



**Industrial relations in
the port of Durban:
The implementation of the
National Dock Labour Scheme**

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Contents

1	INTRODUCTION	9
1.1.1	<i>Double Transition and Industrial Relations</i>	11
1.1.2	<i>Methodology</i>	14
1.1.3	<i>Comparative Dock Labour Schemes</i>	15
1.1.4	<i>Historical analysis of industrial relations in the Port of Durban</i>	16
1.1.5	<i>The Implementation of the pilot Dock Labour Scheme</i>	19
1.1.6	<i>Conclusion</i>	22
2	DOUBLE TRANSITION AND INDUSTRIAL RELATIONS	24
2.1	THE ROLE OF LABOUR IN POLITICAL TRANSITION	24
2.1.1	<i>Economic crisis and racial-Fordism</i>	25
2.1.2	<i>Racially skewed manufacturing and consumption</i>	27
2.1.3	<i>The irrelevance of racial-Fordism?</i>	29
2.2	PRE-ELECTION COSATU AND ANC ECONOMIC POLICY	31
2.2.1	<i>'Growth through Redistribution'</i>	31
2.2.2	<i>Scenario Planning</i>	33
2.2.3	<i>The redevelopment of ANC economic policy</i>	34
2.2.4	<i>COSATU's Industrial Strategy Project, 1990-1995</i>	37
2.2.5	<i>The Macroeconomic Research Group, 1993</i>	39
2.3	THE RECONSTRUCTION ACCORD	42
2.3.1	<i>National liberation movements and labour in Africa</i>	42
2.3.2	<i>Comparative state-labour accords</i>	46
2.3.3	<i>The National Party, COSATU and the emergence of corporatism</i>	48
2.3.4	<i>COSATU's 'strategic unionism' and 'radical reform'</i>	49
2.3.5	<i>COSATU's pre-election negotiations and mass actions</i>	51
2.3.6	<i>The Electoral Pact</i>	54
2.4	POST-ELECTION ANC ECONOMIC POLICY AND COSATU.....	56
2.4.1	<i>Worker expectations and institutional reforms</i>	57
2.4.2	<i>COSATU's LRA campaign</i>	60
2.5	FROM THE RDP TO GEAR.....	61
2.5.1	<i>Privatisation and the National Framework Agreement</i>	63
2.5.2	<i>Growth, Employment and Redistribution</i>	64
2.5.3	<i>Regulated flexibility</i>	67
2.5.4	<i>Neo-liberalism and the 'hollowing out of the state'</i>	70
2.6	FLEXIBLE LABOUR MARKETS?	73
2.6.1	<i>Types of flexibility</i>	76
2.6.2	<i>Flexibility as post-Fordism?</i>	78
2.6.3	<i>Neo-Fordism</i>	81
2.6.4	<i>The legal status of casual workers</i>	84
2.6.5	<i>Insiders and outsiders</i>	88
2.7	BARGAINED LIBERALISATION AND INDUSTRIAL RELATIONS	92
2.7.1	<i>What scope for 'Bargaining' and 'Compromise'?</i>	95

