

**REPUBLIC OF VANUATU  
OFFICE OF THE OMBUDSMAN**

**PUBLIC REPORT  
ON THE  
ILLEGAL PURCHASE  
OF  
11 MINISTERIAL CARS IN 1996  
BY  
FORMER PRIME MINISTER  
MR SERGE VOHOR**

**18 December 1998**

**7157/8/27**

**PUBLIC REPORT ON THE ILLEGAL PURCHASE OF  
11 MINISTERIAL CARS IN 1996  
BY FORMER PRIME MINISTER  
MR SERGE VOHOR**

**PREAMBLE**

*"He that soweth inequity shall reap vanity"*  
Proverbs 22 v 8

This report illustrates yet again the determination to secure personal gain by deliberately ignoring legal procedures and falsely involving the Council of Ministers without their knowledge as if they had given authority for the purchase of 11 new cars. No competitive tenders were received, the arrangement violated the rules of procedure.

**SUMMARY**

From 21st to 26th October 1996 the USP (University of the South Pacific) Council which comprised of all education ministers of all USP region countries held a meeting in Port Vila. The day before the meeting commenced (20 October 1996), the former Prime Minister Hon. Rialuth Serge Vohor instructed his Minister of Transport Hon. Samson Bue to arrange for the purchase of 12 new cars. These cars were to be used for the purpose of transporting the Pacific region Ministers who would attend the USP Council meeting. These cars would then be allocated to the different Government Ministries after being used. (The allocation of the cars is attached as annexure "A"). 11 cars were finally bought about Vt.20,459,000.

Mr Vohor made the decision of obtaining these cars and then gave orders to the Minister of Transport Mr Bue and Minister of Finance Mr Shem Nokout to arrange for the release of the 11 cars.

In his letter to Mr Bue on 20 October 1996 (Annexure A), Mr Vohor was referring to a Council of Ministers (COM) approval to purchase the cars. Actually there was no COM meeting to discuss and approve the matter until 15 November 1996. By this time there was another coalition government formed on 25 October 1996 between Vohor's Union Moderate Party group and Vanuaaku Party replacing the former coalition UMP-NUP. The COM meeting of 15 November 1996 was just an endorsement of what had been decided and actioned by Vohor during his first coalition government.

The decision and the purchase of 11 new Government cars worth of Vt. 20,459,000 was successfully done in two days without following any of proper procedures set out in the Finance Regulations provided for by Public Finance Act. The then Prime Minister Mr Vohor was sent a Preliminary Report on the matter to allow him to comment on the report. Mr Vohor did not reply to explain why he had ignored proper procedures in making this decision which involved over twenty million vatu public money.

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## **1. JURISDICTION**

- 1.1 Under the Constitution and the Ombudsman Act, I have jurisdiction to enquire into the conduct of government and related bodies, which includes the conduct of the Prime Minister's cabinet and his Ministers. I also have jurisdiction to enquire into defects in law or administration practices and possible breaches of the Leadership Code. The members of the Council of Ministers are all Leaders under the Constitution and the Ombudsman Act.
- 1.2 The Ombudsman Act 1995 continues to apply to this case regardless of its recent repeal, since the investigation began while the Act was in effect (Interpretation Act [CAP 132] s.11).

## **2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED**

- 2.1 The purpose of this report is to present my findings in accordance with Article 63 of the Constitution and Section 24 of the Ombudsman Act.
- 2.2 The scope of this investigation is to ascertain the relevant facts with respect to the purchase of 11 Ministerial cars in November 1996 by the then Prime Minister Mr. Serge Vohor, the former Minister of Transport Mr. Samson Bue and former Minister of Finance Mr. Shem Nokout. This is to determine whether:
- (a) the procedures taken to purchase the cars were proper and in accordance with the Finance Regulations;
  - (b) the conduct of the ministers concerned and the members of the Council of Ministers in supporting and endorsing the decision of the purchase were in line with the Leadership Code.
- 2.3 This Office acquires relevant information and documentation by informal request, summons, correspondence, personal interviews and research.

