



# Nigeria

**THE STATE OF TRADE  
UNIONISM AND  
INDUSTRIAL RELATIONS  
PRACTICE IN EXPORT  
PROCESSING ZONES**

ITUC  
International  
Trade Union  
Confederation

ILO ACTRAV  
Bureau  
for Workers'  
Activities

**Working document**



# The state of trade unionism and industrial relations practice in Nigeria's Export Processing Zones

## **NIGERIA**

Nigeria Labour Congress NLC

In cooperation with ITUC, ITUC Africa and ILO ACTRAV

January 2011 International Labour Office

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**Study commissioned by the ITUC and ACTRAV**

**The state of trade unionism and industrial relations practice in Nigeria's Export Processing Zones**

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# Introduction

## General introduction

The expansion of Export Processing Zones (EPZs) across the world has been an attendant phenomenon to the globalising processes of neoliberalism in the past few decades. The EPZs are supposed to be vehicles for the attraction of much needed foreign direct investments for development by the world's underdeveloped and less developed countries. Unfortunately, they have also become havens for some of the worst work practices and denial of workers' rights to associate in defence of their rights and for the advancement of their interests, thus constituting one of the most inhumane "race to the bottom" characteristic of the neoliberal pathway to socio-economic development of countries.

In Nigeria, Export Processing Zones have soared in number since November 2001, when the Calabar Free Trade Zone, the first EPZ to become operational was commissioned. Today there are 24 EPZs in the country of which 11 are operational. Their operations cover broad areas of economic activities. Workers' rights are however strictly curtailed and industrial relations seem devoid of social dialogue.

The need to aptly grasp the actual dynamics of the collective relations in the EPZs and to make the necessary interventions towards improving the working conditions and strengthening unionisation in general cannot be overemphasised, for both the trade union movement in Nigeria and the international working class movement.

This is a fact recognised by the NLC and the ITUC. Thus the purpose of this one-month research project on *"the state of trade unionism and industrial relations practice in Nigeria's Export Processing Zones"* is to provide empirical data and qualitative information to subsequently draft and implement a plan of action based on its conclusions.

## Background

The research project was inspired by two 2007 decisions. These are the ITUC's special programme of action on EPZs agreed by the General Council and the NLC National Delegates' Conference resolution on a massive scaling up of unionisation especially in areas within the Nigerian economy where workers' right to organise have been constrained.

The Export Processing Zones in Nigeria, as the field survey confirms, are veritable theatres of abysmal disrespect for workers' rights and social dialogue mechanisms, including but not limited to the collective bargaining process. With the increased economic activities carried out in the EPZs as part of global production networks, they also present possible arenas to deepen international workers collaboration, to institute respect for workers' rights and to give power to social dialogue.

## Research purpose

The purpose of the study stems from the following problems: limited empirical knowledge workers organisation and social dialogue in the EPZs; the lack of a clear-cut NLC policy for strategic intervention in the EPZs and the neoliberal attacks on trade unions with the unholy trinity of privatisation, deregulation and cuts in social spending which have resulted in declining union membership in general. The EPZs constitute an important piece of this jigsaw.

Therefore, the purpose of the proposed study is to broaden the NLC's knowledge about the organisation of workers in the EPZs and possible interstices for social dialogue; gather useful information for the formulation of a NLC work policy in the EPZs, which could be submitted to the National Delegates Conference coming up in the first quarter of 2011 and develop an action plan for strengthening unionisation in general in Nigeria and to win the EPZs "greenfields" for unionisation and the concomitant sphere of social dialogue.

## Aim and objectives of the study

The overarching aim of the study is:

*"To examine the conditions of workers, the state of trade unionism and the nature of industrial relations in the Export Processing Zones in Nigeria"*

Within this context, the specific objectives of the research were to:

- Understand the dynamics and trajectory of the development of the EPZs in Nigeria, with particular attention to the associated industrial relations;
- Identify the working conditions and terms of service of workers in the EPZs;
- Identify legal and practical obstacles to the strengthening of the unionisation processes in the EPZs;
- Assess the extent of workers' organisation in the EPZs by the NLC affiliates;
- Consider the necessary enhancements of the current NLC affiliates organising strategies to enable them to win the EPZs greenfields and to consolidate on the existing unionisation in the EPZs.

# 1. Methodology and structure of the proposed study

## Procedure of inquiry

A structured random sampling method led to 4 of the 8 states where EPZs are presently operational, and which have 7 of the 11 operational EPZs, being visited by the researchers who conducted the survey. The researchers worked along with the trade unions that have (prospective) members in the zones, being the subject to a learning-to-action process

Structured interviews were conducted for workers and management of the Nigerian Export Processing Zones and the Federal Ministry of Labour and Productivity. The unions operating in or which could have jurisdictional scope to operate in the FTZs were also interviewed as were the NLC State-level structures in each of the 4 states.

## Structure of the study

The structure of the study, as encapsulated in this report, includes three main parts.