2.8	CONCLUSION	96
3	METHODOLOGY.....	100
3.1	A CASE STUDY APPROACH.....	101
3.1.1	<i>South Africa's port industry and the significance of Durban.....</i>	<i>104</i>
3.1.2	<i>Employment in the Port of Durban.....</i>	<i>108</i>
3.1.3	<i>TGWU Proposal for a National Dock Labour Scheme.....</i>	<i>110</i>
3.2	RESEARCH METHODS	111
3.2.1	<i>Comparative industrial relations</i>	<i>112</i>
3.2.2	<i>Historical contextualisation.....</i>	<i>114</i>
3.2.3	<i>Fieldwork.....</i>	<i>115</i>
3.3	CONCLUSION	121
4	THE STRATEGIC POSITION OF DOCK WORKERS AND COMPARATIVE DOCK LABOUR SCHEMES.....	123
4.1	THE STRATEGIC POSITION OF DOCK LABOUR.....	125
4.1.1	<i>Union power</i>	<i>127</i>
4.1.2	<i>The stevedoring labour process</i>	<i>129</i>
4.1.3	<i>The dock labour market</i>	<i>131</i>
4.2	THE STRATEGIC POSITION OF UNIONISED DOCK LABOUR.....	133
4.2.1	<i>'Insider' and 'Outsider' Theory.....</i>	<i>133</i>
4.3	THEORIES OF DOCK STRIKES	140
4.4	CONVENTIONAL CARGO AND CASUALISATION	149
4.5	DECASUALISATION AND CONTAINERISATION.....	152
4.5.1	<i>Containerised cargo and the labour process.....</i>	<i>158</i>
4.6	PRIVATISATION AND DEREGULATION.....	160
4.6.1	<i>Alliances, Mergers and Acquisitions.....</i>	<i>161</i>
4.6.2	<i>Globalisation and port privatisation.....</i>	<i>164</i>
4.6.3	<i>Deregulation, Privatisation and Unions.....</i>	<i>171</i>
4.6.4	<i>The ILO's review of Dock Labour Conventions.....</i>	<i>174</i>
4.7	CONCLUSION	175
5	THE HISTORICAL CONTEXT OF INDUSTRIAL RELATIONS IN THE PORT OF DURBAN 178	
5.1	DURBAN'S DOCK LABOUR MARKET TO 1959.....	179
5.1.1	<i>The colonial dock labour market</i>	<i>180</i>
5.1.2	<i>Colonial labour and the 'Durban system'</i>	<i>182</i>
5.1.3	<i>The establishment of SAR&H.....</i>	<i>184</i>
5.1.4	<i>The emergence of racially segregated trade unions</i>	<i>185</i>
5.1.5	<i>The demise of the Industrial and Commercial Workers Union.....</i>	<i>186</i>
5.1.6	<i>SAR&H under the Pact and United Party governments</i>	<i>187</i>
5.1.7	<i>'Togt' dock worker union organisation</i>	<i>189</i>
5.1.8	<i>SARHWU and SACTU</i>	<i>192</i>
5.2	THE DURBAN STEVEDORING DOCK LABOUR SUPPLY COMPANY	194

5.2.1	<i>The strike of 1969</i>	199
5.2.2	<i>SAR&H in the 1970s</i>	203
5.2.3	<i>The Durban strike wave</i>	205
5.3	THE INTRODUCTION OF CONTAINERISATION IN SOUTH AFRICA	206
5.3.1	<i>Shipping under the National Party</i>	207
5.3.2	<i>Container shipping and the National Party</i>	208
5.3.3	<i>Containerisation in the port of Durban</i>	210
5.4	THE WESTERN PROVINCE GENERAL WORKERS UNION	215
5.4.1	<i>Cape Town</i>	216
5.4.2	<i>The General Workers Union</i>	218
5.4.3	<i>The General Workers Union in Port Elizabeth, East London and Durban</i>	219
5.4.4	<i>The SATS dispute</i>	223
5.4.5	<i>SATS and licensing</i>	226
5.4.6	<i>The GWU and affiliation to COSATU</i>	229
5.4.7	<i>TGWU and UWUSA in Durban</i>	230
5.5	THE SOUTH AFRICAN RAIL AND HARBOUR WORKERS' UNION	232
5.6	CONCLUSION	238
6	CASE STUDY: THE IMPLEMENTATION OF THE DOCK LABOUR SCHEME	241
6.1.1	<i>Trade union organisation in the Port of Durban</i>	241
6.1.2	<i>Structural casualisation</i>	244
6.1.3	<i>TGWU's proposed NDLS</i>	245
6.1.4	<i>The Dock Casual Workers Organisation</i>	246
6.1.5	<i>Industrial action post-election</i>	250
6.1.6	<i>Reactions to the proposed NDLS</i>	250
6.2	PORTNET'S RESTRUCTURING	252
6.2.1	<i>Conceding negotiations</i>	257
6.2.2	<i>Estimating the costs of industrial action in the port of Durban</i>	259
6.3	NEGOTIATIONS	260
6.3.1	<i>Parties to the pool</i>	262
6.4	THE SPLIT IN THE TGWU.....	265
6.4.1	<i>Pool operations</i>	270
6.4.2	<i>Review of the pilot Scheme</i>	273
6.4.3	<i>New entrants</i>	274
6.5	THE SEIU'S IMPLOSION	275
6.5.1	<i>New SEIU leadership and TMS</i>	276
6.5.2	<i>November 2000 strike</i>	278
6.5.3	<i>The Ultimatum</i>	279
6.5.4	<i>The return of Cirah</i>	280
6.5.5	<i>The failures of the pilot Scheme</i>	281
6.6	PORTNET'S PRIVATISATION	283
6.6.1	<i>National Party and ANC port privatisation policy</i>	284
6.6.2	<i>The ANC government's Ports Policy</i>	287

