

New legislation not needed to curb foreign businesses

■ Andreas Thomas

THE Head of the Department of Public Management at the Polytechnic of Namibia, Johan Coetzee, says there is no need for the Ministry of Trade and Industry to amend or introduce new legislation to rein in foreign businesses.

Trade and Industry Minister, Dr Hage Geingob, recently announced that his ministry would consider amending legislation to control foreign investment.

Geingob also pledged that he would invoke provisions of the Foreign Investment Act, which empower the Minister of Trade to grant or decline permission for foreign investors to set up businesses in Namibia.

These moves appear to have been prompted by the outcry over the influx of Chinese businesses into, which have completely over-run Namibian-owned businesses in many sectors.

◆ Coetzee, who has carried out intensive research into Chinese businesses in Namibia, told the Windhoek Observer in an interview that it makes no sense to enact new legislation when existing laws that give Government the necessary powers are not implemented and enforced.

◆ "This raises the question why we need to solve this problem with new legislation. Is the new legislation necessary if you can apply the existing rules and regulations?" Coetzee asked.

◆ He warned that revoking the current Foreign Investment Act "means more bureaucracy that does not only affect the Chinese but also other good investors".

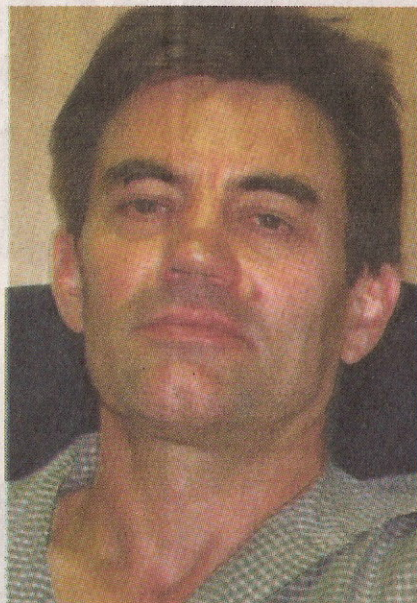
"Do we need to frustrate investors, while we can just implement existing legislation that is presently not applied?"

Coetzee said in Namibia like elsewhere in the developing world, implementing and enforcing legislations is a major problem.

He further questioned the merit of the minister taking investment decisions while there are people subordinate to him who are responsible for such decisions.

"At this moment, it is not clear how the proposed legislation is going to differ from the existing one. But you have to apply the existing regulations before you change anything," he said.

Geingob also said he intends to exclude foreign investment in the public transport



JOHAN Coetzee

sector, hair dressing, hair salon, and skin care and beauty treatment.

But Coetzee contends that: "If you look at the complaints against the Chinese, those sectors are minor. The biggest problem is in the textiles and the construction sectors.

"I don't know what priority the ministry places on the two sectors [i.e. public transport, hair and beauty treatments]. To me those two are way down the priority list.

"It is very interesting to hear from the ministry why specifically these two sectors, because if there were complaints about them, they were not adequately covered in the media."

Best solution

Coetzee said the Government needs to compile statistics on foreign direct investment – how many foreigners have invested in the country and the type of businesses they are involved in.

"How can the Government enact new legislation in the absence of such statistics? You need this information to make better informed decisions," Coetzee said.

He said implementing regulations requires the concerted effort of different Government agencies. The Employment Equity Commission (EEC) needs to enforce implementation of the affirmative action plans.

"They need to carry out spot checks and

follow-ups on complaints, because people complain but nothing happens," he said.

He added that Social Security Commission (SSC) also needs to act on complaints about Chinese companies that do not comply with regulations.

"The same applies to the Labour Commissioner, who only acts on complaints but that is not good enough. We need to play a pro-active role so we change our reactive approach in implementing the laws we currently have".

Coetzee said the Tender Board awards tenders to Chinese construction companies that do not have certificates to show that they comply with social security regulations.

Furthermore, it had been clearly established that Chinese companies were being awarded tenders based on the applications only, without verifying whether the companies comply with local laws and regulations.

"The Tender Board claims it is not their responsibility to make sure these Chinese companies comply with social security regulations. If it is not their responsibility, whose responsibility is it to issue the certificates?" he asked.

He said the Tender Board needs to apply the current rules, something they are not doing at the moment.

He proposed changes to tender regulations so that Chinese businesses are forced to enter into joint ventures with local business people.

He explained that South African companies are forming joint ventures with Namibians through black economic empowerment.

He questioned why the same does not apply to the Chinese, adding that this gave rise to suspicions that the Chinese were being awarded tenders corruptly.

He said the Sino/Namibia relationship goes back a long way.

There are relations that we are not even aware of that influence the current state of affairs, he said.

Coetzee said the reason there is so much hype about Chinese businesses compared to other foreign owned businesses, is because the public complains more about unfair Chinese labour practices.

On the other hand "they are getting more

attention, because they are awarded more tenders in the construction business than South African or Korean companies".

Too late?

Coetzee feels that the decision by Minister Geingob comes a bit too late.

"Just look around and see the type of construction businesses in the country. It is too late, but never too late to make a difference.

"All I am saying is that it is not just the responsibility of the Ministry of Trade and Industry alone, but we need a systematic approach where all different government agencies that have something to do with Chinese get involved," he said.

This, he said, includes the Tender Board, SSC, Labour Commissioner, Employment Equity Commission, the Ministry of Foreign Affairs, and the Investment Centre who all play a role in implementing current rules and regulations.

"We however do not need to be negative and shoot down the minister's proposal, but we need to think about the implications of creating new legislation," he said.

Local business capacity

There are good examples of specific people with business capacity in Namibia, but in general we do not have enough business skills as a country, he said.

"We have a poverty problem, and where will poor people get finance? If you don't have assets, the bank will not give you a loan, because you are too high a risk," he noted.

There is therefore a need to train more Namibians in business skills.

"However, you cannot just train entrepreneurs, they have to practice it," he said.

He said what the City of Windhoek was doing with its incubation centres is an excellent idea, which would encourage entrepreneurship.

Coetzee said in most cases local people are forced to become entrepreneurs just in order to survive.

"That is not always the best idea. It is good, but they don't establish businesses because they have the capacity. They are forced into it to survive.

"We also have ourselves to blame because we don't have a culture of entrepreneurship. People see themselves as failures," he said. - athomas@observer.com.na