

# **STUDY ON CHINESE INVESTMENTS IN AFRICA: THE CASE OF MALAWI.**

**A report presented to:**

**Africa Labour Research Network (ALRN)**

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**August 2008**

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## **Acknowledgements**

Special gratitude goes to Africa Labour Research Network (ALRN) for considering Malawi to be part of the Chinese Investments in Africa study and Malawi Congress of Trade Unions (MCTU) secretariat for the support it rendered to the research team throughout the study. Many thanks also go to the following institutions for their cooperation and for the valuable information they contributed towards the study: Malawi Investment Promotion Agency (MIPA), Ministry of Industry and Trade, Treasury department of the Ministry of Finance, Employers' Consultative Association of Malawi, Chinese Embassy in Malawi, Malawian embassy in Beijing, Ministry of Foreign Affairs, Ministry of Labour, immigration office, workers in the Chinese firms, Chinese employers and trade unions. The research team which comprised of Wezi Shaba, Chawanangwa Chirambo, Steven Choyoka and Betoni Kaselo also deserves commendation for the immense input towards the study.

## **Acronyms**

ALRN	Africa Labour Research Network
ADB	Africa Development Bank
CIDA	Canadian International Development Agency
DFID	Department For International Development
ECAM	Employers' Consultative Association of Malawi
EU	European Union
FAO	Food and Agriculture Organisation
GoM	Government of Malawi
GTZ	German Agency for Technical Cooperation
IAC	Investment Approval Committee
ILO	International Labour Organisation
JICA	Japanese International Cooperation Agency
MCTU	Malawi Congress of Trade Unions
MIPA	Malawi Investment Promotion Agency
NSA	Non State Actors
SADC	Southern African Development Cooperation
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations Children and Education Fund
USAID	United States of America International Development
WB	World bank
WFP	World Food Programme
WHO	World Health Organisation

### **Problem statement**

The diplomatic ties between Government of Malawi (GoM) and mainland China commenced on 28<sup>th</sup> of December 2007. However records show that the number of Chinese investors in Malawi has been increasing within the past five years prior to the birth of Malawi-China diplomatic relations. Hence it is the GoM's view that the recently established diplomatic ties pose to be an opportunity for Malawi to grasp which was missed for over 40 years. Some economic and political analysts contend that the current Malawi-China relations will serve to boost up the trade and foreign direct investments from mainland China in Malawi from current levels (Nation 15<sup>th</sup> Feb. 2008). On the other hand others suggest that by dumping Taiwan in favour of mainland China at diplomatic level, GoM made a miscalculated move which may eventually cost the nation a great deal (Daily times 9<sup>th</sup> Jan. 2008). It is in this frame that the study sought to examine the impacts of Chinese investments in Malawi prior to the time Malawi switched the diplomatic relations from Taiwan to mainland China.

### **Study Objectives**

The objectives of the study were as follows:

- 1 Establish the nature and levels of Chinese investments in Malawi
- 2 Assess the economic and social impacts of Chinese investments in Malawi within the past five years
- 3 Examine labour relations and working conditions under which the workers in Chinese firms in Malawi are subjected to.

### **Scope of the Study**

The study is divided into five sections. The first section gives an overview of the Malawi-China relations. Second section dwells on Malawi-China trade and the nature of Chinese investments in Malawi. Section 3 presents an analysis of data collected during the case studies done in the Chinese firms with much focus on the labour relations and working conditions. Section 4 assesses the compliance of labour laws and core ILO conventions as far the Chinese investors in Malawi are concerned. Section 5 outlines the recommendations and conclusion of the study. Attached at the end as appendices, are photos which were shot during the study and a compilation of newspaper cuttings carrying stories relevant to the subject matter of the study.

### **Limitation**

Efforts to get hold of books and research papers on Chinese investments in Malawi proved futile. Hence the literature review for the study was not conducted. On the other hand, the guide for country case studies which was strictly followed as advised did not require for respective country level literature reviews besides the one already conducted for the entire study at continental level.

### **Methodology**

The study was qualitative in nature and heavily relied on the primary data. As of April 2008,

50 Chinese firms had been registered with MIPA since its inception in 1994. At the time of the study, almost half of these were either reported to have shut down or changed physical addresses without the knowledge of MIPA as required. With MIPA guidance, the research team managed to trace 19 Chinese firms.

Structured questionnaires were administered to workers in all the 19 Chinese firms. Interviews were also conducted with key informants such as: trade unionists, Chinese employers and MIPA official. Secondly, observation was also used as a research tool during the administering of the questionnaires. Finally, relevant government departments/ministries were visited to collect relevant information and data.

## **Section 1**

### **INTRODUCTION AND BACKGROUND**

Malawi established diplomatic relations with mainland China on the 28<sup>th</sup> December 2007 after dramatically severing her 41 year old ties with Taiwan. Where as Malawi's embassy in Beijing was opened on 26<sup>th</sup> March 2008 by the president of the Republic of Malawi Dr. Bingu wa Mutharika, the Chinese ambassador to Malawi Lin Songtian jettied in Malawi on 19<sup>th</sup> of May 2008 and submitted letters of credence to the State President Dr. Bingu wa Mutharika four days later. However Malawi has been doing trade with Mainland China for decades. Official statistics show that since 2000 there has been an increase in the volume of goods and services traded between mainland China and Malawi.