6.6.3	<i>The November 2001 strikes</i>	289
6.6.4	<i>Revised Ports Policy</i>	292
6.6.5	<i>Market solution?</i>	294
6.7	CONCLUSION.....	296
7	CONCLUSION	299
APPENDIX A	THE HISTORICAL DEVELOPMENT OF THE BLACK TRADE UNION MOVEMENT	310
APPENDIX B	COMPARATIVE DOCK LABOUR POOLS	329
APPENDIX C	DESTABILISATION, TRANSPORT DEPENDENCY AND CONTAINERISATION IN THE PORT OF DURBAN	343
APPENDIX D	SHIPPING AND THE PORT OF DURBAN IN THE 1990s	351
BIBLIOGRAPHY		354
7.1	PRIMARY SOURCES	354
7.2	SECONDARY SOURCES	361
GLOSSARY		384
	SELECT ACRONYMS AND ABBREVIATIONS	384

Figures

Figure 1	Working Days Lost South Africa 1990-2000	57
Figure 2	Annual percentage growth in Gross Domestic Product 1990-2000	72
Figure 3	Total number of employees (salary and wage earners) South Africa –1998-2001	75
Figure 4	Total TEUs Port of Durban – 1994-1999.....	107
Figure 5	Split of container expenditure in the port of Durban – 1994.....	108
Figure 6	Total full-time and part-time employment transport, storage and communications sector South Africa - 1998-2001.....	109
Figure 7	Supply and demand curve for unskilled and skilled dock workers	134
Figure 8	Cargo landed in Durban, 1962-1970, tonnes	200
Figure 9	COSATU's transport unions membership 1987-1999.....	242
Figure 10	Typical Port Wharfage Charges	254
Figure 11	Total Waterfront Charges	255
Figure 12	Current capital spending as a percentage of long term capital requirements	256

Tables

Table 1	Percentage share of the labour force by access to modern consumer economy	74
Table 2	Registered trade unions, employers' organisations and bargaining councils (1993-98)	89
Table 3	Transport and Communication sectors contribution to total GDP: 1993-2001 (Rand million)	104
Table 4	Overview of South Africa's port industry structure and product market	105
Table 5	Tonnages handled at South African ports 1994 (million tons per annum)	105
Table 6	Forecast of SADC regional port throughput, 1995-2017 – medium growth scenario	106
Table 7	Dock worker employment - an international comparison	154
Table 8	Work organisation and skills on general cargo and container operations	159
Table 9	Models of Port Organisation	161
Table 10	Employment of Whites and Blacks on South African Railways and Harbours, for selected years - 1926-75	188
Table 11	Semi-skilled stevedoring labourers 1964-68	198
Table 12	Employment figures and average earnings in SAR&H - 1971	203
Table 13	South African stevedoring companies - 1960-82	212
Table 14	Approximate stevedore retrenchment numbers in South Africa - 1970-1992	222
Table 15	Union Membership Portnet Durban - 1996	243
Table 16	Employment status in the dock labour market - port of Durban 1996	248
Table 17	Transnet - Net operation profit/(loss) after finance cost R million	252
Table 18	Selected dock labour Schemes and privatisations internationally	339
Table 19	Mozambique's port traffic (million tonnes) – select years	347
Table 20	Summary of international traffic SADCC 1982 (million tonnes)	350

