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Organizing Workers in Small Enterprises: The Experience of the Southern African Clothing and Textile Workers' Union

by

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InFocus Programme on Boosting Employment
through Small Enterprise Development
Job Creation and Enterprise Department



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Foreword

This report is the outcome of a pilot research project initiated by the InFocus Programme on Boosting Employment through Small Enterprise Development (IFP/SEED) in order to expand the knowledge base both on the needs of workers in micro and small enterprises (MSEs) and trade union action therein. In general, traditional literature on MSEs in developing countries has paid scant attention to these issues, while focusing mainly on the supply-side constraints (i.e. no or limited access to assets, resources, markets) confronting these enterprises. The overall purpose of this research is to contribute to filling this gap — by shedding light on labour practices and working conditions in MSEs and documenting ways that trade unions are experimenting with to redress decent work deficits in these enterprises. Ultimately, the research is intended to help the labour movement shape strategies and means that are more suitable to meet the challenges stemming from the growing role of MSEs in the economy. This Working Paper is part of the series on “Representation and Organization Building” by IFP/SEED.

It is undeniable that growing employment in small and micro enterprises in developing countries has not been followed by significant unionization. Reasons include policies and institutional frameworks that inhibit trade union action in MSEs, the volatility of many such enterprises, and the weakness of established negotiating counterparts. The geographical dispersion of small-scale enterprises and the prevalence of blurred and unstable employment relationships are also obstacles hindering unionization in smaller enterprises. Until recently, organizing in the small-enterprise sector did not figure prominently on the policy agenda of most trade unions. But this is starting to change. Increasingly, for many unions around the world, the question is not whether to address this issue, but how.

The purpose of this report is to document the multifaceted — and in many respects still unique — approach taken by the Southern African Clothing and Textile Workers’ Union (SACTWU) to organize and serve workers in the formal clothing industry, particularly in small establishments.

With this goal in mind, the report highlights how globalization and some government policy interventions introduced from the mid-1990s have negatively affected the domestic clothing industry, both in terms of job losses and employment security. This report contends that the increase in smaller-sized clothing establishments resulting from industry restructuring has been accompanied by a significant deterioration of job quality in these enterprises — and confronts the labour movement with new challenges. In the light of these developments, the traditional SACTWU approach of targeting small-scale clothing enterprises through bargaining councils and other relevant legal instruments is described and assessed. New strategies currently being adopted by SACTWU, to organize and better serve workers in small clothing enterprises, are also explored.

This report was written by Mark Bennett, trade unionist and researcher at the South African Labour Research Institute (SALRI). Giovanna Rossignotti, Association Building Specialist (IFP/SEED), designed the research framework and coordinated its execution.

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Contents

Foreword	iii
Acknowledgements	iv
Abbreviations and Acronyms	vii
Executive Summary	ix
1. Introduction	1
2. The South African clothing industry and its trade unions	3
2.1 Statistical overview	3
2.1.1 Defining the small enterprise	4
2.2 Clothing industry unionization	6
3. The Southern African Clothing and Textile Workers' Union: SACTWU activities in small clothing enterprises	7
3.1 Centralized bargaining institutions	7
3.1.1 Clothing Bargaining Councils	9
3.2 Non-centralized bargaining	11
3.2.1 Statutory regulation — Sectoral Determination	12
3.2.2 Non-statutory regulation	12
4. Policy shifts	14
4.1 Government policy	14
4.2 Trade	15
5. A changing landscape	17
5.1 Job losses	17
5.2 Restructured employee-employer relations	18
6. Evolution in conditions of work, according to enterprise	20
6.1 Traditional clothing manufacturing establishments	20
6.2 Homeworkers	21
6.3 Co-operatives and self-help schemes	22
7. SACTWU approaches in perspective: Recent developments and challenges ahead	23
7.1 Building clothing Bargaining Councils	23
7.1.1 Council on Fashion: Changing roles for Bargaining Councils	23
7.1.2 The National Clothing Bargaining Council	25
7.2 Changing the law — Dealing with independent contractors	25
7.3 Organizing clothing industry workers: Current challenges	26
8. Conclusions	29
Bibliography	31
Annex: Expanding the scope and function of Bargaining Councils: SACTWU vision	33

Tables and Boxes:

Table 1: Definitions of enterprise size, according to the National Small Business Act, 19964
Table 2: Jurisdiction of Clothing Bargaining Councils9
Table 3: South Africa’s tariff phase-down schedule.....15

Box 1: An ongoing debate: South Africa’s official statistics on clothing industry employment3

Abbreviations and Acronyms

BC	Bargaining Council
BCEA	Basic Conditions of Employment Act (Act 75 of 1997)
BLNS	Botswana, Lesotho, Namibia and Swaziland
CF	Compensation Fund
CMT	Cut, make and trim
COFESA	Confederation of South African Employers
COSATU	Congress of South African Trade Unions
CSIR	Council for Scientific and Industrial Research
DTI	Department of Trade and Industry
ECC	Employment Conditions Commission
GATT	General Agreement on Tariffs and Trade
IC	Industrial Council
IDC	Industrial Development Corporation
KZN	KwaZulu-Natal
LRA	Labour Relations Act (Act No. 66 of 1995)
MD-1	Ministerial Determination for the Small Business Sector
MFN	Most Favoured Nation
MSE	Micro and Small Enterprise
NBF	National Bargaining Forum
NPI	National Productivity Institute
RSA	Republic of South Africa
SABS	South African Bureau of Standards
SACTWU	Southern African Clothing and Textile Workers' Union
SACU	Southern African Customs' Union
SADC	Southern African Development Community
SARS	South African Revenue Services
SD-4	Sectoral Determination for the Clothing and Garment Knitting Sector
SETA	Sectoral Education Training Authority
SMME	Small, medium and micro enterprises
StatsSA	Statistics South Africa
UIF	Unemployment Insurance Fund
WD-471	Wage Determination for the Clothing and Garment Knitting Sector
WTO	World Trade Organization

Executive Summary

The organization of workers in South Africa's clothing industry dates back to the 1930s. Today, with its 110,000 paid-up members (72,600 were estimated to be working in clothes manufacturing establishments in mid-2002), the Southern African Clothing and Textile Workers' Union (SACTWU) is the most representative trade union for clothing-industry workers.

The present report analyses strategies adopted by SACTWU to recruit and serve (i.e. attend to member grievances, enterprise-initiated disciplinary and dismissal matters, and negotiate wages and other conditions of employment) workers in formal small clothing establishments.¹

Special attention is devoted to centralized bargaining institutions (Bargaining Councils) that regulate the wages, benefits and working conditions of workers in and around the major metropolitan areas. Interestingly, until the mid-1990s, few factors inhibited SACTWU activities within the small clothing factories under the jurisdiction of the country's five Bargaining Councils (BCs). In both apartheid and post-apartheid periods, successive governments did not place any statutory law impediments to trade union organization and action in small-scale enterprises. By using the BCs, SACTWU was able (centrally) to negotiate wages and other terms and conditions of work with the employer organizations. In accordance with provisions embedded in the BC system, SACTWU and employer representatives always used their right to request an 'extension' of any agreement reached, in order to cover all employers and employees within the geographical and product scope of the BC. The result was that most employers and employees within the relevant Council's scope, regardless of enterprise size, were covered by the agreement reached.

Since the mid-1990s, however, organizing workers in formal small clothing factories has experienced several drawbacks. The in-depth restructuring of the clothing industry, which followed the full reintegration of South African economy into the global market place, brought about significant changes in the organization of work and consequently raised enormous challenges to the labour movement. Restructuring once large and medium enterprises in an effort to cut costs and remain globally competitive has led to massive downsizing and an upsurge in smaller-sized establishments.

In terms of employment, the result of this restructuring exercise was twofold. On the one hand, tens of thousands of workers, mostly women and Blacks² (who had been permanently employed within the local clothing industry for many years), lost their jobs. On the other hand, job quality in the industry as a whole underwent a marked deterioration. Many firms retrenched their traditional workforce only to re-engage former employees under more precarious working conditions or as independent contractors. At the same time, restructuring in the clothing industry also resulted in considerable pressures on the statutory centralized bargaining system. Significant numbers of smaller employers removed themselves from BC jurisdiction, either by rejecting it outright or by subcontracting work to informal undertakings or to independent subcontractors.

¹ In recent years, SACTWU has also started an organizing drive to target small clothing establishments in the informal economy. Such a drive, as part and parcel of current SACTWU strategies for reaching out to small and micro enterprises, needs to be addressed in this report. Nonetheless, the report's main focus is on formal sector enterprises. For more details of SACTWU activities in the informal economy, see Bennett, M. (forthcoming).

² The term refers to African, Indian and Coloured (mixed race) in South Africa.

Under these circumstances, the whole BC system is being threatened, as well as the effectiveness of the traditional SACTWU approach vis-à-vis small businesses. Hence the need for revitalized efforts in this area. This report documents the current SACTWU multifaceted strategy to meet the challenges of this new scenario in the clothing industry. The strategy suggested focuses not only on organizational issues but also on the institutional and legal basis necessary for organizing workers in smaller establishments.

At the institutional level, SACTWU is engaged in a comprehensive drive to strengthen the clothing bargaining council system. This includes the establishment of a National Clothing Bargaining Council in 2002 and proposals for the expansion of the role and functioning of BCs.

At the legal level, recently introduced changes in labour legislation have been pursued following union proposals. SACTWU has played a major role in the process. The new laws allow or contain provisions for better protection both for independent contractors and workers in informal enterprises.

Last but not least, an organizational plan to target workers in the informal economy is also being put in place.

Given the changes at stake in the clothing industry, both at the global level and in South Africa, it is difficult at this stage to foresee whether SACTWU strategy will result in long-standing achievements. Indeed, the success of this “story” will depend on a number of factors, many of which are beyond the union’s control. Nonetheless, SACTWU experience remains an exemplary case of how trade union action in MSEs is not only possible, but also beneficial — for workers, for social dialogue and for a country as a whole.

1. Introduction

A growing body of evidence indicates the potential of micro and small enterprises (MSEs) in job creation worldwide, particularly in many developing countries. In this context, the sector has come to be regarded as a powerful engine for economic and employment growth. Nevertheless, the performance of the sector, whether in terms of efficiency, working conditions or degree of social protection, is mixed and its ability to generate sustainable and productive employment varies according to economic sectors and geographical areas, depending on multiple factors.³ In general, wages, job security, health and safety, opportunities for skills training and union action in micro and small enterprises compare negatively with those offered by large enterprises.