On the 13<sup>th</sup> of May 2008, the People's Republic of China and GoM signed a memorandum of understanding (MOU) which among others is aimed at enhancing trade ties between the two countries. With the signing of the MOU, not only is the volume of goods and services traded between the two countries expected to grow significantly but also the levels of investments will rise a great deal.

**TABLE 1: 10 MAJOR IMPORTS FROM CHINA AND VALUES**

COMMODITY	2000 (MK)	2001 (MK)	2002 (MK)	2003 (MK)	2004 (MK)	2005 (MK)	2006 (MK)	2007 (1 <sup>st</sup> qrter)MK
Nuclear reactors, Boilers, machinery and electrical appliances and parts.	28,864,930	47,007,126	76,034,268	271,089,884	200,392,298	487,458,085	524,189,121	85,009,031
Electrical machinery, equipment parts, there of, sound recorders etc	104,995,998	171,822,715	52,663,108	202,814,487	378,244,723	948,984,436	384,749,114	74,413,096
Footwear, gaiters and the like, parts of such articles.	144,527,293	71,168,240	112,328,191	244,509,056	283,971,762	353,976,070	377,118,330	147,432,614
Plastics and articles there of.	10,941,861	22,785,649	23,784,694	59,064,162	84,339,116	62,745,309	322,756,871	66,373,400
Rubber and articles there of	31,977,808	59,780,906	52,476,678	73,828,966	108,466,123	207,641,225	301,369,131	58,060,377
Furniture, beddings, mattress, matt support, cushions etc	10,917,527	8,835,107	16,589,118	20,774,741	36,186,973	132,213,845	184,331,553	13,322,106
Articles of apparel and	29,090,918	25,801,828	26,671,857	91,573,550	153,395,620	95,564,369	143,055,553	51,646,440

clothing accessories, not knitted or crocheted								
Articles of iron and steel	49,145,966	32,992,967	56,676,082	60,882,021	120,432,850	153,898,938	127,399,555	54,101,749
Vehicles other than railway or tramway rolling stock and parts and access	5,309,661	65,368,067	23,900,950	32,295,267	44,193,391	68,977,646	113,473,115	17,822,565
Inorganic chemicals, compounds of premet, radioactive elements etc	5,563,943	29,254,100	15,240,341	46,085,673	59,279,280	61,052,625	99,247,257	35,792,853

Source: Statistics dept-Ministry of Industry and Trade.

**TABLE 2: MAJOR EXPORTS TO CHINA AND VALUES**

<b>DOMESTIC EXPORTS TO CHINA FROM 2000 - 2007 1ST QUARTER</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007 1ST QUARTER</b>
<b>COMMODITY</b>	<b>VALUE (MK)</b>							
Tobacco and manufactured tobacco substitutes	19,080,132	104,502,368	3,892,808	0	0	526,599,490	151,352,645	0
Coffee, tea, mate and spices	1,046,604	7,796,221	10,408,558	8,497,618	10,765,484	0	14,043,804	10,737,680
Wood and articles of wood	3,597,942	0	0	896,874	0	50,000	5,269,839	692,344
Vegetables plaiting materials; vegetable products not elsewhere specified or included	0	0	0	0	0	0	0	974,633
Articles of iron and steel	0	0	0	0	543,239	0	2,334,719	0

Source: Statistics dept-Ministry of Industry and Trade.

**TABLE 3: TOTAL IMPORTS FROM CHINA AND TOTAL EXPORTS TO CHINA AND RESPECTIVE VALUES**

YEARS	2000 (MK)	2001 (MK)	2002 (MK)	2003 (MK)	2004 (MK)	2005 (MK)	2006 (MK)
<b>TOTAL IMPORTS FROM CHINA</b>	813,711,349	1,060,445,905	827,296,973	2,147,980,796	2,734,079,288	4,313,011,263	3,633,832,877
<b>TOTAL IMPORTS FROM THE WORLD</b>	31,158,591,059	39,480,105,210	53,656,983,192	70,417,975,333	100,727,506,761	138,419,488,573	164,602,521,378
<b>COMPARISON WITH WORLD (percentage)</b>	2.61	2.69	1.54	3.05	2.71	3.12	2.21

YEARS	2000 (MK)	2001 (MK)	2002 (MK)	2003 (MK)	2004 (MK)	2005 (MK)	2006 (MK)
<b>EXPORTS TO CHINA</b>	27,398,367	114,554,173	123,124,894	9,429,492	17,785,828	532,187,926	173,078,007
<b>TOTAL EXPORTS TO THE WORLD</b>	23,054,087,029	31,816,228,690	31,416,870,165	46,801,280,100	52,622,794,928	60,230,185,321	90,891,488,096
<b>COMPARISON WITH WORLD (percentages)</b>	0.12	0.36	0.39	0.02	0.03	0.88	0.19

*Source: Statistics Dept-Ministry of Industry and Trade.*

Malawi which is a small land locked developing country heavily depends on a single commodity tobacco for more than 60 percent of its stagnant export earnings (Ministry of Industry & Trade; 2002, 1). As such given the very small size of its domestic market, international market has to play an important role in GoM's strategy to stimulate growth and alleviate poverty. Efforts towards enhancing trade with a country like mainland China with a population of over 1.3 billion people are certainly economically viable as far as the expansion of market for agricultural products like tobacco, tea and sugar are concerned. For instance, apart from increase in export earnings to the government, the expansion of the market will result into increase of production of the agricultural products thereby raising the demand for labor in the agricultural sector.

