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By Hand

I am writing to express my deep concern that the Leadership Code and other laws have been broken in the recent APEC vehicle transactions by the State and the APEC Authority and, in the public interest, to request urgent investigations into those and other transactions.

An Ombudsman Commission investigation and a Fraud Squad investigation are necessary to protect the reputation of the Office of Prime Minister, the Office of the Minister for APEC, and the APEC Authority, a statutory body, as well as Papua New Guinea's international reputation.

Investigation is necessary to establish whether the APEC Act, the Public Finances (Management) Act and other laws have been breached by those responsible for the transactions – the Prime Minister, Mr Peter O'Neill, the APEC Minister, Mr Justin Tkatchenko, and the APEC Authority CEO, Mr Christopher Hawkins.

The legality and propriety of the transactions need to be established prior to APEC, given the international public attention that will be focussed on the nation during the event.

The investigations should focus on the procedures followed by the Prime Minister, the APEC Minister, National Executive Council and the APEC Authority, and possible criminal (fraudulent) conduct by those involved, including suppliers and other parties.

A primary requirement of any purchase by the APEC Authority is a public competitive tender (Section 21 (2) of the APEC Authority Act, which states:

21. FUNCTIONS OF THE SUPPLY AND TENDERS BOARD

(1) Subject to Part VII of the Public Finances (Management) Act 1995, the APEC Papua New Guinea 2018 Supply and Tenders Board shall control and regulate -

- (a) the purchase and disposal of property and stores; and
- (b) the supply of works and services,

for and on behalf of the Authority.

(2) Tenders shall be publicly invited and contracts let for the purchase or disposal of property or stores or the supply of works and services, whose estimated cost exceed the prescribed amount of K500,000.00.

(3) In the exercise of its powers under Subsection (1), the Supply and Tenders Board may -

- (a) invite a tender for any amount; and
- (b) enter into a contract, executed by the Chairman of the Board, for any amount up to K1,000,000.00,

for and on behalf of the Authority.

(4) A tender for the purchase or disposal of property or stores or for the supply of works or services that exceed K1,000,000.00 shall be executed by the Head of State acting on the advice of the National Executive Council.

(5) A tender for the purchase or disposal of property or stores or for the supply of works or services that exceed K50,000,000.00 shall go before the Central Supply and Tenders Board and be executed by the Head of State acting on the advice of the National Executive Council.

(6) The APEC Papua New Guinea 2018 Supply and Tenders Board shall appoint, from amongst government agencies, officers with the relevant technical expertise to be members of its technical evaluation committees for the projects tendered.

No such call for tender is contained on the APEC Authority web page for any of the vehicles already purchased: Bentley Flying Spurs x 3; Maserati Quattroportes x 40 and Mahindra XUV 500s x 80. Nor have I been able to find any public notice of such calls for tender.

I have also publicly asked Mr O'Neill, Mr Tkatchenko and Mr Hawkins to provide details of any tenders for these vehicles. They have not done so.

It would therefore seem that the Prime Minister as head of the National Executive Council has signed off on the purchase of these vehicles without the required tender from the APEC Supply and Tenders Board.

The APEC Act, Section 24, also requires the appointment of a Probity Auditor to advise the APEC Supply and Tenders Board on its transactions:

24. PROBITY AUDITOR

The Authority shall appoint a Probity Auditor, at the cost of the Authority, who -

(a) must be independent of -

- (i) the Authority; and
- (ii) any entity engaged by the Authority for works and services for the APEC Papua New Guinea 2018; and

(b) shall have unfettered access to all documents, information, and meetings of the Authority until such time as the appointment is completed; and

(c) shall advise the Authority and Chairman of the APEC Papua New Guinea 2018 Supply and Tenders Board on matters of transparency and probity.

There is no such appointment registered on the APEC web site, and Mr O'Neill, Mr Tkatchenko and Mr Hawkins have not responded to my requests for details of the appointment. I therefore believe that no such appointment has been made, again putting the responsible Ministers and officials in breach of the law.