The growth of the MSE sector in the labour market raises a set of challenges for the trade union movement, both from a social and economic perspective. As most new jobs are in micro and small enterprises, addressing their poor working conditions and sometimes exploitative practices constitutes an unavoidable task for trade unions. Moreover, evidence indicates that improvements in working conditions and social protection are key ingredients of business efficiency and competitiveness. Sound policy and regulatory environments, the existence of collaborative structures and bipartite or tripartite arrangements are crucial for achieving a fair balance between enterprise development and workers' well-being. Trade unions have a major role to play in any effort aimed at enhancing workers' protection, including in the MSE sector. Trade union action in these enterprises may also benefit employers. Unions can act as vehicles for collaborative action conducive to boosting quality and productivity, thereby contributing to reduce volatility and vulnerability of the enterprises themselves and to enhance know-how and skills among their workers.

The present report focuses on the approach developed by the Southern African Clothing and Textile Workers' Union (SACTWU) to organize and serve⁴ workers in small clothing enterprises in the formal economy. While domestic in essence, this experience provides interesting food for thought for the whole labour movement.

Part 1 of this report presents an overview of the clothing industry in South Africa, including a brief profile of industry employment and unionization. Part 2 analyses traditional SACTWU activities in small clothing enterprises, namely through centralized bargaining institutions and other legal instruments. Government initiatives that, in varying degrees, have impacted on small enterprises in the clothing industry are examined in Part 3, with emphasis on the tariff liberalization programme and government support measures targeting the small enterprise sector. Parts 4 and 5 look at how the restructuring of the clothing industry from the mid-1990s affected employment and the organization of work in small clothing enterprises. In Part 6, a range of ongoing initiatives implemented by SACTWU for organizing workers and improving conditions of work in small clothing businesses are examined. Finally, Part 8 draws some conclusions on SACTWU strategy for organizing and serving workers in small clothing enterprises and identifies issues that need to be addressed in the immediate future.

³ For further information on MSEs in South Africa, see also Mollenz, J. (forthcoming).

⁴ Attend to member grievances, enterprise-initiated disciplinary and dismissal matters, and negotiate wages and other conditions of employment on behalf of workers.

The report was prepared mainly by accessing relevant primary and secondary sources. Documents were obtained from SACTWU and some of the five regional clothing Bargaining Councils (BCs). Additional information and data were obtained from discussions with BC staff, SACTWU officials and representatives of some employer organizations operative in the clothing industry. The research process was hampered at times by a lack of accurate data pertaining to small clothing enterprises.

2. The South African clothing industry and its trade unions

2.1 Statistical overview

According to official sources, as at June 2001, 119,795 workers were employed in the formal local clothing industry (StatsSA, 2001). StatsSA's manufacturing statistics show that employment in the clothing industry accounts for some 2.65 per cent of South Africa's total formal non-agricultural sector employment, and that clothing industry employment represents about 9.71 per cent of the total formal sector manufacturing employment.

The industry is found in most areas of the country, although production is mainly focused in some of the urban and peri-urban areas of six of South Africa's nine provinces. According to the 1999 October Household Survey, 41.9 per cent of all clothing workers are in the province of KwaZulu-Natal; 20.9 per cent in Western Cape; 12.7 per cent in the Free State; 11.4 per cent in Gauteng; 7.3 per cent in the Eastern Cape; 3.7 per cent in Mpumalanga; the rest of the provinces each have less than 1 per cent of the country's clothing workers.⁵ However, it should be noted that there is significant debate over the accuracy of South Africa's official statistics on clothing industry employment, as Box 1 shows.

Box 1: An ongoing debate: South Africa's official statistics on clothing industry employment

SACTWU position on South Africa's clothing industry statistics

The debate is ongoing between representatives of the Department of Trade and Industry and SACTWU over the accuracy of South Africa's official statistics on clothing industry employment. In the mid-1990s, the union voiced its concern to the Government regarding job losses that were affecting the industries within which it organizes — particularly in the clothing industry.

Government has argued that its policies, especially in the realm of tariff reform, have succeeded in making the industry more competitive and, on balance, have preserved (and perhaps increased) employment levels in the local clothing industry. SACTWU, on the other hand, contended that the drive to make the clothing industry more internationally competitive has had the effect of reducing the overall size of the clothing industry. SACTWU is of the view that only a small proportion of retrenched clothing industry workers have found regular employment back in the industry; and that only a proportion of those retrenched have ever found regular employment in any sector of the economy again.

It is unfortunate that the national statistics do not make it possible to separate out data relating to the sizes of clothing establishments. The experience of SACTWU and also of many staff in Bargaining Councils that have a statutory obligation to regulate the terms and conditions of employment for clothing workers, suggests that the small clothing enterprise sector is a significant one in terms of size. However, the real size of the sector remains largely a matter of conjecture.

If local unions want to seriously address the issue of organizing workers in small clothing establishments, then more accurate information should be obtained. Without such data, union organizing would be largely unfocused, and limited union resources would be wasted. To expect the national statistical agency, overnight, to correct their methodologies is unrealistic. Accordingly, unions may have to use alternative methodologies to get accurate data. In this regard, unions could commission independent research, or use fieldworkers to gauge concentrations of workers.

⁵ The largest concentration of clothing workers is to be found in the greater Cape Town metropolitan area (Western Cape province); this is followed by large numbers of clothing workers located in the greater Durban metropolitan (KwaZulu-Natal), and the central business district of Johannesburg (in Gauteng). Outside of the major metropolitan areas there are a number of peri-urban towns with significant numbers of clothing workers. Towns with large concentrations of clothing workers include: in KwaZulu-Natal — Isithebe, Ladysmith/Ezakheni, Newcastle/Madadeni, Hammarsdale, and the Umzinto/Port Shepstone/Margate areas; in the Free State — ThabaNchu/Botshabelo, Phutaditjaba, and Kroonstad; in the Eastern Cape — Gcuwa/Butterworth, Zwelitsha, and Dimbaza; in the North West and Northern provinces — Mogwase, Babelegi, Pietersburg.

No accurate statistical data provides information on the spatial distribution of small-, medium- and large-sized clothing manufacturing establishments. The medium- and larger-sized establishments can be found in most areas of the country, mainly clustered in and around a number of non-metropolitan settlements, and metropolitan areas. Small-sized clothing manufacturing establishments are generally clustered in and around Cape Town, Durban and Johannesburg. While some small-sized clothing manufacturers are found in non-metropolitan regions, they are substantially less numerous than in the metropolitan areas.

2.1.1 Defining the small enterprise

What actually constitutes a small business is the subject of wide debate. A schedule to the Small Business Act (No. 102 of 1996) defines ‘medium, small, very small and micro’ enterprises, using three criteria (employment strength, turnover and asset value) as Table 1 shows. While this definition allows the Government to determine the size category of an enterprise, it makes no distinction between industries within the manufacturing category (for example, the fundamental difference between a small textile operation and a small clothing manufacturing enterprise). It should also be noted that the definition has remained unchanged since its introduction in 1996.

Table 1: Definitions of enterprise size, according to the National Small Business Act, 1996

Sector	Size/class	Total Full-time paid employees	Total Annual Turnover	Total gross asset value (fixed property excluded)
Manufacturing	Medium	200	R40 million	R15 million
	Small	50	R10 million	R3 750 000
	Very small	20	R4 million	R1 500 000
	Micro	5	R150 000	R100 000

Note: R = South African rand (US\$1 = ZAR 11.79 at current rates of exchange).

Workforce patterns

The clothing industry is the largest employer of women within South Africa’s manufacturing sector. A 1995 survey of clothing industry employment found that approximately 86 per cent of all workers employed in the industry were women.⁶ In terms of StatsSA’s June 2001 survey, this would imply about 103.000 women employed in the industry. Women clothing-industry employment constitutes 8.3 per cent of total manufacturing employment. Within small-sized clothing firms, it can be surmised that the number of women employed would at least be equal to the national average.

It is estimated that more than 95 per cent of employment within the clothing manufacturing industry is Black (i.e. African, Indian and Coloured). Most clothing workers in the Western Cape region are Coloured; within KwaZulu-Natal most are African (although there are significant numbers of Indian workers), particularly in and around the greater Durban metropolitan area; in the Eastern Cape, and in Gauteng most workers are African. For small-sized clothing firms, it can be surmised that the above detailed demographic breakdown would be applicable.

⁶ Conducted by SACTWU, the survey obtained information from industry and company retirement funds, and from the employment records held by clothing-industry centralized bargaining institutions.

Ownership profile

Most formal sector clothing manufacturing firms are owned by Whites. Within KwaZulu-Natal, the majority of firms that fall under the jurisdiction of the Natal Clothing Bargaining Council are owned by Indians; however, most of the larger firms (in terms of employment) are controlled by Whites. In Gauteng, Port Elizabeth and Cape Town, the majority of clothing firms are owned by Whites. African ownership of formal sector clothing firms in all parts of the country is limited. Within the non-metropolitan areas of the country — where there tend to be only medium- and large-sized firms — the majority of the firms located in Phutaditjaba (the former QwaQwa homeland) are owned by Indians. In Newcastle, Isithebe, Dimbaza and Botshabelo, for example, a significant number of firms are owned and managed by Chinese and/or Taiwanese investors.

The racial ownership demographics change slightly if one examines formal sector small-sized clothing firms. Within KwaZulu-Natal, the ownership of many of the smaller firms is almost exclusively Indian; while in Cape Town there is a relatively higher proportion of Coloured (to White-owned) companies. It is with informal sector clothing establishments that one starts to find African ownership. There are many reasons that would explain the racial ownership patterns — however, for small businesses it is surmised that many of the owners of these firms were, at one stage, workers in the industry who have now managed (after being retrenched) to raise sufficient capital to start small-scale production.

Average wage

The average wage earned by clothing workers varies significantly in the formal sector. Generally, workers in factories that fall under the jurisdiction of any of the country's five clothing BCs enjoy better wages and working conditions (shorter working hours, more leave, access to retirement and medical funds, etc.) than do the workers that fall outside of the council system. Qualified clothing machinists who work in formal sector factories that fall within the scope of the Natal Clothing BC earn about ZAR 441 per week.⁷ Taking other benefits into account (employer contributions to industry pension and sickness funds, annual leave costs), the total cost to an employer of employing a clothing machinist amounts to approximately ZAR 550 per week. The weekly wages earned by formal sector clothing workers covered by the Western Cape Clothing BC are similar to those earned by workers in KwaZulu-Natal. The wages earned by BC clothing workers in Gauteng, in the Eastern Cape, in the Free State, and in the Northern Cape are lower.