Nevertheless in the long run, trade with mainland China pose to inhibit the growth of the infant industries thereby negatively affecting the levels of employment, production and exports if Malawi continues to import at an increasing rate commodities from mainland China particularly the consumer goods which can locally be produced using locally available resources such as furniture, beddings, paper, soap, diary products, honey, wood etc as shown in table 1.

Ever since Malawi gained independence in 1964, citizens from mainland China have been coming to Malawi as tourists, entrepreneurs/investors, expatriates among others. As of 30<sup>th</sup> March 2008, total number of people from mainland China who ever set foot in Malawi and applied for temporary resident permits, temporary employment permits, business resident permits or study permits was estimated to be 956. However from 31<sup>st</sup> March 2008 to 6<sup>th</sup> June

2008, approximately 36 Chinese nationals submitted applications to the Immigration office for the above mentioned permits.

**TABLE 4: NUMBER OF FOREIGN NATIONALS EVER APPLIED FOR PERMITS IN MALAWI AS OF 30<sup>TH</sup> MARCH 2008**

COUNTRY OF ORIGIN	NUMBER OF APPLICANTS
Lebanon	175
India	4,058
Pakistan	1,485
Nigeria	332
<b>Mainland China</b>	<b>956</b>

*Source: Immigration office-Ministry of Home Affairs.*

**TABLE 5: NUMBER OF FOREIGN NATIONALS WHO APPLIED FOR PERMITS FROM 31<sup>ST</sup> MARCH TO 6<sup>TH</sup> JUNE 2008**

COUNTRY OF ORIGIN	NUMBER OF APPLICANTS
Lebanon	3
India	118
Pakistan	21
Nigeria	9
<b>Mainland China</b>	<b>36</b>

The establishment of diplomatic ties between Malawi and mainland China has seen relatively more people from mainland China migrating to Malawi than ever before for both government and private business (as traders and investors).

According to records available at the Malawi embassy in Beijing, six Malawians (4 males and 2 females) went to work in mainland China from 2005 to 2007.

As of late, no tangible aid has been transferred from mainland China to Malawi except a mere pledge of aid amounting to US\$ 270 million for a period of five years which is yet to be disbursed. This pledge is incomparable to the actual amounts that the GoM has been receiving annually as aid from multi-lateral and bilateral official development assistance (ODA). All in all, the signing of the MOU on the 13<sup>th</sup> of May 2008 following the establishment of the diplomatic ties in December 2007 signifies that the future relations between the two countries is potentially going to be beneficial depending on how best the two countries will each tactically play the cards.

**TABLE 6: DEVELOPMENT SUPPORT TO MALAWI BY DEVELOPMENT PARTNERS**

<b>YEAR</b>	<b>TOTAL ACTUAL DISBURSEMENT (US\$)</b>
2004/2005	324,364,123
2005/2006	506,667,265
2006/2007	450,210,186
2007/2008	643,996,473

*Source: Debt and Aid Management Division of the Treasury Department-Malawi Ministry of Finance.*

This development assistance comes in form of project loans, project grants and budget support grants. Besides from the development partners, Malawi also receives humanitarian aid. It should be noted that the list of official developing partners for Malawi until May 2008 did not include Mainland China.

**TABLE 7: TOTAL HUMANITARIAN AID TO MALAWI FROM DEVELOPMENT PARTNERS**

<b>YEAR</b>	<b>TOTAL HUMANITARIAN AID (US\$)</b>
2004/2005	96,875,133
2005/2006	88,145,643
2006/2007	42,569,171
2007/2008	11,212,198

*Source: Debt and Aid Management Division of the Treasury Department-Malawi Ministry of Finance.*

## **Section 2 NATURE OF CHINESE INVESTMENT AND TRADE**

So far no company from mainland China has ever invested in a project in Malawi. However soon after the establishment of the diplomatic ties, mainland China announced that firms from mainland China would soon be engaged to take over the constructions of two projects namely; the new parliament building in the capital city of Lilongwe and a 101 km road connecting two districts of Chitipa and Karonga in the northern part of the country. These two happen to be some of the projects that were abandoned by Taiwan following the abrupt end of the diplomatic ties with Malawi.

The following are the incentives that Malawi puts on the table for any prospective foreign investor:

- 1 100 percent investment allowance on qualifying expenditure for new building and

- machinery
- 2 Allowance up to 40 percent for used buildings and machinery
- 3 50% percent allowance for qualifying training costs
- 4 Allowance for manufacturing companies to deduct all operating expenses incurred up to 25 months prior to the start of operations
- 5 Additional 15 percent allowance for investment in designated areas of the country
- 6 Duty-free importation of buses with a seating capacity of 45 persons (including driver) and above, duty-free direct importation of building materials for factories and warehouses; Duty-free direct importation of goods used in the tourism industry, which includes building materials, catering and related equipment, and water sport equipment
- 7 Free repatriation of dividends, profits, and royalties

Besides there are also incentives for establishing operations in an Export Processing Zone (EPZ) which include: Zero corporate tax rate; No withholding tax on dividends; No duty on capital equipment and raw materials; No excise taxes on purchases of raw materials and packaging materials made in Malawi; No Value Added Tax (VAT) among others.