In the first of these, a mapping of the EPZs is done. This entails an analysis of the evolution and current situation of the EPZs in Nigeria. Consequently, the key activity sectors, countries of origin of investors and the perspective on social dialogue by employers, government ministries and departments involved with country's EPZs, were scrutinised.

The second chapter of the report, capturing the second part of the study, addressed the main problems encountered by workers in the EPZs, both in practice and as posed by the law. Workers' conditions in the EPZs are highlighted and the different dimensions of collective relations identified. A general evaluation of these is done.

The third chapter deals with the question of trade union organising strategies in the EPZs. Where there have been successes, the reasons for these successes are identified. Stalled efforts and the constraining factors are also highlighted and the necessary lessons from both broad situations are drawn.

The study concludes by outlining the possible implications of present practices and the legal framework of labour and employment relations in the EPZs on social dialogue and industrial harmony.

## 2. A mapping of the EPZs in Nigeria

### A brief history of EPZs in Nigeria

The Nigeria Export Processing Zones Authority was established as a later part of the Structural Adjustment Programme implemented by the General Ibrahim Babangida administration, through the implementation of 1992's Decree No. 63 by the Federal Military Government. This decree is now considered an Act of the Federal Republic of Nigeria after the return to democratic rule in 1999, apart from their neoliberal contents such as "100% repatriation of capital, profits and dividends", which have negative macroeconomic consequences. It provides a number of "incentives" for employers which betray the anti-workers' organisation intent. These include: a 10 year prohibition on strikes and lockouts; fenced walls around the zones, ostensibly for "security", but which are also used to keep out union organisers; police posts (which have been used to harass trade unionists that have tried to unionise in some EPZs).

There are formally 24 EPZs today, of which 11 are operational to some extent or the other in 8 states of the federation, while 10 are under construction and 3 have merely been declared. Of the operational EPZs, 4 are owned by the Federal Government, 1 by a state government, 5 by private enterprise and 1 is a "public-private" initiative. Attempts by trade unions to operate in the 11 operational zones, irrespective of the ownership structure, have largely been rebuffed, with only minimal successes won through long and bitter struggles by a handful of the unions.

The Calabar Free Trade Zone, in Calabar, the Cross River State capital, was the first of these zones to be established in 1992. It also became the first to be operational when it commenced operations in November 2001. It is to date the most functional of the EPZs and prides itself on being "the premier EPZ" in Nigeria and deserving of special attention.

It occupied a land mass of 152 hectares when it commenced operations, but was awarded 62 more hectares by the Cross River State due to the massive influx of investors and thus now occupies 220 hectares. 78 companies have licenses to operate there; of which 53 are fully operational, producing and exporting commodities.

It is situated barely a kilometre from the well-equipped Calabar free port with an estimated annual capacity of 1.5 million metric tonnes of cargo. The CFTZ has ultra-modern facilities including state-of-the-art warehouses, standard pre-built factories ready for prospective investors, serviced plots, digital telecommunications and banking services and generates its own electricity, which is constant, through an Independent Power Production arrangement.

The second EPZ to be established was the Kano Free Trade Zone. The zone, which was established in 1998, is situated in the village of Fanisau, on the outskirts of Kano, the capital of Kano, just behind the Mallam Aminu Kano International Airport. It occupies a landmass of 200 hectares. It is fenced (as are all the other EPZs) and has warehouses and NEPZA management offices. Other official structures in the zone includes offices of the Nigerian Custom service, Nigerian Immigration and the Nigerian Police force.

Interestingly though, after ten years of it supposedly being operational, the Kano Export processing Zone is still at its nascent stage. Currently there are only two factories actually operating there. These are a refrigerator plant and a nail plant.

Other actually functional EPZs presently, are:

*Onne Oil and Gas Free Trade Zone:* This is dedicated to oil and oil-related activities. It has a well-equipped Port Complex, which has catered for over 120 vessels bearing freight of more than 150 million tonnes, from which it has generated some \$1.5 million, since it became operational in 2000. By August 2008, 120 investors had utilised its facilities. The leading multinational oil corporations have shown interest in investing further to make it the trans-shipment distribution hub for sub-Saharan Africa.

*Jigawa Border (Maigatari) Free Trade Zone* is situated at Maigatari, close to Nigeria's Border with the Republic of Niger and owned by the Jigawa state government. It is fenced and covers almost 65 square kilometres, of which 7 square kilometres are currently developed. The zone is built with a police out-post, immigration and custom offices.

The zone has warehouses and certain stations to be occupied by the registered companies. However, only two companies are operating in the zone, namely Arab Gum Company and a tricycles machine plant. At the best of times these companies operate at capacity but are often not operational.

*Tinapa Free Zone and Resort:* It is probably the most celebrated in the public domain. It is owned by the Cross River State Government. Its aim is to serve as an EPZ tourists' destination zone. With a state-of-the-art film studio for recording, it also targets the "Nollywood" film industry which is the 2<sup>nd</sup> largest in the world.

