amendments to the current legislation in order to strengthen CMAC's ability to **better** add value in the workplace and the economy as a whole. Paradoxically, in order to bring its services closer to her customers in a cost effective manner, CMAC will need to open new offices in key

strategic industrial areas and be adequately equipped with appropriate technology and resources. This means that some innovation needs to be exercised in finding sustainable means to ensure that services remain accessible to all. As an institution that promotes alternative dispute resolution and prevention, it warrants support from all stakeholders who believe that conflict can be managed, and indeed through effective conflict management we can build a brighter future for Swaziland. To date the institution has focused primarily on dispute resolution, therefore significant opportunities for dispute prevention remain untapped due to various constraints. There is confidence that these challenges will be addressed in the next period.

Appreciation

As outgoing Chairperson, one is indebted to the members of the Governing Body who served with commitment and vision throughout their term of office. It was an honour to serve amongst leaders from the social partners and independent experts. Collectively they were a source of ideas, wisdom, knowledge and strength at critical moments of the organization's evolution. As a team tasked with the establishment of the institution, we realize that we were privileged to work with the Minister of Enterprise and Employment, Mr. Lutfo Dlamini as he provided unequivocal support because he enabled the Governing Body to fulfill its mandate as laid out in the Act. The ILO/Swiss Project team became an extension of the team effort in Swaziland, and their significant role as mentors, advisors and enablers is appreciated by the Governing Body and Staff of CMAC.

The final word of appreciation goes to the professional and support staff within CMAC because the most significant asset that we have are intellectual and human capital provided by Swazis who value professional integrity, people, justice and peace.

Siyabonga

A handwritten signature in blue ink, appearing to read 'Maphanga'.

Mrs. Treasure Maphanga

Message from the Executive Director



To witness the publication of the first annual report for CMAC in my first year in office and on CMAC's second year in operation is like a dream come true.

The creation of CMAC in year 2001, just 6 months after the Bill establishing it was passed into law, marked a new dawn in the industrial relations environment in Swaziland. An independent national institution was formed and empowered to provide a speedy, effective, cheap and accessible dispute-resolution and prevention mechanism for organized and non-organized workers and employers. Whilst the quick opening of CMAC signaled the importance of the services to be provided, it also presented a daunting and dual pronged task of building the institution on the one hand and providing expedient dispute resolution service on the other hand to eliminate the backlog of cases accumulated during the transition.

Besides being unique, this situation has presented a multitude of opportunities and challenges. These opportunities included the recruitment of capable personnel and convergence of their diverse backgrounds to achieve high performance standards within a short space of time, establishment and decentralization of offices to key strategic business areas, creation of own vision and direction, acquisition and

mobilization of resources and equipment to meet set vision as well as gain our clients' confidence and satisfaction on service delivered.

Many significant milestones were achieved in pursuing these opportunities particularly in the areas of institution building and dispute resolution. These form the major highlights; formulation of the three-year strategic plan, through a totally participative process which sets the definite course, to good corporate governance, Setting up of offices in the other three national geographic regions which significantly reduced the radial distance covered by parties as well as the number of cases abandoned in the conciliation and arbitration process. In addition, the settlement rate improved to a record 61% whilst the number of reported cases processed reached 85%.

The challenges CMAC experienced are characteristic of any infant organization. It had to ensure that the process of handling disputes through-out all the stages was effective and efficient, in such a manner that bottlenecks were quickly identified and resolved in order to minimize time lost but at the same time guaranteeing conformity to existing laws and regulations. As an interim measure, a manual case screening system was implemented and it significantly reduced the incurred cost per case. As a result of screening out non-jurisdictional cases, the case loss and conciliation duration were reduced. What remains vital for the next coming year is to install an electronic case management system which logs and tracks cases to completion, ensure that the commissioner's schedules are adhered to, assist in the compilation of performance statistics and arbitration awards benchbooks for jurisprudence referrals.

Furthermore, operational bottlenecks not foreseen during the formulation of the Industrial Relations Act were identified and



referred to the Labour Advisory Board to draft technical amendments to address them. It is my hope that these amendments are approved in their entirety, so that CMAC can own the entire dispute resolution function and assume more powers to speedily resolve disputes particularly those of rights and recognition.

In the coming year, CMAC will advance its initiative to adopt a holistic approach towards the provision of a speedy, accessible and fair dispute resolution and prevention. Focus will be on the implementation of the marketing initiatives to increase CMAC's utilization and accessibility. Priority will be given to dispute prevention initiatives to

establish root causes of disputes and thereafter establish remedies and proactive prevention measures.

Finally, the achievements made this current reporting year have been a result of team effort and dedication. I am indebted to the Governing Body, management and staff, the ILO/Swiss Project team and the social partners for their hard work and dedicated support during my first tenure in office in the financial year under review.

A handwritten signature in blue ink, which appears to read 'Siphephiso A. Dlamini', is positioned above the printed name.

Mr. Siphephiso A. Dlamini



Performance overview

1. INSTITUTION BUILDING

This section embraces all the initiatives pursued in an attempt to build the institution to be adequately posed to dispense a speedy, fair and accessible dispute resolution and prevention service.

The industrial Relations Act establishing CMAC was promulgated into law August 2000 and immediately thereafter the process of establishing the Institution was assumed. First to be actioned was the appointment of the Governing Body which came into office November 2000. The Governing Body then established offices and facilitated the secondment of staff from the Department of Labour to assume operation. The process to make CMAC operational was then finished 1 January 2001 and the first conciliation sessions were held in February of the same year.

Several institution-building initiatives were pursued immediately thereafter to transform CMAC into a fully independent institution and

to ensure that it was adequately posed to provide a speedy, fair and accessible dispute resolution and prevention service. These initiatives included the recruitment of staff, establishment of regional offices, development of internal policies and procedures as well as the formulation of three-year strategic plan.