SYNOPSIS

This thesis investigates South African industrial relations through a case study of the implementation of a pilot dock labour Scheme in the port of Durban which was part of the Transport and General Workers Union's (TGWU) proposed National Dock Labour Scheme (NDLS). The case study is selected to examine dock workers in the port of Durban, Africa's largest container port. The NDLS reform sought to regulate the stevedoring industry's dock labour supply through establishing an industry wide port labour pool system for registered dock workers. This initiative reflects an attempt to address a wider malaise confronting organised labour post-apartheid, the prevalence of labour brokers supplying casualised labour and the inadequacy of new labour regulations to address this increasing feature of the labour market. The NDLS implementation is an example of the effectiveness of the trade union federation the Congress of South African Trade Unions (COSATU), its affiliates' organising strategies, and its alliance with the African National Congress (ANC) government. Key ANC government policies for labour market flexibility and privatisation in the restructuring of Portnet's operations (the state owned port authority) are examined against the implementation of the NDLS. The dilemmas of Portnet's restructuring exacerbated the division between permanent and casual dock workers organised by COSATU affiliates. This led to the emergence of a splinter independent union in March 1998 that presided over a pilot dock labour Scheme in the port of Durban until its dissolution in March 2001 when the independent union effectively imploded due to the corruption of its leadership. This was followed by the ANC government's announcement to concession Durban's container terminal operations to the private sector in April 2002. However, dock workers in Durban remain both strategically located in the South African economy and strategically positioned if organised effectively. This is despite the contradictions between labour market reform and privatisation policies as pursued by the ANC government.

DISCLAIMER

This work contains no material which has been accepted for the award of any other degree or diploma in any university or other tertiary institution and, to the best of my knowledge and belief, contains no material previously published or written by another person, except where due reference has been made in the text.

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1 INTRODUCTION

This thesis examines the emerging industrial relations system in South Africa through a case study of the implementation of the pilot Dock Labour Scheme in the port of Durban between 1994-2001. Within the port industry the focus is upon the role of affiliates of the largest trade union federation, the Congress of South African Trade Unions (COSATU). COSATU is examined due to its role in the formal political alliance with the African National Congress (ANC) government and the South African Communist Party (SACP).

The port industry is selected as a case study for a number of reasons. Ports provide a strategic service in the transport network for trade as their efficiency has an impact upon the wider economy. From a comparative historical perspective, the strategic location of ports within countries' economies has often provided leverage for the objectives of organised labour working within them. The hypothesis is that the port industry within South Africa may also provide a strategic position for organised labour to affect reform within the context of the COSATU-ANC alliance. This is examined through a case study of the implementation of the proposed National Dock Labour Scheme which aimed to decasualise the dock labour market.

Conversely, ports are subject to global market forces through their role in trade. For example, ports globally have been at the forefront of the introduction of new technologies, such as containerisation to speed up the turnover time of cargo. The port of Durban has similarly been subject to these global forces and is now Africa's largest container port. A precondition to the introduction of new technology and supporting infrastructures is extensive capital investment. In the last two decades the need for extensive capital has led increasingly to private sector involvement in ports globally where states previously maintained a key operational and regulatory presence.