Manufacturing is the sector that attracts most of the investments from mainland China which are all from the private sources. This is attributed to the development of simple labour saving technologies readily available in China (including the rural areas) which is easily transferable to Malawi set up. Further to this, investors are specifically attracted to the manufacturing sector by the additional incentives which are not offered to the investors in the other sectors. Among others, below are the additional incentives for the manufacturing sector in bond:

- 1 No duties on imports of capital equipment used in the manufacture of exports.
- 2 No surtaxes
- 3 No excise tax or duty on the purchase of raw materials and packaging materials.
- 4 Timely refund of all duties (duty drawback) on imports of raw materials and packaging materials used in the production of exports
- 5 Export tax allowance of 12 percent of export revenues for non-traditional exports.

**TABLE 8: CHINESE INVESTMENTS AND SECTORS**

<b>SECTOR</b>	<b>NUMBER OF COMPANIES</b>	<b>PERCENTAGE</b>
Manufacturing	35	70%
Tourism	4	8%
Services	10	20%
Agriculture	1	2%
<b>TOTAL</b>	<b>50</b>	<b>100%</b>

*Source: Malawi Investment Promotion Agency (MIPA).*

**TABLE 9: MAIN LAND CHINA COMPANIES (INVESTMENT AND EMPLOYMENT LEVELS)**

	<b>2005 (USD)</b>	<b>2006 (USD)</b>	<b>2007 (USD)</b>	<b>2008-1<sup>st</sup> Quarter (USD)</b>	<b>TOTAL</b>
<b>INVESTMENT LEVELS</b>	850,000	2,843,900	1,422,000	1,368,000	US\$ 6,483,900
<b>EMPLOMENT LEVELS</b>	370	327	316	148	1161

*Source: Malawi Investment Promotion Agency (MIPA).*

**TABLE 10: TOTAL ANNUAL INVESTMENT AND EMPLOYMENT LEVELS FROM THE WEST**

	<b>2005 (USD)</b>	<b>2006 (USD)</b>	<b>2007 (USD)</b>	<b>2008 (Jan- April)</b>	<b>TOTAL</b>
<b>INVESTMENT LEVELS</b>	18,697,700	131,831,950	20,915,000	567,000	172,011,650
<b>EMPLOYMEN T LEVELS</b>	425	498	464	71	1,458

*Source: Malawi Investment Promotion Agency (MIPA).*

**TABLE 11: TOTAL ANNUAL INVESTMENTS AND EMPLOMENT LEVELS**

	<b>2005 (USD)</b>	<b>2006 (USD)</b>	<b>2007 (USD)</b>	<b>2008-1<sup>st</sup> quarter (USD)</b>	<b>TOTAL (USD)</b>
<b>INVESTMENT</b>	52,383,387	185,299,177.99	92,052,821	21,728,056	351,463,441.99
<b>EMPLOMENT LEVELS</b>	5,583	4,072	15,829	2,352	27,836

*Source: Malawi Investment Promotion Agency (MIPA).*

According to MIPA which regulates all investments activities in the country, there is no condition that is attached to any investment on the part of the country of origin of the investment or even the investors themselves.

To a certain extent, the investments remain mutually beneficial in the sense that Malawi benefits through the transfer of technology and skills, industrialization, forex brought and taxes remitted by the Chinese investors and the jobs that have been created.

On the other hand, mainland China also benefits from the profits which are repatriated to mainland China by her nationals who have invested in the economy. Further to this, since Malawi privatized some of her industries and eventually opened up the economy to foreign direct investments, there is a burgeoning opportunity for mainland China. For instance, in the manufacturing sector more Chinese have opened up textile factories in Malawi as a way of getting around US and EU quotas on Chinese textiles.

However, the jobs that are being created by the Chinese investors are mostly ‘casual’ jobs which can very well be described as cheap labour. Just like other foreign investors, to a greater extent the Chinese employers flout the labour laws and most often go away with it.

The increase in imports from mainland China since 2000 has resulted into the influx of low cost consumer goods from mainland China in the economy. This phenomenon in the long run may potentially muzzle infant industries in Malawi and displace substituting imports from the other trading partners of Malawi.

According to official statistics available, in terms of amounts involved relatively more investments to Malawi have come from the west than from mainland China alone. Similarly as far as trade is concerned, Malawi trades more with the west as compared to mainland China alone. When it comes to investments, there are no conditions attached regardless of whether the investment is from the west or mainland China. However conditions are spelt out in the respective trade agreements that Malawi signed with the individual western countries and the MOU which Malawi recently signed with mainland China. Private and public sources characterize the investments that come from the west.

All the same Malawi pose to benefit from the increasing investments from the west and mainland China and from trading with mainland China and the western economies. For instance, investments from the west and mainland China contribute positively towards the economic growth in Malawi through forex and employment creation, skills and technology transfer though in varying degrees. Where as trade between Malawi and mainland China and western countries has broadened the market for Malawi products from the confines of the SADC which is traditional market for Malawi. Ultimately all this has a positive impact on government’s efforts towards poverty reduction.

