

CONTROLLED DOCUMENT

PUBLIC HEARING

ON THE

**URGENT NEED TO CURB THE UNWHOLESOME PRACTICES OF FOREIGN COMPANIES IN
NIGERIA (HR. 67/2015)**

BY THE

**COMMITTEE ON LABOUR, EMPLOYMENT AND PRODUCTIVITY, HOUSE OF
REPRESENTATIVES**

19 OCTOBER, 2016

PUBLIC HEARING REPORT OF THE HOUSE COMMITTEE ON EMPLOYMENT, LABOUR
AND PRODUCTIVITY

HELD ON WEDNESDAY 19 OCTOBER, 2016 AT CONFERENCE ROOM 028 OF THE
HOUSE OF REPRESENTATIVES NEW BUILDING EXTENSION

1.0 INTRODUCTION:

In its continuous determination to ensure transparency, accountability and strict adherence to rule of law, especially regarding the reaction to what may seem as unwholesome behavior of Ministries, Departments and Agencies (MDAS) under its supervision, the House of Representatives Committee on Labour, Employment and Productivity held a One-day Public Hearing on the need to curb unwholesome practice of foreign companies in Nigeria (HR.67/ 2015).

The hearing which was held at Conference Room 028 of the House of Representatives New Building was presided over by the Chairman of the Committee, Hon. Ezenwa Francis Onyewuchi, and drew a wide range of stakeholders and participants from Government Ministries, Departments and Agencies, as well as a rich collection of Multinationals, indigenous and Foreign owned companies, Private Sector participants as well as concerned members of the public.

In his welcome address, Hon. Ezenwa Francis Onyewuchi stated that the Public Hearing is aimed at ascertaining the extent of truth and the degree of violation of the reported cases of unwholesome practice on Nigerian workers in the employment foreign companies operating in Nigeria and proffer solutions to end these exploitations of the Nigerian Worker.

Hon. Ezenwa Francis Onyewuchi stated that the Committee has received several reports of the inhuman treatment meted to Nigerians working in foreign companies operating in the Country. Most of the companies found culpable in these nefarious activities are found to be those of Asian origin.

These companies are said to capitalize on the high unemployment ratio in Nigeria to maltreat their staff through inhuman working conditions and poor remuneration.

In the bid to maximize profit, these companies are alleged to among other things engage in casualization of staff, deny pensions, violate labour laws as well as International conventional standards of practice, delay salary payment, deny overtime, sick leave, deny responsibility for hazards suffered in the work place as well as implementing poor health and safety work place standards.

While declaring the Public Hearing open, the Speaker of the House of Representatives, Rt. Hon. Yakubu Dogara who was represented by the Deputy Minority Leader of the House, Hon. Chukwuka Onyema stated that the organizational culture in recruitment and selection practices by foreign bodies in Nigeria has continually come under public criticism as not being consistent with International corporate best "practices. He lamented the seeming imbalance in the employment ratio allegedly caused by bringing in foreign expatriates to fill in the percentage that should go to Nigeria under the signed MOUs.

2.0 PRESENTATION BY STAKEHOLDERS

2.1 NIGERIA SOCIAL INSURANCE TRUST FUND (N.S.I.T.F)

N.S.I.T.F in its submission hinged most of the problems or poor minimum wage prevalent in Nigeria, citing it as the reason why Nigerians seem to have no choice but to stomach ill treatments from foreign organizations. Low minimum wage it said has also caused wide spread corruption and criminality as the race for survival has taken a dangerous turn for the worst.

It frowned at the fact that most of these companies who flaunt the labour Laws of the land employ less than 50-100 Nigerians yet rake in huge amounts of profits. The exemption of foreign companies from those bound to pay even the meager minimum wage is a great disservice to the Nigeria worker.

N.S.I.T.F submitted that it was using the medium of the Public Hearing to ask the Committee, and in extension the House of Representatives to use its constitutionally empowered authority to ensure:

- i. Foreign companies abide by the rules and regulations guiding employment in Nigeria with particular emphasis to the ESC Scheme which will ultimately lead to social harmony, peace and socioeconomic development devoid of crises and crime,
- ii. Foreign companies consistently develop their labour policies in tandem with global best practices,
- iii. Set standards are adhered to by the foreign companies to avoid further exploitative tendencies of some of these establishments.

2.2 JUSTICE AND EQUITY ORGANIZATION

In its submission, the Justice and Equity Organization pointed out that even though Nigeria needs foreign investors in order to facilitate technological knowledge transfer, create employment and advance its economy, it amounts to rascality when laid down Laws and procedures that are meant to create an enabling working environment and protect the rights of the employer as well as the employee are flouted with impunity.