The trend towards port privatisation has also had important implications for changes to the dock labour market and organised labour. The International Transport Workers Union (ITF) argues there is a linkage between port deregulation, privatisation, downsizing and casualisation of the dock labour market (Marges, 1996; 2001). Consequently, proposals for privatisation in South Africa's port industry will not only affect the market structure with changes in the ownership of port operations from the state to private sector, but this will also

affect the dock labour market. Consequently, this will test the effectiveness of South Africa's emerging industrial relations system and the ANC-COSATU alliance.

It is within this context that a proposal for a National Dock Labour Scheme by the COSATU affiliate, the Transport and General Workers Union (TGWU), first emerged in 1994. The circumstances and events surrounding the implementation of the NDLS reform were significant. This is due to the effect of industrial action before, during and after the pilot Scheme's demise in the port of Durban, which had a significant impact upon the competitiveness of the South African and wider regional economies.

The NDLS proposal consists of three initiatives. Firstly, the establishment of a Maritime Industrial Council to administer the NDLS. Secondly, the Maritime Industrial Council would determine the scope for the registration of casual dock workers for their inclusion within a single labour pool in each port that guaranteed a minimum number of day's work per week. The decasualisation of the dock labour market would be assisted through the state controlled port authority and operator, Portnet, regulating stevedoring employers to draw their variable labour requirements from the labour pool at equal unit cost. Thirdly, the Maritime Industry Training Board (MITB) would promote training and skills in the labour pool as a mechanism to both increase task flexibility and increase labour productivity and efficiency.¹

The South African experience reflects the contemporary international trend towards port privatisation with casualisation as a feature of labour market 'flexibility'. This trend has in turn affected organised dock labour. The South African experience in the attempt to implement the NDLS has proved contrary to many historical international comparisons, where unionised dock labour held a strategic position when allied to a supportive state. The case study is symptomatic of the wider dilemma of the ANC-COSATU alliance and the issues of privatisation and casualisation in the post-apartheid transition South Africa. The following outlines the structure and themes of the respective thesis chapters to develop this argument.

¹ Harvey, Harald (1994) "Proposal for the establishment of the National Dock Labour Scheme labour pool", TGWU, Johannesburg, pp. 1-9.

1.1.1 Double Transition and Industrial Relations

Chapter Two begins with an analysis of the importance of COSATU in both the political transition, where it entered into a formal alliance with the ANC and SACP, and its influence on determining the industrial relations system post-transition. The analysis is conducted under the theoretical framework established by Webster and Adler (1999: 349) of ‘double transition’, which relates to “states that are simultaneously consolidating democracy and reconstructing their economies”

COSATU’s aims for its alliance with the ANC post-1994 were to use both the influence of former union officials, now elected government officials, to promote economic reforms which would then be reinforced mass mobilisations in extra-parliamentary politics where necessary (Adler and Webster, 1995: 93; Webster, 1998). The utilisation of mass mobilisation was important to COSATU’s ability to influence apartheid’s industrial relations system and wider political reforms. COSATU’s continued utilisation of mass mobilisation and its alliance with the ANC government in the early 1990s however was in contrast to the international trends towards union decline and marginalisation. The position that emerged in the ANC government from the late 1980s and early 1990s was also profoundly influenced with the collapse of the Soviet bloc economies. The ANC leadership now faced fewer ideological and practical alternative paths for South Africa’s further development and reintegration into the global economy (Harris, 1993; Marais, 1998). However, with the necessity for both the ANC and COSATU to work together to achieve political transition, a consensus in the early 1990s emerged that saw the objective of economic transition to be facilitated by a new industrial relations system based upon corporatist institutions. These were to promote cooperation between the peak levels of government, union and employer bodies at the national, industry and workplace levels.