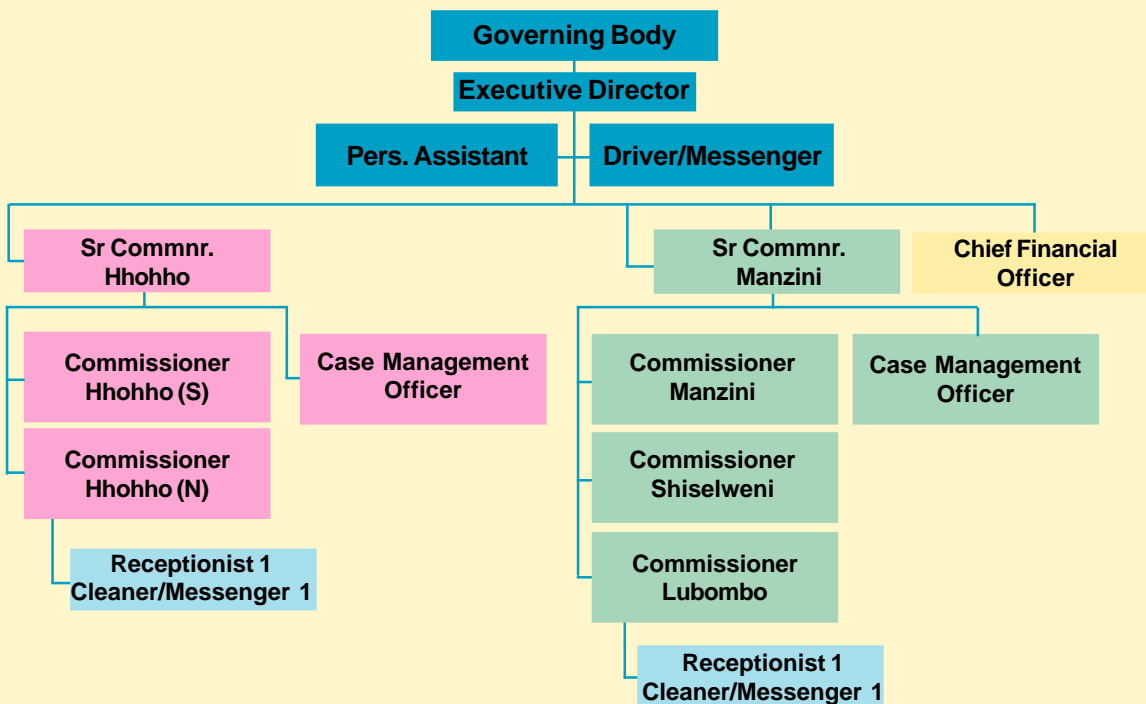
Recruitment of Permanent Staff

The recruitment process of seventeen staff members to replace the temporal staff from the Department of Labour who were running the Commission on secondment was swiftly completed in May 2003.

Permanent staff successfully recruited by the Governing Body include the Executive Director, two Senior Commissioners five full time Commissioners, three Case Management Officers, and six auxiliary staff.

Only the recruitment of the Chief Financial Officer was outstanding when the period of this report ended. A detailed organogram of the staff compliment is shown below.

CMAC ORGANOGRAM



Office decentralization

One of the most fundamental aims of the Commission is to ensure its services are easily accessible to all its clientele. In addressing this aim the Commission was called to open offices in all the regions and as close as possible to the key industrial sites. In addition to the main office in Mbabane, another office was opened in Manzini as the second main regional office. Two satellite offices were opened in Siteki and Nhlanguano to service the Lubombo and Shiselweni regions respectively.

The handling of disputes was successfully decentralized to the regions where they are raised and now both employees and employers cover a minimum radial distance to these offices and incur marginal costs in the process. This has helped to drastically reduce the number of cases that are abandoned due to inaccessibility.

Policies and procedures

As a newly established institution of such a legal status the need to establish policies and procedures to serve as guidelines in our operations was identified as a key factor. Two sets of policies and procedures were developed, those that deal with the operations of the Commission and as well as procedures on handling clients cases.

The comprehensive set of policies and procedures relating to the internal operations of the Commission was developed under these broad sections; code of ethics, staffing and employment, salaries administration, employee benefits, health, safety and environment, transport, training and development, industrial relations and information and feedback system.

In addition to the internal policies and procedures, four functional procedures on the legislated services CMAC provides to its clients were developed and are as follows:-

- Case management procedure – specifying ways and stages of effectively

managing a dispute from the time it is transmitted to the period it is closed.

- Strike ballot procedure – detailing steps to follow when conducting a strike ballot.
- Verification count procedure – detailing all requirements and steps for conducting the verification count.
- Commissioners' code of ethics – A code of ethics to ensure Commissioners exercise impartiality, high fairness and objectivity, adherence to law when handling cases was developed and adopted by all Commissioners.

Strategic Plan

Through financial and resource specialist assistance from the ILO/ Swiss office based in Pretoria the Commission was able to formulate a three-year strategic plan over a three-day workshop.

The vision, mission, and strategic objectives formulated are shown below;

Vision:

To promote a stable labour relations climate in Swaziland that contributes positively to economic and employment growth by being the best dispute resolution and prevention agency in Southern Africa

Mission:

To provide a speedy, accessible and fair dispute resolution and prevention services to promote harmony, equity and peace in labour relations.

Objectives:

***Dispute resolution
Dispute prevention structures.
Marketing of Commission.
Installation of the case management system.
Organizational alignment***



Technical amendments to the 2000 Industrial Relations Act

Among the most fundamental processes of our institution building was to review the dispute resolution mechanism provided by the current Industrial Relations Act 2000 for its completeness and application in the real situation.

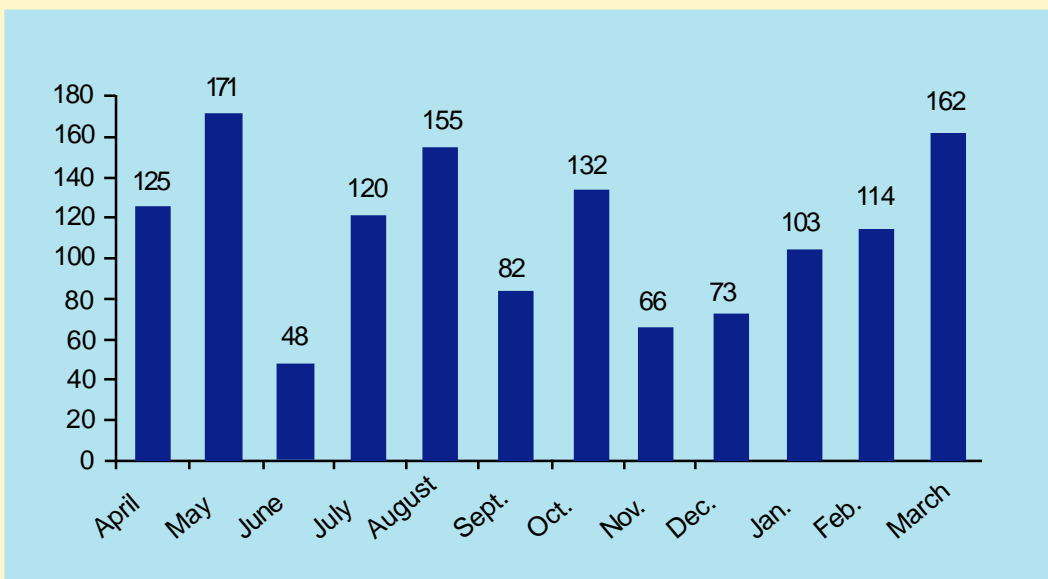
From a benchmark exercise, facilitated by the ILO/SWISS project the Governing Body identified a few technical shortcomings about the process. These included limited powers bestowed on the Commission to

deal with non-attendance to conciliation, issuing default judgements, referring a dispute to arbitration. Also found to be of concern was the two stage process of reporting cases to the Department of Labour before transmitting it to CMAC which was found to be too long, the dual dispute reporting (section 41 of Employment Act / 80 and section 76 of IR Act 2000) as well as a complicated strike procedure.