It applauded the House Committee on Labour, Employment and Productivity for its proactive and people oriented stride, in bringing to the fore; through the Public Hearing, the plight of some Nigeria workers in foreign owned organizations doing business in Nigeria. It called on the National Assembly to use all Legislative tools, especially the instrument of oversight, to unearth and punish these improper treatments to the Nigerian workers.

In concluding its submission, the Organization asked the House of Representatives to use its Legislative powers and amend the provision that allows foreign companies doing business in Nigeria repatriate up to 60% of their earnings to their indigenous countries, leaving only 40% for all other responsibilities. It was of the view that the companies should be allowed to repatriate 30%, use 30% for the maintenance of quality equipment and working environment/conditions, and to use 40% for wages of their workforce.

2.3 OUTDOOR ADVERTISING ASSOCIATION OF NIGERIA

The Association described the discrimination and dichotomy between Nigerian workers and their foreign counterparts as the most evil of all the purported excesses of foreign companies doing business in Nigeria. This it described as a mixture of racism and apartheid on Nigeria soil.

Instead of being of economic benefit, the association described some of these foreign companies as economic drains to the country, selling their goods and services at prices far higher than is obtainable in their indigenous countries or anywhere else in Africa. Their flaunting and non compliance to regulatory Laws, production of goods of low standards and non-remittance of accurate tax figures has continues to ensure that Nigeria and indeed Nigerians have to remain at the short end of the economic stick from these companies. As a measure of check; the association advocated for stiffer penalties: civil and criminal sanctions against all companies found culpable, no matter how widely spread or highly connected they are.

2.4 MICHAEL IMOUDU NATIONAL INSTITUTE FOR LABOUR STUDIES

The Institute pointed out that the basis of the problem is that under Nigerian Labour Laws, there is no statutory definition, articulation and codification of the term "unwholesome or unfair labour practices" unlike is obtainable on other jurisdictions. The asymmetry in power relations between capital (including foreign capital) and labour; which is now heavily skewed in favour of capital, coupled with the brazen need of many

national authorities to attract and retain foreign investment has often tended to embolden some foreign companies to compromise labour standards to make huge profits at the expense of the Nigerian worker and State.

The Institute pointed out among other things, that there is an urgent need to comprehensively review Nigerian labour Laws to bring them up to speed with International labour standards and current national needs, particularly as it relates to labour administration. It also stated that there is a real need for unified labour Legislation that specifically addresses unwholesome and unfair labour practices. Such Legislations the Institute warned, should not be vague, but should be Laws that are easy to understand and enforce and should be difficult to skew or manipulate for selfish interests.

It was also put forth by the Institute that a more robust regulatory framework needs to be put in place to ensure foreign entities be made to invoke technical, legal and structural considerations in relation to their actions in the sphere of labour relations and not just economic considerations, as required by International Labour Standards of ILO (Convention 168). The Institute further stipulated that the approach for curbing unwholesome practices should not only be legalistic, but also developmentally oriented. Incentives like a 'fairest employer of the year awards' which should be both highly prestigious and regarded in the appropriate quarters is a good place to start.

2.5 MINISTRY OF LABOUR AND PRODUCTIVITY

The Ministry of Labour and Productivity stated that the unwholesome practices of foreign companies in Nigeria termed in many quarters as unfair labour practices can be manifested in diverse forms, including and not restricted to discrimination against people living with disabilities as well as those living with HIV/AIDS, non-recognition of Trade Unions in the work place, paying remuneration below minimum wage, child labour as well as the abuse of workers' rights among others.

The Ministry proffered some solutions aimed at tackling the menace, they include:

- i. Wide scale inspection by authorized M.D.As of Government should be carried out continually.
- ii. Legislations governing Labour conduct should be enforced at all levels of society.
- iii. The Amendments of the Act aimed at including foreign companies or companies with at least 50% of their stakes controlled by foreigners to be bound by the minimum wage. It listed Sections 1 (E), 2(1a), 6(3) as the Sections that need amendments and Section 4 of the principal Act to be deleted by the House of Representatives.

2.6 MINISTRY OF INTERIOR

In its presentation, the Ministry of Interior reiterated that through its Citizenship and Business Department; it has the statutory responsibility of administering and enforcing

the provision of Immigration Act 2015 as amended, relating to the establishments of business in Nigeria as well as the employment of expatriates. It is primarily entrusted with the issuance of effective transfer of technology to Nigerians and eventual indigenization of the positions occupied by expatriates.

