

REPORT OF INVESTIGATIVE HEARING ON THE VIOLATION OF PUBLIC TRUST IN THE NATIONAL EMERGENCY MANAGEMENT AGENCY (NEMA) SUBMITTED BY THE HOUSE COMMITTEE ON EMERGENCY AND DISASTER PREPAREDNESS. HR 52/2018

1.0 PREAMBLE

The House of Representatives in Plenary on Thursday, 15th February, 2018, mandated the Committee on Emergency and Disaster Preparedness to investigate the alleged “Violation of Public Trust in National Emergency Management Agency (NEMA)” and report back to it for further legislative consideration.

In furtherance to the above Resolution contained in the Votes and Proceedings of the House, dated 15th February, 2018, the Committee adopted the following terms of reference to determine the propriety or otherwise of the transactions undertaken and expenditures incurred in the following areas of concern by management of NEMA.

- (i) The release of N5,865,671,389.26 and N3,153,000,000.00 as emergency intervention of Food Security to support the population affected by insurgency in the North-East in June 2017 and other releases for the North-East intervention;
- (ii) The 6,779 metric tons of rice donated by Chinese government to the internally displaced persons in the North-East;
- (iii) Payment of about N800 Million Demurrage on the donated Rice by the Chinese government;
- (iv) Over 10 Billion Naira being statutory 20% Ecological Funds released between January 2017 to February 2018 to NEMA;
- (v) The Federal Government of Nigeria Flood Intervention in the sum of N1,600,000,000.00 to 16 States in July 2017;
- (vi) The over N1.6 Billion released to NEMA for Evacuation of Nigerians stranded in Libya in 2017; and
- (vii) Other ancillary issues.

2.0 MODUS OPERANDI

The Committee took the following legislative measures in the course of discharging this assignment:-

- (i) The Committee held number of meetings to determine its modus operandi;
- (ii) Letters were written to critical stakeholders to elicit their views on the issue under investigation;
- (iii) Committee placed adverts in both Print and Electronic Media soliciting for memorandum and sensitizing the Public and stakeholders to the Public Hearing to ensure overall success of the investigation;
- (iv) All submissions/documents received at the hearing were objectively scrutinized and analysed for informed findings and recommendations to the House for adoption.

3.0 INVESTIGATIVE PUBLIC HEARING

The Committee conducted investigative hearing on the matter. The well-attended hearing was officially declared open on Wednesday, 21st March, 2018, by His Excellency, the Honourable Speaker of the House of Representatives, Rt. Hon. Yakubu Dogara who was represented by the House Leader, Rt. Hon. Femi Gbajabiamila. The Committee conducted the investigation over a period of three months in 11 Public Sitting with various stakeholders.

Invited stakeholders who made presentations at the hearing were from:

- (i) The National Emergency Management Agency (NEMA)
- (ii) Office of the Accountant General of the Federation
- (iii) Federal Ministry of Finance
- (iv) Central Bank of Nigeria
- (v) Federal Ministry of Budget and National Planning
- (vi) Federal Ministry of Agriculture
- (vii) Economic and Financial Crimes Commission
- (viii) Governing Council of NEMA
- (ix) Contractors: -
 - Dangote Rice Ltd
 - BUA
 - WACOT
 - Golden Agric Input Ltd.
 - Olam Nig. Ltd.
 - 3 Brothers Nig. Ltd.
- (x) Office of Head of Service of the Federation
- (xi) The Nigeria Customs Service
- (xii) Nigeria Port Authority

- (xiii) MAESK Line Clearing and Forwarding Agents & Transporters
- (xiv) APMT & Maresk Line Clearing Agents & Transporter
- (xv) SEMA (16 states affected by the flood and 5 out of the 6 states of the North East).
- (xvi) CAC
- (xvii) PENCOM
- (xviii) FIRS
- (xix) ITF
- (xx) NSITF

4.0 ANALYSIS OF THE SUBMISSIONS

5.0 OBSERVATIONS/FINDINGS

A. DONATION OF 6,779 METRIC TONS OF RICE BY CHINESE GOVERNMENT FOR IDP'S IN THE NORTH EAST.

Committee appraised the submissions made by stakeholders involved in the matter and observed as follows:

- That the Chinese government donated and shipped a total of 6,779 metric tons of rice, that is 271 trucks and approximately 162,696 bags of rice into the country's seaport in June 2017 meant for distribution to IDPs in the North-East as food assistance.
- That the government Agencies namely – Ministry of Budget and National Planning, Ministry of Agriculture, Ministry of Finance and NEMA were charged with different responsibilities of receiving, clearing, storage, transportation and distribution of the consignments to the IDP's in the North East.
- That more than one year after the goods were donated, there is no evidence that the 6 States of the North East, who are the beneficiaries have received the items.
- Evaluation of the correspondences by the Chinese government on the free donation of the items and responses by the Federal government Agencies confirmed that there was adequate information on the donation, as an Memorandum of Understanding (MOU) was entered into by all the parties indicating the role to be played by each Agency. But the rice could not be evacuated over long period of time at the seaport despite written letters by Chinese Government to Ministry of Budget and National Planning after an

import waiver had been obtained from Ministry of Finance, informing the Nigerian authorities of the consequences of the delay in clearing the items.

- The Federal Government paid about N800 Million as demurrage to APM terminal and Maersk Line for the consignment due to delay arising from inability and negligence on part of NEMA, Ministry of Agriculture, Ministry of Finance and Ministry of Budget and National Planning to secure the items as at when due.
- APM Terminal provided invoices on the demurrage showing payment by Ministry of Agriculture but NEMA testified it made the payment. NEMA could not however, provide before the Committee evidence of payment to APM terminal but the payment reflected in their account book.
- Ministry of Budget and National Planning was to provide the funding for the clearing, transportation of the rice, handling and logistic charges as agreed in the Memorandum of Understanding signed by the Government Agencies.
- Ministry of Agriculture was responsible for providing silos for the storage of the rice.
- The Ministry of Agriculture confirmed to the Committee that no single bag of the consignments was delivered and received from NEMA as at the time of this report.
- Global View Logistics Ltd and Baltic Air and Maritime Services Ltd engaged to clear the rice were not registered contractors with NEMA, the Companies were equally not registered with ITF, NSITF, and PENCOM, as required by existing law, practice and Regulations.
- National Emergency Management Agency (NEMA) was saddled with the responsibility of delivering the consignments to different designated silos and to distribute all the 6779 metric tons of the Chinese rice to the IDPs within the 6 States in the North-East in the following proportion:

S/No	States	Percentage and Tons	Equivalence in Trucks
1	Borno	35% = 2,372.7 M/Tons	79.09 Trucks
2	Yobe	20% = 1355.8 M/Tons	45.1 Trucks
3	Adamawa	15% = 1016.85 M/Tons	33.89 Trucks
4	Gombe	10% = 677.9 M/Tons	22.5 Trucks
5	Bauchi	5% = 339 M/Tons	11.3 Trucks
6	Taraba	5% = 399 M/Tons	11.3 Trucks

7	Kwali FCT	10% = 677.9 M/Tons	22.5 Trucks
	TOTAL		225.5 Trucks

Ministry of Finance provided Certificate for Import tax waiver with tax deduction on the consignments donated to Nigeria by Chinese government

The 5 State governments in the North-East except Borno State who did not appear before Committee, denied receiving any single bag of rice from the consignment purported to have been delivered and distributed to the IDPs by NEMA.

- Due to the testimony of the Director of Finance and Accounts (DFA) and some staff of NEMA on payment of demurrage which the management was not comfortable with, NEMA management hurriedly convened a Governing Council meeting of NEMA for the first time in 3 years where it took a decision to suspend the Director of Finance and 5 other staff of the Agency without due process and in flagrant violation of the principle of fair hearing as guaranteed under Section 36 of the 1999 Constitution as amended.
- The suspension took place on 2nd April, 2018 which was the date of the inauguration of the Council Members by the Vice President. This was done within the period of investigation by the Committee, and intended to jeopardise and obstruct the work of the Committee.

B. RECEIPT AND UTILIZATION OF N1.6 BILLION FOR FLOOD VICTIMS IN 16 STATES

FINDINGS:

- NEMA confirmed receiving the sum of N1.6 Billion released to it by the Federal Government as Intervention Fund to purchase food items and other relief materials for distribution to all the 16 States which was affected by the flood disaster in June 2017. The States are: Lagos, Oyo, Edo, Kwara, Ebonyi, Niger, Ekiti, Kebbi, Akwa Ibom, Plateau, Sokoto, Bayelsa, Enugu, Ondo, Abia State and FCT
- The ratio of distribution of the fund for each State is N100,000,000.00.
- The Committee further confirmed that 11 of the States received relief items worth less than N50,000,000.00 each while 5 States received items worth N70,000,000.00 each from NEMA and only received the items in March 2018 when the investigative hearing commenced.