## **3. RELEVANT MATTERS AND OUTLINE OF EVENTS**

- 3.1 The following are the events which happened in chronological order:

<b>Date</b>	<b>Event</b>
20.10.96	<p>Hon. Prime Minister Mr. Serge Vohor wrote to the Minister of Transport Mr. Samson Bue saying that after the Council of Ministers' approval to purchase 12 new ministerial cars, he decided that Mr. Bue should authorise the Hyundai model car seller to release and deliver on duty free basis the vehicles on Monday 21.10.96 at 7.30 am. This instruction was based on the then government's obligation to provide suitable transport to the visiting Pacific Islands Ministers. (His letter is attached as appendix "B")</p> <p>The Central Tender Board was not established to deal with this expenditure of over Vt. 20 million of government funds. No tender notice was prepared or published for the purchase of the vehicles. The car seller did not submit a tender bid, and its prices were not compared in any formal way with any other car dealer.</p>
20.10.96	<p>Mr. Bue wrote to the Manager of the car seller requesting the release of 12 new cars as of Monday 21.10.96. A copy of this letter was sent to the Minister of Finance Hon. Shem to make necessary payments. ( This letter is attached as appendix "C")</p>

- 21.10.96      Payment for only 11 cars was made to the car seller at the cost of Vt. 20,459,000
- 21.10.96      The USP Council commenced
- 25.10.96      There was a reshuffle of the government, as Vanuaaku Party came in with Mr Serge Vohor and his Union of Moderate party ministers. Thus a new Council of Ministers was formed.
- 26.10.96      The USP Council meeting ended.
- 15.11.96      The Council of Ministers consisting of the new members, met and endorsed the Prime Minister's decision to purchase the 12 cars for the amount of Vt 20,459,000. (Meeting minute is attached as appendix "D")
- 23.11.96      The Council of Ministers met again and endorsed the amendment of the initial purchase of 12 cars to only 11 cars for the price of Vt20,459,000 (Minute is attached as appendix "E" )

#### **4.      RESPONSES TO THE PRELIMINARY REPORT**

- 4.1      The preliminary report in this matter was issued on 19 June 1998 to give an opportunity to reply.
- 4.2      Responses were received from:
  - 1. Hon Donald Kalpokas
  - 2. Hon Joe Natuman
  - 3. Hon Sela Molisa
  - 4. Hon John Morsen Willie
  - 5. Mr. Demis Lango
- 4.3      The responses of Hon. Kalpokas, Natuman, Molisa and Morsen Willie were the same saying that they came into power on 25 October 1996 only to find that the cars were already purchased and were in use. So the Council of Ministers at their meeting of 15th and 23rd November 1996 endorsed what was already decided on and actioned by the previous government led by Mr Vohor.
- 4.4      Mr. Lango however, stated that what was done by the former Prime Minister and the Minister of Transport was within their powers.
- 4.5      Mr Vohor, Mr Bue and Mr Nokout declined to respond.

#### **5.      RELEVANT LAWS AND REGULATIONS**

##### **5.1      CONSTITUTION OF THE REPUBLIC OF VANUATU**

###### **CONDUCT OF LEADERS**

- 66.(1)      Any person defined as a leader in Article 67 has a duty to conduct himself in such a way, both in his public and private life, so as not to-
  - (a)      place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised;
  - (b)      demean his office or position;
  - (c)      allow his integrity to be called into question; or
  - (d)      endanger or diminish respect for and confidence in the integrity of the Government of the Republic of Vanuatu.

- (2) In particular, a leader shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by subarticle (1).

#### **DEFINITION OF A LEADER**

67. For the purposes of this Chapter, a leader means the President of the Republic, the Prime Minister and other Ministers, members of Parliament, and such public servants, officers of Government agencies and other officers as may be prescribed by law.