**TABLE 12: TOTAL IMPORTS AND EXPORTS TO EUROPEAN UNION COUNTRIES FROM 2000-2006**

	<b>2000 (USD)</b>	<b>2001 (USD)</b>	<b>2002 (USD)</b>	<b>2003 (USD)</b>	<b>2004 (USD)</b>	<b>2005 (USD)</b>	<b>2006 (USD)</b>
<b>IMPORTS</b>	77,769,944	88,217,682	97,226,154	86,282,697	122,260,345	173,365,562	179,327,377
<b>EXPORTS</b>	103,512,042	146,607,973	134,103,744	164,956,414	160,861,645	179,415,397	264,087,029

*Source: Statistics Dept-Ministry of Trade and Industry*

Further to this, some of the capital equipment that Malawi imports is made in mainland China and the west. Nevertheless, lately as compared to mainland China, Malawi has

relatively benefited a great deal from the western countries with which it established diplomatic relations or trade agreements a while ago before mainland China came on the scene through the transfer of skills and technology. For instance by virtue of being a least developed country under the World Trade Organization (WTO), besides benefiting from Temporary Movement of Natural Persons (TMNP), Malawi continues to have access to trade related technical assistance such as Integrated Framework (IF) and Joint Integrated Technical Assistance Programme (JITAP). Further to this, from the bilateral trade and development agreements with western countries like USA, Australia and Canada, Malawi also benefits from various schemes of trade preferences (Generalized System of Preferences) aimed at industrialization and improvement of the quality of locally produced products for exports among others. It can therefore be argued that Malawi has not yet benefited from skills and technical transfer from mainland China to the extent it has through the various bilateral and multi-lateral relations it has with western countries.

### Section 3 CASE STUDIES

The results of the findings of case studies in 19 Chinese firms in Malawi revealed that a number of Chinese investors pay very little attention to their worker's welfare to an extent that workers are generally not assisted in any way when bereaved and that they are considered absent when sick. It has been exposed that workers' lives are at risk in Chinese companies as some handle extremely dangerous machinery without protective gear (i.e. boots, helmets, gloves etc) while others are locked in factories while the boss/employer is away.

**TABLE 13: VISITED CHINESE FIRMS AND SECTORS**

<b>SECTOR</b>	<b>NUMBER OF COMPANIES</b>	<b>PERCENTAGE</b>
Manufacturing	12	63%
Tourism	3	16%
Services	4	21%
Agriculture	0	0%
<b>TOTAL</b>	<b>19</b>	<b>100%</b>

#### **General Understanding of Trade Unions**

All the 80 respondents (workers) who were interviewed in the 19 Chinese firms had no knowledge with regard to the existence of trade unions, let alone MCTU. Thus none of the visited Chinese companies has a union. This explains why most of the workers are subjected to inhumane conditions by their employers as revealed by the study. This also explains why during the interviews, most workers were observed to be extremely fearful of their employers and employers seemed to be suspicious of their workers.

The absence of the trade unions in the visited Chinese companies also contributes to the sufferings of these employees as they are not aware of their rights as workers as well as the obligations of the employers. As such, they do not know that as workers, they are entitled to

certain things such as; good salary/wages, paid holiday, safe working environment, job security amongst others.

It was also discovered that none of the owners of the work places that were visited is a member of the Employers Consultative Association of Malawi (ECAM), which is a federation of the employers in Malawi.

### **Labour Relations**

Generally, labour relations are miserably poor in most Chinese companies. Out of 19 Chinese firms, only three (representing 16%) fair well with regards to labour relations and working conditions. **80%** of the respondents revealed that there is no cooperation between the employers and the employees. In some cases, a very tense atmosphere could be observed upon arrival.

Generally workers in Chinese firms are not aware of the Labour Relations Act, Employment Act, Occupation, Safety and Health Act which safeguard workers' rights and promotes their dignity at work places in Malawi.

Neither do the workers know that the above mentioned legislations provide for freedom of association i.e. to form or join trade unions of their choice, protection from unfair dismissal and forced labour and that further to this they have a right to bargain for better conditions of service with their employers.

With this set up, it did not come as a surprise that some workers complained of being physically abused to the extent of literally being kicked. At least **10%** of the workers testified of being physically abused by the employer at one time while **32%** complained of being victims of verbal abuse and constantly subjected to threats of instant dismissal whenever they express dissatisfaction over any unfair treatment.

About **89%** of the workers were discovered to be working without formal contract agreements. This tendency places employees in an awkward position as they fail to successfully bargain for better working conditions and salaries. Whoever tries to complain about the poor conditions of service is told point blank that he/she can leave and easily be replaced. Hence the employers tend to hire most of the workers as 'casuals' who can be hired and fired at will without reprisals. Over **47%** of the interviewed workers expressed fears of their job security.

At least **53%** of the work force in Chinese firms is subjected to forced labour. It was discovered that job descriptions/division of labour is not always adhered to in these companies. A case was noted of someone who was recruited as a clerk also reports for duties in the organic manure processing section and one driver complained that he did not only drive the lorry but also off loaded the goods.