⁷ A cost of living index does not exist in South Africa. However, the University of South Africa's Bureau for Market Research issues indices called Minimum Living Levels (MLL). A MLL denotes the minimum financial requirements necessary for members of a family to maintain their health, have acceptable standards of hygiene and sufficient clothing for their needs. In March 2001, the monthly MLL for an average family (4.5 people) was: Johannesburg: ZAR 1,438.70 (weekly ZAR 332.26 per week); Cape Town: ZAR 1,526.42 (weekly ZAR 352.52pw); Durban: ZAR 1,646.05 (weekly ZAR 380.15pw); Newcastle: ZAR 1,416.92 (weekly ZAR 327.23pw). (This figure is estimated using 1999 and 2000 figures since the Bureau for Market Research no longer calculates the MLL for Newcastle). Thus, the South African average is about ZAR 1,535.73 per month (weekly ZAR 354.67).

In the non-metropolitan areas, which fall outside of the scope of the clothing BCs, wages and benefits for workers vary. Sectoral Determination No. 4 (SD-4)⁸, covering working conditions applicable to workers in all non-BC jurisdiction areas, stipulates the minimum wage that can be legally paid to qualified clothing machinists as ZAR 211.16 per week. Retirement and sickness benefits are virtually non-existent. In practice, the actual wages paid to many workers in these areas may be below the statutory minimum: some employers simply break the law.

Main markets

Much of the production of the South African clothing manufacturers is destined for the domestic retail market. Only a limited number of South African manufacturers produce clothes for export — currently about 10 per cent of local production is exported. Significant quantities of clothing are imported (both legally and illegally) into the country. These imports are affecting all parts of the clothing-manufacturing pipeline. Very little is known about the production volumes of large-, medium- and small-sized manufacturers. The larger- and medium-sized manufacturers dominate the industry in terms of output for both the domestic and export markets. Smaller manufacturers often work closely with the larger manufacturers (doing work on a cut, make and trim (CMT) basis) and clothing ‘design houses’.⁹ Some small manufacturers also produce directly for the ‘flea market’ trade and for small- and medium-sized clothing retailers.

2.2 Clothing industry unionization

SACTWU, formed in September 1989 as a result of a merger of a number of unions,¹⁰ currently has more clothing workers among its members than any other South African trade union. Of its 111,000 paid-up members, approximately 72,600 (64 per cent) were employed in clothes manufacturing establishments (mid-2002).¹¹ Its clothing-industry members are blue- and white-collar workers; most are paid weekly (monthly for managerial and senior staff). Membership comes from small-, medium- and large-sized clothing factories.

Since the mid-1950s, SACTWU founding unions and, to date, SACTWU itself, have always been the most representative trade union for clothing-industry workers. No other trade union has managed to develop a sustainable membership foothold in this industry. Other unions occasionally have organized clothing workers, but have generally tended to be either regionally based (confined to geographic areas away from the major metropolitan areas) or factory-based and have never organized more than a small percentage of total SACTWU membership at any given time. Significantly, SACTWU is the only trade union that represents employee interests in the five statutory centralized bargaining institutions for South African clothing industries.

⁸ Essentially a Sectoral Determination (SD) is a statutory instrument established in terms of the Basic Conditions and Employment Act of 1997 (BCEA) that allows the Minister of Labour to set minimum wages and working conditions for all workers not covered by BCs in a particular sector. For details on SD-4 see section 3.2.1 of the present report.

⁹ Design houses usually design garments, fabric, cut the fabric and then outsource production to a range of formal and informal operations in urban and non-metropolitan areas.

¹⁰ The Amalgamated Clothing and Textile Workers’ Union (ACTWUSA) and the Garment and Allied Workers’ Union (GAWU).

¹¹ The remainder of SACTWU membership is mainly in other textile, and leather and footwear factories in South Africa.

3. The Southern African Clothing and Textile Workers' Union: SACTWU activities in small clothing enterprises

SACTWU currently employs approximately 41 union organizers to recruit workers and serve members. From time to time head office staff, shop stewards and additional staff engaged on a fixed-term contract are used to assist in specific organizing projects. In the past eight years, the number of organizing staff employed by the union has declined dramatically, along with the decline in industry employment.

SACTWU organizers are each assigned a branch or geographic area, which contains a variable number of textile, clothing, footwear, and leather factories. These union officials operate from about 20 offices: three are located in South Africa's major metropolitan areas (Durban, Cape Town and Johannesburg); the rest are spread throughout the country, many in non-metropolitan areas.

Up until the mid-1990s, recruiting and serving¹² workers employed in small-sized clothing enterprises was — compared with the current situation — not a difficult task. The main approach generally involved SACTWU ensuring the efficient functioning of the statutory centralized bargaining institutions (i.e. the Bargaining Councils (BCs), formerly Industrial Councils) that regulated wages, benefits, and working conditions of clothing workers in and around the country's major metropolitan areas.¹³

3.1 Centralized bargaining institutions

Bargaining Councils (BCs) are statutory centralized bargaining forums, many of which have been in existence since the late 1920s. BCs are established in terms of the Labour Relations Act of 1995 (LRA).¹⁴ In terms of this legislation, registered employer organizations and registered trade unions may request the Registrar of Labour Relations¹⁵ to establish a Council for a defined geographic area and sector. The registration of a BC is contingent on the following conditions:

- that the parties to the BC are 'sufficiently representative' in the geographic area and product sector concerned, and
- that the constitution of the BC makes provisions for the representation of small- and medium-sized enterprises.

BCs have a wide range of powers (pertaining to the geographic area and product sector for which they have jurisdiction) including:

- the ability to conclude, and then enforce collective agreements;
- prevent and resolve labour disputes;
- promote and establish education and training schemes;

¹² As mentioned earlier, this includes attending to member grievances, enterprise-initiated disciplinary and dismissal matters, and negotiating wages and other conditions of work.

¹³ While pockets of the clothing industry were found outside South Africa's major metropolitan areas, most factories in these areas were 'large' enterprises, generally employing 80 or more workers. There were only a limited number of small-sized clothing manufacturers.

¹⁴ Bargaining Councils are basically the same as former Industrial Councils. When the new LRA of 1995 came into force, the names of the Industrial Councils changed to Bargaining Councils.

¹⁵ The Registrar of Labour Relations is a state official located within the country's Department of Labour.

- establish and administer retirement and sickness funds for one or more of the parties to the Council or their members; and
- develop proposals for submission to the National Economic Development and Labour Council (NEDLAC) or any other appropriate forum on policy and legislation that may affect the geographic area and sector.

The most important function of BCs has been the negotiation of collective agreements that cover wages and other working conditions of those employees who fall under the jurisdiction of the Council. This is usually done when employer organizations and trade unions that are parties to the BC meet (generally on an annual basis) to negotiate amendments to the agreements that regulate workers' conditions of service. Once the agreement is finalized it is then applied to all workers who are union members at the manufacturing establishments of the members of the employer organization.

Under the BC system, the negotiating parties have the right to request the Minister of Labour to extend the agreement reached to all employers and employees that fall within the scope of the BC, even if they are not members of the employer organization or the trade union. However, the Minister of Labour can only extend the agreement to non-parties if satisfied that a pre-determined representativeness threshold exists. This threshold is determined as follows:

- if a majority of the employees that fall within the scope of the BC are members of the trade union;
- if the members of the employer organization employ the majority of the employees who fall within the registered scope of the BC.

Should the Minister of Labour decide not to extend to non-parties the agreement reached, it would present major challenges for trade unions. First, the unions would then have to negotiate improvements to non-members' conditions of service on a plant-by-plant basis — a huge task given the considerable number of these enterprises. Should the unions not be able to accomplish this task successfully, it would place enormous pressure on the primary party-party agreement, as many employers may opt to resign from the party employer organization so that they can pay their employees lower wages.

Once an agreement has been extended, it becomes illegal for any employer within the BC's scope to offer wages, benefits and working conditions less favourable than those agreed to. Flexibility is built into the system by allowing enterprises that wish to deviate from the set minimum conditions, to apply to the BC for exemption from certain provisions of BC agreements.

3.1.1 Clothing Bargaining Councils

Scope

Five regionally demarcated Councils regulate the wages, benefits and working conditions of clothing workers. Table 2 gives the size and scope of each clothing BC.

Table 2: Jurisdiction of Clothing Bargaining Councils

Clothing Bargaining Council	Main geographic scope	Employees under BC scope	Employers under BC scope
Northern Areas	The whole of the old Transvaal province — excluding former homeland and ‘border’ areas ¹⁶	6 976	193
Natal	Central Durban, Pietermaritzburg and part of the KwaZulu-Natal north coast	14 363	134
Free State and Northern Cape	The municipal areas of Kimberly and Kroonstad	777	4
Western Cape	The Greater Cape Town metropolitan area, and Atlantis	30 050	283
Eastern Cape	The central metropolitan areas of Port Elizabeth and East London	1 400	18
TOTAL		53 566	632

Most clothing BCs generally only have jurisdiction over clothing workers located in the country’s major metropolitan areas; they do not cover clothing workers located in South Africa’s peri-urban towns and in rural areas.¹⁷ In all instances, the clothing BCs have jurisdiction over weekly-paid blue-collar (industrial) and white-collar (clerical) workers, but generally exclude supervisory and managerial staff.

By using the clothing BCs, SACTWU was able to (centrally) negotiate workers’ wages and other terms and conditions of employment with representative employer organizations. Without exception, SACTWU and the employer parties always requested the Minister of Labour to extend the agreements reached to cover all employers and employees within the defined geographic and product scope of the Council. The result was that most employers and employees within the Council scope — irrespective of the enterprise’s number of employees, annual turnover or asset base — were covered by the agreement reached. Membership in SACTWU was generally facilitated by the existence of a closed shop provision within each Council’s main agreement. The closed shop did not discriminate between factories on their number of employees.

¹⁶ While the BC covers an extremely large geographic area, most of the factories within its jurisdiction are located in metropolitan areas of Johannesburg and Pretoria.

¹⁷ Except for the Free State and Northern Cape Clothing BC which has jurisdiction only over the Kimberly (capital of the Northern Cape province) and Kroonstad, a relatively small town located in the Free State province.

These regional clothing BC agreements are mainly enforced by the staff (i.e. agents) of each Council. These agents have been supported in their enforcement tasks by SACTWU officials and shop stewards. Action was taken should any employer illegally transgress any provision of a BC agreement; for example, the main wage and working conditions agreement or the benefit agreements (sickness and retirement funds). While it is acknowledged that there have always been companies (small, medium and large factories) that operated illegally by disregarding the provisions of BC agreements, they have always been in the minority.

Since July 1993, in spite of the fact that each clothing BC has had its own separate legal identity, SACTWU and the employer organizations that function within the five regional BCs have conducted wage negotiations within a centralized forum — the National Bargaining Forum (NBF). The wage settlement reached in the NBF was then implemented at the regional BC level.