## **5.2 GOVERNMENT FINANCE REGULATION**

### **CHAPTER 22 - PURCHASE OF GOODS AND SERVICES**

#### **REGULATION 361**

- (3) Where the cost of a specific work or service exceeds 1 Million vatu, at least three (3) written tenders must be obtained. These tenders must be submitted to the Central Tender Board for its evaluation and for the awarding of the contract.

- 5.3 Regulations 362 - 367 set out detailed requirements including open competitive bidding, advertisement, use of and composition of the Central Tenders Board and opening and evaluation of tenders.

#### **5.4 REGULATION 368**

- (1) Upon receipt of the technical officer's report, the Board shall reconvene and accept the lowest, evaluated tender. If this is not done, the minutes of the Board meeting shall include a full explanation of the reasons why this did not happen.
- (2) All tenders exceeding 3 million vatu must be approved by the Council of Ministers before they are awarded.

- 5.5 Civil case 25 of 1998 (Rolland v Director of Finance) in Vanuatu's Magistrates Court confirmed that Ministers are required to follow Finance Regulations in all their dealings.

## **6. FINDINGS**

**Finding 1:**            **The conduct of the Prime Minister Serge Vohor in ignoring proper tender procedures breached Chapter 22 of the Finance Regulations.**

- 6.1 Mr. Vohor breached the Government Financial Regulation in that he ignored the tender procedures set out in the Finance Regulations. He failed to contact the Central Tender Board and he also failed to discuss the matter with the Council of Ministers well before the decision was made.

**Finding 2:**            **The Minister of Transport Samson Bue's conduct of ignoring tender procedures breach Chapter 22 of the Finance Regulations.**

- 6.2 As Minister of Transport Mr. Bue was well aware of the Finance Regulations. However he ignored the procedures and he went ahead and got the cars without proper tendering procedures under the order of Mr. Vohor.



**Finding 3:**

**The conduct of Mr. Shem Nokout in not recommending tender procedures reflects a breach of Finance Regulations.**

- 6.3 Mr. Nokout participated in the breach of the Finance Regulation arranging the finances without ensuring that the Finance Regulations had been followed. Being the Minister of Finance Mr. Nokout should have recommended the proper procedures to Mr. Vohor and Mr. Bue. Instead, he accepted what they had decided on and authorised payments.

**7. RECOMMENDATIONS**

**7.1 Recommendation 1:**

The Director General of Finance to ensure that all ministries and departments have a copy of the Finance Regulations. The Director General of Finance to ensure that every Director General and each new Council of Ministers is briefed on the tender requirements in the Finance Regulations and Government Contracts and Tenders Act.

**7.2 Recommendation 2:**

The Attorney General to ensure that he provides advice with respect to the compliance with the Finance Regulations and tender procedures to the Council of Ministers in their meetings and that all such advice be recorded in the minutes.

**8. CONCLUSION**

- 8.1 To comply with Article 63(2) of the Constitution and Section 22 of the Ombudsman Act, the Ombudsman requests the Prime Minister and his Director General, Minister of Transport and the Director of Finance to consider these recommendations and to put them into effect.
- 8.2 The Office of the Ombudsman must be notified within thirty (30) days of the date of this report outlining the decision and steps proposed to implement the recommendations.

Dated the 18th day of December 1998



**Marie-Noëlle FERRIEUX PATTERSON**  
**OMBUDSMAN OF THE REPUBLIC OF VANUATU**

**9. INDEX OF APPENDICES**

- A** Allocation of cars to different Ministries
- B** Serge Vohor's letter to Samson Bue instructing him to order 12 cars from Roger Band Enterprises on duty free basis
- C** Samson Bue letter to Dihn Van Than (Owner of Roger Brand Enterprise)
- D** Council of Minister's endorsement of the purchase of 12 cars
- E** Council of Minister's endorsement of the revoked decision of 12 cars to only 11 cars.



