



OFFICE OF THE OMBUDSMAN

PUBLIC REPORT

**ON THE FAILURE OF GOVERNMENT TO
IMPLEMENT THE PRICE CONTROL ACT**

19 July 2010



REPUBLIC OF VANUATU

6145/2010/01

**Top Floor, Pilioko House
Tel: +678 27200 Fax: +678 27140**

**PMB 9081 Port Vila, Vanuatu
Email: ombud.vt@vanuatu.com.vu**

**PUBLIC REPORT
ON
THE FAILURE OF GOVERNMENT
TO IMPLEMENT THE PRICE CONTROL ACT**

SUMMARY**Outline of events**

The Price Control Act [CAP 86] was enacted in 1974 and its revised edition was published in 1988. The purpose of the Act is *"To make provision for controlling the price of goods and services."*

Since its enactment, the Government has over the years made several attempts to control the price of certain goods. The last attempt at price control was made in 1995 by then Minister responsible, Mr Serge Vohor. After that time, the Act has remained dormant until 2006 when the Ombudsman initiated an own motion investigation to determine whether the Price Control Bureau, now commonly known as the Government Business Enterprise Unit, does not implement the Price Control Act. The aim of the investigation was also to determine whether the Act is defective.

Findings

- The Government through the Ministry of Finance has failed to implement the Price Control Act [CAP 86]

Recommendations

The Ombudsman recommends:

- That Government through the Ministry of Finance appoint a special task force to conduct a comprehensive review of the Price Control Act to bring it in line with the changing global economic trends and to also ensure that consumers and traders rights are protected.

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1. JURISDICTION

- 1.1 The Constitution and the Ombudsman Act allow the Ombudsman to look into the conduct of government, related bodies, and Leaders. This includes the Ministry of Finance & Economic Management, in particular the Price Control Bureau, now commonly known as the Government Business Enterprise Unit. The Ombudsman can also look into defects in laws or administrative practices, including the Price Control Act [CAP 86].

2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED

- 2.1 The purpose of this report is to present the Ombudsman's findings as required by the Constitution and the Ombudsman Act
- 2.2 The scope of this investigation is to establish the facts about the lack of price control on traders by the Price Control Bureau and to determine whether the Price Control Act is defective.
- 2.3 This Office collects information and documents by informal request, summons, letters, interviews and research.

3. RELEVANT LAWS

Relevant parts of the following laws are reproduced in **Appendix 1**.

Price Control Act [Cap 86]

4. BACKGROUND

- 4.1 Governments often take steps to control the prices of goods and services so as to protect consumers from certain conditions that could make necessities unattainable.
- 4.2 In Vanuatu, the Price Control Act [CAP 86] was enacted in 1974 and its revised edition was published in 1988. The purpose of the Act was "*To make provision for controlling the price of goods and services.*" This included provisions for establishing an independent Price Control Bureau, a Prices Advisory Committee, and a system of price control and inspection.
- 4.3 Since its enactment, the Government has in 1987 and 1988 made attempts to prescribe ceiling prices chargeable on certain goods such as rice, tinned mackerel, sugar, tobacco, corned beef, salt, cooking oil, tea, coffee, milo, milk (including the infant formula milk, *Lactogen*), washing powder, butter, margarine, biscuits and flour. A schedule was created to portray the maximum wholesale and retail prices chargeable and it was to be exhibited in every store or shop that operated as a wholesale trader or retailer.
- 4.4 In 1988, a second attempt was also made to charge ceiling and wholesale retail prices on different tobacco brands.
- 4.5 In January 1995, the Honourable Minister of Home Affairs, Mr Serge Vohor ("Mr Vohor") made an attempt to use his powers as Minister under Section 15 of the Price Control Act to make regulations for a Prices Advisory Committee as established by Section 6 of the Act. The purpose of the committee was to act an advisor on all draft legislation regarding prices. To date, there is no longer such a Committee in existence.

- 4.6 In February 1995, Mr Vohor, again using his powers under Section 16 of the Act, ordered that all traders under specific business license categories include a 4% turnover tax in the mark-up of the prices of goods sold by them.
- 4.7 In June 1995, Mr Vohor issued another order to repeal the order of February 1995 and also ordered that no retailer was permitted to sell goods at a retail price that was higher than that which was displayed, offered for sale or advertised.

5. OUTLINE OF EVENTS

- 5.1 In August 2006, the Ombudsman was informed that the Government Business Enterprise Unit in the Ministry of Finance was responsible for carrying out the functions of the Price Control Bureau. The Ombudsman then wrote a letter to Mr Thomson Pakoa ("Mr Pakoa"), the Government Business Enterprise Manager, to voice his concerns about the lack of price control on two particularly important commodities; infant formula milk (*Lactogen*) and one bale of sugar. Copies of correspondence between Mr Pakoa and the Ombudsman are attached as **Appendix 2, 3, 4 and 5**.
- 5.2 Following the Ombudsman's letters, on 22 September 2006, Mr Pakoa wrote to stores in Port Vila and Luganville querying their pricing methods on sugar and *Lactogen* milk. A copy of Mr Pakoa's letter is attached as **Appendix 6**.
- 5.3 Due to insufficient responses by Mr Pakoa, the Ombudsman then initiated an own motion investigation in October 2006 into the allegation that there was a lack of price control on goods and services in Vanuatu by the Price Control Bureau.
- 5.4 The Ombudsman sent letters to 19 traders in Port Vila and Luganville on the allegations being investigated. **Appendix 7** is a summary of the questions and answers received by traders.
- 5.5 On 10 May 2007, the Ombudsman wrote to the Honourable Minister responsible for the Price Control Bureau, then Minister for Finance, Mr Willy Jimmy Tapanga Rarua ("Mr Tapanga Rarua") (refer to **Appendix 8**).
- 5.6 The Ombudsman requested that Mr Tapanga Rarua respond to the allegations regarding the alleged lack of price control on traders by the Ministry of Finance.
- 5.7 In his response dated 21 May 2007 (see **Appendix 9**), Mr Tapanga Rarua responded that in the 1990s, the Price Control Unit was abolished. In 2002, then Minister for Finance, Mr Joe Kalo attempted to resurrect the Price Control Bureau and the Government Business Enterprise Unit would assume the implementation of the Price Control Act. However, due to political instability, this did not eventuate. Further, due to *'budget constraints, high turnover of Ministers in the Ministry and a lack of coordination with relevant stakeholders'*, this Bureau has been left idle.
- 5.8 Mr Tapanga Rarua said that he had issued instructions to his First Political Adviser and the Director of the Ministry of Finance to ensure that the Bureau is made to function.