Opportunities and challenges

Until the mid-1990s — when globalization hit — few factors inhibited (or threatened to inhibit) SACTWU activities within small clothing factories under the jurisdiction of the various clothing BCs. However, one key inhibiting factor did arise: the persistent efforts of the apartheid government to ensure that the ‘special needs’ of small- and medium-sized factories under BC jurisdiction were taken into consideration. The Government viewed BC substantive agreements as negatively impacting on business formation and development — and thus job creation. The Government argued that Industrial Councils must make their main agreements more flexible to small-enterprise interests.

The ever-present threat was that, should Councils not ‘adequately’ address the perceived needs of smaller enterprises, then the Minister of Labour would not extend the agreements reached to non-party establishments.¹⁸ Mainly as a result of pressures applied by the entire South African business community — who complained that the Council system brought in elements of inflexibility that was negatively affecting employment creation — the new post-apartheid government attempted to ensure that the special needs of small business were taken into account by BCs. To this end, they brought in explicit provisions within the LRA that sought to ensure room within BCs for the voice of small business.

In order to accommodate the provisions of the new LRA (1995), BCs have introduced clauses in their constitutions that make it necessary for employer parties to the Council to ensure that representatives of small- and medium-sized enterprises form part of their delegations to Council structures. As many of the employer organizations that are party to the clothing BCs have small- and medium-sized businesses as members, this has not been difficult. All clothing BCs have also introduced ‘automatic’ exemptions from their agreements for small businesses. In most clothing Councils, the employer and union parties have agreed that employers with five or less employees must register with the Council, but have then granted them, should they apply, an exemption from the provisions of the BC agreements.

For example, in the Western Cape Clothing BC, about 287 small employers (employing a total of around 1,070 workers) have been granted exemptions. In the Eastern Cape Clothing BC, about 19 enterprises, employing approximately 44 workers, have been granted exemption

¹⁸ In the apartheid labour dispensation, the Minister of Labour was given some discretion as to whether a council agreement was or was not extended to non-parties. The Minister currently does not have that discretion.

from the provisions of the clothing BC; for the Natal Clothing BC less than 10 factories have exemption. In the Northern Areas BC, it is estimated that less than 50 small businesses enjoy exemptions. Significantly, in most of these BCs a number of employers have chosen to apply for exemptions. Some smaller employers have requested exemption from the wage provisions of the agreements but have requested that their employees should be allowed to continue to belong to the primary health care clinics run by some of the Councils.

The BCs keep no records of what workers earn in these exempted factories. However, the agents of the Councils state that the average wage packages paid are lower than those paid to workers in complying enterprises. Sooner or later, the union will have to turn its attention to these workers. SACTWU envisages the possibility of negotiating a national policy that would not allow employers to apply for a blanket exemption — a standard exemption could be set which would allow some minimum regulation. Organizing workers in these establishments would also be done in terms of the nascent campaign by SACTWU to organize informal sector clothing workers.

Another problem facing SACTWU in the organizing and serving of workers in small clothing-industry enterprises was that the Councils did not really attempt to regulate the informal clothing manufacturing market.¹⁹ For example, the BCs made no efforts to regulate the wages and working conditions of those workers who made clothing in residential factories. One important reason is that employer and union parties to the BCs did not consider these establishments to be a threat to the integrity of the Council system: both their output and their aggregate number of employees (as a proportion of total employment within the clothing enterprises falling under the regional Council's jurisdiction) were considered to be very small. This perception has only recently changed. SACTWU has been in the forefront of the initiative to get BCs to consider the extension of BC agreements to informal sector establishments.

SACTWU took this step because an increasing number of workers lack minimum protection and have no minimum conditions of work. The employer parties to the Councils have not fully supported SACTWU's approach — many recognize that these unregulated informal establishments present substantial competition to their own business, while others are happy to have low-cost producers to whom they can subcontract work.

3.2 Non-centralized bargaining

The situation outside of the BC system is significantly different — here SACTWU has to use a range of other instruments and tactics in order to recruit and then serve its membership.²⁰

¹⁹ The Bargaining Councils have really only ever attempted to regulate formal sector clothing enterprises. It has only been recently (from 2000) that the issue of informal establishments being covered by Bargaining Councils has been raised. This request was initiated by SACTWU.

²⁰ It should be noted again here that there are relatively few small clothing manufacturing sites located within non-metropolitan areas.

3.2.1 Statutory regulation — Sectoral Determination

The *minimum* wages and other working conditions of all clothing workers not covered by any BC are regulated by Sectoral Determination 4 for the Clothing and Garment Knitting Sector (SD-4).²¹ SD-4 allows certain categories of smaller and new employers some flexibility, including:

- that employers who employ less than 30 employees and whose annual turnover does not exceed ZAR 450,000 were allowed, during the first 12 months after the SD-4 came into effect, to pay their employees wages which are a minimum of 70 per cent of the rates set by SD-4;
- that ‘new’ employers, in their first year of operation, can pay their employees wages that are 10 per cent less than what would normally apply.

Aside from the above-mentioned ‘temporary’ exclusions, all non-BC clothing companies (regardless of size) are covered by SD-4. It is important to note that SD-4 only sets minimum wages, benefits and working conditions. It does not prevent any union from negotiating conditions of service over and above the set minimums.

However, unlike the clothing BCs, SD-4 does not give trade unions better organizational rights — particularly closed shop benefits. The organizing rights that accrue to unions operating in factories that fall under the jurisdiction of SD-4 are derived from the provisions of the LRA. In the past SACTWU successfully used SD-4’s predecessor — Wage Determination 471 for the Clothing and Garment Knitting Industry (WD-471) — as a base from which to recruit clothing workers. SACTWU was able to do this because many employers, particularly those in the peri-urban areas covered by WD-471, did not pay their employees the set minimum wages or adhere to the minimum working conditions. SD-4 offers trade unions wishing to recruit workers in the factories that fall under its jurisdiction similar opportunities.

Moreover, SD-4 sets wages and other conditions of service that are substantially below those in force within the clothing BCs. The wage differential is such that there is a fairly large incentive for employers in BC-covered areas to shift production to areas covered by SD-4 for the clothing sector.

3.2.2 Non-statutory regulation

SACTWU, in an endeavour to improve the wages, benefits and working conditions of workers covered by SD-4, and in order to prevent the continued shift of production, has adopted two approaches — non-statutory collective bargaining forums and plant level bargaining.

Non-statutory collective bargaining forums

SACTWU has preferred the option of trying to persuade all clothing employers (where the union has membership) in the non-metropolitan areas to combine with each other and then

²¹ SD-4 was issued by the Minister of Labour in terms of Section 55(1) of the Basic Conditions of Employment Act of 1997 (BCEA). The Minister’s decision was made on the recommendation of the Employment Conditions Commission (ECC) — a body of experts comprising labour, business and government representatives. SD-4 was issued by the Ministry of Labour on 13 October 2000, and will remain in force until November 2003.

centrally negotiate wages and other working conditions with SACTWU.²² The success of this approach has varied. For example, some clothing employers have accepted its approach; others (even where SACTWU has membership) have remained aloof, while clothing plants where SACTWU has no membership have not refused to participate. The task of SACTWU is complicated by the fact that the LRA provides few legal instruments the union can use to compel any employer to negotiate on a centralized basis in a non-statutory forum. Further, should SACTWU manage to persuade some employers to voluntarily bargain with it on a centralized basis, SACTWU is legally unable to request the Minister of Labour to extend the collective agreement reached to non-parties. Very few small-scale clothing employers, if any, are covered by any of the non-statutory centralized collective bargaining forums that SACTWU has managed to establish.

Although it is uncertain to what extent the SD-4 provisions are being fully implemented by the few small-scale clothing factories that may exist in SD-4 covered areas, the ultimate responsibility for ensuring that employers implement the provisions is in the hands of the Department of Labour.

SACTWU, in the course of its recruitment activities, often requests the Department of Labour inspectorate to ensure that all clothing factories comply with these provisions. Since SACTWU recruitment drives in SD-4 areas have mainly targeted medium- and larger-sized factories, it is supposed that most of the efforts of the inspectorate are also directed at these factories.

For the future, however, should significant numbers of small-sized clothing manufacturing enterprises become established in areas where BCs have no jurisdiction, SACTWU would be able to use SD-4 as a tool to recruit these workers. The reason for this is that there are good chances that many clothing employers would not adhere to the statutory minimums (this assumption is based on SACTWU experience with the levels of non-compliance with WD-471) and that SACTWU would be able to campaign around this issue.

However, once these workers have been recruited, SACTWU will need to find alternative medium- and long-term strategies in order to set about improving their wages and working conditions to levels over and above those set by SD-4.

Plant level bargaining

In cases where SACTWU has members in an enterprise, but has been unable to persuade the employer to negotiate with it in a non-statutory centralized forum, it has been compelled to negotiate on a plant level basis. However, most, if not all, of the clothing plant level bargaining agreements that SACTWU has in the decentralized areas covered by SD-4 are with larger- and medium-sized clothing manufacturing establishments.

²² For the 2001 wage negotiation round (for wage agreements that would run from 1 July 2001 until 30 June 2002), SACTWU negotiates wages in six non-statutory bargaining forums. These are in the province of KwaZulu-Natal 1) the 'South Coast', 2) Northern KZN (Ladysmith/ Ezakheni and Newcastle/Madadeni); in the Free State province 1) Phutaditjaba, 2) Botshabelo; in the E Cape 1) the peri-urban areas in the old Ciskei and Transkei bantustans; and in the North West in non-metropolitan areas of Mogwase and Babelegi.

4. Policy shifts

Immediately after coming into power in April 1994 South Africa's new democratic Government set in motion a number of initiatives which aimed to improve the overall performance of the economy. Two initiatives — because they impacted in varying degrees upon the clothing sector, and in particular upon the relationship between unions and small enterprises — are highlighted below.

4.1 Government policy

The new Government, not unlike others elsewhere in the world, was fixated with the view that small- and medium-sized enterprises would provide the economy (and society at large) with a wide range of benefits. The support for this sector was generally premised on its potentially very high labour absorption capacity and the view that the small business sector was critical to achieve the goal of 'empowering' previously disadvantaged individuals (Blacks and women) who had been discriminated against under apartheid. At a policy level, the new Government undertook to implement a wide range of programmes that sought to ensure optimal support for the small business sector.

Government poured significant financial resources into assisting this sector. For example, the Khula Enterprise Finance²³ was established to provide credit to small enterprises. Government 'supply-side' support measures were developed and amended to deal with sector-specific requirements and government procurement programmes were biased towards small entrepreneurs. From a clothing industry perspective, it is debatable whether this ambitious support programme was of any substantial benefit. There is little evidence to suggest that more (smaller) successful clothing enterprises were created or that small businesses developed into larger concerns.