These irregularities were then handed over to the Labour Advisory Board to pursue further towards making them law and form the basis for the proposed amendments being developed.

2. DISPUTE RESOLUTION

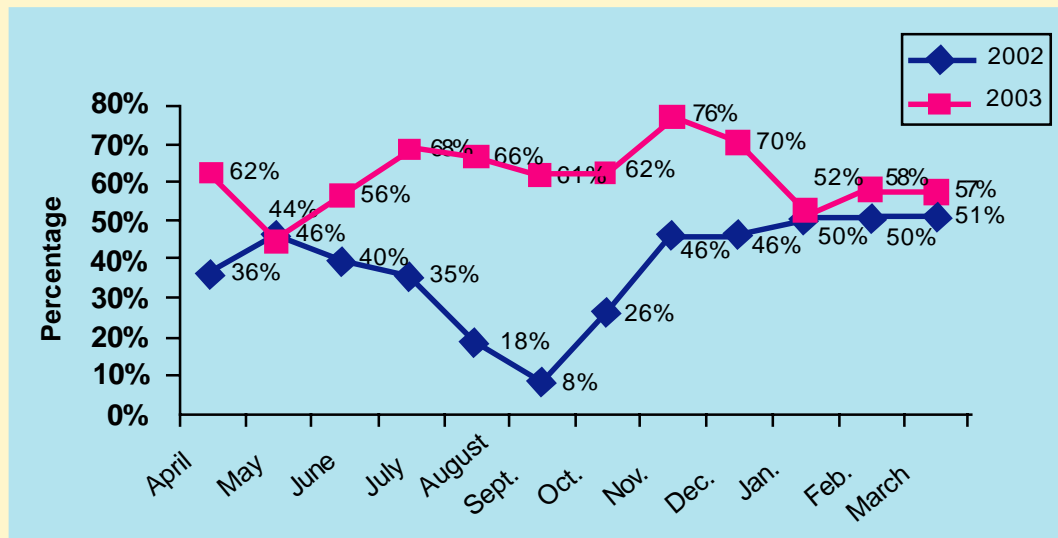
Dispute referral by month



During the period of April 2002 to 31 March 2003 a total of 1351 disputes were transmitted to the Commission by the Department of Labour. Compared to last year this reflects a 3 percent increase. 113 cases were received per month on average which translates to 6 cases per day. Only 3 of these cases were reported by employers. The highest number of cases received per month (171) was transmitted in May and the lowest (48) was transmitted in June 2002. Over 48 000 workers were involved in these disputes.

Out of the 1351 cases that were transmitted 85 percent were processed to completion, 12 percent were not conciliated because they were either abandoned or withdrawn by one or both parties. Just around 1 percent of the cases were duplicated. Only a mere 2 percent of reported cases remained pending when this financial year under review was closed compared to 12 percent the previous year.

Settlement rate



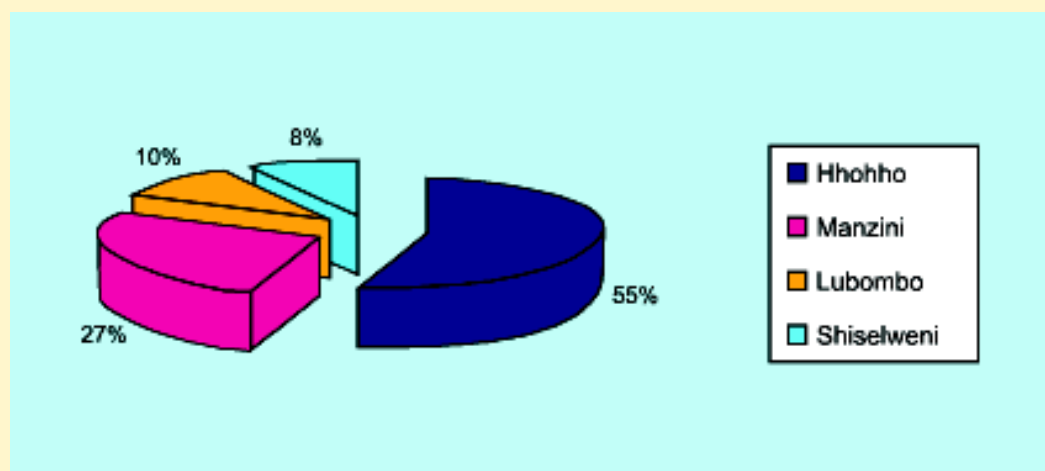
An annual average settlement rate of 61 percent was achieved, reflecting a 27 percent improvement compared to last year's average. This improvement is attributed to our mop up exercises and the continuous improvement drive initiated at the beginning of May 2002. Through these two initiatives all transmitted cases were tracked to completion, any bottlenecks identified in the process were addressed immediately and a procedure was established thereafter to prevent recurrence. The skills and knowledge acquired by the five Commissioners who attended the Post Graduate Diploma in Labour Law, through

direct application and cross-pollination helped to further advance our performance.

A monthly settlement record of 76 percent was set in November. Our performance in all the other months was consistently above last year's figures except for the month of May where it was below by 2 percent.

A quarterly settlement record of 69 percent was attained in quarter three. This period coincided with the return of five Commissioners who had enrolled for the PostGraduate Diploma in Labour law.

Dispute distribution by region

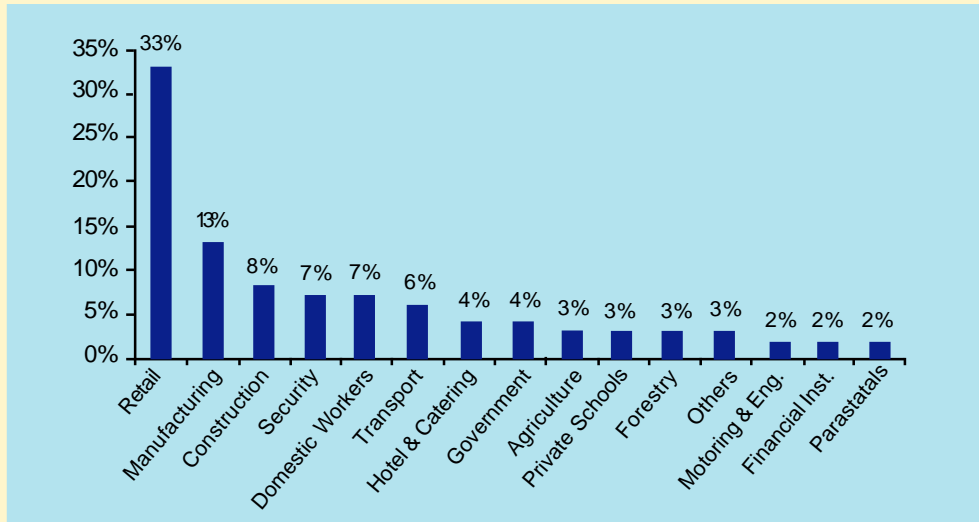




Hhohho received the highest number of disputes at 55 percent, followed by Manzini with 27 percent and Lubombo with 10

percent. Shiselweni was last with 8 percent. Over 38 thousand workers were affected by these disputes.