- 5.9 Mr Tapanga Rarua's opinion is he does not consider *"that the Price Control Act is defective but rather that its implementation and enforcement should be undertaken by dedicated personnel in a dedicated separate unit within the government to ensure that it is effective"*.
- 5.10 Mr Tapanga Rarua also stated that in future, Vanuatu should move towards a *more sophisticated consumer and competition policy with relevant legal framework such as a consumer and competition commission*.
- 5.11 Then Minister of Finance indicated that he would keep the Ombudsman informed.
- 5.12 On 14 June 2007, the Ombudsman again wrote a letter to Mr Tapanga Rarua (see **Appendix 10**). The Ombudsman requested that Mr Tapanga Rarua provide evidence of his instructions to his First Political Adviser, including the terms of reference of the person assigned to resurrect the Price Control Bureau.
- 5.13 Because nothing was forthcoming, the Ombudsman then sent another letter on 28 February, 2008, reminding the honourable Minister to provide a response to the letter of 14 June – seven months had lapsed since the request was made (see **Appendix 11**).
- 5.14 To date, no response has ever been provided by the former Minister of Finance and Economic Management.
- 5.15 A copy of the Working Paper on this report was also sent to the current Minister of Finance and Economic Management but no response was received.

6. RESPONSES BY THOSE WITH FINDINGS AGAINST THEM

- 6.1 Before starting this enquiry, the Ombudsman notified all people or bodies complained of and gave them the right to reply. Also, a working paper was provided prior to preparation of this public report to give the individuals mentioned in this report another opportunity to respond.
- 6.2 Responses were received from only two retail stores and no response was received from the Ministry of Finance nor the Price Control Bureau (Government Business Enterprise Unit). One retail store confirmed its view that the Price Control Act is not implemented at all and made comparisons to the past when it was. Amongst other views expressed, this particular store also shared the view that the Ombudsman obtain the views of different people to resolve this issue (Refer to **Appendix 12**). The Ombudsman is in agreement here and has therefore incorporated this suggestion in its recommendation below.
- 6.3 The other retail store (see **Appendix 13**) states that price increases for certain goods have been due to world market prices but concludes that in regard to the Price Control Bureau, they *"...have still not received any information..."*.
- 6.4 The Ombudsman is also of the view that changes in the global economy should be reflected in the Price Control Act. In Vanuatu, there is now a move towards competition in the market, particularly in breaking monopolies. Although price control has often brought mixed views to traders and

consumers alike, there may still be opportunities for abuse. It is with this in mind that the Ombudsman has made his recommendation in this report.

7. FINDINGS

7.1 Finding 1: The Government through the Ministry of Finance has failed to implement the Price Control Act [CAP 86]

- 7.1.1 Since the enactment of the Price Control Act, the Vanuatu Government has failed to ensure that the Price Control Act be implemented.
- 7.1.2 The Ombudsman acknowledges the attempts made by different Ministers in the 1980s, 1990s, early 2000 and 2007. However, implementation of the Act is still to become a reality.
- 7.1.3 In May 2007, the Minister of Finance, Mr Tapangna Rarua informed the Ombudsman that he would ensure that a Price Control Bureau be resurrected, together with a terms of reference for a person who would be responsible for the Bureau. One year has lapsed since Mr Tapangna Rarua's pledge and nothing has transpired.
- 7.1.4 There was also no response to the Ombudsman's working paper which was issued recently to the current Ministry of Finance and Economic Management.
- 7.1.5 Because of the Government's failure to implement the Price Control Act, there is no price control on goods and services in Vanuatu.
- 7.1.6 The lack of price control means that Traders can charge whatever prices they want on their goods and services. It leaves room for traders to take advantage of the situation, particularly in cases where one trader is the sole distributor, supplier or service provider.
- 7.1.7 The Government has a duty under the Price Control act to protect consumers from unfair trade practices and it is failing to do this.

8. RECOMMENDATIONS

- 8.1 It is recommended that Government through the Ministry of Finance appoint a special task force to conduct a comprehensive review of the Price Control Act so as to cater for the changing global economic trends whilst at the same time, ensure that consumers and traders rights are protected.

Dated this 19th day of July 2010



Pasa TOSUSU
OMBUDSMAN OF THE REPUBLIC OF VANUATU

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2. Copy of Ombudsman's letter of August 8th 2006 letter to Mr Pakoa
3. Copy of letter from Mr Pakoa dated August 9th 2006
4. Copy of Ombudsman's letter of 29th August 2006 to Mr Pakoa
5. Copy of Ombudsman's letter of 20 September 2006 to Mr Pakoa
6. Copy of letter of 22 September 2006 to traders from Mr Pakoa
7. Summary of information collected from traders
8. Copy of Ombudsman's letter of 10th May 2007 to Mr Tapanga Rarua
9. Copy of Mr Tapanga Rarua's letter of 21st May 2007 to the Ombudsman
10. Copy of Ombudsman's letter of 14 June 2007 to Mr Tapanga Rarua
11. Copy of Ombudsman's letter of 28 February 2008 to Mr Tapanga Rarua
12. Copy of response to working paper from one retail store
13. Copy of response to working paper from another retail store

PRICE CONTROL ACT [CAP 86]

Commencement: 29 August 1974

LAWS OF THE REPUBLIC OF VANUATU
REVISED EDITION 1988

CHAPTER 86

PRICE CONTROL

JR 18 of 1974

JR 27 of 1974

JR 10 of 1975

ARRANGEMENT OF SECTIONS

SECTION

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1. Interpretation

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3. Composition of Bureau

4. Functions of Bureau

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- 19. Offences by company
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SCHEDULE - Form of undertaking of secrecy under section 11 of The Price Control Act.