■  
GOUVERNEMENT DE LA  
RÉPUBLIQUE DE VANUATU  
MINISTÈRE DES TRANSPORTS,  
DES TRAVAUX PUBLICS,  
DES PORT & DES SERVICES MARITIMES  
ET SERVICE DES EAUX URBAINES  
Sac Postal Privé No. 057, Port Vila



Annexure "A"

1711  
GOVERNMENT OF THE  
REPUBLIC OF VANUATU  
MINISTRY OF TRANSPORTS,  
PUBLIC WORKS, PORTS & MARINE  
AND URBAN WATER SUPPLY  
Private Mail Bag 057, Port Vila

REF: SB/17/04/97/ai  
DATE: 17th April 1997

■  
Telephone (678) 22790 & 23266  
Fax (678) 24495  
Telex 1040 VANGOV

NAMES OF MINISTRIES AND DEPARTMENT  
WERE THE 11 CARS ALLOCATED

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REGISTRATION

MINISTRIES

G.5	PRIME MINISTER
G.6	MINISTRY OF JUSTICE
G.38	MINISTRY OF LAND
G.412	MINISTRY OF HOME AFFAIRS
G.413	ATTORNEY GENERAL
G.411	MINISTRY OF EDUCATION
G.419	MINISTRY OF TRADE
G.418	MINISTRY OF FOREIGN AFFAIRS
G.417	PRIME MINISTER'S OFFICE
G.416	MINISTRY OF LAND
G.415	SPECIAL BRANCH, POLICE FORCE (CID)

GOUVERNEMENT  
DE LA RÉPUBLIQUE  
DE VANUATU

BUREAU DU PREMIER MINISTRE



Annexure "B" 14/17

GOVERNMENT  
OF THE REPUBLIC  
OF VANUATU

OFFICE OF THE PRIME MINISTER

20 October, 1996.



The Honourable (MP) Samson BUE  
MINISTER OF TRANSPORTS, PUBLIC WORKS, URBAN WATER SUPPLY  
PMB 057  
PORT-VILA.

Dear Minister,

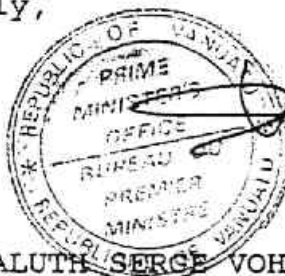
RE : PURCHASE OF TWELVE (12) NEW VEHICLES.

After the Council Ministers Approval to Purchaswe twelve (12) new Officials vehicles for Ministers or for the Government, I have now decided that you authorise the Agent [REDACTED] to release and deliver on Duty-Free basis the Vehicles, on Monday Morning 7.30 am October 21, 1996.

This instruction is based on the Current Government's obligation to provide suitable transport means to the visiting Pacific Island Ministers Meeting in PORT-VILA on 21 - 26 October 1996.

The Vanuatu Government undertakes to make the necessary payment for these vehicles immediately.

Yours Sincerely,



HONOURABLE RIALUTH SERGE VOHOR  
PRIME MINISTER

CC : HONOURABLE SHEM NOKOUT, MINISTER OF FINANCE.



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WASHINGTON, D. C. 20240

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DES PORT & DES SERVICES MARITIMES  
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GOVERNMENT OF THE  
REPUBLIC OF VANUATU  
MINISTRY OF TRANSPORTS,  
PUBLIC WORKS, PORTS & MARINE  
AND URBAN WATER SUPPLY  
*Private Mail Bag 057, Port Vila*

REF.