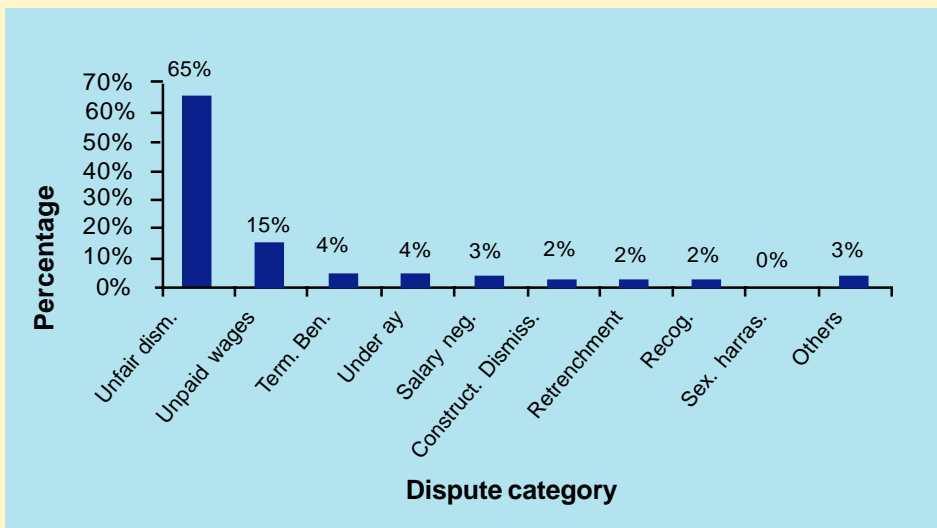
Dispute distribution by sector



33 percent of reported disputes came from the Retail sector followed by the manufacturing sector with 13 percent. The remaining four positions in the top six were occupied by these sectors; construction, security, domestic workers and Transport.

A total of 74 percent of the cases came from the top six sectors with the balance coming from the remaining 9 sectors. Sectors with negligible number of transmitted cases including mining, sports, media were grouped together under others.

Cases distribution by dispute category



The cases referred to CMAC were grouped into nine main categories as shown above. The ninth category includes all other unfair labour practices that could not be fitted under any of the main issues and commanding very negligible numbers as

well. Disputes on Unfair Dismissal accounted for a staggering 65 percent followed by unpaid wages with 15 percent. The remaining 20 percent was shared among the last eight categories.

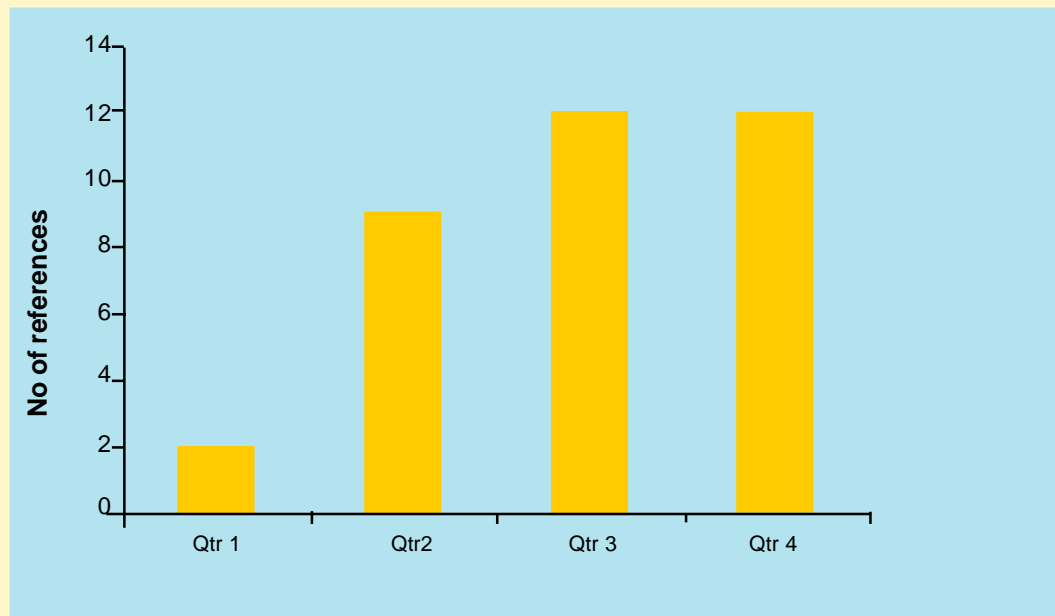
A total number of 127 disputes of interest (with potential to result in strike action) were referred to the Commission. Sixty of these were resolved at conciliation, 12 were resolved at mediation and only one was referred to arbitration. Since over 450000 workers were involved in these disputes resolving seventy-three of them yielded an estimated direct man-day saving of 180 000 from possible strike action.

Only eight unresolved disputes were subsequently furthered into legal strike action and an estimated total of 28 000 man-day hours were lost.

Four cases of protest action, with national impact were referred to the Commission to resolve during this period. These included the appointment of temporal teachers into permanent posts, rule of law, purchase of the King's private jet and privatization of parastatals.

There were eleven illegal strikes recorded and the exact man-days lost could not be determined due to numerous reasons.

Disputes referred to Arbitration



From the 411 unresolved cases only 35 (8.5%) were referred to arbitration. Compared to last year where only 12 cases (2%) were referred to arbitration this shows a significant improvement. Despite this improvement our rate of case referral is still very low compared to the average referrals of over 65 % experienced by sister Commissions within the SADC region.

The challenge of growing the number of cases referred to arbitration was realized at the outset and the process to have the

current Industrial Relations Act /2000 reviewed was initiated. Sections to be reviewed were identified and referred to the Labour Advisory Board to propose amendments. A draft of the amendments was compiled and is likely to be tabled in Parliament in the next financial year.

In addition to the amendments the Commission will be embarking on a massive marketing drive next year to promote referral of cases to this level.



3. DISPUTE PREVENTION

The dispute prevention forms the second critical aspect of our overall objective and encompasses addressing disputes from source at the workplace right to CMAC level. As all disputes start small the ability to solve them at the infancy stage yields more gains than losses compared to disputes settled outside internal structures. Such gains include maintenance of a harmonious working relationship, elimination of hostile position for further bargaining on other issues, reduced work place violence, harassment and downtime.

A series of activities focusing on addressing disputants' fears about the novel processes of conciliation and arbitration were pursued. Efforts were also made to ensure the maximum utilization of these processes by the tripartite. The exact role the Commission plays in these processes was outlined through these activities;

Development of best codes and guidelines

The fundamental aspect of dispute prevention is to provide guidelines and best practices in the area of industrial relations that conform to existing legislation, optimize effective negotiation and problem solving at the workplace.