It is important, given the approximate K33.6 million cost of these purchases (K2.1m for the Bentleys, K23.2m for the Maseratis and K8.3m for the Mahindras) that correct procedures have been followed and that the laws of Papua New Guinea have been adhered to, to the letter.

Mr Tkatchenko has publicly stated that the Maseratis had been "pre-sold" to private sector buyers who would take the vehicles off the government's hands after the summit, and that they "were selling like hot cakes".

Mr Tkatchenko and Mr Hawkins are in breach of the APEC Act in selling the cars without a competitive public tender.

The APEC Authority web page has a section aimed at stemming corruption, Section 6:

6. CORRUPT OR FRAUDULENT PRACTICES

The State requires that Contractors observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy:

a. The State defines, for the purposes of this provision, the terms set forth below as follows:

(i) "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

(ii) "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

(iii) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

(iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

(v) "obstructive practice" is deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order materially to impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.

b. the APEC Authority will reject a Quote if it determines that the Bidder has, directly or through an agent or other third party, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question; and

c. the APEC Authority will declare a Quote ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time it determines that the firm has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a contract.

None of these important conditions can have been met because it would appear that tenders were not called and a Probity Auditor has not been appointed.

These conditions are important in relation to the suppliers of the Bentleys, a company associated with the controversial medical supplies group Borneo Pacific. Any connection between the responsible politicians or public officials to the vehicle suppliers, both South Pacific Ventures (Inc) of Malaysia and Ideal Choice (PTE) Ltd of Sri Lanka, should be investigated.

Furthermore, publicly available information suggests that profiteering may have taken place in the purchase of the vehicles, and is taking place in the disposal of them.

It has been reported that the Maseratis were funded by borrowing from China. Did the taking of this loan accord with all laws regarding public borrowing in Papua New Guinea?

In total 814 vehicles have been acquired by various means, including four-wheel-drives, cars, buses, ambulances, vans and fire engines. 500 of them are luxury and high-specification cars and four-wheel-drives which have been purchased by the APEC Authority.

Your investigations should include the procurement and future use or disposal of the 314 vehicles acquired by non-purchase arrangements.

Finally, in light of the widespread illegalities uncovered in the vehicle acquisitions, I believe all other procurement transactions conducted by the APEC Authority should be investigated.

It appears to me on the evidence above and other information that has come into the public domain that laws have been broken, processes and procedures have been ignored, avoided or abused, and along the way the Office of the Prime Minister, the APEC Minister and the APEC Authority have been brought into disrepute.

The international reputation of Papua New Guinea has been put at risk.

The only way to resolve these issues and satisfy the public's legitimate concerns is to conduct formal investigations as a matter of urgency.

I attach, for your convenience below, a copy of statements by me on the matter, a statement by Transparency International in relation to the purchase of the vehicles and the possible need for police and Ombudsman Commission inquiries, and reports of investigations by the PNGi international network.

Yours sincerely,



Mekere Morauta

<https://www.mekeremorauta.net/single-post/2018/10/15/Sir-Mekere-calls-for-inquiry-into-APEC-scams>

<https://www.mekeremorauta.net/single-post/2018/10/16/PM-Tkatchenko-should-start-telling-the-truth-on-APEC-car-scams>

<https://www.mekeremorauta.net/single-post/2018/10/16/APEC-Bentleys-bought-through-controversial-Borneo-Pacific-drug-company>

<https://www.mekeremorauta.net/single-post/2018/10/18/500-cars-procured-by-APEC-in-free-for-all>

<http://pngicentral.org/reports/facts-trump-government-spin-in-maserati-furore>

<http://pngicentral.org/reports/apec-maseratigate-in-numbers>

<https://www.transparencypng.org.pg/tipng-demands-transparency-on-apec-vehicle-procurement/?fbclid=IwAR0soRlrL8FOIkBINaqs5OW8rwSKp107MVbghrmQqOMhoAaXzCdd4OR8s>