It covers an expanse of 80 square kilometres and was hoped to generate direct and indirect employment for over 40,000 people when it commenced operations in April 2007, but today has barely 500 workers employed by the firms in it. The main businesses there are a 243-room 3-star hotel (the Amber Tinapa) and the Tinapa Shopping Centre. Its Tinapa studio, while the best in the country and probably in Africa is hardly utilised by film producers due to the cost. Its corporate affairs manager, whom we interviewed, bemoaned the paucity of foreign investment in the zone.

*Snake Island Integrated Free Zone:* It is the first privately-owned EPZ in Nigeria. It commenced operations under the aegis of the Snake Island Management Company (SIMCO) in July 2005 having secured its license from NEPZA 3months earlier. It had earlier gotten presidential approval in January of the same year for the 250 hectares of land on Snake Island to be utilised as a Free Trade Zone and Port Development.

There are basically two firms in the zone. These are Nigerdock Nigeria Plc., which had been a State Owned Enterprise, but the Indian Jagal Group had in 2003 secured controlling equity of 51% and operates with the support of the Chinese Sinopec Corporation. The South Korean Hyundai Heavy Industries (HHI) also operates a yard within the Nigerdock complex on Snake Island, specialising in offshore and pressure vessel maintenance, ship building and repair, oil & gas maritime support and shipyard industrial

training and the African Cycle Ltd, a wholly Nigerian owned firm which is contracted to the Nigerian Ports Authority and specialises in ship waste recycling

*Lagos Deep Offshore Logistics (LADOL) Free Zone:* It is situated in Tarkwa bay, opposite the Apapa wharf in Lagos, with a 200 metre deep quay, and plans to expand this to 1,000 metres. It provides logistics services for deep offshore oil prospecting in Lagos but is geared to deliver similar services for offshore oil prospecting in Ghana.

It was conceived in 2000 and only recently started operations, which are still at nascent stages. These include the provision of logistics and construction equipment, berthing and vessel handling, closed and open fabrication and storage facilities, sea fastening and welding, bulk and mud services, personnel transport, provision of water and fuel, large fabrication works, office complexes and warehousing, hotel accommodation and recreation, general infrastructure and security. It is managed by LADOL Integrated Logistics Free Zone Enterprises (LiLe), with primary investments from Nigeria and South Africa.

**Below is a mapping of the various Nigerian EPZs.**

S/N	NAME	LOCATION	STATUS	OWNERSHIP
1	Calabar Free Trade Zone (CFTZ)	CRS	Operational	Fed. Govt.
2	Kano Free Trade Zone (KFTZ)	Kano State	Operational	Fed. Govt.
3	Onne oil & Gas Free Zone	River State	Operational	Fed. Govt./Private
4	Lagos Free Zone	Lagos State	Under Cons.	Private
5	Tinapa Free Zone & Tourism Resort	CRS	Operational	Private/Public
6	Olokola Free Zone	Ondo & Ogun	Under Cons.	States/ Private
7	Snake Island Integrated	Lagos	Operational	Private
8	Maigatari Border Free Zone	Jigawa State	Operational	State
9	Banki Border Free Zone	Borno State	Declaration	State
10	Ladol Logistics Free Zone	Lagos	Operational	Private
11	Ibom Science & Tech. Park Free Zone	Akwa Ibom	Under Cons.	Public/Private

12	Living Spring Free Zone	Osun State	Under Cons.	State
13	Airline Services Export Proc. Zone	Lagos State	Operational	Private
14	Lekki Free Zone	Lagos State	Under Cons.	State/ Private
15	Egbeda Free Zone	Oyo State	Declaration	State
16	OILSS Logistics Free Zone	Lagos	Declaration	Private
17	Brass LNG Free Zone	Bayelsa	Under Cons.	Public/Private
18	Abuja Technological Village	Abuja	Under Cons.	Public/Private
19	Specialized Railway Industrial FTZ - Kajola	Ogun State	Under Cons.	Public/Private
20	Imo Guongdong FTZ	Imo State	Under Cons.	Public/Private
21	ALSCON FPZ	Akwa Ibon	Operational	Private
22	Ogun Guandong Free Trade Zone	Ogun State	Operational	Public/ Private
23	Sebore Farms	Adamawa State	Operational	Private
24	Calabar Free Port	Cross River	Operational	Fed. Govt.