To this end guidelines on conciliation, arbitration, protest action and intervention by the Labour Commissioner, were developed for use. In addition to these guidelines six codes of good practice were developed in these areas; collective

bargaining, employment discrimination, HIV/Aids in employment, resolution of disputes in the workplace and termination of employment. These will be published next year, after a process to train our clients on them will be facilitated.

Capacity building

After the Commission was established it became crystal clear that most members of the tripartite were not familiar with the principles of conciliation, mediation and arbitration. In order to ensure that they quickly grasped these concepts training on conciliation and negotiation skills were arranged.

A totally inclusive group of 42 participants coming from the tripartite attended the conciliation user training and eighteen attended the negotiation skills course.

Case Management

A case management procedure was developed and presented to all Commissioners to make an input before it was adopted for use in the screening of referred cases for jurisdictional conformance, duplication as well as conformation to the set condonation period. As a result of this initiative around 15% of cases were referred back to the Department of Labour. From the estimated conciliation cost of E450 per case during this period a saving of over E85 000-00 was realized through this initiative. Other savings realized are the reduction in the conciliation duration, sustenance of a minimal backlog and increased settlement rate.

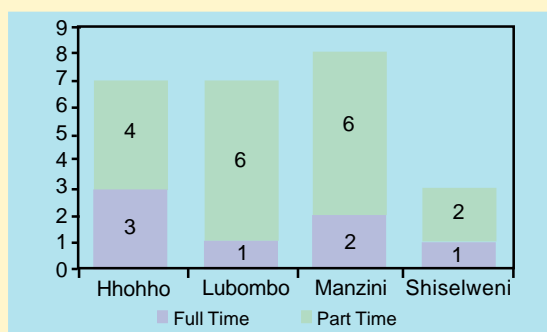
4. HUMAN RESOURCE

In this first year of operation with permanent staff the main area of focus was creation of consistency in the disbursement of service by Commissioners and capacity enhancement.

To ensure consistency on the delivery of service a code of ethics was developed and adopted by both the full time and part-time Commissioners. The critical challenges of being impartial, fair and objective when handling cases were strongly emphasized.

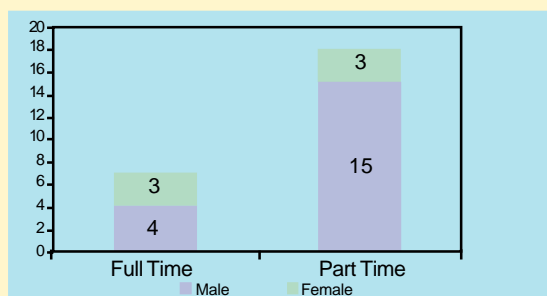
In building capacity, Five Commissioners joined a group of 5 Industrial Relations Practitioners from the tripartite to pursue a Post Graduate Diploma in Labour Law offered jointly by the Universities of Cape Town, University of Lesotho and the University of Namibia.

Commissioners breakdown by region



CMAC has a compliment of seven full time Commissioners and eighteen part-time Commissioners deployed in our regional offices as shown above.

Commissioners' breakdown by gender



The gender distribution is relatively balanced for permanent Commissioners and weighs heavily against females with the part time Commissioners.

5. FUTURE ACTIVITIES

The period between August 2000 and January 2001 when CMAC finally became operational saw an accumulation of a huge number of cases for conciliation. As a result of this backlog the Commission was inevitably compelled to focus most of its attention on dispute resolution and gave less attention to its other functions.

In order to improve the Commission's overall efficiency and accessibility a holistic approach focusing on the other key functions of the Commission has been identified as the ideal route to follow. In addition to dispute resolution the other functions that need to be pursued include, dispute prevention, installation of an electronic case management system and marketing of the Commission .

Our three-year strategic plan formulated late last year spells out the critical objectives to be pursued in our holistic approach. A series of interventions have been developed under each objective and these are indicated in details below:-

Dispute prevention.

After having stretched dispute resolution to its highest yielding potential, the next objective with a higher potential to significantly improve the overall performance of the commission is dispute prevention.

A series of interventions will be pursued under this objective with the purpose of achieving the following: reduction in strike action (legal and illegal), identification of dispute causing factors and development of prompt remedy for these factors, eliminate premature referral of cases to the Commission, reduction of hostilities in the work place, among others.

These interventions, among others, will be pursued through; facilitation of totally participative stakeholders' workshops to establish root causes of disputes and formulate remedies, conducting research to

develop best prevention strategies to supplement the above remedies, training of the tripartite on codes of good practice on handling industrial relations and to develop and present an investor orientation program on labour laws for new investors.

Electronic Case management system.

Following our commitment to provide an efficient service and the need to comply to set legislative deadlines between which a dispute may be facilitated by the Commission an automatic, accurate and reliable system to track our cases from the time they are received to the point of conclusion is more than necessary.

In addition to tracking cases throughout the dispute resolution process, the system should be able to produce comprehensive monthly reports showing the distribution of cases by employment sector, issues in dispute, average conciliation duration on referred cases, tabulate performance using the following indicators: processing rate, settlement rate, pending cases, abandoned cases, withdrawn cases and dismissed cases. This system will also be designed to compile bench book for released arbitration awards.

In the near future this system will be linked to our website so that other functions may be conducted electronically. These functions include reporting of disputes, accessing of our weekly conciliation schedules and accessing of arbitration summaries and reports.

Marketing the Commission

After establishing that the question of making the Commission more accessible is not only a matter of distance but also on awareness of the services provided and its location a robust marketing approach will be pursued to ensure that the Commission is fully utilised. Following the fact that when CMAC started its operations it had to focus mainly on resolving disputes already reported. Most of our clientele is channelled to believe that CMAC was there to only resolve disputes.

The challenge of assisting them refocus attention to the other functions of training, giving advice and dispute prevention will be achieved through this marketing campaign.

Interventions to be pursued are reflected below and funding is required to implement them.

a) Presentation of radio programs.

A radio program covering the Commission and the services it provides will be developed and aired through the broadcasting media in vernacular. A live phone-in will be incorporated to allow for evaluation of program and tackling of complicated issues.

b) Publications

Running a publication on our operations, critical industrial relations issues happening nationally, regionally and at international level, as well as on training was identified as another powerful instruments to reach our clientele. We intend to provide quarterly bulletins covering these topics, which its frequency will be evaluated based on clients response.

Alignment of Organisational Structure

The holistic approach to improve CMAC's efficiency and effectiveness dictates that all the functions of the Commission must be pursued, viz; dispute resolution, dispute prevention, training and provision of advice. Passing of the Industrial Relations amendments bill will further impose a new function of dispute reporting and investigation to the Commission.

A need to depart from current reactive structure that focuses only on dispute resolution to a proactive one is imperative. Two major business units will be created and are the dispute reporting and investigation (registry) and a research and development unit.