The new Government also turned its attention to addressing labour market issues. However, the pivot of South Africa's new labour relations legislation — the LRA — in spite of significant pressure to do so, steered clear of creating a dual labour market. There was one industrial relations dispensation for small enterprises and another for medium- and large-sized ones.

Government's most significant intervention in the labour market in support of small-scale enterprise occurred as a consequence of a Ministerial Determination that was issued in terms of the Basic Conditions of Employment Act (BCEA). Ministerial Determination MD-1, issued by the Minister of Labour in November 1999, provided that employers with less than 10 employees could vary 'downwards' four conditions of employment. MD-1 changed the following minimum working conditions that were regulated by the BCEA as follows:

- It extended the maximum number of overtime hours that an employee could work in a week from 10 to 15 hours;
- It reduced the rate of payment for overtime work from 'time and a half' in the BCEA to 'time and a third'. This was the rate before the introduction of the BCEA in December 1998;

²³ A State-supported financing body created to facilitate loans and equity capital to micro-, small- and medium-sized enterprises.

- It allowed for the averaging of working hours up to four months by written individual agreement. In the BCEA, averaging is only permitted by collective agreement; and
- It included employees' entitlement to 3 days of family responsibility leave in their allocation of 21 annual leave days. Under the BCEA, employees are entitled to 3 days of family responsibility leave, in addition to 21 days annual leave.

Workers covered by BC agreements were unaffected. For the clothing industry, this meant that most small clothing manufacturing enterprises were left unaffected as they generally fell under the jurisdiction of the various regional clothing BCs.

On balance, the new Government's labour market policy interventions, aimed at supporting small enterprises, were relatively 'benign'.

4.2 Trade

The transition to a post-apartheid society ensured the full reintegration of the South African economy into the global market place. It is in this context — particularly at the level of trade policy — that government interventions had the greatest impact upon the clothing industry.

In the apartheid era, South Africa's economy was insulated by a wall of high tariffs, especially the clothing industry. However, from the mid-1990s onwards, this protective wall disappeared as the Government commenced a comprehensive tariff liberalization programme. The main idea was to ensure that the South African economy — the clothing industry in particular — became internationally competitive.

In addition to reducing South Africa's tariffs, as required by the Uruguay Round of the GATT/WTO trade negotiations (April 1994), the new Government took additional steps to reduce the tariffs applicable to clothing products. As Table 3 shows, these levels were significantly below that of the earlier requirements of the Marrakech agreement.

Table 3: South Africa's tariff phase-down schedule

Tariffs applicable to clothing imports

	'93	'94	'95	'96	'97	'98	'99	'00	'01	'02	'03	'04	'05	'06
RSA WTO Tariff Rates			100 %	100	100	100	94	87	80	73	66	59	52	45
RSA Tariff Phase Down	100 %	90	84	78	72	66	60	54	48	40	40	40	40	40

Note: This summary excludes details of the various 'minimum' and 'maximum specific' duties that affected clothing products. The RSA WTO Tariff Rate details what South Africa committed itself to in terms of its GATT 'offer' (1994). The 'RSA Tariff Phase Down' details the *de facto* 'Most Favoured Nation' (MFN) rates applicable to clothing imports. As can be seen, the actual rates in the period 1995 through to 2001 are significantly below what duty rates could have been applied.

The massive reduction in tariffs (see row 2, Table 3) in a relatively short period of time resulted in significant volumes of garments entering South Africa and its customs union partners' borders.²⁴ All sub-sectors and market niches of the local clothing industry were negatively affected. Those sub-sectors that produced 'commodity' type clothing items (focused at the lower (cheaper) end of the retail market) were the most affected.²⁵ A further consequence was that some geographic regions of the country were more adversely affected than others, since output in some areas tended to concentrate more on commodity clothing production. The clothing manufacturing areas centred in the greater Durban metropolitan areas were heavily affected. Here, SACTWU faced significant organizing (and serving) challenges, particularly in smaller manufacturing enterprises.

Further damage was done to the local clothing manufacturing market when additional volumes of clothing entered South Africa as a consequence of the many bilateral trade agreements (when South Africa reduced its tariffs to below its MFN rates). These bilateral trade agreements were with Malawi (which provided for duty free access); with Mozambique (3 per cent duty, but under quota); and Zimbabwe (duty free, but under quota).

Simultaneously, the problems with legal clothing imports were exacerbated by significant volumes of clothing products being smuggled into South Africa. From 1993 onwards, large amounts of illegally-imported clothing began to flood the local retail market. In many instances, much of it was imported with no customs duty paid at all; in other instances, clothing was brought into South Africa without any checks on whether the goods in fact qualified for preferential access in terms of a particular bilateral agreement. It was easy to smuggle products into South Africa; the domestic customs administration was often incompetent, under-resourced or corrupt.

²⁴ South Africa is the central partner in the Southern African Customs Union (SACU). SACU is a customs' union involving South Africa, Botswana, Lesotho, Namibia and Swaziland (BLNS). All member states have common external tariffs. All customs revenue is placed in a central pool shared between all member states.

²⁵ 'Commodity' market refers generally to the lower value-added non-fashion type of clothing (e.g. t-shirts; regular underwear; regular shirts; etc.); as opposed to the higher value added fashion type of clothing (e.g. suits; designer fashion-wear, etc.).

5. A changing landscape

The volume of foreign-made garments flooding the South African retail market had wide-ranging impacts on the local clothing industry. Companies swiftly restructured in an effort to reduce costs and, for SACTWU, the recruitment and serving of workers, especially those in small clothing enterprises, became a difficult challenge.

5.1 Job losses

In the drive to reduce costs, many clothing manufacturers implemented a wide range of cost-cutting measures. Workforces were significantly slashed — tens of thousands of workers who had been permanently employed long-term within the local clothing industry were retrenched. According to SACTWU records, since 1995, about 115,000 clothing, textile and leather industry workers have lost their jobs — the greatest proportion being clothing workers.²⁶ From 1 July 1999 to 30 June 2001, SACTWU recorded 33,963 job losses — of which 22,753 were clothing workers. In the same period, about 100 clothing factories closed down.

The result of these downsizing exercises was that the overall number of smaller clothing establishments increased. What were once large- and medium-sized establishments became medium- and small-sized establishments.²⁷ The increase in the numbers of smaller establishments was, however, not a widespread national phenomenon. There appears to be no discernable trend in the increase in numbers of small factories in the non-metropolitan areas of the country. Only within some of the major metropolitan areas does there appear to be a growth in the absolute numbers of smaller clothing businesses. The main reason for this would appear to be the greater numbers of retrenchments in the metropolitan areas compared with those in non-urban areas. Moreover, smaller businesses can operate more effectively in metropolitan areas, tending to survive by obtaining CMT work from some of the established manufacturers in the urban areas.²⁸

In addition, it is certain that some of these retrenched clothing workers set themselves up — perhaps with other retrenched clothing workers — in their own small-scale clothing manufacturing enterprises.²⁹ These establishments were to be found in residential areas as well as in the light industrial and retail areas of the central business district.

²⁶ SACTWU Secretariat Report, SACTWU National Congress August 2001. The job losses recorded by SACTWU are industry job losses — not only losses in membership. Little information exists as to the age, race or gender of job-losers through retrenchment, factory closure or natural attrition. It is surmised, however, that most of these job-losers were women (as the industry is female-dominated) and that most were Black (production is mainly Black-dominated).

²⁷ There are no accurate statistics. Bargaining Council staff has indicated that this is a trend (discussion with Secretaries of the Northern Areas, and the Western Cape clothing BCs).

²⁸ Most CMT work originates mainly in urban areas.

²⁹ There are no accurate statistics. Government has argued that most (many) of the retrenched workers have set themselves up as small entrepreneurs, but see Box 1 for the SACTWU perspective on the official statistics of the South African clothing industry.

5.2 Restructured employee-employer relations

Many clothing manufacturers began to restructure the manner in which clothing manufacture was undertaken. A significant number of firms retrenched their traditional workforces only to re-engage their recently terminated employees on a part-time basis or as independent contractors.³⁰

Some regions were more affected by the new forms of atypical³¹ employment than others. The phenomenon was particularly widespread in the KwaZulu-Natal province — particularly in BC jurisdiction areas where the wage rates were higher. Other BC areas of the country were not as affected. One reason could be that clothing enterprises within KwaZulu-Natal manufactured ‘lower’ value-added commodity clothes which often competed with cheaper imports, while clothing establishments in other BC establishments tended to produce higher-value added garments. The phenomenon was not so widespread in the non-metropolitan areas due to the fact that the wage rates applicable there are already very low.

A common type of atypical employment in the clothing industry was the use of so-called ‘independent contractors’.³² These are generally workers who were, until very recently, regular full-time employees who had been (often illegally) retrenched and then re-engaged as ‘independent contractors’. These contractors perform their duties on a full-time basis at the owner’s establishment.

Technically — in the eyes of the law³³ — these persons are not employees of the enterprise, but have a relationship with the firms much in the same way as two firms (with separate legal identities) would relate to each other in a contractual relationship. As such, they are related in a commercial and not an employment relationship to the enterprises concerned. By making employees autonomous ‘independent contractors’, companies avoid paying minimum wages and benefits, or obeying minimum working conditions set down in collective agreements. Companies also avoid contributing to the State Unemployment Insurance Fund (UIF) and to the Compensation Fund (CF). In using ‘independent contractor’ arrangements, employers effectively block trade unions from entering their establishment and representing employees. They do so by pretending that they have no employees working on their premises. A second form of atypical employment has also accelerated recently, with the increasing numbers of fixed-term contract employees.³⁴ Staff of the regional clothing BCs in Johannesburg, Durban and Cape Town have all confirmed that there appears to be a much greater use of these types of employees. They also confirm that enterprises, be they small, medium or large, want the flexibility that contract employee employment offers — to

³⁰ A limited number of clothing enterprises that closed down resurrected themselves as ‘fashion houses’. Fashion houses generally did no production themselves, they often designed garments, obtained orders from retailers, and then parcelled out production to a range of clothing manufacturing concerns.

³¹ Many of these ‘new’ forms of employment have been around for a long period of time but recently there has been accelerated and widespread use of atypical employment.

³² ‘Independent contractors’ are also referred to as ‘independent sub-contractors’.

³³ Employers who have made their employees ‘independent contractors’ have generally done so after becoming members of an organization called the Confederation of South African Employers (COFESA). Some observers, including trade unions, contend that while COFESA purports to be an employers’ association, the main reason for its existence is to transform employed workers into independent contractors.

³⁴ ‘Fixed term, full-time, contract employees’ means employees engaged by an enterprise who are required to work a full working week — generally 42.5 hours in the clothing industry — for a specified period of time (e.g. two months).

temporarily increase the size of the workforce when orders are available, but to cut it back when there are none.