Central to COSATU’s economic and industrial relations’ strategies was a ‘Reconstruction Accord’ with the ANC. The accord aimed to develop a form of societal corporatism that had been prevalent in many industrialised economies during the 1970s and 1980s. This was seen by COSATU as a mechanism to guarantee its institutional role in the post- transition economy. This would also act to counter the situation experienced by other labour movements in Africa and elsewhere, where labour movements were subordinated to or marginalised by the post-colonial state. This process often related to international financial institutions’ (IFIs), as the World Bank and International Monetary Fund, terms for loans to states to implement economic structural adjustment programmes. Although the ANC

response to COSATU's strategy increasingly wavered in the lead up to the 1994 election, the ANC's election commitment to the *Reconstruction and Development Programme* (RDP) - developed in conjunction with COSATU - served to placate organised labours' demands for a formal reconstruction accord (Bond, 2000).

The role of COSATU in South Africa post-transition is then examined in relation to the emerging industrial relations system. COSATU has achieved some important concessions in alliance with the ANC government by establishing an institutional setting for compromise and bargained agreements (Webster and Adler, 1999). This has been formulated through labour legislation, such as the *Labour Relations Act 1995* and *Basic Conditions of Employment Act 1997* and bargaining institutions such as the National Economic Development and Labour Council (NEDLAC), industry Bargaining Councils and enterprise based Workplace Forums. However, the development and implementation of ANC economic policy is also assessed to demonstrate the marginalisation of the corporatist institutional bargaining framework. For instance, the RDP's implementation was soon marginalised and was followed by the ANC government's unilateral announcement to privatise state assets. Although the ANC conceded to COSATU's demands for mandatory negotiations on privatisation with the 1995 National Framework Agreement for Restructuring States Assets, the ANC's adherence to neo-liberal ideology was confirmed in 1996 with the release of the macro-economic strategy, *Growth, Employment and Redistribution* (GEAR), which was declared 'non-negotiable' (Bond, 2000).

The analysis of the industrial relations system post-GEAR outlines the key developments in the institutionalisation and marginalisation of COSATU (Barchiesi, 2000). Two of GEAR's key policy platforms, the privatisation of state assets and 'regulated flexibility', became critical to the development of the industrial relations system and labour market policy. This occurred in a context where COSATU and the International Labour Organisation (ILO) argued that South Africa's labour market was already 'too flexible'. As such, the 'flexibility' debate in South Africa has been based around questions as to the effectiveness of the industrial relations system in relation to addressing the casualisation of employment practices.

Webster and Adler (1995, 1999, 2000) argue the industrial relations system and COSATU's role within it is characterised by the movement away from what was termed strategic unionism to achieve 'radical reform' towards what's now termed 'bargained liberalisation'.

Bargained liberalisation emerged in South Africa in the context of the labour movement engaging in compromises with either the state or capital in the liberalisation of the economy in the post-apartheid political transition. This shift in language provides an insight into contemporary debates on South Africa's emerging industrial relations system. The earlier attempt to reconcile ANC and COSATU objectives through radical reform has been surpassed by the ANC government's adoption of neo-liberal policy (Kenny and Bezuidenhout, 1999).

The trend towards bargained liberalisation has led to concerns that the industrial relations system is being circumvented by the formal sector's utilisation of non-standard casualised employment. With South Africa's official unemployment rate over 30 per cent and the informal economy constituting around 40 per cent of total employment, non-standard employment is the norm (Bhorat et. al., 2001). This also reflects a worldwide trend towards the formal sector's utilisation of non-standard employment in an attempt by firms to access flexible labour markets. The form of 'flexibility' in South Africa is, however, being introduced onto a labour market shaped by apartheid and arguably exacerbated through the effects of globalisation (Kraak, 1996). The literature review raises the notion that forms of flexibility in South Africa follow a neo-Fordist model, although questions that its application is uneven across industries. This raises for Webster and Adler (1995: 92) an 'open question' as to COSATU's ongoing role and relevance in negotiating social and economic reform.

The neo-Fordist model is therefore central to assessing the types of flexibility that exist in South Africa and whether they reinforce the segmented labour market structured under the apartheid regime. Chapter Two develops the case that the selection of a particular industry is necessary and useful to assess the application of the industrial relations system and its relevance given the uneven application across all industries of forms of flexibility. This review of a specific industry will contribute to the flexibility debate that has emerged as a critical issue for the South African industrial relations system and the labour movement.