The investigation unit will be entirely responsible for the reporting, investigation and transmission of cases to conciliation.

These services will be carried out from the offices to be opened in the strategic industrial sites in the regions.

The research and development unit shall focus on identifying disputes causes, developing procedures, best practises and guidelines to address these causes, as well as running workshops and seminars to educate our clientele on the findings and best approaches to preventing disputes. They will also be running publications for the benefit of the bigger clientele pool and the SADC region.

In our sister countries, the contribution of this unit to overall effectiveness ranks second to that of the dispute resolution unit. They will be tasked to draw industrial relations orientation programs for new investors.

6. CHALLENGES.

Maintenance of Industrial Relations as a competitive advantage

In the year under review, the Commission faced a few challenges in its efforts to maintaining a harmonious industrial relations climate and these include the following:

Finance

In March 2002 CMAC transformed to open its own offices in the four regions and replaced the 8 seconded staff from the department of labour with 17 permanent staff members. Additional costs were borne on utilities, office rental and salaries against a budget that was not adjusted. Even though CMAC effected prudent financial management controls and deferred the implementation of the dispute prevention function the allocated subvention could not meet the operational requirements and this presents the biggest challenge.

The implementation of the interventions listed under the strategic objectives mentioned above and the proposed amendments if they are passed into law will

add to the financial challenge of the Commission. The proposed amendments will require the Commission to open new offices in the regions, recruit more staff to pursue the new functions that would be added

Growth in the Textile Industry

The fast growing textile industry, like any other new business, generated more disputes on issues of recognition of unions, collective bargaining and adherence to the country's labour laws which in the process agitated the industrial relations climate and required intensive facilitation of disputes raised in order to harmonise the industrial relations environment.

Referrals of cases to arbitration

The reluctance by parties, mostly employers, to refer disputes to arbitration and the attitude by some workers to resort against the established structures and pursue illegal strikes somehow eroded the capacity for industrial relations to serve as one of the powerful competitive factor for investment promotion and growth.

HIV/AIDS

The HIV/AIDS pandemic continues to pose numerous challenges to harmonious industrial relations in the country. As the HIV/AIDS scourge continues to deplete the most productive and skilled workforce, lower productivity levels and increase absenteeism in the workplace, most disputes on collective agreements brought before the Commission presented complex and unique challenges in accommodating this problem. This challenge may even become more complex in the near future.



Financial Statements

for the year ended 31 March 2003



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Approval of financial statements

The Governing Body is responsible for monitoring the preparation of and the integrity of the financial statements and related information included in these financial statements.

In order for the Governing Body to discharge its responsibility management has developed and maintains a system of internal accounting and administration controls, designed to provide reasonable but not absolute assurance the transactions are executed in accordance with generally accepted business practices and the Commission's policies and procedures and that assets are adequately safeguarded against loss.

The Governing Body believes that the Commission will be a going concern in the year ahead. For this reason they continue to adopt the going concern basis in preparing the annual financial statements.

The annual financial statements have been prepared in accordance with Swaziland and International Financial Reporting Standards.

The financial statements for the year ended 31 March 2003 set out on pages 3 to 15 were approved by the Governing Body on 21 November 2003 and are signed on its behalf by:

.....
Chairperson
21 November 2003

.....
Executive Director



Report of the independent auditors to the Honourable Minister for Labour in terms of Section 71 of the Industrial Relations Act, 2000)

We have audited the financial statements of the Conciliation Mediation and Arbitration Commission set out on pages 20 to 32. These financial statements are the responsibility of the Governing Body. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with International Standards on Auditing. These standards require that we plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures included in the financial statements. An audit also includes assessing the accounting principles used and significant estimates used by management as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

We have received all the information and explanations we required.

In our opinion the financial statements fairly present, in all material respects, the financial position of the Commission at 31 March 2003 and the results of its operations and cashflow information for the year then ended in accordance with Swaziland and International Financial Reporting Standards.

Auditors



Report of the governing body

for the year ended 31 March 2003

The Governing Body has pleasure in presenting their final report for the year ended 31 March 2003.

Business and operations

The Commission was established in terms of legal notice 151 of 2000 in accordance with the provisions of the Industrial Relations Act 2000 (Act No. 1 of 2000). The Governing Body was appointed with effect from 1 December 2000.

The objectives of the Commission are:

- To ensure an expedite speedy resolution of labour disputes
- To enhance an amicable resolution and prevention of labour disputes
- To promote and transfer skills amongst the Commission's employees
- To demonstrate high levels of integrity in handling disputes
- To promote fairness and equity in industrial relations

The principal activity of the Commission is to resolve labour disputes speedily. The Commission is an independent body that is an alternative dispute resolution mechanism.

Financial results

The results of the Commission for the year are fully disclosed in the attached financial statements.

Governing Body

Treasure Maphanga
Siphephiso Dlamini
Caleb Nkonyane
Linda Ntshangase
Jimson Gwebu
Joseph Shilubane
Petros Magagula
Richard Nxumalo
Samuel Dlamini
Sikhomba Gumbi
Teresa Mlangeni

Chairperson
Secretary (Appointed 1 May 2002)



Report of the governing body

for the year ended 31 March 2003 (continued)

Auditors

KPMG Chartered Accountants (Swaziland)
2nd Floor
Imfumbe Building
Warner Street
Mbabane

Business address

Mbabane House
Corner of Gwamile and Warner Streets
Mbabane

Postal Address

P O Box 3942
Mbabane

Subsequent events

There are no events which have occurred between the accounting date and the date of this report which have a material impact on these financial statements.

Accounting policies

1. Statement of compliance

The financial statements of the Commission are prepared in accordance with International Financial Reporting Standards issued by the International Accounting Standards Board (IASB) and interpretations issued by the Standing Interpretations Committee of the IASB.

2. Basis of presentation

The financial statements are presented in Swazi Emalangeni. They are prepared on the historical cost basis and incorporate the following principal accounting policies, which are consistent with those of the previous year.

3. Property, plant and equipment

(i) Owned assets

Items of property, plant and equipment are stated at cost less accumulated depreciation and impairment losses.

(ii) Leased assets

Leases in terms of which the Commission assumes substantially all the risks and rewards of ownership are classified as finance leases. Plant and equipment acquired by way of finance leases is stated at an amount equal to the lower of its fair value and the present value of the minimum lease payments at inception of the lease, less accumulated depreciation and impairment losses. The interest expense component of finance lease payments is recognised in the income statement using the effective interest rate method.

(iii) Depreciation

Depreciation is charged on a straight line basis over the estimated useful lives of the assets.

The rates of depreciation used are as follows:

| | |
|------------------------|-------|
| Computers | 33.3% |
| Motor vehicles | 20% |
| Furniture and fittings | 10% |
| Office equipment | 10% |

4. Grants

Grants are not recognised until there is reasonable assurance that the grants will be received by the Commission and that the Commission will comply with the conditions applying to the grants. Grants are recognised in the income statement on a systematic basis matching them with the related costs for which the grants are intended to compensate. The balance of grants received but not shown as income is classified as deferred income.