At 4 Chinese companies (representing 21%), work starts at 6:00am to 6:00pm without a lunch break, worse still without overtime dues. At these workplaces, workers are advised to buy food for their lunch before entering the factory while the lucky ones are allowed to

prepare their meals within the work premises as long as they bring their own food stuffs before work starts as they are not allowed to leave the premises before knock off time.

Only 5% of the interviewed workers had expressed knowledge about the labour office as a place where they could channel their grievances. However, they were quick to mention that none of them had ever gone to complain to labour officials for fear of being dismissed by their employers the moment they discover who had reported the matter.

At the three companies where the working environment was found out to be relatively conducive, it was revealed that workers were able to exercise their rights and that management has always been there for them in times of problems. *“He always assists whenever we need assistance, for example, when one is bereaved, he provides transport,”* One worker explained. *“Atmosphere is always favorable here because they address us politely together with the wife”* added another.

It was also reported that at these three companies, whenever, one works beyond the normal working hours, overtime allowance is paid, they go for paid holidays as one explained *“These people are good, they give us holidays when requested...”* Further to this it was also observed that workers at these three firms are provided with necessary protective gear such as safety boots, work suits, safety goggles, gloves, helmets etc.

#### **Occupation Health, Safety and Environment At Work Place**

Workers in some Chinese firms work under most horrible conditions. At one work place where urine is used to manufacture organic manure, employees are required to urinate in a tank. It was then established that some workers at one time got dismissed because they refused to carry the cans of urine from the tank without protectives.

*(Photo 1)*

*(Photo2)*

Workers in most of the Chinese firms were found operating dangerous machinery without gloves. Others were found in very smelly and dusty environments without mouth/nose shields while some were seen handling dangerous processing materials with bare hands and bare footed for that matter. In some cooking oil manufacturing factories, workers were found working in very hot rooms, handling hot raw materials without protective gear.

It was also reported at one company that workers are provided with protective gear only when employers have been forewarned of the impending inspection by ministry of labour or MIPA. The moment these officials leave the premises, the protective gears are snatched from the workers.

*(Photo 3)*

*(Photo 4)*

Some employees are locked inside when ever the employer goes out e.g. lunch time. At a certain company, the interview had to be conducted with employees locked inside a factory while a research assistant stood outside. This practice is not only inhuman but also extremely dangerous as peoples' lives are put at great risk in case fire erupts inside the factory.

It was also observed during the study that most Chinese companies do not have decent toilets. In some companies, employees literary urinate against fences because urinals are not provided. Where toilets are available, they are in poor state and usually not sufficient. Among the 19 Chinese firms, one firm which employs over 20 workers did not have a toilet.

*(Photo 5)*

*(Photo 6)*

None of the visited Chinese factories had a provision for change rooms for workers to use after work. It was also noted that inside of the manufacturing factories in particular were very dusty and untidy while others very hot. In the absence of change rooms with running water, workers just go home straight without cleaning themselves after work which may be a health hazard.

It is worth mentioning that **37%** of the Chinese investors use company premises for habitation as well. Thus rooms are reserved within the same building or a different block for dwelling purposes. Cases were noted where pets were roaming around company premises. To a greater extent, this compromises the hygiene of the workplace and the quality of the food stuff manufactured at such work places.

*(Photo 7)*

In Chinese companies where the relationship is good between management and employees, apart from the friendly atmosphere, the working environment was also observed to be hygienic and safe. Workers were seen in protective gear such as safety boots, work suits, safety goggles, helmets and gloves. The inside was well ventilated with clean walls and floors.

Inspite of three isolated cases of hygienic and safe work places, the status of Chinese investments especially in the manufacturing sector leaves a lot to be desired. The inside walls, roofs and equipments were dirty while the inside of the factories were filthy and had no adequate ventilation. Thus the Chinese firms in the manufacturing sector are generally not safe for the workers.

*(Photo 8)*

*(Photo 9)*

### **Wages and Salaries**

Generally there are no negotiations as far as remuneration packages are concerned in Chinese companies. Salaries/wages are just imposed on the workers. **16%** of the workers in these companies are paid per week while **26%** receives wages on daily basis. Often times, when one does not report for work due to illness, accident at work place or is bereaved, the salary is deducted. Only **5%** of the workers receive wages for extra hours worked.

It was also revealed that wages are deducted whenever one goes for a holiday. At one company, it was reported that workers have a privilege of loans from their employers. However, these loans are deducted at once, leaving the worker penniless in certain circumstances.

There are pay structures for the workers in some Chinese companies. However, the strange thing is that these salaries vary according to performance and not necessarily educational qualifications or experience. There is also a slight difference in salaries between long serving members and new recruits. It was again discovered that on average, workers in the service sectors earn higher than those employed in other companies within the manufacturing sector. Where there are casuals and permanent workers doing the same job, the latter are paid slightly higher, with a K1000.00 difference in certain companies.

Wages/salaries in Chinese companies for locals vary considerably. Except for the few lucky ones who earn as high as K15, 000.00 per month, the majority receive less than K4, 000.00 per month. To the other extreme, some are paid a meagre K2, 000.00 per month, which is below the minimum wage set by the government (ie minimum wage is pegged at K117.00 per day, making it K3, 510.00 per month). Thus the average minimum wage in Chinese companies is K3, 621.05 while the maximum wage on average is K6, 888.23.