The use of contract employees within clothing-industry enterprises — including small-sized ones — has placed significant impediments in the way of SACTWU organizing workers. Should workers be employed on a contract which lasts for a period of two to three months, they have no real interest in joining a union — even though there is nothing in the law that would prevent them from becoming union members. Some of the regional clothing bargaining institutions have tried to regulate workers employed on this basis by limiting the permissible duration of contracts and by ensuring that workers are paid the same rates of pay and benefits as regular full-time employees. However, their successes have been limited.

At a macro level the growing use of atypical employment by clothing manufacturers has had a knock-on effect on the BC system: in certain areas more and more employees have found themselves outside the BC system. Thus, it is the stability of the system as a whole that has come to be threatened.

6. Evolution in conditions of work, according to enterprise

Some of the unionizing challenges now facing SACTWU are best illustrated by examining the three main types of small clothing manufacturing enterprises operating in South Africa and the impact of the economic forces described above.³⁵

6.1 Traditional clothing manufacturing establishments

Historically, two categories of small-sized clothing manufacturing establishments — integrated clothing manufacturers and the small CMT (Cut/Make/Trim) manufacturers — formed the backbone of the South African clothing manufacturing industry.

Small integrated clothing manufacturers

Production was usually on the basis of orders obtained from formal sector retailers or design houses, using the proprietor's own sewing equipment and (mainly) full-time employees. If an unforeseen increase in orders occurred, some production was outsourced on a CMT basis. Many of these establishments were/are found within the jurisdiction of the five main clothing BCs.

Small CMT manufacturers

There has always been a large number of small CMT enterprises producing garments mainly on the basis of orders given to them by larger clothing manufacturers or clothing design houses. These enterprises have often supplemented their CMT income by designing products themselves, and selling them directly to both formal and/or informal sector retailers. They generally owned their own equipment and had full-time employees. Many of these establishments were/are found within the jurisdiction of the five main clothing BCs.

Small integrated and CMT manufacturers today

Large numbers of these two categories of enterprise have now disappeared altogether. Those still extant have survived by employing a range of strategies. Some traditional enterprises (especially those in the Durban metropolitan area) opted out of the statutory BC system. They did this either by not registering with the Council or by completely disregarding the legal jurisdiction of the applicable BC. In other instances, establishments closed down and re-opened with workforces mainly employed as independent contractors or on fixed-term contracts or a combination of both.

What distinguishes workers in these 'new' enterprises from those who worked in the more traditional clothing establishments is that their working conditions are far less favourable. Workers receive substantially lower wages and fewer benefits than more 'formal' sector workers, and employment tenure is less secure.

³⁵ While the complexity of the clothing industry does not allow strictly clear-cut distinctions to be made, this report categorized the enterprises according to the following questions:

- Who gives the establishments the work?
- What are the relationships that exist between firms in one category and firms elsewhere;
- Who owns the equipment that the work is done on?
- What types of 'employees' do the work?

These newer forms of employer-employee relationships have made organizing (and serving) these workers difficult for SACTWU. Many workers in these enterprises — even though they were at one stage members of SACTWU — are seemingly reluctant to join SACTWU or any other trade union. Ex-members say “SACTWU was unable to assist me when I lost my job in my previous factory, so what can it do for me now?” In general, the wages and benefits are far below what the BC would require. Workers are fearful of employers terminating (or not renewing) their contracts if they have any contact with the union. Many of the current employment contracts are structured to preclude unions from having recourse to the provisions of the LRA.

6.2 Homeworkers

Two distinct categories of homeworker have always existed in South Africa, those with commercial production and those whose production has been done for survivalist purposes.

Homeworker — Commercial³⁶

This category of worker, making significant volumes of garments (or parts of garments) at their own (or someone else’s) residence, for the formal economy, has long existed in South Africa. There were a number of different categories of homeworker. Typically, they were distinguished by all, or a combination of, the following features:

- these workers generally received their orders from (large, medium and small) integrated clothing manufacturers, or from design houses, or from other CMT producers, or from small retailers;
- many of these workers owned their own sewing machines;
- generally these workers did not produce the entire garment — they only performed one or two sewing operations — the garment was then sent to another residence for further processing;
- some homeworkers may have had a steady day job in a clothing factory, and moonlighted at night or during weekends for specified providers of work;
- most homeworkers were remunerated on a piece-rate basis; and
- work may have been executed with the assistance of family members and/or friends.

It is important to note that these workers generally have a dependent relationship with an employer (the provider of the work).

Homeworker — Survivalist

This category sews garments at home in order to provide themselves with a limited source of income. They generally own their own sewing machines; have been responsible for the purchase of the fabric inputs; have made the entire garment by themselves; and have been responsible for hawking their output in the informal economy. A number of traditional tailors produce individual garments on a made-to-order basis or repair damaged garments. Production takes place at their homes or in shops located in urban areas, or from work areas that they have erected on sidewalks. Most of the bespoke tailors do the work themselves or in

³⁶ This category closely conforms with the definition in ILO Convention No. 177 on Home Work (1996), as work carried out by a person (i) in his/her home or other premises of his/her choice, other than the workplace of the employer; (ii) for remuneration; (iii) which results in a product or service as specified by the employer. This category of worker is the priority target of the current SACTWU recruitment drive.

small (perhaps) family groups. It is important to note that most of these workers generally do not have a dependent relationship with any employer/provider of work.

Homeworkers today

As a result of the economic forces that have recently ravaged the local clothing industry, the number of people producing garments at places located in residential suburbs has increased and survivalist homeworkers have increased considerably. It is surmised that many of the latter were once employed in the mainstream clothing manufacturing economy, but lost their steady jobs as their companies closed down or restructured.

The category of commercial homeworkers has seen the most significant developments. It is surmised that the traditional home work operations have expanded — particularly in the Cape Town, Durban and Gauteng areas. Within two residential areas of the greater Durban metropolitan area (Chatsworth and Phoenix), an expansion in the size of the manufacturing units has been reported. In addition to the residential clothing manufacturing units which previously had 2-5 workers, there are now reports of much more substantial operations with up to 20 workers. It has also been reported that persons working in these home-based operations have been lent sewing and ironing machines from previous manufacturers that have gone out of business.

Because these new establishments are located in residential suburbs and those working in them are connected through family ties and/or friends, unions wanting to organize within them have met with significant challenges. Many of these units are also difficult to identify, as they display no sign indicating a clothing factory is housed within the residence.

6.3 Co-operatives and self-help schemes

There has long been a range of co-operatives and self-help projects whose focus has been clothing production. Many started with the aim of providing individuals with basic garment-making skills while simultaneously generating (a limited) income. The individual members of the enterprise own their own equipment or the enterprise collectively owns it. Historically, SACTWU tended not to organize workers in these establishments because they were not that widespread and there were no traditional employer-employee relationships.

With restructuring, it has been reported that more of these establishments have begun to develop. Some of these operations have now adopted a more commercial outlook by doing regular work for other factories, and for flea markets. Similarly to the home work operations, these enterprises are difficult to locate. They are generally not found in the traditional industrial and light industrial areas where clothing factories used to be found. Another problem for recruitment activities is that they do not have the traditional (conflictual) employee-employer relations — the interface of which has allowed unions to recruit.

7. SACTWU approaches in perspective: Recent developments and challenges ahead

The unionizing challenges are immense. SACTWU has to juggle limited human and financial resources to deal with complex sets of unionizing problems now apparent in many clothing factories (small, medium or large) spread throughout the country. At the same time, SACTWU is having to deal with a range of related issues emanating from other industrial sectors — textile and leather — where it also has membership.

Most SACTWU recruitment activities associated with small enterprises have targeted factories in the major metropolitan areas — particularly in Cape Town and in Durban, where most of South Africa's small-sized clothing factories are located. Ultimately, SACTWU efforts to recruit and service unorganized workers in small-sized clothing factories are premised on a SACTWU strategy that seeks to put in place a legislative and institutional framework which facilitates organization and serving activities.³⁷

7.1 Building clothing Bargaining Councils

SACTWU recognizes that without effective clothing industry BCs it will be very difficult to organize these workers. The sheer number of small-sized clothing establishments means that, without functioning BCs, SACTWU would have to dramatically increase the number of staff that it already employs. Recruitment is only one component that requires resources. The second is serving workers (by dealing with member grievances, employer-initiated disciplinary proceedings, negotiating improvements to wages and other terms and conditions of employment), which requires as much, if not more resources.

To this end, SACTWU has instituted a number of initiatives in order to build and strengthen BCs, including:

7.1.1 Council on Fashion: Changing roles for Bargaining Councils

SACTWU recognizes that BCs in their current form are negatively perceived by many clothing employers. This negative image has resulted in many clothing manufacturers trying various strategies (including illegal ones) to avoid BC jurisdiction. In order to correct this image and improve the range of services that Councils could provide, SACTWU has put forward a number of proposals.

In the discussions that SACTWU had with representatives of business and Government in preparation for the 2000 Sector Jobs Summit for the Clothing and Textile Industries,³⁸ SACTWU tabled a comprehensive proposal dealing with expanding the role of the various BCs in which it was operative. SACTWU proposed the establishment of a single BC for the

³⁷ This is not to state that SACTWU would first want to ensure that a comprehensive legal and institutional structure be in place before the actual organization of workers in smaller factories takes place. The two processes will be run simultaneously. However, it is anticipated that, initially, significant resources will be devoted to getting the framework right.

³⁸ In accordance with the agreements reached at the 1998 Presidential Job Summit, Sector Summits would be held in sectors that are threatened by job losses or have the potential for job creation. The Clothing and Textile Job Summit was held on 28 August 2000 in Durban.

clothing (and textile) industry, to be called the Council on Fashion. SACTWU stated that the Council on Fashion would have five chambers — each with the following tasks:

- deal with bargaining and dispute resolution;
- provide and coordinate social services;
- provide a range of industrial services to enterprises in order to improve the performance of companies;
- deal with issues affecting homeworkers and small business services, and
- provide a range of industry education and training services.

It is interesting to note that SACTWU proposals contained issues that both directly and indirectly supported the interests of smaller businesses — whether they were located in the formal or informal sectors (see Annex for full details of the proposal). For smaller business (including homeworkers), SACTWU envisaged the creation, within the Council of Fashion, of an Industrial Home Worker and SMME Services Chamber. SACTWU contended that this Chamber would provide a number of customized services for small enterprise owners. SACTWU envisaged that a Small Business Promotion services centre would provide logistical and information help to small businesses in dealing with legislation, tax, regulations, managerial services, quality improvements, access to capital, and government incentive opportunities. The proposal also envisaged that this Chamber would assist small businesses to access the services available in other chambers of the Council on Fashion. For example,

- social services, such as access to medical and retirement funds;
- business services, such as assistance in exporting output, access to e-commerce facilities, and staff recruitment assistance; and
- education and training services, such as designing and then accessing industry training programmes.