PRICE CONTROL

To make provision for controlling the price of goods and services.

PART I

INTERPRETATION

INTERPRETATION

1. In this Act and in any subsidiary legislation made thereunder, unless the context otherwise requires -

"Controller" means the Price Controller referred to in section 3;

"Inspector" means a Price Inspector referred to in section 3;

"Minister" means the Minister responsible for price control;

"price" when used in connexion with the provision of services includes the rate charged for supplying or carrying on any service and the term "price" or "rate" shall be deemed to include valuable consideration of any kind whatsoever direct or indirect;

"retail" when used in relation to any sale means a sale by a retailer to a consumer;

"retail price" means the price paid or payable for goods sold by retail;

"retailer" means a trader who sells goods to a consumer;

"trader" means any person who in connexion with any business carried on by him sells, has sold, or proposes to sell any goods, or who supplies or who carries on any service;

"wholesale" when used in relation to any sale means a sale by a wholesaler to any person;

"wholesaler" means a trader who sells goods to any person for the purpose of resale or for use by such person in his trade or business;

"wholesale price" means the price paid or payable for goods sold by wholesale.

**PART II
PRICE CONTROL BUREAU**

ESTABLISHMENT OF PRICE CONTROL BUREAU

2. A Price Control Bureau is hereby established for Vanuatu which shall form an independent part of the Ministry responsible for price control.

COMPOSITION OF BUREAU

3. The Bureau shall comprise a Price Controller and a sufficient number of Price Inspectors:

Provided however that police officers of or above the rank of sergeant shall, by virtue of their rank and office be entitled to exercise all functions of a Price Inspector upon having made the declaration of secrecy required by section 11.

FUNCTIONS OF BUREAU

4. The functions of the Price Control Bureau shall be -

- (a) to ensure that the legislation concerning price control is observed by all traders, persons engaged in commercial activities and persons providing services;
- (b) to verify any infringements of the said legislation and to make a report thereon.

EXERCISE OF FUNCTIONS OF BUREAU

5. The Controller and Inspectors shall exercise the functions of the Bureau with the powers conferred upon them by this Act.

PART III

PRICES ADVISORY COMMITTEE

ESTABLISHMENT OF PRICES ADVISORY COMMITTEE

6. A Prices Advisory Committee is hereby established the composition whereof shall be fixed by the Minister.

CONSULTATION OF COMMITTEE ON DRAFT LEGISLATION CONCERNING PRICES

7. The Committee shall be consulted on all draft legislation concerning prices. It may call before it any person or representative of any businesses whose advice may appear to it useful. It shall in addition give all necessary publicity to any draft legislation submitted to it for a period of 2 weeks and shall receive either verbally or in writing any representations which may be made.

PART IV

PROCEDURE AND METHOD FOR FIXING PRICES

INQUIRY INTO PRICE STRUCTURE AND PROFIT MARGINS

8. Before any legislation concerning the control of prices charged for the supply of any goods or services is initiated, the Price Control Bureau shall undertake an inquiry into the price structure and profit margins applied by those persons who supply, whether as wholesaler or retailer, such goods or supply such services.

METHODS OF FIXING PRICES

9. If it shall appear as a result of any inquiry undertaken as aforesaid that price control measures should be initiated, the Price Controller shall so inform the Minister who may, after consulting the Prices Advisory Committee in accordance with section 7, make rules -

- (a) determining the price itself by freezing or fixing;
- (b) determining a profit margin as a fixed sum or as a percentage; or
- (c) controlling prices by any other means which may appear suitable.

**PART V
CONTROLLER AND INSPECTORS**

POWERS OF CONTROLLER AND INSPECTORS

10. The Controller and Inspectors shall have power –

(a) at any reasonable time to require any trader -

(i) to furnish either verbally or in writing, honestly and to the best of his knowledge, any information concerning the price structure applicable to such of his business activities as may be specified;
(ii) as soon as is reasonably possible to produce or to supply a copy of any paper or document relating to the price structure applicable to such of his business activities as may be specified in no matter whose possession the same may be;

(b) during the normal working hours of any business -

(i) to enter and inspect any business premises and to take such steps as may be reasonably necessary to effect such purposes;
(ii) to take possession of any paper, document or sample of merchandise which may appear to him to be evidence constituting proof of any contravention of this Act or any rules made thereunder.

SECRECY

11. (1) The Controller and Inspectors shall be bound by business secrecy but may nevertheless solely for official purposes communicate to the Prices Advisory Committee any information or documents which are necessary for its decisions, provided that such information or documents disclose neither the name nor the business name nor the address of the trader to whom they relate.

(2) In order to ensure compliance with this section the Controller and Inspectors shall individually enter into an undertaking of secrecy in the form prescribed in the Schedule.

PART VI

DUTIES OF TRADERS

TRADERS TO KEEP BOOKS, ACCOUNTS ETC.

12. Every trader shall keep proper and up to date books, accounts and records as are customary in his business or as may be directed in writing by the Controller with the approval of the Minister.

PROHIBITION OF DESTRUCTION OF DOCUMENTS WITHIN 2 YEARS

13. No trader shall, without the prior consent of the Controller, destroy wholly or partially or render unusable any document relating to his business activities within a period of 2 years from the date on which such document came into being.

INVOICES ETC., TO BE SUPPLIED

14. (1) Every wholesaler shall supply his customers with an invoice which must contain the following particulars -

(a) the name and address of the seller and the purchaser;

(b) the date;

(c) a description of the merchandise;

(d) the individual and total prices, together with any additional information specifically relating to particular businesses, merchandise or services as may be required by the Controller. A duplicate of this invoice must be retained by the trader for a period of 2 years after the date on which the same was issued.

(2) Every trader who supplies goods by retail or who supplies any service shall, when such goods or services are supplied on credit, issue at the time when such goods or services are supplied an invoice to the purchaser and a note in duplicate containing the following information –

(a) the name of trader;

(b) the name and first name of the customer;

(c) the date;

(d) the total amount.