Source: NEPZA WEBSITE, [www.nepza.gov.ng](http://www.nepza.gov.ng)

## Activity sectors of EPZs in Nigeria

The economic activities permissible in EPZs in Nigeria, as stipulated in the NEPZA Act (DN 63) of 1992, include:

- Electrical and electronic products
- Textile products
- Garments
- Wood Products and handicraft
- Leather products

- Petroleum products
- Rubber and plastic products
- Cosmetics and other chemical products
- Metal products and machinery
- Educational materials and sports equipment
- Printing materials, communication and office equipment
- Medical kits, optical instruments and appliances
- Biscuits, confectionaries and other food processing
- Pharmaceutical products
- Ship building and repairs
- Oil and gas logistics

None of the EPZs host firms that are involved in all these activity sectors. The EPZ with the most diverse economic activity sectors is the Calabar Free Trade Zone. The permissible activities there are:

- Manufacturing
- Services Provision
- Warehousing
- Assembling
- Oil And Gas-Related Activities

A large number of the EPZs specialise in one particular economic activity sector, the most dominant of which is oil and gas. Leading examples of these are Lagos Deep Offshore Logistics (LADOL) FTZ and particularly the Onne Oil and Gas FTZ. The Airline Services EPZ (basically catering services) is another specialised economic activity sector which is very much localised, with Airline Services Limited, being the sole firm with this license (thus making it more of an “Export Processing ‘Firm’”). It is situated in the precincts of the Murtala Muhammad International Airport, the country’s leading airport. Snake Island Integrated FTZ is also a specialised catering zone solely for ship maintenance services. The Tinapa Free Zone and Business Resort specialise in the provision of tourist and related services.

## Origin of investors and market destination

There is a relative shroud of secrecy around EPZs investors. This is partly promoted by the joint ownership of stocks and the local registration of such local-foreign capital partnerships. Therefore, in the few instances where the “partners” of an EPZ are stated on its website, it is difficult to decipher which country they actually originate from. The EPZ officials as a rule are taciturn when such matters are raised. Information could however be pieced together, partly through discussions with workers, where they felt secure, being more often than not in the course of the study outside the EPZ premises, once initial contacts had been made, as well as by sifting through copious online data.



Corporations from the following 10 countries were identified as being active in Nigerian EPZs:

- Great Britain
- China
- France
- Germany
- India
- Italy
- Russia
- Singapore
- South Africa
- South Korea
- United States of America

The list of countries of origin of investors might not be exhaustive considering the constraints faced acquiring this information. It is also necessary to point out some peculiarities in the nature of investments from these different countries.

The United States, France and Italy's investors are more active in the oil and gas sector. German firms (particularly Schlumberger) play a key role in oil services delivery, while British investors monopolise the air services EPZ, which has only one company in it. The United States government, while not a direct investor also has interest in one of the EPZs i.e. LADOL, where it has provided a \$1m loan facility.

The dominant interests in manufacturing in the EPZs are Asian, particularly Chinese and to a lesser extent Indian. It is noteworthy that in one of the EPZs for example, i.e. Snake Island Integrated FTZ, Chinese investors work closely with the Indian Jagal Group. The latter has 51% equity in NigerDock Nigeria Plc., the main firm in the zone (the Federal Government which had wholly owned the ship maintenance plant now has a 49% equity share). The South Korean Hyundai Heavy Industries firm also has a presence in the free zone. Singaporean investors in partnership with the Lagos state government are dominant in the Lekki FTZ, which is expected to become operational by 2012.

The major target of EPZs exports seems to be (sub-Saharan) Africa. There are a number of possible reasons for this which emerged innocuously from discussions with some of the EPZs' management officials. The major one, it would appear, is infrastructural and particularly high power generation costs. While local labour costs might be cheaper than in other parts of the world where EPZs are now commonplace, such as Latin America and Asia (particularly China), the utterly abysmal state of power generation and transmission through the national grid in Nigeria makes it unavoidable for EPZs, particularly those involved in some form of manufacturing, to rely on independent power plants with the attendant repercussions on production costs. Thus, with the further costs of freight, inter-continental market destinations might not seem too attractive to the investors.

## 3. Legislation and industrial relations

### Legislation governing the EPZs in Nigeria

The fundamental legislation on EPZs is the NEPZA Act (DN63) of 1992. The provisions of this Act, apart from their neoliberal contents such as “100% repatriation of capital, profits and dividends”, which have negative macroeconomic consequences, provide a number of “incentives” for employers which betray the anti-workers’ organising intent. These include a prohibition on strikes and lockouts, fenced walls around the zones, ostensibly for “security”, but which are also used to keep out union organisers, police posts (which have been used to harass trade unionists that have tried to unionise in some EPZs).

It would appear that the firms in the EPZs and the EPZs’ management centrally and at the different EPZs tend to read the Act as being super-ordinate to other laws on labour and employment relations in the country.

The different States of the Federation that have their own EPZs have laws fashioned after the NEPZA Act and their managements’ and investors’ perspectives are no different from those of the federal government-owned EPZs.

It is however pertinent to note that the waiver on industrial action, such as strikes, is actually not the “carte blanche” that EPZ authorities tend to present it as being. There is no explicit ban on union activities in general. Equally, the moratorium on strikes was for 10 years. This means that for “the premier” Calabar FTZ established in November 2001, the moratorium on strikes could be deemed to have elapsed by the end of this year.