In making this proposal, SACTWU hoped to establish a system whereby all clothing employers — particularly smaller ones — were attracted to the BC system, because it offered a range of very practical programmes to enhance the functioning of their businesses. It was thought that if more of the smaller employers were committed to the BC system, the Councils would become more stable.

At the Summit, SACTWU proposals did not find much resonance among the employer group. It was agreed that a Forum — consisting of labour, business and government representatives — should be established in order to perform a policy development and monitoring function. Such a Forum would have three core roles:

- to facilitate research, debate and shape common view on the macro industrial, trade and labour market policies;
- to monitor macro trends impacting on the industries and make appropriate policy recommendations; and
- to ensure regular interaction between industry stakeholders to build and entrench a common vision for the industry.

It was agreed that the Forum would have two working groups: one to focus on trade and industrial policy issues and a second group to discuss labour market and small- and medium-sized business issues. SACTWU is of the view that it is within the labour market working

group — which has not met as yet — that discussions will take place on taking forward some of its initial ideas. Subsequently, however, it is clear that there has been some reappraisal of the SACTWU approach. Discussions with the staff of some BCs have shown that the various BCs (including the employer groups that are active within those Councils) are now considering efforts to expand the role and functioning of their Councils.

7.1.2 The National Clothing Bargaining Council

SACTWU also realized that, without a nationally operative clothing BC, which covers all of South Africa's clothing workers (including homeworkers and other informal sector operators), there will still be tendencies for the existing regional BC system to continue to fragment. This — as has been partially demonstrated by the case of Natal Clothing BC — will result in the eventual demise of the system, with significant consequences for SACTWU on organizing and serving workers in small clothing factories. Given the sheer number of these factories, organizing workers within them would be almost impossible without BCs.

Accordingly, in the 2001 clothing industry wage negotiations, SACTWU secured a commitment from most employer organizations party to negotiations that a single national clothing BC would be established, no later than March 2002. To make this reality, SACTWU devoted considerable union resources to dealing with a range of practical matters associated with the establishment of such a Council.

The National Clothing Bargaining Council was set up by early 2002. Work is now in progress with regard to establishing its necessary administrative structures. To date, the new national BC for the clothing industry constitutes an important tool to improve working conditions and wages throughout the clothing industry, including in MSEs and in the informal sector. Its establishment promises SACTWU a number of advantages, including the fact that it would enable union staff to negotiate one agreement as opposed to a range of agreements, thereby freeing up scarce union resources.

7.2 Changing the law — Dealing with independent contractors

At a macro level SACTWU has, in conjunction with the clothing BCs, used a wide range of legal strategies in order to ensure the effective application of BC agreements on all factories that operate within the scope of each Council. In the past three years, SACTWU — particularly in the greater Durban area — has devoted considerable resources to ensure that those workers who have been made independent contractors by their employers in small- (and some medium-sized) clothing factories are again regarded as employees.

In this endeavour, SACTWU (and the BC) legal interventions, which were mainly targeted at a range of smaller and medium-sized employers, have met with little success. Two main problems have been encountered. First, when cases were initiated against employers who were operating illegally, SACTWU found that a single legal case took inordinately long periods of time to process. During this time, the organizing and serving of independent-contractor workers was impossible. The costly legal procedure generally took a minimum of 18 months to complete, although periods in excess of 24 months were not uncommon. Second, at the end of the legal process, the employer of the independent contractor merely closed-up business to reopen under another name using the same employees — whereupon the union would have to recommence legal proceedings starting at the beginning again.

SACTWU — together with other South African unions that are dealing with the problem of independent contractors — realizes that the best way to deal with this problem is to ensure changes to the LRA for a more precise definition of ‘independent contractor’. To this end, SACTWU suggested, via the Congress of South African Trade Unions (COSATU) in recent negotiations concerning a range of labour legislation, that Section 83 of the BCEA and Section 200 of the LRA be amended. The relevant amendment, which became law in August 2002,³⁹ will now presume that a worker is an *employee* rather than an independent contractor unless the provider of work is able to prove otherwise. This occurs regardless of the contract that the worker has with the person who provides work to him/her, if one or more of the following factors are present:

- the manner in which the person works is subject to the control or direction of another person;
- the person’s hours of work are subject to the control or direction of another person;
- in the case of a person who works for an organization, the person forms part of that organization;
- the person has worked for the other person for an average of at least 40 hours per month over the last three months;
- the person is economically dependent on the other person for whom he or she works or renders services;
- the person is provided with tools of trade or work equipment by the other person; or
- the person only works for or render services to one person.

The effects of this change will be instrumental in aiding SACTWU to establish a strong foothold once more in the numerous smaller clothing establishments, especially those in the Durban area.

7.3 Organizing clothing industry workers: Current challenges

While a range of legislative and institutional changes can be harnessed to aid in organizing and serving workers in small enterprises, SACTWU success will be determined by the strategies to be put in place. SACTWU is considering the following.

Organizing informal sector workers⁴⁰

In a related small-enterprise organizing initiative, SACTWU is developing a substantial programme to facilitate organizing informal sector workers that would cover both industrial homeworkers and workers in small-scale factors in residential suburbs.⁴¹ For example, in August 1999, SACTWU initiated a pilot organizing campaign in its Western Cape region that focused on industrial homeworkers and small township-based enterprises. The initial foray into organizing was also used as a mapping exercise to collect as much information as

³⁹ It is worth mentioning that among the new labour amendments that were promulgated into law on the same occasion, two are particularly relevant for protecting vulnerable workers, including in the clothing industry. On the one hand, a change to section 28 of the LRA will allow Bargaining Councils to extend their services and functions to cover informal work. On the other hand, a change to section 32 of the LRA will strengthen the Minister’s discretion to extend the agreement to non-parties within the registered scope of the council, even if the employer party to the agreement does not meet all the criteria for representivity. This is particularly useful for bargaining in the informal economy, where workers may organize, but employers may decide not to do so. Now the legal framework is there for organising and bargaining around informal work.

⁴⁰ For more details on SACTWU strategies for organizing the informal sector, see Bennett, M. (forthcoming).

⁴¹ The decision to organize these workers was adopted by the 1999 SACTWU National Congress.

possible pertaining to informal economy workers. The programme to recruit was run by an organizer working in its regional office in Cape Town, with the assistance of a clothing shop steward who was seconded to the project for a number of months.

The following short-, medium- and long-term steps are envisaged:

In the short-term, SACTWU aims to:

- change the manner in which membership of the union is based. Currently, when union members are retrenched from their factories, membership of the union expires within 26 weeks of their termination.⁴² SACTWU, aware that many workers most probably would find re-employment (mainly within medium and small clothing-industry factories), is now considering extending union membership so that workers who lose their jobs can remain members of the union;
- change the union's existing benefit structures by offering a set of selected benefits to workers in informal undertakings. Existing union benefits that SACTWU is considering extending to workers in informal undertakings would include union funeral and educational bursary programmes. SACTWU is also keen on seeing if it can extend the primary health care benefits that union members within the existing BCs currently enjoy. In addition, SACTWU is also considering the introduction of a range of other personal services to informal sector members. Services that SACTWU considers attractive to informal sector members range from bulk-buy discounts at local supermarkets to offering legal advice. SACTWU views these services as recruiting incentives to encourage people to join up and to pay regular subscriptions;
- establish a register of informal sector operators. It is hoped that, by engaging with those who supply the informal clothing sector with work (large and medium manufacturers, as well as design houses and retailers), SACTWU will be able to establish an agreement that only those workers on the register will be allowed to do the work;
- influence the Sectoral Education and Training Authority (SETA) for the clothing, textile and leather industry in order to ensure that the structure provides a range of industrial training courses to workers on the register for free. It is also envisaged that the SETA will provide, free of charge, a range of services (bookkeeping, business skills and other programmes) to the owners of small and informal sector businesses.⁴³

In the medium-term, SACTWU:

- wants to invite providers of work to a meeting and attempt to negotiate minimum rates for workers to whom they subcontract; and

⁴² SACTWU Constitution, Section E Section 7 Termination of membership, 15 June 1999.

⁴³ The clothing, textile and leather SETA (established 1 April 2000) has the responsibility for the development of an overall training and education strategy for the industries that it covers; for developing and implementing an integrated skills plan; for facilitating and promoting learnerships; and for improving information collection. The SETA has agreed that special plans need to be developed for the small-, medium- and micro-sized enterprises (SMMEs). Thus far, the SETA has decided to run a pilot training project in 10 Western Cape clothing SMMEs. The SETA hopes that this project will build capacity within SMMEs by offering courses such as basic business and managerial skills, and training programmes in order to multi-skill clothing machinists.

- should this not eventuate, SACTWU aims to use the expanded national clothing BC to set working conditions in the informal sector.

If agreement with providers of work is reached, this would form part of the national BC arrangement.

In the long-term, SACTWU aims to introduce more characteristics of formality into the informal economy by a range of measures, for example:

- introducing written contracts between providers of work and informal producers;
- getting South Africa's tax authority, the South African Revenue Service (SARS), to hold providers of work to informal producers and/or retailers responsible for ensuring that informal producers pay the applicable taxes; and
- mobilizing formally-employed clothing workers to fight for measures that will improve conditions for informal producers.

SACTWU recognizes that the initiative aimed at informal sector clothing workers will imply some adjustment to internal union processes. Therefore, SACTWU is now considering changing how it collects membership fees to take into account the special circumstances of its potential informal sector operators; the manner in which its shop stewards will operate; and the manner in which it will organize these workers.

8. Conclusions

Changes in the structure of production and trade in recent decades have altered the nature and content of work, and weakened the effectiveness of national labour market institutions to deal with processes that are decided upon at the global level. Trade unions have particularly suffered in the process. Their membership and bargaining power have shrunk in most countries. The reality of an atomized and diverse workforce, coupled with individualized employment relationships, makes unionization more difficult in today's world.

Organizing workers in any trade union is rarely an easy exercise, whether the enterprise is small-, medium- or large-scale. Organizing is not just about recruiting members at the workplace and providing them with services. Increasingly organizing also means bridging the formal-informal divide. It means connecting members with other groups in society around issues that go beyond traditional union concerns to bring about social change. In this respect, organizing may imply a change in the way unions operate (ILO, 1999).

The current worldwide mushrooming of MSEs confronts the labour movement with the challenge of reaching out to large numbers of mainly unorganized workers. The geographical dispersion of small-scale enterprises, their relative volatility, and the asymmetrical power relationships between employers and workers make unionization therein a particularly hard and costly exercise. It is evident that organizing in MSEs necessitates a proportionally greater amount of financial and human resources than organizing in medium and large businesses. Generally speaking, the smaller the enterprise is, the greater the challenge for unionization.