Appendix 1 - Page 5 of 6

The trader shall thereupon present such note to the customer for signature after which the trader shall hand one copy to the customer. In the case of cash sales the trader need not issue a note as aforesaid unless otherwise provided in any subsidiary legislation made in accordance with section 15 or unless so requested by the purchaser.

POWER TO MAKE SUBSIDIARY LEGISLATION

15. The Minister may make such subsidiary legislation as he shall deem necessary for the implementation of this Act and in particular for prescribing the requirements as to the advertising of prices which are to be observed by traders.

POWER TO REGULATE ACTIVITY OF TRADERS

16. Without prejudice to the provisions of section 15, if it appears to the Minister necessary to do so, he may, on the advice of the Price Controller or the Price Advisory Committee, make subsidiary legislation to control any operation or activity (including the refusal to sell goods or supply services) by any trader or group of traders which would have as its effect the artificial or unjustified increase or reduction of the price paid for goods whether such goods are sold wholesale or retail.

PART VII

OFFENCES AND PENALTIES

OFFENCES

17. (1) Any person refusing to comply with any requirement made of him in accordance with the provisions of section 10 or by any Inspector, or who wilfully supplies him with false information or with documents which he knows to be erroneous, or who obstructs in any way the Controller or any Inspector in the exercise of his duty shall be guilty of an offence and liable to the penalties prescribed in section 18.

(2) Any trader who, whilst complying with the requirements of any subsidiary legislation made under the provisions of this Act regarding the pricing, labelling description or invoicing of goods supplied by him, nevertheless sells or exposes of; sale goods or supplies services otherwise than in accordance with the price, label, description or invoice applied by him to such goods or services, shall be guilty of an offence and is liable to the penalties prescribed in section 18.

PENALTIES

18. (1) Any person who contravenes the provisions of this Act or any subsidiary legislation which shall be made for the implementation thereof shall be liable to a fine not exceeding VT200,000 or imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.

(2) In addition, notwithstanding the provisions of the Business Licence Act, Cap. 173, the shop or premises where the offence has taken place may be closed by order of the Minister for a period not exceeding 3 months and the trader who has committed the offence shall at his expense display a copy of the said order. The order shall be displayed on the principal entrance to the premises and shall be clearly readable from outside the premises.

OFFENCES BY COMPANY

19. If any offence is committed by a legally incorporated company, the manager or any officer thereof responsible under the articles of association of the said company, shall be guilty of such offence unless he satisfies the court that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

OFFENCES BY EMPLOYEES

20. Any trader who employs any person whether paid or not within his place of business shall be responsible for the acts or omissions of such employee and may be charged therewith if such acts or omissions constitute an offence against this Act unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of any offence; in such case only the employees responsible shall be charged.

Appendix 1 - Page 6 of 6

SCHEDULE

(section 11(2))

Form of Undertaking of Secrecy under section 11
of the Price Control Act, Cap. 86

I, of being an
Inspector/Controller appointed to that office in accordance with the Price Control Act hereby undertake
not to voluntarily disclose any information supplied in pursuance of the Price Control Act, except as
allowed by that Act.

.....
(Signature)

Signed at this day of 19

Witness:

.....



**Office of the Ombudsman
Bureau du Médiateur
Ofis blong Ombudsman**



Our Ref: 1780-FI2-3-L25-tp

(Please quote this reference in all correspondence)

8 August 2006

Mr Thomson Pakoa
GBU Manager
Finance Department
PMB 9031
Port Vila

Dear Mr Pakoa

PRICE CONTROL OVER CERTAIN GOODS

It is my understanding that your unit is responsible for controlling the prices of goods and services in Vanuatu. As such, I wish to raise a concern with you over the price of certain items that I have been observing in the past months.

In May 2006, I noted that the price of one can of *Lactogen Milk* (400g) was priced at VT680. It's 900g equivalent was priced at VT980. In June 2006, the price increased to VT775 (VT400g) and VT1400 (900g) respectively. Last month, I noted the price of the 400g can had increased to VT980.

I also noted the price of one bale of sugar in May was priced at VT1550 and in June, the price had increased to VT1680.

According to your rules and regulations, I would be pleased to know your views on the following:

1. How does your unit determine the price of goods and services? Please provide any documents to ascertain your response.
2. Please confirm if you are aware of the above price increases.
3. In your opinion, is it proper for such large price increases within a short period of time?
4. If not, please explain why and
5. What action(s) (if any) that your unit will take on this matter.
6. Please also provide any other information or documents that you feel is relevant to this matter, or rather, that you believe that the Ombudsman should be informed about.

Please note:

Confidentiality is important and is protected by s.28 of the Ombudsman Act. This correspondence is directed only to you and anyone in your office with whom it is necessary to communicate in order to provide the information requested. If you have

any questions about the extent of confidentiality in this matter, please contact the Ombudsman's Office to discuss it.

We would appreciate that you provide a response to us by 22nd August, 2006. Thank you for your assistance and we look forward to hearing from you.



Yours sincerely

Peter K. TAURAKOTO

OMBUDSMAN OF THE REPUBLIC OF VANUATU

Appendix 3

GOUVERNEMENT DE
LA REPUBLIQUE DE
VANUATU

MINISTERE DES FINANCES
ET DE LA GESTION
ECONOMIQUE

SAC POSTAL PRIVE 058, PORT VILA,
VANUATU
TEL: (678) 23032 FAX: (678) 27937



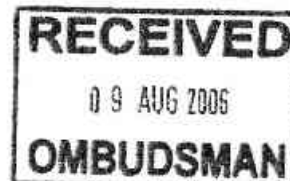
GOVERNMENT OF THE
REPUBLIC OF VANUATU

MINISTRY OF FINANCE
AND ECONOMIC
MANAGEMENT

PRIVATE MAIL BAG 058, PORT VILA,
VANUATU
TEL: (678) 23032 FAX: (678) 27937

9 August 2006

Mr Peter K Taurakoto
Ombudsman of Vanuatu
PMB 9081
PORT VILA



Dear Mr Taurakoto

RE: PRICE CONTROL OVER CERTAIN GOODS

We acknowledge receipt of your letter dated 08/08/06 and would like to thank you for your observations on the pricing of certain consumer items mainly Lactogen Milk and Sugar.