### Casual labour / Contract employment

The Nigerian Labour Law is not silent about contract lengths for apprentices, as evidenced by the proliferation of casual employment at the EPZs. The law states that “any person who employs an apprentice for more than six months on a contract which has not been attested under section 50 of this Act or induces or attempts to induce any apprentice to quit the service of his employer shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N 200 or to imprisonment for a period not exceeding six months, or both” (Nigerian Labour Act, section 53 (2) ).

## Working hours

The Nigerian Labour Law Section 13 (3) states that “where a worker is at work for six hours or more a day, his work shall be interrupted (to the extent which is necessary having regards to its character and duration and to working conditions in general) by allowing one or more suitably spaced rest-intervals of not less than one hour on the aggregate”

## Social dialogue, labour and employment relations

The tone of labour and employment relations in the EPZs is set by the words and spirit of the NEPZA Act. The EPZs’ authorities along with (most of) the firms operating in the zones have always done all they could to frustrate any meaningful form of social dialogue while promoting unfair labour practices. There have been attempts by the Federal Ministry of Labour and Productivity to enthrone a semblance of best industrial relations practice. These though have been rather feeble. Where unions exist in the EPZs, they have been won through bitter struggle, often involving the downing of tools. All these amount to weak social dialogue, where it exists, and the total absence of tripartite structures or mechanisms within the dynamics of labour and employment relations in the zones. Indeed, from our survey, the Calabar FTZ appears to be the only site where some extent of tripartite industrial relations practice was attempted. Highlighting how the attempt was stalemated presents a graphic picture of the sorry state of social dialogue and tripartism in the EPZs.

In 2007, the Factory Inspectorate Department of the Federal Ministry of Labour attempted to carry out its statutory function with a factory inspection at the Calabar Free Trade Zone. It was categorically informed that by order of the NEPZA Act, the CFTZ could be deemed to be an entity outside its jurisdiction. It was pointed out by the ministry’s officials that if this were so, Section 4(e) of the Act, which empowers the FMLP to promote harmonious industrial relations in the zone would not have been inserted. The CFTZ authorities were however recalcitrant.

A report to this effect was sent from the Cross River state office of the FMLP to its head office in Abuja. On this basis, the Federal Ministry of Labour and Productivity held a series of inter-ministerial meetings with the Federal Ministry of Trade and Industry, the supervising ministry of NEPZA. It was resolved in the course of these meetings that the FMLP could inspect EPZs but that all such requests would have to pass through the central NEPZA management. Section 13(i) was cited as the justification for this by the FMTI.

The FMLP Cross River state office subsequently visited the CFTZ in 2008 after securing permission from NEPZA. Our study respondents from the ministry noted that its reception from the outset was anything but cordial. It identified unfair labour practice as the norm in the EPZ and further observed the practice of slave labour in one of the firms, an iron-smelting company owned by Chinese investors and called “hell fire” by its workers<sup>1</sup>. Top management staff of the said Chinese firm went to meet with the CFTZ management while the inspection was going on and, it would appear, threatened to relocate their enterprise if details of the situation in their company were made public. The CFTZ authority subsequently harangued the FMLP officials and made it clear that their actions if taken to the logical conclusion would have the ripple effect of frightening away foreign direct investment.

<sup>1</sup> Our respondents chose not to disclose the actual name of the firm

The FMLP officials chose not to be found culpable of working against the central government's avowed commitment to woo foreign investors and apart from not acting on its observations in 2008, they took the decision, informally, to steer clear of the EPZs. Reaching such a "decision" could have been engendered by the workload of the Factory Inspectorate without the added trouble of the EPZs. 250 factory inspectors are required nationally. However there are only 47, with only 1, for the entire Cross River state in recent times.

While this dismal situation is the norm, it needs to be stated, however, that the FMLP has thrown its support behind representations made to it, particularly by the oil workers union, NUPENG, on the right to organise workers in the CFTZ. The NUPENG quest was successful, albeit more due to its threat of industrial action than as a result of action on its representation.

In some instances, hideous anti-worker actions are taken prior to setting up EPZs, as a pre-condition to weakening the possibilities of legitimate protests, where the process of the EPZ's emergence includes privatisation. The most brazen of such situations was that of Nigerdock Plc., the main firm on the Snake Island Integrated Free Zone, which had been established as a SOE in 1986. The firm was shut down on May 14, 2003, for several months before the privatisation of the firm that same year. The reason was to prevent workers protest in demanding the payment of arrears of their allowances and against mass sackings. The Steel and Engineering Workers' Union of Nigeria (SEWUN) was however successful in ensuring that the workers allowances were paid. However, since the Snake Island became an EPZ, SIMCO has made it impossible for SEWUN to operate in the zone.

Over all, social dialogue is near absent in the EPZs. Where it exists, it is won through intense struggle against inhumane labour and employment relations by usually unwelcomed trade unions.