There are huge variations in salaries between locals and Chinese. Some Chinese expatriates are paid as much as K120, 000.00 per month, far beyond locals even under circumstance where they do similar jobs. At four Chinese companies (representing 21%), Chinese expatriates were reported to receive their pay from mainland China.

### **Benefits Enjoyed by workers In Chinese Firms**

It was discovered during that 36% of the respondents do not enjoy any benefit from their employers. In these companies, people do not have social security, paid vacation, paid sick leave, no subsidized housing allowance, no severance pay upon termination of service, no paid maternity leave, no chance of getting a loan/advance from the employer. These workers, who are usually classified as 'cas' no matter how long one has worked, can be fired any time the boss wishes, and sometimes without even receiving wages for the days one has worked for.

The table below shows the visited Chinese Companies and the benefits they provide to local employees;

**TABLE 14: 19 COMPANIES AND PROVISION OF BENEFITS TO LOCALS**

BENEFITS	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S
Social security	√		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Medical care	√	√	-		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Free/subsidized transport	√	-	-	√	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Paid vacation/holiday	-	√	-	-	√	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Paid sick leave	√	√	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Subsidized housing/housing allowance	√	-	√	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Child care services	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Incentive bonus	√	√		√	√	√	-	-	-	-	-	-	-	-	-	-	-	-	-
Severance pay	√	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Paid maternity leave	√	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Free/subsidized meals	√	√	√	-	-	√	√	√	√	√	√	√	-	-	-	-	-	-	-
Employee Share Ownership Plan	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest-free loans	-	√	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Company-level or in-house pension schemes/provide nt fund for example	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Education/traini ng bursaries	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

#### Section 4

### ASSESSMENT OF COMPLIANCE OF LABOUR LAWS AND CORE ILO CONVENTIONS

In Malawi, there are legislations that have been enacted with the sole purpose of protecting the human rights in general and the rights of workers in particular. Examples of such legislations include the Labour Relations Act of 1996, Employment Act of 2000 and Occupational Health, Safety Health and Welfare (1997).

In the Employment Act of 2000 for example, the fundamental principles enshrined in Sections 4, 5, 6 and 7 clearly advocate against forced labour, calls for anti-discrimination at

the work place, equal pay for work of equal value as well as remedies for infringement of fundamental rights respectively. In addition to these, Section 57 of the Employment Act clearly states that *'employment of an employee shall not be terminated by an employer unless there is a valid reason for such termination connected with the capacity or conduct of the employee or based on the operational requirements of the undertaking'*.

The Labour Relations Act of 1996 has some sections dedicated to freedom of association for workers as well as remedies where there has been an infringement of their rights provided for in this act. Sections 4, 5, 6, 7 and 8 of the Labour Relations Act provides for; freedom of association which shall include the freedom to establish and join organizations of one's choice; rights of trade unions and employers organizations to draw up its constitution and elect its officers, organize its administration and activities, protection of employees from victimization because they are trade union members; protection in respect of organizations whereby any person eligible for membership of an organization pursuant to its constitution or rules has a right to membership of that organization and to remain a member as long as s/he complies with the rules of the organization; as well as provide remedies for any complaint of infringement of the rights respectively.

The Occupation Safety, Health and Welfare Act (1997) among others makes provision for the regulation of conditions of employment in workplaces as regards the safety, health and welfare of persons employed at every work place. Section IV section 22 stipulates that *'every work place shall be kept clean, and free from effluvia arising from any drain, sanitary convenience or nuisance.'*

In addition to the above highlighted national legislations, the GoM has ratified all the core International Labour Organisations conventions (ILO) which also safeguard the worker's and human rights. These core conventions are; Freedom of Association and Protection of the Right to Organise; Right to Organise and Collective Bargaining; Forced Labour; Abolition of forced Labour; Minimum Age; Worst Forms of Child Labour; Equal Remuneration and Discrimination.

From the foregoing, it is evident that the GoM is committed towards protecting the rights and freedoms of workers. Nevertheless, there are some employers who do not adhere to the dictates of country's Labour Relations Act, Employment Act, Occupational Safety, Health and Welfare Act as well as the fundamental ILO Conventions.

Basing on the research findings, it is evident that all the 19 Chinese employers except three do not adhere to the country's labour laws as well as the ILO Conventions. For example, generally there is no room for salary negotiations between employees and employers in the Chinese companies. Salaries are just imposed on the workers and if one is not satisfied, is free to leave. This is contrary to ILO Convention 98 on the right to Organise and Collective Bargaining which Malawi is also a signatory.

It was also discovered that 53% of the workers perform acts of forced labour with long hours of work which is contrary to both Convention 29 of 1930 on forced labour and section 4 of the Employment Act of Malawi.

The fact that there is no job security in most Chinese companies is evident enough to show that Chinese companies in Malawi do not adhere to the country's labour laws and core ILO conventions. Section 57 of the Employment Act for example protects the employee from being unfairly dismissed while Section 8 of the Labour Relations Act provides remedies in the event that workers rights have been infringed. Above all, lack of cleanliness, protective gears, washing, meals and first aid facilities; inadequate ventilation which among others characterize most of the Chinese work places in the manufacturing sector contravene Occupational Safety, Health and Welfare Act section IV and V.