We will look into the matter and advise you in due course. Please inform our office of the traders you are referring to so that we can direct our investigations to them. Meanwhile we will commence general investigations into the prices of Lactogen Milk and Sugar.

Thank you for your cooperation.

Yours sincerely

Thomson Pakoa Matokai-kokona
Manager, Govt. Business Enterprises Unit



cc: Hon. Willy Jimmy Tapangararua, Minister of Finance & Economic Management
Mr Simeon Athy, Director General of Finance & Economic Management



**Office of the Ombudsman
Bureau du Médiateur
Ofis blong Ombudsman**



Our Ref: 1939-FI2-3-L25-tp

(Please quote this reference in all correspondence)

29 August 2006

Mr Thomson Pakoa
GBU Manager
Finance Department
PMB 9031
Port Vila

Dear Mr Pakoa

PRICE CONTROL OVER CERTAIN GOODS

Thank you for your letter of 9 August 2006 regarding the above. The traders that are involved are *Au Bon Marche*, *Erick Wong Store* and *LCC Store*.

For Lactogen Milk, we believe that the practice of increasing the price of this important commodity within such a short period of time is a great discomfort to parents who are feeding babies. This item is a compulsory food source for babies and the price increases seem to be increasing at an alarming rate that parents have to 'bend over backwards' to meet.

In February 2006, the 900g can was priced at VT900 and the 450g was priced at VT550. In April 2006, the prices had increased to VT1400 and VT650 respectively. In May 2006, VT775 and 980. In August 2006, Lam Store has been selling the 450g can for VT780 whilst the other traders were selling them for VT900. We note that Eric Wong Store has recently reduced this to about VT800.

As we have mentioned in our previous correspondence of 8 August 2006, we would still request:

1. How your unit determines the price of goods and services. Please provide any documents to ascertain your response.
2. In your opinion, is it proper for such large price increases within a short period of time?
3. If not, please explain why and
4. What action(s) (if any) that your unit will take on this matter.
5. Please also provide any other information or documents that you feel is relevant to this matter, or rather, that you believe that the Ombudsman should be informed about.

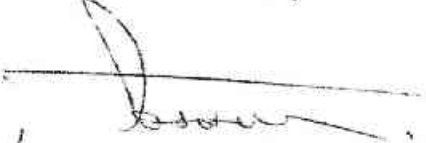
We remind you:

Confidentiality is important and is protected by s.28 of the Ombudsman Act. This correspondence is directed only to you and anyone in your office with whom it is necessary to communicate in order to provide the information requested. If you have

any questions about the extent of confidentiality in this matter, please contact the Ombudsman's Office to discuss it.

We would appreciate that you provide a response to us by 13th September, 2006. Thank you for your assistance and we look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter K. Taurakoto', is written over a horizontal line.

for **Peter K. TAURAKOTO**
OMBUDSMAN OF THE REPUBLIC OF VANUATU

Appendix 5



Office of the Ombudsman Bureau du Médiateur Ofis blong Ombudsman



Our Ref: 2348-FI2-3-L25-tp

(Please quote this reference in all correspondence)

20 September 2006

Mr Thomson Pakoa
GBU Manager
Finance Department
PMB 9031
Port Vila

Dear Mr Pakoa

PRICE CONTROL OVER CERTAIN GOODS

In our letter of 29 August 2006, (copy attached) we ask you for information and documents in relation to the above matter. Our records show that we have not received any response from you.

As this is the second time to remind you to respond to our queries, we wish to advise that we will consider conducting a formal investigation into the alleged lack of price control over goods and services in Vanuatu. We would appreciate that you provide a response to us **by September 29th, 2006**. Thank you for your assistance and we look forward to hearing from you.

Reminder:

Confidentiality is important and is protected by s.28 of the Ombudsman Act. This correspondence is directed only to you and anyone in your office with whom it is necessary to communicate in order to provide the information requested. If you have any questions about the extent of confidentiality in this matter, please contact the Ombudsman's Office to discuss it.

Thank you for your cooperation and assistance and we look forward to hearing from you.

Yours sincerely


Peter K. TAURAKOTO
OMBUDSMAN OF THE REPUBLIC OF VANUATU
Encl.

Appendix 6

GOUVERNEMENT DE
LA REPUBLIQUE DE
VANUATU

MINISTERE DES FINANCES
ET DE LA GESTION
ECONOMIQUE

SAC POSTAL PRIVE 058, PORT VILA,
VANUATU
TEL: (678) 23032 FAX: (678) 27937



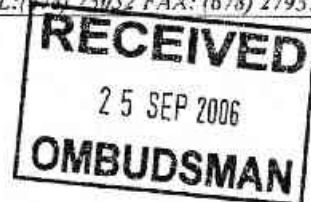
GOVERNMENT OF THE
REPUBLIC OF VANUATU

MINISTRY OF FINANCE
AND ECONOMIC
MANAGEMENT

PRIVATE MAIL BAG 058, PORT VILA,
VANUATU
TEL: (678) 23032 FAX: (678) 27937

22 September 2006

To: **sample**
.....
..... VILA



Dear Sir/Madame

PRICING METHODS ON CERTAIN CONSUMER GOODS IN YOUR STORE

I write regarding complaints raised by the public to undertake investigations in your store, noted increase in prices of two consumer goods mainly Sugar and Lactogen Milk during the periods February, April, May and August 2006.

According to Price Control Act [CAP 86] Part V section 10, states that any trader is required to furnish to the Price Controller and Inspectors at any time any information concerning the price structure of goods sold in its business.

Therefore, our Price Inspectors will be visiting your store, and I request that you cooperate and assist them in providing the relevant pricing information of Sugar and Lactogen Milk.

Please have the following information ready:

- 1) Landed Costs
- 2) Into store costs i.e. duty, transport, labour etc..
- 3) Mark-up
- 4) Any other related costs that is factored into the selling price

Your assistance will be appreciated.