## Incentives at EPZs

Locating in any Free Zone in Nigeria automatically confers upon the investor certain advantages, benefits and incentives, which have been strategically designed by the Federal Government of Nigeria to create a business-friendly environment for the investor and to be competitive.

These incentives, established by Act No. 63 of 1992 and which have been improved even more in subsequent legislation, are the following:

- Complete tax holiday for all Federal, State and Local Government taxes, rates, customs duties and levies
- One-stop approvals for all permits, operating licenses and incorporation papers
- Duty-free, tax-free import of raw materials and components for goods destined for re-export
- Duty-free introduction of capital goods, consumer goods, machinery, equipment, and furniture
- Permission to sell 100% of manufactured, assembled or imported goods into the domestic Nigerian market

- When selling into the domestic market, the amount of import duty on goods manufactured in the Free Zone is calculated only on the basis of the value of the raw materials or components used in assembly not on the finished products
- 100% foreign ownership of investments
- 100% repatriation of capital, profits and dividends
- Waiver of all import and export licenses
- Waiver on all expatriate quotas for companies operating in the zones
- Prohibition of strikes and lockouts
- Rent-free land during the first 6 months of construction

## The Decent Work Country Programme and EPZs' deficits

The Nigeria Decent Work Country Programme was developed by the tripartite social partners in November 2005 and subsequently revalidated in 2009 in line with the global paradigm shift towards a Decent Work Agenda initiated by the ILO. The DCWP was eventually designed along the lines of the spirit and letters of the Federal Government's National Economic Empowerment and Development Strategy (NEEDS), a rehashed domestic version of the Structural Adjustment Programme.

Its key priority areas were: job creation, especially for women and young people through self-employment, reduction of human trafficking and child labour and the prevention and mitigation of the impact of HIV/AIDS in the world of work, including the improvement of the quality of life of working women and spouses of working men living with HIV.

The DWCP obviously turned a blind eye on the phenomenon of EPZs. In the first place, the promotion of self-employment as the main means of reducing unemployment is a mute case in the EPZs. Indeed, most of the so-called "self-employment" generated is of the most mundane sort, including the selling of sachets of water on the highways and other forms of survivalist precarious "enterprise" by working people, including university graduates.

Human trafficking and child labour might not be palpable problems with regards to the EPZs but, in the opinion of FMLP officials interviewed in Cross River state, slave labour, which is related, does exist in some of the EPZs.

It is difficult to state the extent to which firms in the EPZs have been concerned with mitigating the impact of HIV/AIDS in the EPZs' world of work. With the draconian regime that subsists there, though, it could be very well assumed that they are less likely to be concerned about providing support for workers living with HIV and even less so, being concerned about improving the quality of life of working women and spouses of working men living with HIV.

Other elements in the subsisting DWCP include bridging gaps in labour administration, social security, protection for the elderly and workers living with disabilities as well as further ratifications of ILO Conventions.

Firms in EPZs and the EPZs' managements do however tend to see themselves as being above the structures and procedures of labour administration. Social dialogue is promoted

more in abeyance and protection for the elderly and persons living with disabilities do not come within the radar of investors and managements in the EPZs.

The Minister of Labour Mr. Emeka Wogu and his predecessor had acknowledged the DWCP I, as being largely generally unsuccessful. The Decent Work Country Programme II was formulated last year by the social partners drawing on lessons from the failures of the DWCP I. Its priority includes increased national investment, policies and programmes geared towards wealth creation being an anti-cyclical formulation against the backdrop of the global recession. Unfortunately, there are no EPZ-specific provisions in its formulation.

## 4. An evaluation of EPZs' workers' problems and prospects

Collective relations are very important for workers in the industrial relations system. Trade union combinations emerged and still exist to date to aggregate the strengths of workers as individuals and with this solidarity, win benefits and dignity which each worker benefits from. Thus this study's evaluation of workers' conditions in the EPZs and their potential prospects takes as its point of departure a union combination perspective.

### Trade unions and freedom of association

The Trade Union (Amendment) Act 2005 is the primary legislation relating to trade union freedom of association. On the face of it, it does broaden the room for trade union freedom of association, allowing new trade unions to be formed by a minimum of 50 workers. Consequently, it removed the artificial limitation on establishing unions with the principal law in 1973, as amended in 1977, 1996 and 1999, by military juntas who sought (but failed) to use such curtailment as an instrument for incorporating trade unions.

It needs to be stressed, though, that the Act was not passed in good faith. It was an attempt to break the strength of the Nigeria Labour Congress, which at the time had become a thorn in the side of the federal government with its persistent mass protests and general strikes against the government's liberalisation of the downstream sector of the petroleum industry and its attendant increases in fuel pump prices. Of importance for this study is the fact that despite its intent, it did amongst other things allow for the formation and affiliation to NLC of new trade unions, some of which, like the National Welders Association, have been trying to organise in the EPZs, as have older affiliates.