Similarly, COSATU affiliates' envisaged a role within institutional mechanisms to address issues as the casualisation of employment. However, this has instead contributed to their marginalisation and incorporation into the pursuit of neo-liberal policy with the ANC government (Bond, 2000; Barchiesi, 2000; Adler and Webster, 2000). This emphasis also relates to concerns that atypical employment is undermining the position of organised

labour and the corporatist industrial relations system. This in turn undermines the relevance of the COSATU-ANC alliance. This chapter highlights concerns over the form of corporatism in place, and whether it falls within what can be defined as ‘neo-corporatism’.²

The marginalisation of the labour movement is also symptomatic of wider trends towards flexible employment, or ‘neo-Fordism’, which in South Africa is being incorporated onto a labour market shaped by the apartheid regime. Casualisation is therefore imposing specific challenges to the relevance of the COSATU unions and the emerging industrial relations system.

1.1.2 Methodology

A case study method is employed in order to assess the types of changes envisaged in South African industrial relations at the national, industry and workplace levels (the pre-requisite levels of analysis to assess effective corporatist arrangements) (Webster and Adler, 1999). The port industry is selected to analyse the type of employment, industry structure and relative strength of representative COSATU affiliates. This exercise is carried out to examine the TGWU proposal of 1994 to regulate the casual dock labour market through the development of a NDLS as an example of corporate negotiations and labour market reform.

The case study explores the hypothesis that the NDLS may be implemented, firstly, due to the TGWU’s affiliation to the COSATU federation, which in turn is formally allied to the ANC government, and that organised dock workers are strategically positioned to affect change. This arrangement was envisaged to be part of a broader Reconstruction Accord preceding the 1994 election of the ANC government. Secondly, both comparatively and historically, dock labour has held a potentially strategic position in the economy and, consequently, the industrial relations system. This potentially provides organised dock labour with an advantage over other workers in their attempts to compel governments to implement favourable labour market reform in their sector.

² For example, Webster and Adler (1999) note that the necessary conditions for compromise which enable bargained liberalisation have not all been met, and that any form of corporatist arrangement needs to be realised at the national, industry and workplace levels to be effective. Natrass (1998) notes the difficulty of establishing a working accord given that COSATU is not prepared to concede to wage restraint (a prices and incomes accord) due to the existing levels of income inequality based on race. Baskin (2000: 54) also queries the relevance of an accord process based on the existing alliance. He argues this as labour has no effective voting bloc because former COSATU leaders in parliament must adhere to ANC government policy, which is contrary to comparative working models of social accords in which formal state-labour arrangements are significant. Indeed, Michie and Padayachee (1997: 169) note that no other model of social accord has existed with unemployment levels as high as South Africa’s.

The case study analysis of the implementation of the pilot Scheme between 1994 and 2001 is developed through multi-method research techniques (Yin, 1994). These include comparative industrial relations methods, an historical contextualisation, and a contemporary analysis based upon both secondary source accounts and primary field work research. Chapter Three provides a more detailed overview of each research method and the rationale for its application against which to assess the strategic position of organised dock labour. The remainder of the thesis is then divided into chapters dedicated to each of the supporting research techniques and incorporates their findings.

1.1.3 Comparative Dock Labour Schemes

Given the TGWU proposal for a NDLS is based on an international model, Chapter Four is a literature review of the historical comparative context of dock labour Schemes in order to assess the strategic position of organised dock labour. Across dock labour Schemes, a common element is either the state and/or unions' seeking the registration of dock workers on a port wide basis in order to limit labour supply. Registration then forms a basis to develop a work rotation and equalisation system, often based upon a minimum number of days per week, per worker, with a minimum attendance payment. This payment is supported through a combination of either a levy on employers or cargo, or through state financial support.