Accounting policies (continued)

5. Accounts receivable

Accounts receivable are stated at their cost less impairment losses.

6. Provisions

A provision is recognised in the balance sheet when the Commission has a legal and constructive obligation as a result of a past event, and it is probable that an outflow of economic benefit will be required to settle the obligation.

7. Accounts payable

Accounts payable are stated at their cost.

8. Impairment

The carrying amounts of the Commissions assets are reviewed at each balance sheet date to determine whether there is any indication of impairment. If such indication exists, the assets recoverable amount is estimated. An impairment loss is recognised whenever the carrying amount of an asset exceeds its recoverable amount.

9. Comparative figures

Comparative figures have been restated, where necessary, to afford a proper comparison.



Balance sheet

at 31 March 2003

| | Note | 2003 E | 2002 E |
|---|------|------------------|------------------|
| Assets | | | |
| Property, vehicles and equipment | 3 | 786 466 | 454 814 |
| Current assets | | | |
| Accounts receivable | 4 | 22 585 | 515 160 |
| Investments in unit trust funds | 5 | 444 046 | 1 095 679 |
| Cash at bank and on call | | 92 240 | 244 479 |
| | | <u>558 871</u> | <u>1 855 318</u> |
| Total assets | | <u>1 345 337</u> | <u>2 310 132</u> |
| Equity and liabilities | | | |
| Grants deferred income | 6 | 1 020 508 | 2 090 960 |
| Long term interest-bearing liabilities | 7 | 164 877 | - |
| | | <u>1 185 385</u> | <u>2 090 960</u> |
| Current liabilities | | | |
| Accounts payable and accruals | 8 | 128 084 | 219 172 |
| Current portion of interest-bearing liabilities | 7 | 31 868 | - |
| | | <u>159 952</u> | <u>219 172</u> |
| Total equity and liabilities | | <u>1 345 337</u> | <u>2 310 132</u> |

Income statement

for the year ended 31 March 2003

| | Note | 2003 E | 2002 E |
|---|------|------------------|------------------|
| Income | | | |
| Grants received | | 2 770 452 | 1 655 464 |
| Other income | | 22 009 | - |
| | | <u>2 792 461</u> | <u>1 655 464</u> |
| Expenditure | | | |
| Commissioners' allowances | | 376 252 | 396 989 |
| Salaries and wages | | 1 436 263 | 640 633 |
| Other expenses | | 1 110 197 | 683 676 |
| | | <u>2 922 712</u> | <u>1 721 298</u> |
| Operating deficit before financing income | 1 | (130 251) | (65 834) |
| Net financing income | 2 | 130 251 | 65 834 |
| | | <u>-</u> | <u>-</u> |
| Net operating deficit for the year | | <u>-</u> | <u>-</u> |

Cash flow statement

for the year ended 31 March 2003

| | Note | 2003 E | 2002 E |
|---|------|--------------------|--------------------|
| Cash flows from operating activities | | | |
| Cash utilised by operating activities | 10.1 | (2 868 210) | (1 971 188) |
| Interest received | | 150 668 | 65 834 |
| Finance charges | | (20 417) | - |
| <i>Cash utilised in operating activities</i> | | <u>(2 737 959)</u> | <u>(1 905 354)</u> |
| Cash flows from investing activities | | | |
| Additions to property, vehicles and equipment | | (462 658) | (500 912) |
| Decrease/(increase) in investments in Lilangeni Fund | | 651 633 | (1 095 679) |
| <i>Cash available from/(utilised in) investing activities</i> | | <u>188 975</u> | <u>(1 596 591)</u> |
| Cash flows from financial activities | | | |
| Grants received | | 2 200 000 | 3 746 424 |
| Increase in long term liabilities | 10.2 | 196 745 | - |
| <i>Cash available from financial activities</i> | | <u>2 396 745</u> | <u>3 746 424</u> |
| (Decrease)/increase in cash and cash equivalents | | (152 239) | 244 479 |
| Cash and cash equivalents at beginning of year | | 244 479 | - |
| Cash and cash equivalents at end of year | | <u>92 240</u> | <u>244 479</u> |

Notes to the financial statements

for the year ended 31 March 2003

| | 2003 E | 2002 E | |
|--|----------------------------|--|----------------|
| 1. Net deficit before financing income | | | |
| Net deficit before financing income has been arrived at after charging the following items:- | | | |
| Audit fees – current year | 18 400 | 20 000 | |
| Depreciation of fixed assets | 131 006 | 46 098 | |
| | <u>149 406</u> | <u>66 098</u> | |
| 2. Net financing income | | | |
| Interest received | 150 668 | 65 834 | |
| Finance charges | (20 417) | - | |
| | <u>130 251</u> | <u>65 834</u> | |
| 3. Property, vehicles and equipment | | | |
| <i>Owned assets</i> | | | |
| | Cost 2003 E | Accumulated depreciation 2003 E | |
| | | Book value 2003 E | |
| Motor vehicles | 151 238 | 45 371 | 105 867 |
| Computer equipment | 106 572 | 59 534 | 47 038 |
| Furniture and fittings | 200 644 | 22 717 | 177 927 |
| Office equipment | 239 070 | 18 443 | 220 627 |
| | <u>697 524</u> | <u>146 065</u> | <u>551 459</u> |
| <i>Leased assets</i> | | | |
| Motor vehicles | 266 046 | 31 039 | 235 007 |
| | <u>266 046</u> | <u>31 039</u> | <u>235 007</u> |
| Total | <u>963 570</u> | <u>177 104</u> | <u>786 466</u> |

Notes to the financial statements

for the year ended 31 March 2003 (continued)

3. Property, vehicles and equipment (continued)

Movement in property, vehicles and equipment

| | Opening net book value | Additions | Depreciation | 2003 Closing net book value |
|------------------------|---------------------------|----------------|------------------|-----------------------------------|
| | E | E | E | E |
| <i>Owned assets</i> | | | | |
| Motor vehicles | 136 114 | - | (30 247) | 105 867 |
| Computer equipment | 82 562 | - | (35 524) | 47 038 |
| Furniture and fittings | 153 274 | 42 588 | (17 935) | 177 927 |
| Office equipment | 82 864 | 154 024 | (16 261) | 220 627 |
| | <u>454 814</u> | <u>196 612</u> | <u>(99 967)</u> | <u>551 459</u> |
| <i>Leased assets</i> | | | | |
| Motor vehicles | - | 266 046 | (31 039) | 235 007 |
| | <u>-</u> | <u>266 046</u> | <u>(31 039)</u> | <u>235 007</u> |
| Total | <u>454 814</u> | <u>462 658</u> | <u>(131 006)</u> | <u>786 466</u> |

4. Accounts receivable

| | 2003 E | 2002 E |
|------------------------------------|---------------|----------------|
| Swaziland Government - Subventions | - | 500 000 |
| Rent deposits | 15 160 | 15 160 |
| Staff loans | 7 425 | - |
| | <u>22 585</u> | <u>515 160</u> |

5. Investments in unit trust funds

| | | |
|-----------------------------------|----------------|------------------|
| African Alliance – Lilangeni Fund | <u>444 046</u> | <u>1 095 679</u> |
|-----------------------------------|----------------|------------------|

The investment is earning interest at variable rates dependent upon the overall returns generated by the fund.