Beyond allowing for more unions to be formed and possibly affiliating to the NLC, there is little difference in relation to workers' freedom of association after the legislation was passed. A number of its provisions which would have promoted voluntarism, for good, or for bad, remain mute to a great extent. These include members signing up to join unions and ease of opting out of union membership/not joining the union in one's workplace, as long as a bargaining fee is paid to enjoy the benefits of CBAs, which are not valid outside the EPZs.

Traditionally, it had always been easier for unions to organise in the public sector. Membership, once a union is recognised, is automatic, covering every employee within its jurisdiction. Jurisdictional disputes between unions were a major aspect of collective relations, particularly in the public sector. In the private sector though, while it is more



difficult to organise, especially with the rising incidence of casual work, despite the legal need for registration forms to be filled by (intended) members, once a union is recognised, management tend to automatically deduct the membership subscriptions of all workers covered by the union's jurisdiction in the workplace at source, with the "check-off" system.

In the EPZs, where unions win the battle for recognition, membership registration is often still insisted on. This is the case not only for private sector unions. The Amalgamated Union of Public Corporations Civil Service Technical and Recreation Employees (AUPCTRE), which has been locked in a series of battles to organise NEPZA staff, has had to get members to sign-up. The case is however more complicated as the earliest workers to sign-up were sacked, subsequent ones were transferred to backwater stations using a bizarre mix of the carrot and stick approach, AUPCTRE's membership there presently is limited to 5 persons. Recent meetings between the union and management do seem to have helped to broaden the space for freedom of association and by February 10, a crucial bipartite meeting ushered in the possibility of a new dawn in collective relations in the agency.

## Collective relations and collective bargaining

Collective relations within the EPZs where a trade union has been given the right to organise is little different from those outside the zones, particularly with regard to collective bargaining. There are no distinct EPZ collective bargaining structures or agreements.

The concrete mode of collective bargaining is thus determined by and reflects the character of collective relations in each trade union's sector.

The National Union of Chemical Rubber Footwear Leather and Non-Metallic Products Employees (NUCFRLANMPE) holds 2-year bargaining rounds with the Chemical and Non-Metallic Products Employers Federation (CAMPEF) on the platform of the sector's National Joint Industrial Council (NJIC). The members' employers in the EPZs belong to the Chemical and Non-Metallic Products Employers' Federation (CANMPEF). The procedural and substantive rules agreed upon at the NJIC are binding on EPZ firms within its sector.

In the oil and gas sector though, there is no National Joint Industrial Council (NJIC). NUPENG bargains separately with each oil corporation, most of which are MNOCs. No EPZ-specific agreement has however been reached with the oil servicing firms which have workplaces in the CFTZ where it has members. The contents of its general CBA with them is what subsists.

## Workers' conditions: specific issues

There is an observable difference between the conditions of the limited number of organised workers in the EPZs and the larger proportion of the EPZs' workforce, who remain unorganised. The conditions of workers in unionised firms in the zones tend to be better and more akin to the conditions of workers in the same sectors outside the EPZs. Observable differences could also be identified between the workers in EPZs such as CFTZ with a broader mandate and those specialising in specific services. While those in oil and



gas, and the aviation services sectors for example tend to have better conditions, those of workers in the ship-building yard at Snake Island Integrated Free Zone are appalling.

Some specific issues bearing on workers' conditions in the EPZs are now considered:

**Working day:** The working day in EPZs is generally longer than outside the zones. The standard work day comprises, 9 and not 8 hours, running from 8.00am to 5.00pm. Holidays and leave are grudgingly given, particularly by the Chinese firms, and there seems to be a tendency to avoid female labour as much as possible. It is inferred that this has to do with granting maternity leave.

**Health and safety at work:** The state of OHS in the EPZs is a mixed bag. In the oil and gas sector, there exist standard procedures and mechanisms for upholding OHS. The situation in the manufacturing sector-oriented EPZs is more diverse. A good example of a bad situation was that of "hellfire" mentioned earlier at the CFTZ. Workers are provided with water instead of tins of milk to replenish their protein loss from the effects of the heat from the furnace.

**Transportation** from and to work is a major problem particularly in EPZs which are far away from towns such as Tinapa. The management of the zone has negotiated with the state's transport company to have a bus-stop close by where employees could then take taxis to the EPZ premises. A few companies also have buses to transport their employees.

**OSH** assumes a different dimension in the construction sector before the EPZs become operational. Different firms extend different levels of (or lack of) concern for OSH. Julius Berger, for example, particularly when the construction workers' union secured recognition, seemed concerned with observing OSH procedures. This is not the case with other construction firms, particularly the Chinese CCECC.

**Workplace inspection:** Conducting workplace inspections, as noted above, is more of an obstacle course. They are almost non-existent in the EPZs. This is partly due to the hostility of the EPZs' management but also partly a spin-off of the limited number of factory inspectors, at barely 19% of the statutory requirement.