Yours sincerely

Mr Thomson Pakoa Matokai-kokona
Price Controller, Ministry of Finance & Economic Management



Cc : Hon. Willy Jimmy Tapangararua, Minister of Finance and Economic Management

Appendix 7 - Page 1 of 2

1. Please inform us as to whether the office responsible for Price Control, or any other authority, has since 1995 to date served any notices about price control to your store

No	Yes
8	4 (for sugar and milk) 1 (3 letters about price control) 4

2. Please describe how you price your items.

Depends on Expenses Met	Depends on World Market	Depends on Other Retailers/Wholesalers	In some cases, depends on stock levels, expiry dates	No response
8		12	2	1

3. In particular, were you instructed by the authority concerned to price your goods and services to your own benefit or advantage? If so, please provide evidence to confirm this.

Yes	No	No Response
	14	3

Appendix 7 - Page 2 of 2

4. If not, why not? Please provide evidence to confirm this.

No idea	Don't understand the question	No Response
11	1	5

5. Please provide your comments on the allegations

Should not have price control	Should have price control	Ministry does not do its job	No Response
4	2	2	8

6. Any other documents and information that you consider relevant to this matter.

Everyone follows the market price, if one is a monopoly, then they will have some control over the prices.
(AA Store)

A lot of goods cannot just be fixed. Prices obtained from overseas suppliers are not fixed. This also applies to shipping cost. Some people are able to buy in Bulk while other cannot. Those that are able, usually get a better discount. Hence, have a lower cost structure and are then able to sell at a lower price. (AB store)

We price our cargo only following market competition and reduce our price for the basic food of the local people (AC Store)

'Special circumstances and the nature of the market do not allow us to have price control. Income and employment are a factor'. We believe that the Price Control Act [CAP 86] is defective in providing price control over consumer goods and services and the market should be left freely to trade freely and controlled by natural market forces without intervention. (AD Store)

Normally, shopowners are not at liberty to say how things should be done, but whatever transpires from the Ombudsman's findings in this inquiry, shop owners will just have to follow. (AE Store)

Price control is a good governing for the people of the country, but it should be for the major basic necessities, mainly food items (rice, sugar, etc), which I think is already in effect. (AF Store)

We assume that the complaint raised against the Price Control Office is caused by a sharp increase in prices of certain consumer goods, one of which is sugar...(AG Store)

Prices depend on the wholesale prices and also on the world market. (AH Store)



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Appendix 8

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Our Ref: 1228-6145-L25-wjt (Please quote this reference in all correspondence)

10 May 2007

Hon. Willie Jimmy Tapanga Rarua
Minister for Finance & Economic
Management
PMB 9058
Port Vila

Dear Honourable Minister

**ALLEGED LACK OF PRICE CONTROL ON TRADERS BY MINISTRY OF
FINANCE**

This Office has received a complaint against the Ministry of Finance that alleges that:

- The lack of price control over consumer goods and services is an issue that has not been addressed adequately by the Ministry
- The Price Control Act [CAP 86] is defective in providing price control over consumer goods and services

As you are the Minister responsible for the Price Control Office (Government Business Enterprise Unit), you have a right to reply to this complaint. Please provide your response **before 25th May, 2007**. If we do not hear from you, we will assume that you have no comments to make.

We would like to take this opportunity to remind you that under section 28 of the Ombudsman Act, inquiries by the Ombudsman are confidential until a public report is made. You are legally obliged to comply with this confidentiality requirement. This means that you are not permitted to discuss this investigation, this letter, or any other information that comes from the Office of the Ombudsman, except with your lawyer or anyone with whom it is necessary to communicate in order to provide the information and documents requested. There are penalties for breaking this law.

Thank you for your assistance in this matter and we look forward to hearing from you.

Yours sincerely

Peter K. TAURAKOTO
OMBUDSMAN OF THE REPUBLIC OF VANUATU

MINISTERE DES FINANCES ET
LA GESTION ECONOMIQUE

SAC POSTAL PRIVE 058, PORT VILA,
VANUATU
TEL: (678) 23032 FAX: (678) 27937



MINISTRY OF FINANCE AND
ECONOMIC MANAGEMENT

PRIVATE MAIL BAG 058, PORT VILA,
VANUATU
TEL: (678) 23032 FAX: (678) 27937

Le Ministre/The Minister

Our/Notre ref:
Your/Votre ref:

21st May, 2007

Mr. Peter K. Taurakoto,
Ombudsman of the Republic of Vanuatu
PMB 9081
Port Vila

Dear Ombudsman,

Alleged lack of Price Control on Traders by Ministry of Finance

Thank you for your letter dated 10 May 2007 on the above subject.

The government in the early 1990s opted to follow a laissez faire policy regarding prices of goods and services and therefore abolished the Price Control Unit, which at that time was under the Ministry of Trade. This move was mainly to allow the market to regulate prices through competition. The Price Control Act Cap 86 however was not repealed.

In 2002 the then Minister of Finance, Joe Bomal Kalo attempted to resurrect the Price Control Bureau as the Portfolio of Cap 86 was allocated to the Minister of Finance and Economic Management.

It was decided then that the Government Business Enterprise Unit apart from its core function of monitoring the performance of government enterprises, would assume the re-implementation of Cap 86 as a first phase approach to having a separate Price Control Unit at a later stage.

Things did not go as planned due to political instability resulting in Minister losing his seat in the snap elections of 2002.

Between 2002 to current the functions of the Price Control Unit were not fully implemented due to budgetary constraints, as there was no fixed budget allocated for Price Control purposes, high turnover of Ministers in this Ministry and lack of coordination with relevant stakeholders such as the Ministry of Trade, Ministry of Health and the Port Vila Municipality.

I have taken remedial action by instructing the 1st Political Advisor and Director of the Ministry of Finance and Economic Management to ensure that a fully functioning separate Price Control Bureau with adequate financial and human resource is established in this Ministry as a matter of priority.

A Terms of Reference has been drawn up and a suitable person has been identified to undertake work to ensure re-establishment of this important service to the people of Vanuatu.