DATE:

Telephone (678) 22790 & 23266  
Fax (678) 24495  
Telex 1040 VANGOV

20 October, 1996.

Mr. Dean Van Dine  
General Manager  
Enterprise Roger Bra  
Port-Vila

Dear [REDACTED],

RE : RELEASE OF 12 NEW MINISTERIAL VEHICLES

Further to a Council of Ministers' decision endorsing the proposal to purchase 12 (twelve ) new ministerial vehicles, and Prime Minister's Instructions of this date, and in view of the current Government's obligation to provide suitable transport means to the visiting Pacific Island Ministers attending the USP Council of Ministers Meeting in Port-Vila on 21-26 October 1996, I am pleased to hereby request, on behalf of the Vanuatu Government, the release of 12 ( twelve ) new vehicles from your company as of Monday 21 October 1996 on duty-free basis.

Through this letter, the Vanuatu Government undertakes to make the necessary payment for these vehicles immediately.

By copy of this letter, the Minister of Finance is kindly requested to facilitate the necessary arrangements.

Yours sincerely

*Handwritten signature*

Hon. Samson BUE, MP.  
Minister of Transport and  
Public Works



cc : -Hon. S. NOKOUT, Minister of Finance  
-Hon. RIALUTH S., Prime Minister

[REDACTED]

[REDACTED]

LE SECRÉTAIRE GÉNÉRAL



SECRETARY-GENERAL

Our Ref. : CM/DC/13/16/NT/ml/96

Port-Vila, 18th November 1996

To : The Hon. Samson BOE  
Minister of Transports, Public Works,  
Ports and Marines and Urban Water Supply  
Vanuatu Government  
Port-Vila

Dear Hon. Minister,

**RE : Decision No.25 of the Council of Ministers meeting No.03/15/11/96**

**- PURCHASE OF TWELVE (12) NEW MINISTERIAL VEHICLES**

The Council of Ministers meeting No.03 of November 15 1996 approved :

1. That the Government through the Minister of Transports purchase twelve (12) New vehicles of the amount of twenty million four hundred and fifty nine thousand Vatu. (20.459.000 VT).
2. That the two (2) Ministers, Minister of Finance and Minister of Transport to deal with that payment to the company.

Noël TABIUSU  
Secretary General Council of Ministers



cc : Hon. Prime Minister  
: Hon. Deputy Prime Minister  
: Hon. Minister of Justice  
: Hon. Minister of Finance  
: All Hon. Ministers

- Attorney General
- Director of Finance





Our Ref. : CM/DC/13/16/NT/ml/96

Port-Vila, 23th December 1996

To : The Hon. Samson BOE  
Minister of Transports, Public Works,  
Ports and Marines and Urban Water Supply  
Vanuatu Government  
Port-Vila

Dear Hon. Minister,

**RE : Amendment of Decision No.25 of the Council of Ministers meeting  
No.03/23/12/96**

- PURCHASE OF ELEVEN (11) NEW MINISTERIAL VEHICLES

The Council of Ministers meeting No.03 of November 23 1996 approved :

1. That the Government through the Minister of Transports purchase eleven (11) New vehicles of the amount of twenty million four hundred and fifty nine thousand Vatu. (20.459.000 VT).
2. That the Minister of Finance and Minister of Transport arranged for that payment to the compagny.

Noël TABIUSU  
Secretary General, Council of Ministers



cc : Hon. Prime Minister  
: Hon. Deputy Prime Minister  
: Hon. Minister of Justice  
: Hon. Minister of Finance  
: All Hon. Ministers  
- Attorney General  
- Director of Finance



1. Name of the company: M/s. ABC & Co. Pvt. Ltd.  
2. Registered office: Plot No. 12, Sector 15, Gurgaon, Haryana.  
3. Nature of business: Manufacturing of electronic goods.  
4. Financial year: 2017-18.

Particulars of Assets and Liabilities

A. Assets: Rs. 10,00,00,000/-  
B. Liabilities: Rs. 10,00,00,000/-



C. Details of Assets:  
1. Fixed Assets: Rs. 6,00,00,000/-  
2. Current Assets: Rs. 4,00,00,000/-  
D. Details of Liabilities:  
1. Equity: Rs. 8,00,00,000/-  
2. Debt: Rs. 2,00,00,000/-