**Minimum wage and pay equity:** There is not much evidence of major problems of inequality in pay for women but instead employers tend to discriminate against female employment. A greater preponderance of male workers is therefore visible. The fact that the current minimum wage is so low makes the payment of minimum wages in the EPZs a non-issue. A better picture of the readiness of firms in the EPZs to pay the minimum wage would be seen when the new minimum wage which is before the National Assembly becomes law.

**Job security:** The majority of workers in the EPZs are casuals, with no job security.

**Workplace violence:** This is not overt, but a lord-serf type of relationship which robs the worker of her/his dignity can be observed outside workplaces in the premises of most of the EPZs. There were also reports from respondents, particularly at the Snake Island FTZ, of being slapped by management.

## 5. Trade unionism in the EPZs

Trade unionism is a very constrained phenomenon in the EPZs. Several unions have tried to organise in the different EPZs with little success. Where unions have been successful in breaking into the anti-organising regime that exists in EPZs, it has always been through rather tough battles, of some form or another.

We now look at the unions operating in the EPZs and try to grasp the dynamics of the entry and continued presence in the EPZs.

### How trade unions won the right to organise in the EPZs

The right to organise was won by unions that organise in the EPZs through ceaseless struggle. There are peculiarities in each case, but there are also relatively universal elements which help us to identify possible best practices for organising in the EPZs. Lessons could also be learned from the experiences of failed organising attempts.

There is a general consensus that the NEPZA Act constrains possible union organising and virtually every unionist interviewed called for its review. It could be arguably stated though, and FMLP officials agreed with us on this, that the 10-year moratorium on strikes and lock-out has now been superseded. Such legal interpretation might be a basis for generalising the viability of organising but the fact that some unions have been successful thus far shows that despite the law as it is presently interpreted, recruiting members and the establishment of union structures are possible.

Representations to the FMLP have been a recurring element in the steps taken by unions seeking to organise in the EPZs. This has not however been a guarantee for winning the right to organise.

Strike action or the threat of strike action is a common element in almost all the successful organising efforts that have led to union recognition by management in the EPZs. Likewise, NLC intervention has played a role in the processes leading to the organising of EPZ workers.

It could be argued that workplaces or firms that had been characterised by robust pluralist industrial relations practice before becoming EPZs or moving into EPZs are more amenable to allowing union organising. The reasons for this situation could be twofold. On one hand, these workers already had trade union awareness and were ready to fight for what they had been accustomed to. On the other hand, management tend to consider relatively cordial relations with the unions as being less expensive than being in perpetual conflict with subterranean workers organising. It should be noted though that some employers, particularly the Chinese (e.g. CCECC in construction) that have unionised workplaces outside EPZs, seem very happy to deny the union recognition within their EPZ-based workplaces.

A number of unions interviewed have not been as successful as those stated thus far, but they have worked very hard. Attempts by organisers of some trade unions at different times have led to them being harassed, arrested and briefly detained in the Calabar Free Trade Zone.

There could be several reasons for their efforts being frustrated. Probably the most salient was that the workers in the establishment they were trying to organise were too frightened about the possibility of losing their jobs. A similar situation was noted on Snake Island, where MWUN should organise but which had always been run with a very dictatorial hand, even before it became an EPZ. In 1991, when the shipyard was Nigerdock, dozens of workers had been sacked for daring to try to set up a union. The tradition of repression entrenched since then still remains and even “strangers” are watched closely as we noted once inside and the workers take note not to be seen speaking with these “strangers” inside the dockyard.

It should be noted that in the case of those unions that were successful, they had some form of leverage which helped overcome this fear and management recalcitrance. Sometimes, a strategic position in the economy makes employers rather wary of entering into conflict with a trade union. Some unions had the advantage that the workers did not have such fears, having already been union members before. Others benefited from the NLC battle against some employers.

At the roots of this fear by the workers (which of course can and has been overcome within certain contexts, is the non-decent nature of work in the EPZs in particular and in Nigeria in general. Absence of job security makes workers cling to what they have despite the precarity of it and under normal circumstances, a large number of them want the union but at the same time would want to avoid the possibility of losing their jobs, which joining the union before it is recognised (or even after) could result in.

# Conclusion

The research has analysed the state of trade unionism and industrial relations' practices in Nigeria's Export Processing Zones. It highlighted the potential investment areas in the zone and the countries that invest in the EPZs. Of significance is the anti-worker practice in the zone which relates to the freedom of association, the right to organise, occupational health and safety, wages, and contractual employment. These and other practices constitute major aberrations to the Nigeria Labour Law and the Trade Unions Act.

## Recommendations

Thanks to this study, we were able to explore the nature and dynamics of industrial relations practices in the EPZs, where follow-up is required and the future commitments required to address the major challenges affecting workers' rights in the various zones.

We hope that this pilot study will form the kernel of future work and research at the EPZs between the ITUC and the Nigerian trade union movement.

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