I do not consider that the Price Control Act is defective but rather that its implementation and enforcement should be undertaken by dedicated personnel in a dedicated separate unit within government to ensure that it is effective.

For the future, Vanuatu will have to definitely move towards having a more sophisticated consumer and competition policy with relevant legal framework such as a consumer and competition commission.

The Ministry of Finance and Economic Management under my direction will ensure that Vanuatu has an effective Price Control Bureau. I will keep you informed.

Yours faithfully,



Hon. Willie JIMMY TAPANGA RARUA
Minister of Finance and Economic Management





Off Appendix 10 – Page 1 of 2
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Ofis blong Ombudsman



Our Ref: 1452-6145-L25-wjt (Please quote this reference in all correspondence)

14 June 2007

Hon. Willie Jimmy Tapanga Rarua
Minister for Finance & Economic
Management
PMB 9058
Port Vila

Dear Honourable Minister

**ALLEGED LACK OF PRICE CONTROL ON TRADERS BY MINISTRY OF
FINANCE**

Thank you for your response to our letter of 10 May on the above matter. We welcome your move to take remedial action by instructing the First Political Advisor and the Director of the Ministry of Finance to ensure that the Price Control Unit is adequately established.

As you will appreciate, the Ombudsman requires concrete evidence to support what you have endeavoured to do to address this matter. Therefore, we would greatly appreciate it if you could provide

1. a copy of your instructions to your subordinate officers (named above) and also
2. a copy of the terms of reference, together with the details of the person who has been identified to re-establish the unit

Your response by **29 June 2007** would be appreciated.

We would like to take this opportunity to remind you that under section 28 of the Ombudsman Act, inquiries by the Ombudsman are confidential until a public report is made. You are legally obliged to comply with this confidentiality requirement. This means that you are not permitted to discuss this investigation, this letter, or any other information that comes from the Office of the Ombudsman, except with your lawyer or anyone with whom it is necessary to communicate in order to provide the information and documents requested. There are penalties for breaking this law.

Thank you for your assistance in this matter and we look forward to hearing from you again.

Appendix 10 – Page 2 of 2

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Peter K. Taurakoto', written over a horizontal line.

Peter K. TAURAKOTO
OMBUDSMAN OF THE REPUBLIC OF VANUATU



Office of the
Ombudsman
Appendix 11 – Page 1 of 2
Ofis blong Ombudsman



Our Ref: 0422-6145-L25-wjt

(Please quote this reference in all correspondence)

28 February 2008

Hon. Willie Jimmy
Tapanga Rarua
Minister for Finance &
Economic Management
PMB 9058
Port Vila

Dear Honourable Minister

**ALLEGED LACK OF PRICE CONTROL ON TRADERS BY MINISTRY OF
FINANCE**

On May 10th 2007, we informed you that we were in the process of conducting an inquiry on the above matter where it was alleged that:

- The lack of price control over consumer goods and services is an issue that has not been addressed adequately by the Ministry
- The Price Control Act [CAP 86] is defective in providing price control over consumer goods and services

We sought your response as Minister responsible to the allegations stated above. On 21 May 2007, you informed us in your letter that you would be taking remedial action (see copy of your letter attached).

The Ombudsman then requested further details from you in a letter dated 14 June 2007 (copy attached).

Honourable Minister, our records show that we have not yet received your response to that request and it has also been well over seven (7) months since the request was made. Further, we are not aware if this matter has been adequately addressed.

We urge you to respond to our request **before March 12th, 2008**. Please note that in the event that you fail to produce the required documents and information in response to this letter, we will consider taking additional steps under the Ombudsman Act to address this matter. However, we prefer to work co-operatively wherever possible.

Appendix 11 – Page 2 of 2

We wish to remind you that Confidentiality is important and is protected by section 28 of the Ombudsman Act. Breaching confidentiality constitutes an offence. This letter is directed only to yourself and anyone in your office with whom it is necessary to communicate in order to provide the information and documents required.

We thank you for your understanding and co-operation and we look forward to hearing from you again.

Yours sincerely



Peter K. TAURAKOTO

OMBUDSMAN OF THE REPUBLIC OF VANUATU

Encl.

Appendix 12

Your Ref: 2066-6145-L25-ches

Statement Made

RE: WORKING PAPER ON THE ALLEGED FAILURE OF GOVERNMENT TO IMPLEMENT THE PRICE CONTROL ACT

Venue: Office of the Ombudsman, Port Vila

Date Of Interview: 24 April 2009

Time: 1.42 pm to 3.15 pm

On this matter of Price Control, I can say that nothing has been happening. In the past, there was price control on items like Flour, Sugar and Lactogen. Years have gone by and the Government has not done anything.

These days, we have major importers, so we just buy from them and no longer import.

A lot of changes have happened. The cost of living and the price of labour has gone up. Government has also started user-pays system so all this change has meant that price of goods has gone up.

The Ombudsman needs to obtain the advice of different people on how to resolve this issue.

Now-a-days, not a lot of goods are price controlled. There are also a lot of shops. But if the Price Control Act is implemented, then they will have to start from scratch again. But it seems that they are not doing anything.

I note that it seems that every sector is working for themselves. I want to do the right thing, but I see that others do not do the right thing. The Municipal do checks on expired food and impose fees of VT20,000. This is a lot of money.

I note that the Price Control bureau did not do anything in the last year when the price of Flour and Rice went up – but it seems that it was uncontrollable.

I wish you would have a copy of the old price control levy then you would see how Price Control was implemented.

I am willing to work with Government to work things out. Maybe about 15 years ago, the margin was about 10%, but it should be changed as salaries have changed.

As a retail store, I cannot do much, but I hope that the Ombudsman can tell the Government to do what it sees to be right.

I think that the Ombudsman is unfortunate in that he does not have the power to implement his recommendations.

Appendix 13 – Page 1 of 6

Att: Peter Taurakoto
Office of the Ombudsman
Port Vila
Vanuatu

Re: Working Paper

I am replying to your letter received 24th April 2009 regarding the working paper on price regulation. Firstly, please find attached reprint of letter originally replied and delivered to your office.