One of the areas of emphasis in the application form submitted to the Ministry by foreign companies in the request for business operations in Nigeria, and for request for expatriate quota clearly stipulated the concession to employ the stipulated percentage of Nigeria workers to understudy the foreign experts for the purpose of technological knowledge transfer.

In considering submissions made by the stakeholders, the committee made the following observations:

- (i) Due to the high unemployment ratio in Nigeria, these foreign companies are in the habit of maltreating their staff through inhuman working conditions and poor remunerations.
- (ii) Non remittance of personal income tax by employees of such companies.
- (iii) Compromising on the ratio of local to foreign workers employed, with reasonable advantage to the former.
- (iv) Lack of realistic training for knowledge transfer within stipulated term of ten (10) years, with the aim of ensuring the expatriates remain in the company as being needed for the expertise.
- (v) Failure of some of the companies to comply with fiscal policy by evading payment of taxes

3.0 RECOMMENDATIONS:

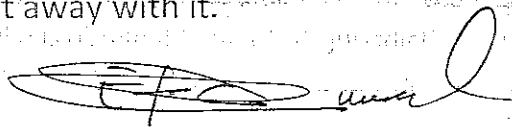
As direct representatives of the people, and considering that the public hearing was principally geared at proffering practical solutions to the crises facing Nigerian workers especially in the employment of foreign companies, the committee made the following recommendations from the submission it received and interactions it had with critical stakeholders during the public hearing:

- i. Relationship between host country and investing countries should be mutually symbiotic; no country will accept foreign investment that leaves its citizens at disadvantage. Relevant regulatory and monitoring MDAs are directed to ensure they effectively carry out their statutory functions without fear or favour, and to ensure strict compliance and adherence by all parties involved.
- ii. Every foreign party willing to invest within the shores of Nigeria should henceforth be ready to abide by all existing labour laws and MOUs signed.
- iii. The Executive, Legislature and Judiciary as well as all the organs should ensure their hands remain on deck in order to enforce and maintain best practice by foreign investors to Nigerian employees in their folds.
- iv. Strict adherence to the stipulated ten (10) years for knowledge transfer from expatriate workers to Nigerians in their employ mentioned in the submission of the Ministry of Interior is maintained. This is pertinent not just for the advantage of the Nigerian worker, but so that rule of law is maintained by respecting and adhering to afore signed contractual agreements and MOUs signed.

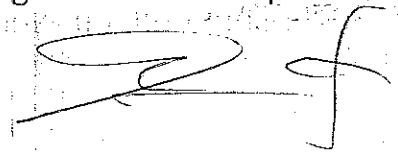
- v. Labour laws need to be strengthened to ensure any proven violation to Nigerian worker by foreign employers will be met by full weight of the law and punished adequately. It is regrettable that some of these effring foreign companies do not even have relevant permits and licenses to do business in Nigeria, as well as to cover some or indeed all their foreign members of staff.
- vi. Foreign investment is aimed at among other things to providing employment and wealth creating opportunities for Nigerians; the situation is unfortunately not so currently, instead they are faced with demeaning working conditions in the hands of these foreign employers. This has to be squarely addressed.
- vii. The Ministry of Labour should be better funded and adequately staffed to ensure it effectively carries out its supervisory and inspectorate functions, especially towards foreign owned factories where these ills are most prevalent.
- viii. The process of procuring expatriate work permits should be more thorough and the terms strictly effected, especially for Asian company owners who were fingered most as being the worst violators by public participants in the Hearing.
- ix. The Ministry of labour should ensure open and transparent public employment exchange in order to promote the right quota of local content employments in foreign organizations.
- x. The enforcement of the expatriate quota should have government interagency cooperation and enforcement to check all emanating lapses.
- xi. Labour disputes are always emanating, hardly has one perceived set of injustice been settled than another set springs up. Resolutions and agreements need to be binding on all firms with the same kind of issue. There doesn't have to be deliberations on the same kind of issues for different cases and organizations, this tends towards wastage of manpower, resources, time and energy.

4.0 CONCLUSION

The Committee pointed out that the deliberations and answers to all raised issues will form the body of the recommendations it will make to the House. Unfair and Unwholesome treatment of Nigerian Workers by foreign companies is something the House of Representatives, being a responsible House will not handle with kids gloves, and as Legislators, they would ensure considering the fact that not even Nigerian companies (private and public) Ministries, Department and Agencies of Government are permitted to shortchange the Nigerian worker, let alone foreign companies. Pertinent also is the fact that the countries the foreign companies originate from would not take the wrongful treatment of their citizens lightly, hence it is criminal for them to engage in such and expect to get away with it.



Hon. Ezenwa Francis Onyewuchi
Chairman



Aliyu S. Garba
Committee Clerk