Nevertheless it should be pointed out that the non adherence to the national labor laws or the core ILO conventions is not only peculiar to Chinese employers/investors. Empirical evidence suggests that employers in Malawi generally do not strictly comply to the national labour laws and the core ILO conventions though there might be disparities with regards to the degree of compliance and adherence. Nevertheless, it has been observed that the Asian employers are relatively worse off as far as the compliance to national labour law and adherence to core ILO conventions are concerned.

This is aggravated by lack of capacity on the part of the government to effectively inspect the workplaces so as to enforce compliance. This is as a result of inadequate financial allocation that ministry of labour receives from the national budget annually. On the other hand, the trade unions too have a weak institutional capacity to extend membership and reach out to all workplaces. Hence the employers have taken advantage of these deficiencies on the part of the government and the trade unions. Other wise, given the more regular and effective inspections by the ministry of labour and extended membership base of the trade unions, there is a high likelihood that Malawi can eventually become one of the shining stars in Africa if not world wide with respect to application and adherence of the labour laws and core ILO conventions.

## **Section 5**

### **RECOMMENDATIONS AND CONCLUSION**

#### **Recommendations**

The GoM's vision is to '*transform Malawi from a predominantly importing and consuming country to a predominantly producing and exporting country.*' (Ministry of Industry and Trade; 2008). In order to achieve this, just like other developing countries GoM is also on the drive to attract as many foreign investors as possible from across the world including mainland China. The trade union perspective in this regard remains that foreign direct investments are being realized at the expense of the rights and interests of the workers. Following the consultation with trade unions and other stakeholders on the findings of the study, the following recommendations were suggested:

- 1 Language is a barrier as far as communication between employer and worker is concerned in most Asian owned work places (particularly those from East Asia including the Chinese). To a greater extent the violation of workers rights in this

regard is a manifestation of language barrier. Hence a foreign investor who cannot fluently communicate in English or any vernacular language should be required by law to learn English or any local language within six months.

- 2 Just as it is the case in other fora like Privatisation Commission, trade unions and employers' should also be represented in the Investment Approval Committee (IAC).
- 3 Among others, IAC should ensure that the foreign investors are comprehensively oriented on labour laws and other related issues prior to the issuing of the investment certificate.
- 4 The GoM should open up to non state actors (NSAs) particularly trade unions, employers' federation, human rights bodies and even the bureau of standards and Consumers Association to participate in the labour inspections. If financial resource may pose to be a constraint in this regard, GoM should engage these organizations for possibilities of cost sharing.
- 5 Trade unions should vigorously lobby for the hike of the minimum wage which is allegedly the lowest across the SADC region.
- 6 Since trade has a huge bearing on the working life, social partners in the labour movement (ministry of labour, employers and trade unions) should be represented in the bilateral and multilateral trade negotiations that GoM enters into.
- 7 Social partners should put concerted efforts to ensure that every work place in Malawi has well documented conditions of service which are provided to the worker when he/she gets employed.
- 8 Trade unions should accelerate the efforts on education and organizing the workers who remain un-unionised including workers in Chinese firms.
- 9 Researchers on labour should conduct a comparative study of labour relations in mainland China and Chinese firms in Malawi.
- 10 Efforts should be made to recruit Chinese investors into the membership of ECAM.

## **Conclusion**

Though trade and foreign investments have proved to have a considerable impact on the working life, the manner the approvals for investments in Malawi are handled undermine the need for formal consultations with the key social partners like trade unions and employers which are not represented in the IAC. Nevertheless one cannot deny the fact that for the past five years, Chinese investments have had a positive impact on Malawi's economy with regards to job creation, proliferation of low cost China made consumer goods on the market, forex, diffusion of simple technology, skills transfer and industrialization among others though at a relatively slow pace.

On the other hand, standards and labour legislation in particular should not be compromised as a means of attracting foreign investors.

There is lack of hygiene in some Chinese firms that manufacture food stuffs particularly cooking oils. This raises another concern that such food stuffs may therefore be of sub standard quality thereby posing acute health risks to the consumers. On the other hand, the jobs that have so far been created by the Chinese investors are those solely suitable for the unskilled labourers. Most employees in Chinese firms in Malawi work as 'casuals' As such

they are denied such basic benefits which are generally enjoyed by the permanent workers as sick leave, free or subsidized meals, paid holidays, funeral allowance, transport etc. When it comes to the skilled jobs, the Chinese investors tend to hire expatriates from their home country. Let alone, these expatriates happen to do the very jobs that could easily be taken up by Malawians.

Generally workers in Chinese firms are subjected to miserably poor working conditions and above all, the labour relations in Chinese work places leave a lot to be desired. It is after bringing in the labour dimension into perspective that the relation between Malawi and mainland China could be viewed to be a lop-sided one and particularly a thorn in the flesh as far as the welfare of the workers is concerned. Hence defying the whole essence of mutual beneficiality between the two countries. The need to abide by the country's labour laws and adhere to the core ILO conventions should not hinge upon the benevolence of the Chinese investors themselves. The onus is on the trade unions to expose such anomalies and vigorously fight for the rights and interests of the workers at every work place in Malawi.

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