Notes to the financial statements

for the year ended 31 March 2003 (continued)

| | 2003 E | 2002 E |
|---|------------------|------------------|
| 6. Grants deferred income | | |
| 6.1 Government of the Kingdom of Swaziland | | |
| Balance at the beginning of the year | 2 023 523 | 1 666 424 |
| Reversal of prior year accrued amount not received | (500 000) | - |
| Received/ receivable current year | 2 200 000 | 2 000 000 |
| | <u>3 723 523</u> | <u>3 666 424</u> |
| Appropriated against current year expenditure | (2 753 593) | (1 642 901) |
| | <u>969 930</u> | <u>2 023 523</u> |
| 6.2 Government of the United States of America | | |
| Balance at the beginning of the year | 67 437 | - |
| Received in the current year | - | 80 000 |
| Appropriated against depreciation in the current year | (16 859) | (12 563) |
| | <u>50 578</u> | <u>67 437</u> |
| Total grant at end of year | <u>1 020 508</u> | <u>2 090 960</u> |
| 7. Long term interest-bearing liabilities | | |
| <i>Finance lease</i> | | |
| Nedbank (Swaziland) Limited | 196 745 | - |
| Current portion of finance lease | (31 868) | - |
| | <u>164 877</u> | <u>-</u> |

The lease is repayable in 60 monthly instalments of E5 254 and bears interest at the bank prime lending rate. The final instalment on the lease will be paid on 31 July 2007.



Notes to the financial statements

for the year ended 31 March 2003 (continued)

| | 2003 E | 2002 E |
|--|-------------|-------------|
| 8. Accounts payable and accruals | | |
| Unpaid staff costs | | |
| : Gratuity | 46 445 | - |
| : Pay As You Earn | 30 956 | - |
| Accruals | 50 683 | 219 172 |
| | <hr/> | <hr/> |
| | 128 084 | 219 172 |
| | <hr/> <hr/> | <hr/> <hr/> |
| 9. Contingent liability | | |
| <p>There is a contingent liability in respect of potential taxation being levied by the Tax Authorities in the Republic of South Africa on interest earned from investments in that country. The amount of any such tax has not been computed but is not considered to be significant.</p> | | |
| 10. Notes to the cash flow statements | | |
| 10.1 Cash utilised by operating activities | | |
| Operating deficit before financing income | (130 251) | (65 834) |
| Adjustment for: | | |
| Grants appropriated | (2 770 452) | (1 655 464) |
| Effect of reversal of prior year accrued grant not received | (500 000) | - |
| Depreciation | 131 006 | 46 098 |
| Decrease/(increase) in accounts receivable | 492 575 | (515 160) |
| (Decrease)/increase in accounts payable | (91 088) | 219 172 |
| | <hr/> | <hr/> |
| | (2 868 210) | (1 971 188) |
| | <hr/> <hr/> | <hr/> <hr/> |
| 10.2 Increase in long term liabilities | | |
| Finance lease raised | 266 046 | - |
| Finance lease repaid | (69 301) | - |
| | <hr/> | <hr/> |
| | 196 745 | - |
| | <hr/> <hr/> | <hr/> <hr/> |



Notes to the financial statements

for the year ended 31 March 2003 (continued)

11. Related parties

Related parties includes the Swaziland Government – Ministry of Enterprise and Employment.

Included in accounts receivable (note 4) is an amount of E Nil (2002 : E500 000) receivable by the Commission from this related party.

12. Financial instruments

Financial assets of the Commission include cash and accounts receivables. Financial liabilities of the Commission include accounts payable. Accounting policies for financial assets and liabilities are set out on pages 5 and 6.

Interest rate risk

The interest rates applicable to the Commission on its investment in unit trust funds and interest-bearing liabilities are disclosed in notes 5 and 7 to the financial statements respectively.

Credit risk

Credit risk represents the accounting loss that would be recognised at the reporting date if counterparties failed completely to perform as contracted. The Commission does not have significant exposure to any individual customer or counterparty. To reduce exposure to credit risk, the Commission performs ongoing credit evaluations of the financial condition of its customers but generally does not require collateral. The Commission invests available cash and cash equivalents with various banks. The Commission is exposed to credit-related losses in the event of non-performance by counterparties to financial instruments. Management does not expect any counterparty to fail to meet its obligations.

Fair value

The fair value of cash, accounts receivable, and accounts payable, are not materially different from their carrying amounts.



Detailed income statement

for the year ended 31 March 2003

| | 2003 E | 2002 E |
|---|-------------|-------------|
| Income | | |
| Grant income | 2 770 452 | 1 655 464 |
| Interest received | 150 668 | 65 834 |
| Sundry income | 22 009 | - |
| | <hr/> | <hr/> |
| | 2 943 129 | 1 721 298 |
| Expenses | | |
| Audit fees | 18 400 | 20 000 |
| Advertising and promotions | 88 568 | 20 463 |
| Bank charges | 6 449 | 4 677 |
| Cellphone expenses | 39 622 | 6 196 |
| Cleaning and teas | 4 954 | 20 922 |
| Computer expenses | 23 879 | 32 320 |
| Commissioners' allowances | 376 252 | 396 989 |
| Consulting fees | - | 165 431 |
| Courier and postage | 2 786 | 2 229 |
| Depreciation | 131 006 | 46 098 |
| Electricity and water | 25 733 | 582 |
| Entertainment expenses | 9 521 | 18 572 |
| Finance charges | 20 417 | - |
| General expenses | 11 763 | 1 764 |
| Governing body allowances | 91 799 | 133 526 |
| Insurance | 46 072 | 21 624 |
| Legal fees | 1 670 | - |
| Levies | 230 | - |
| Motor vehicle expenses | 40 283 | 22 678 |
| Printing and stationery | 78 352 | 72 703 |
| Professional fees | 36 993 | - |
| Rent paid | 131 750 | 25 560 |
| Repairs and maintenance | 25 861 | 1 134 |
| Salaries and wages | 1 461 203 | 640 633 |
| Staff training | 50 849 | 5 531 |
| Subscriptions | 712 | 1 308 |
| Telephone and facsimile | 142 109 | 57 506 |
| Travel and accommodation | 75 896 | 2 852 |
| | <hr/> | <hr/> |
| | 2 943 129 | 1 721 298 |
| | <hr/> | <hr/> |
| Net operating deficit for the year | - | - |
| | <hr/> <hr/> | <hr/> <hr/> |