- The relief materials released was an afterthought and not intended to salvage the situation as the disbursement happened 9 months after the flood disaster. Thereby defeating the emergency purpose for which it was meant.
- NEMA could only account for the disbursement of N900 Million to the Sixteen States. The balance of N700 Million could not be accounted for.

C. FUNDS RELEASED FOR EMERGENCY INTERVENTION OF FOOD SECURITY IN THE NORTH-EAST

FINDINGS:

- On the emergency intervention of food security to the North-East to support the population ravaged by insurgency, a sum of N5,865,671,939.26 was approved and released in June 2017 vide a memo raised from the Office of the Acting President, directing the Hon. Minister of Finance and the Accountant General of the Federation to so act. The details further specified a directive to the Governor of CBN from the Ministry of Finance to pay the sum from the *Consolidated Revenue Fund Account which the AGF is to raise a mandate for*. This is in contravention of approval of NASS on the issuance of Euro Bond from which the Hon. Minister authorized the payment. The Euro Bond is for specified infrastructural projects and not for discretionary intervention. Furthermore, there is no specific appropriation by the National Assembly.

This contravenes Section 80 (4) of the 1999 constitution as amended: which states:

"No money shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation, except in the manner prescribed by the National Assembly".

The money was paid to the following companies for supply of food items to the North East:-

1. Dangote Rice Ltd.	=	N936,196,800.00
2. Golden Agric Input Ltd.	=	N1,384,554,236.26
3. BUA Rice Ltd.	=	N1,322,273,520.00
4. WACOT Ltd.	=	N453,674,296.00
5. WACOT Ltd	=	N939,946,089.00
6. NEMA	=	<u>N829,026,456.00</u>
	=	<u>N5,865,671,389.26</u>

- Committee noted the flaws and infractions on the authorization granted and removal of such huge sum of money from the Consolidated Revenue Fund Account of the Federation in violation of section 80(2) of the Constitution, Section 16(2) of the Procurement Act and provisions of the Appropriation Act as approval of the Legislature was not sought nor obtained for such expenditure.

- Due process was not followed as taxes and interest accruable to government were not deducted and remitted to the FIRS on the sums released and paid into the accounts of the different corporate entities shown above, this created colossal loss of revenue to the Federal Government.

No meeting of the Federal Executive Council was held approving the contracts to the named companies and the release and crediting of the funds directly into the individual companies and NEMA bank account in blatant violation of approval limit allowed by law.

- It was revealed in the Public Hearing testimonies that Dangote Rice Ltd, WACOT Ltd, BUA Rice Ltd and Golden Agric Input Ltd had earlier received N2billion each from CBN as loan to mop up grains across the country.

- All the 6 States of the North East denied ever receiving this emergency intervention for food security in the North East for which about N5.8b was expended by the Federal Government.

- Out of about N5.8Billion. NEMA got N829,026,456 for logistics and it claimed it spent it as follows, without satisfactory evidence:

- (i) General Logistic N369.5 million
- (ii) Branding and packaging N189.00 million
- (iii) Others (Marketing, Security, tracking and media) N248.6 million
- (iv) Contingency N21.9 million

D. RELEASE OF N3,153,000,000.00 TO NEMA FOR FOOD INTERVENTION TO THE NORTH-EAST

FINDING:

- The Committee noted that NEMA released 2.4 Billion Naira to **Olam Nigeria Limited** to supply 8,000 metric tons of rice, gave **3 Brother Rice Mill Limited** the contract to supply 2,000 metric tons of rice at N600,000,000 and N153,160,000 for logistics and transportation of the items, all totaling N3,153,000,000.00.
- Committee observed that **Olam Nigeria Limited** and **3 Brother Rice Mill Limited** were contacted verbally by Ministry of Agriculture to go to NEMA for the jobs without due process.
- The contract award letters issued to **Olam Nigeria Limited** and 3 Brothers Rice Ltd were all signed by the Ag. Director of Relief and Rehabilitation and not by Director of Procurement in contravention of Public Procurement Act.
- The same Ag. Director of Relief and Rehabilitation who was saddled with the responsibilities of receiving the items and distributing them, signed the award letters without the knowledge of the Procurement Department. This is tantamount to breach of the Procurement Act.
- Evidence before the Committee showed that the World Food Programme (WFP) sought to import and supply 5000 metric tons of rice to the North East, at the rate of N11,500 per bag which is cheaper than the N15,000 per bag offered by local Nigerian millers. However, the Committees findings indicate that the concerned Federal Government agencies namely Federal Ministry of Agriculture and NEMA offered to subsidise the purchase locally, at the same rate of N11,500 to World Food Programme to discourage importation and encourage local production.
- NEMA now claimed to have donated the 5000 metric tons of rice to WFP instead of allowing WFP to purchase same and distribute to the North East. There is no evidence that the WFP received the 5000 metric tons as donation from NEMA, as the approval of N3.1billion was for NEMA to purchase the rice and distribute same to the victims of insurgency in the North East, as WFP did not provide the Committee with such evidence after repeated requests.
- Both companies, Olam Nigeria Ltd and 3 Brothers Rice Mill Ltd, were illegally contracted to carry out the supplies as their profiles showed that they had no PENCOM, FIRS, ITF and NSITF Clearance Certificates in compliance to Section 16 of the Public Procurement Act.
- The data of 3 Brothers Rice Ltd sighted by the Committee did not tally with registration name "Three Brothers Rice Mill Ltd" approved by Corporate Affairs Commission which means NEMA gave contract to a non-existent entity.

Therefore the contract awarded to both Olam and 3 Brothers were in violation of the Procurement Act.

E. EVACUATION OF NIGERIANS FROM LIBYA

FINDINGS

- Committee confirmed that the sum of N1.6Billion was released to NEMA for the evacuation of Nigerians stranded in Libya in year 2017.
- The Committee also discovered that contract awarded under this exercise were inflated.
- In the course of the investigations, the Director-General of NEMA, Eng. Mustapha Yunusa Maihaja, gives account of expenditure as the N1.6Billion to include evacuations, security personnel logistics and local transport.

F. UNACCOUNTED N17,889,050,401 RELEASED FROM ECOLOGICAL FUND TO NEMA

FINDINGS

- The Committee established that 20% of the Statutory Ecological funds are released to the National Emergency Management Agency on monthly basis. This is in compliance with Section 13(2B) of the NEMA Act.
- It was discovered that from January 2017 to May 2018 the total amount released and or received by NEMA is to the tune of N17Billion.
- Furthermore, NEMA incurs expenditure from the fund without going through statutory appropriation approval from the Legislative Arm of Government.
- The Committee noted that the failure of the Governing Council of NEMA to forward the details of the amount released to it to the National Assembly for Appropriation, consideration by the Legislature and passage is a gross violation of the provisions of the Constitution.
- Due process was also not followed by NEMA on the contract sums as the Director General exceeded his approval threshold for both capital and recurrent expenditure. Withholding and Value Added Taxes accruable to government for contracts executed were not remitted to FIRS; thus,

resulting to loss of revenue by Government in violation of Section 16 (1&2) of National Emergency Management Act CAP N34 LFN 2004.

6. RECOMMENDATIONS:

1. On the issue of donation of 6,779 metric tons of rice by Chinese Government for IDP's in the North East, the Committee recommends as follows:

- (i) that the House condemns in strong terms the negligence and inefficiency of the Ministry of Budget and National Planning and National Emergency Management Agency (NEMA) for the long delay in collection of the donated rice from the Port Terminal.
- (ii) that NEMA and the Federal Ministry of Agriculture, Ministry of Budget and National Planning should account for the 6,779 Metric tons of Rice donated to Nigeria Government for the benefit of IDP's in the 6 States of the North East by the Chinese Government but was never received by the beneficiaries. The ICPC, EFCC and Nigeria Police Force (Police) should conduct further investigation and prosecute where necessary.
- (iii) that the ICPC, EFCC and Police should ensure recovery of the payment of about N800m demurrage from the concerned officers of the Ministry of Budget and National Planning, Ministry of Agriculture and NEMA. They should further investigate the conflicting testimonies of the above agencies and determine whether there was multiple payment transaction for the demurrage.
- (iv) that the suspension of six staff of NEMA by its management is an abuse of power, against the extant public service rules and a gross violation of Section 36 of the 1999 Constitution as amended. It is also a privileged communication under the Legislative Houses (Powers and Privileges) Act, any person that obstructs a witness before a legislative House is also guilty of contempt of parliament.
- (v) It is therefore hereby recommended that the affected staff below be immediately re-instated by NEMA and the appropriate authorities and all their arrears of entitlements paid. They are:

- 1. Mr. Akinbola Hakeem - Director, Finance and Accounts
- 2. Alhassan Nuhu - Director Disaster & Risk Reduction
- 3. Mr. Emenike Umesi - Ag. Director, Special Duties
- 4. Mohammed Kanar - Deputy Director Welfare

- 5. Mr. Mamman Ibrahim - DD Captain of the Air Ambulance
- 6. Yunusa Deji Ganiyu - Asst. Chief Administrative Officer

2. On the issue of receipt and utilization of N1.6 billion for flood victims in 16 states, the Committee recommends;

(i.) that the House condemns in its entirety the display of insensitivity to the plight of flood victims showed by NEMA management in the handling of the relief materials.

(ii) that the ICPC and EFCC should further investigate the matter and recover the sum of N700m from the Director-General of NEMA, Engr. Mustapha Yunusa Maihaja, who is the Accounting Officer of the Agency.

3. On the issue of funds released for emergency intervention of food security in the north-east, the Committee recommends;

(i.) that all the government officials involved in the approval, processing, release and diversion of the sum of N5.8billion for the emergency intervention of food security in the North East, which contravened the provisions of S.80(2) and 80(4) of the Constitution, infraction of due process for procurement and loss of government revenue, flouting of the terms of the Eurobond loan are hereby indicted and the relevant Security Agencies should take steps to recover the money from them.

(ii.) that the Central Bank of Nigeria (CBN) being a banker to the Federal Government should not be involved in giving loans to private companies. Consequently, the N2billion said to be given to four named companies is a fundamental infraction and should be further investigated.

4. On the issue of release of N3,153,000,000.00 to NEMA for food intervention to the North-East, the Committee recommends,

(i.) that ICPC and EFCC should recover N1,150,000,000.00 being subsidised cost of 5000 metric tons of rice from the present Director General of NEMA, Eng. Mustapha Yunusa Maihaja, who claimed to have donated same to World Food Programme (WFP) when they were ready to pay for it or import same.

(ii.) that in view of the fact that there is evidence that the balance of 5,000 metric tons claimed to have been supplied by Olam Nig. Ltd and 3 Brothers Nig. Ltd at the cost of about N1.5billion to NEMA was not

received by the States of the North-East, the money should therefore be recovered from the Director-General, NEMA.

5. On the matter concerning evacuation of Nigerians from Libya, the Committee recommends as follows:

(i.) that Federal Government should make available adequate funds to the relevant agencies of government for the rehabilitation of those Nigerians evacuated from abroad, in order to prevent them from going back.

(ii.) that the process, procedure, method and cost of evacuation of Nigerians stranded abroad is opaque and should be made more transparent in order to ensure better accountability.

6. On the question of unaccounted N17,889,050,401 released from Ecological Fund to NEMA, the Committee recommends

(i.) that NEMA should submit through the appropriate authority all the Ecological funds accruing to it yearly to the National Assembly for Appropriation in order to meet the Constitutional requirements.

(ii.) that a comprehensive investigation into the receipt and utilization of 20% Ecological Fund to NEMA over the years be carried out by the House.

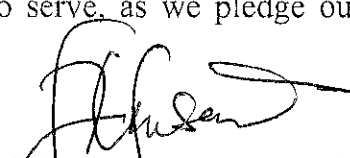
7. From the investigation conducted by this Committee it has been established that the Federal Government of Nigeria lost a total sum of over N33 Billion Naira as a result of mismanagement or outright embezzlement of funds occasioned by the actions or inactions of the Managing Director of NEMA, Engr. Mustapha Yunusa Maihaja. It is hereby consequently recommended that the Director General of NEMA, Engr. Mustapha Yunusa Maihaja, be relieved of his duties by Mr President, Commander in Chief, Federal Republic of Nigeria and handed over to relevant authorities for prosecution.

7. CONCLUSION

The Committee expresses its appreciation to the Leadership and Members of the House for the opportunity given to us to serve, as we pledge our unflinching support to the House leadership.


Hon. Ali Isa J.C

Deputy Chairman


Sulyman Mohammed Sarkin-Noma

Committee Clerk