Over the years, SACTWU has ably demonstrated that its organizing initiatives have been successful in unionizing workers in small clothing factories. But, with accelerating globalization, the upsurge in the number of small-scale enterprises has placed considerable stress on the traditional collective bargaining institutions that have covered smaller businesses and has threatened the effectiveness of SACTWU action in this area. To counter this, SACTWU in the past two years has adopted a three-pronged strategy that focuses not only on recruitment but also on the legal (through the Labour Relations Act) and the institutional (through Bargaining Councils) bases necessary for unionizing strengths.

SACTWU leadership has played an instrumental role in ensuring that relevant amendments are made to industrial relations legislation. Specifically, SACTWU has lobbied the leadership of COSATU for the LRA and the BCEA to be amended — so that employers will be unable to evade Council agreements by making employees independent contractors. Amendments have also been proposed to the LRA, which will provide the basis for bargaining and organizing around informal work. Now that the relevant laws have been promulgated (August 2002), main SACTWU efforts in the near future will aim to make certain that the Bargaining Councils immediately take steps to ensure that their agreements have jurisdiction over independent contractors and smaller enterprises — some of which have tended to operate outside of Council jurisdiction.

In addition, significant resources have now been allocated to ensure that the various centralized clothing bargaining institutions — under whose jurisdiction the majority of smaller enterprises are found — are strengthened. With this goal in view, SACTWU has directed additional resources to those Bargaining Councils (particularly the Natal Clothing Council) that have been weakened by the activities of employers who have sought to avoid the jurisdiction of Council agreements.

Simultaneously, SACTWU revitalized its efforts to establish a single, nationally operative clothing Bargaining Council to cover all clothing workers in South Africa. The establishment of the National Clothing Bargaining Council in 2002 opens new opportunities to achieve higher equity in the industry as a whole, and in clothing MSEs in particular. Now the potential is there for all smaller garment manufacturing enterprises, even those located outside the current regions of the operative clothing Councils, to be covered.

However, the newly established Clothing Bargaining Council may prove insufficient on its own. The mechanical application of Council agreements to all small enterprises may provoke resentment from certain smaller employers. Here, SACTWU strategy will aim to get Councils to provide non-collective bargaining services. The proposals SACTWU contributed to the Clothing and Textile Sector Jobs Summit in 2000 contained cohesive suggestions in that regard, which were met with some resistance on the employer benches. SACTWU plans to use the working groups set up in terms of the Clothing and Textile Sector Jobs Summit to pursue its proposals further. SACTWU foresees the need to devote considerable resources to make non-collective bargaining services become a reality. It will also need to develop a uniform policy to deal with certain categories of small employers who wish to be exempted from Council agreements.

The near future is a testing time both for SACTWU and for the South African clothing industry. While the final phasing out of the Multifibre Agreement (MFA), regional integration and technological change will create new opportunities for the country's clothing industry, these factors will also expose the industry to additional competition from previously restricted exporters. The outcome will depend on a number of factors, including the ability of national actors to contribute to the shaping of policies that will meet the challenges and risks at stake.

For the South African trade union movement, and for SACTWU in particular, this means that a comprehensive set of strategies is needed to enable unions to advance their members' interests. Recently introduced changes in labour legislation and in the BC system pave the way for more effective protection of workers in this sector. However, it is clear that legal and institutional instruments are not the only solution to decent work deficits in small clothing-industry enterprises. Workers themselves must be able to voice their needs and act collectively, which they can only achieve through their unionization.

In the long run, however, international competition may limit the potential for significant progress of trade union strategies at the national level. Therefore, a combination of both domestic and international strategies (the latter include labour cross-border cooperation, lobbying for labour standards in trade policy instruments, framework agreements, and codes of conduct) is needed for the SACTWU approach to lead to long-lasting improvements for workers in small clothing-industry enterprises.

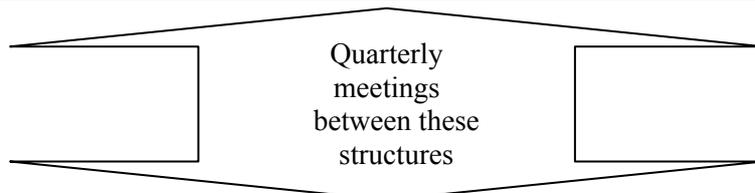
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Annex

Expanding the scope and function of Bargaining Councils: SACTWU vision⁴⁴

<p>Government liaison structure: <u>Chair:</u> Minister of Trade and Industry <u>Composition:</u> DTI, Dept of Labour, SARS, IDC, SABS, CSIR, NPI</p>	<p>Retail liaison structure <u>Composition:</u> all key retailers</p>
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<p>Council on Fashion Plenary</p> <p><u>Composition:</u> 50% employers 50% union</p> <p><u>Role:</u> Develop an integrated policy framework. Coordinate activities of the various chambers (set out below). Monitor macro-trends in industry, including trade flows, and developments in other key clothing and textile economies and markets. Develop common positions to promote the industry. Coordinate regular meetings with government and retailers.</p> <p><u>Scope:</u> Cover all clothing and textile operations in the Republic of South Africa, in both the formal and informal sector.</p>

<p><i>Collective Bargaining Chamber</i></p> <p>Collective bargaining for each sector in Sector Forums, and dispute resolution for the industry</p>	<p><i>Social Services Chamber</i></p> <p>Medical services, retirement, HIV/AIDS project, counselling and housing</p>	<p><i>Industrial Services Chamber</i></p> <p>Economic services to the sector and to companies</p>	<p><i>Education and Training Chamber</i></p> <p>Takes on role of SETAs</p>	<p><i>Industrial Home-workers and SMME Services</i></p> <p>Special services to home workers and to small businesses</p>
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⁴⁴ Source: SACTWU. *More And Better Jobs For All — New Policies for the Fashion Industry Sector Summit Preparation*. 2000.

Collective Bargaining Chamber: This chamber will house a number of sector forums through which collective bargaining will take place, with separate negotiations covering distinct agreements. The sector forums, based largely on the current arrangements, will be:

- Clothing Metro
- Clothing Decentralized (peri-urban)
- Cotton Textiles
- Fabric Knitting
- Worsted Textiles
- Home Textiles
- Manufactured Fibres
- General Textiles
- Wool and Mohair
- Canvas and Rope
- Industrial Home Work.

The Chamber will provide a common secretariat and inspection service, with an integrated database of information on the industry here and abroad, covering employment, wage levels, productivity indices, etc. This will allow the Council to add additional services, at a low unit cost per service, as a result of efficiencies and economies of scale.

Each distinct agreement will be negotiated within a 'Sector Forum' by an employer organization or a section of an employer organization and the trade union, with a separate agreement or schedule covering either a distinct sector of textiles, or a geographically defined part of clothing, to provide the necessary flexibility in bargaining outcomes.

The Chamber will also provide a professional service in conciliation, mediation and arbitration to employers and workers in the sector, with funding from the CCMA.

Social Services Chamber: This will provide a number of packages of services, which groups of employers and the union contract into for specified categories of employees. These services will include medical, retirement, housing, HIV/AIDS campaigns, etc. This will mean that clothing workers, for example, may be covered by a clinic system, while worsted textile workers could be covered by a medical aid scheme.

The Chamber could provide an agency service for the Unemployment Insurance Fund, for workers in the sector who become unemployed, subject to a user fee being paid by the UIF to the Chamber.

The Chamber will also provide a common secretarial service for a number of distinct provident funds, each with its own trustees. It will use its greater resources to cut the costs of administration and to leverage better performance from investment managers.

Industrial Services Chamber: This will provide a range of business services to improve the performance of companies. These services will include the following:

Export services. This will promote exports through publicizing export opportunities, and for SMMEs it will provide logistical and information services. It could also act as an agency for DTI in promoting export incentives. It will help to promote fashion designers, studying in fashion, local label and brand name promotion, fashion shows and the promotion of South

African fashion abroad. It could incorporate the Export Councils but give it operational autonomy.

E-commerce services. This will provide the architecture for an expanding business to business IT platform, covering customer-supplier link-ups throughout the local supply-chain and a 'one-stop web site' for export customers to access supplies in South Africa. This will help both to improve manufacturing performance (through the substantial efficiencies in the supply chain which this can bring about, the quick-response capacity it can result in, and the closer relationship with clusters of suppliers which this results in) and to market our products and capacity more effectively.

Buy South Africa. This will help to brand South African fashion through work with designers, marketers, fashion magazines, television and major global customers in the significant markets.

Recruitment services. This will help to create a less costly 'market' for people looking for work, and companies looking for skills, through an on-line electronic exchange of job opportunities and vacancies, with a standard way of evaluating and recording certain skills possessed by applicants.

Technical services. This will promote cutting-edge work in areas such as a programme of research into fibre development, new product development and process technology, to place South Africa in the forefront of global industry in new technology products in the TCF industries. This requires research partnerships where appropriate with universities, technikons, CSIR and international institutes.

Business innovation. This will provide a forum to publicize new business practices, developments in management, information dissemination about the state of the industry, latest fashion trends, etc. It will take the form of a regular newsletter and seminars for people in the industry.

Education and Training Services: This Chamber will take the legal form of the SETA for the sector, and develop training policy for the sector, monitor its effectiveness, compile information on the skills profile for the sector, and work with training providers to respond more effectively to emerging needs in industry. It will undertake regular skills audits in the industry.

Industrial homeworker and SMME Services: This Chamber will provide a number of customized services both for workers in industrial home work and for the users of their services, and for small enterprises in the sector.

These will include a register of homeworkers, collection of data on the extent of such outwork and monitoring of the social and industrial dimensions of home work in the industry. It will also serve as a referral to help homeworkers access the services, where appropriate, of other chambers, for example, training and skill enhancement, or adapting some packages of the social services to industrial homeworkers, or specialized IT services.

The Small Business Promotion services will provide logistical and information help to small businesses in dealing with legislation, tax, regulations, managerial services, quality

improvements, access to capital, government incentive opportunities, etc. It will also assist small businesses to access the services available in other chambers.

Institutional form: The Council on Fashion will be the single new BC, with a number of chambers for different areas of work. The SETA would 'affiliate' to the BC (this may require some amendment to the legislation).

Joint meetings of all stakeholders: The Council on Fashion, the government liaison committee and the retailer liaison committee should meet on a regular basis, to evaluate the progress of the sector in employment, output, trade and investment. This structure should also manage the Restructuring Fund for the fashion industry. These meetings could be held on a quarterly basis, chaired by the Minister of Trade and Industry, with senior delegations from all constituents.

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2. “Homeworkers in Paraguay” (*Series on Homeworkers in the Global Economy*), María Victoria Heikel, 2000
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