It has been more than 2 years since the questioned occurrence, I do not remember exactly what the situation was for the price increase at our store. However, I do have information that may explain the increases.

With the Sugar Prices Increases, indication is that the world market price for this commodity was increase dramatically. Please see attached invoices of my imports for March and September in AUD\$. There was an increase of AUD\$200.00/ tone. That is an increase of 30%.

In regards to the Milk Powder (Lactogen), this item is a Nestle product solely distributed by Au Bon Marche. Please see attached invoices (April, May) for indication of our buying cost. If their selling price increases, we too will have to increase our selling cost. The increase of 20% I suspect is world market pricing again.

The major food items such as rice and sugar are not high margin items as they are perishable and high in cost. The turnover of these items are essential and high mark up will reduce sales.

In conclusion, these price increase was world market related.

Finally, I have still not received any information regarding price control.

Sincerely,



Appendix 13 – Page 3 of 6

Pty. Ltd.

A.C.N. 000 547 946

EXPORTS-IMPORTS

LEVEL 4, 123 CLARENCE STREET, SYDNEY, N.S.W. 2000

POSTAL ADDRESS
BOX 3949
G.P.O. SYDNEY 2001

TEL: (02) 9290 3466

FAX: (02) 9290 3321

EMAIL: henry@henrycumines.com.au

Sold To

Invoice : 59251

Vessel/Aircraft

KIRIBATI CHIEF V 87

Port of Discharge

PORT VILA

Shipping Mark

Port of Loading

BRISBANE

Date of Departure

Final Destination

PORT VILA

Description of Goods

Unit Price
AUD

Current Domestic
Value AUD

Selling Price to
Purchaser AUD FOB

EX BRISBANE

1800 BALES PACIFIC CHOICE 12 X 1KG
REFINED WHITE SUGAR
CONT NO TTNU 2830392/SEAL 956340

10.32 18576.00 18576.00

18576.00

= 860/tone

THE UNDERSIGNED - a chief clerk of Henry Cumines Pty. Ltd., Sydney, A.C.N. 000 547 946 Supplier of the goods enumerated in this invoice hereby declares that I have authority to make and sign this Certificate on behalf of the aforesaid supplier, and that I have means of knowing and do hereby certify that this invoice is made in accordance with the Value and Origin Clauses stated below.

VALUE AND ORIGIN CLAUSE

This invoice is correct in all respects, and contains a true and full statement of the quantity and description of goods, and of the price paid or to be paid for them, and of the country of origin.
No different invoice of these goods has been or will be furnished to anyone.
No arrangement or understanding affecting the purchase price of these goods, by way of discount, rebate, compensation, or of any other nature whatsoever which is not fully shown in this invoice, has been or will be made or entered into by the said exporter and the purchaser, or by anyone on behalf of either of them.

ORIGIN

That every article mentioned in the said invoice has been wholly produced or manufactured in Australia unless otherwise stated.

CHARGES INCLUDED IN PRICE

1. Value of outside packages/containers
2. Labour in packing goods into outside packages/containers
3. Inland transport and insurance charges to dock/airport area
4. Dock and port charges
5. Drawback or remission of duty or taxes
6. Royalties (state full particulars)

ADD

Inc

Inc

Inc

Inc

Exc

Exc

Cumines

26/09/06

SYDNEY

The Best Service

181. 010 22940-1 010 22910
Email: abm@vanuatu.com.vu
ANZ A/C VT No 4913 - CT No 10128

13/Apr/06
Invoice #: 313011
Page:

TAX INVOICE

Bill To:

17613

1st PO: Terms: COD Salesperson: SAEL
Reference: DELIVERY Ship Via:

Stock Code	Description	Pack Qty	Quantity	Price	Amount(vt)
FLO250GOS	FLORA 250GX24 Original Spread	3.0 CTN	72	135.00	9,720
AS20G/B/C	\$JASONS 20GX48 Bongo Cheese	10.0 CTN	480	16.00	7,680
EST100G/S/M	NESTLE 100GX72 Sushine Milk Soft Pack	3.0 CTN	216	90.00	19,440
EST400G/L	NESTLE 400GX12 Lactogen	2.0 CTN	24	600.00	14,400
RO100G/A/B/B	PROTEX 100G X72 A/B Soap Balance	1.0 CTN	72	55.00	3,960
RO100G/A/B/G	PROTEX 100G X72 A/B Soap Gentle	1.0 CTN	72	55.00	3,960

Paid cash
13/04/06

ABM WHOLESALE

SALES PERSON	
CHECK BY	
CUSTOMER SIGNATURE	

Sub total: 59,160 Tax: 0 Shipping: 0 Total: 59,160
0 Paid: 0
Balance: 59,160

All price are included 12.5% VAT

P.O.Box 64 Port Vila Vanuatu
 Tel: 678 22945 - Fax: 678 22576
 Email: abm@vanuatu.com.vu
 ANZ A/C VT No 4913 - CT No 10128

15/May/06
 Invoice # 316762
 Page: 1

Bon Ma

Appendix 13 – Page 5 of 6
 The Best Service You

TAX INVOICE

Bill To:

To:

613

st PO: Terms: COD Salesperson: SAEL
 erence: DELIVERY Ship Via:

ck Code	PLU	Description	Pack Qty	Quantity	Price	Amount(vt)
SUN10KW	9310140001074	SUNWHITE 10KG Rice	20.0 BAG	20	1030.00	20,600
FL0250GOS	9310003236810	FLORA 250GX24 Original Spread	3.0 CTN	72	135.00	9,720
ST400G/L	3033710078509	NESTLE 400GX12 Lactogen	1.0 CTN	12	710.00	8,520
ST900G/L	9300605103870	NESTLE 900GX6 Lactogen	1.0 CTN	6	1300.00	7,800

ARM WHOLESALE

SALES PERSON	
CHECK BY	
CUSTOMER SIGNATURE	

Sub total: 46,640 Tax: 0 Shipping: 0 Total: 46,640
 0 Paid: 0
 Balance: 46,640

All price are included 12.5% VAT