The historical comparison makes a distinction between the bargaining power of dock labour through an analysis of the labour process and labour market for both conventional and container stevedoring. Differences exist between these labour markets that stem from employers' demand for either casual, unskilled or permanent, skilled dock workers with employment levels dependent upon cargo types, volumes and levels of mechanisation and technology. However, a significant qualification of these levels of stratification of the dock labour market is that the sequential movement of cargo is common to both labour processes. This focus demonstrates that despite the different occupational cultures of conventional and container stevedoring, both groups of dock workers if organised and mobilised can have a strategic position to use industrial action to increase their bargaining power. The chapter then examines the definition and effect of industrial action.

Critically, the historical comparison then focuses on the role of the state in determining the type of regulatory environment governing labour supply. The role of the state is explored

here in relation to the introduction of containerisation and decasualisation. The effect upon industry structure through change, including new technology and privatisation, are significant aspects of the environment in which the level of state intervention in the regulation of the dock labour market and industrial relations systems is evaluated.

Over the last two decades the emergence of global port operators and carriers has consequently led to ports competing regionally. This is especially so in the container port market, in order to ensure a role in the process of global shipping and port service consolidation into hubs and spokes. This is a result of larger vessels servicing fewer hub ports, which, in turn, are fed transhipped cargo from smaller shipping services collecting cargo from smaller ports. The upshot of this transition is massive capital infrastructure and superstructure investment which states have initially invested but increasingly withdrawn from as the investment necessary for their continued operational viability have grown exponentially. Consequently, a trend has emerged where states forgo financial responsibility for port development through privatisation. In doing so some states have sought to create conditions conducive to foreign investors by withdrawing from the direct control over port operations and by deregulating the dock labour market. This is in order to reduce costs, limit the influence of trade unions, and force increases in productivity through lowering the number of workers.

A comparative examination therefore points to a global trend against the regulation of the dock labour market as proposed and piloted in South Africa. Significantly, the comparative examination also emphasises the importance of the historical context of the institutional and regulatory environment in each port and the relative strengths and weaknesses of the state, employers and unions involved in the establishment of dock labour Schemes, their ongoing maintenance or dismantling.

1.1.4 Historical analysis of industrial relations in the Port of Durban

The historical contextualisation of industrial relations in South Africa's port industry is undertaken in Chapter Five in order to explore the industry structure and relative power of stakeholders within it, specifically in the port of Durban. Within South Africa's port industry dock labour has historically been divided between state and private sectors, but internally structured on the basis of divisions between race, occupations and skills, and organised, permanent and unorganised, casual workforces.

The historical context reflects the major developments in the shipping and stevedoring industries, and conversely, 'black' trade union organisation. Since 1918 with the formation of South African Rail and Harbours (SAR&H) a sharp division has existed between ship based stevedoring and quayside wharf operations. Historically the state monopolised all quayside cargo handling activities, with private sector companies controlling the supply of all on-board stevedoring labour.³

The era of conventional cargo, traversing colonisation to the apartheid regime of the 1960s, is significant. The conventional cargo era firstly established the basis for migratory and casual labour for private sector stevedoring interests working primarily within ships' holds whilst, at the same time, consolidated the state's control over both ports and wharf-side cargo for white labour within South Africa's ports. The industrial relations system that was established under the apartheid regime can be seen as an intensification of that established under earlier regimes that attempted to consolidate divisions between black and white labour.

It is within this context that the port of Durban's dock labour market was based upon labour controls over the migrant black labour system, quashing nascent forms of black trade union organisation, and securing the cheap black labour system more widely. This was achieved to an extent with the monopoly supply of black labour for the private sector stevedores administered through the Durban Stevedoring Labour Supply Company (DSLSC) from 1959. However, it soon became apparent that the controls established under the apartheid regime were contradictory. The two mass sackings of the dock labour force between 1960 and 1970 were an indication of the limits of the effectiveness of the DSLSC in exercising labour controls. For both the private stevedores and SAR&H administration, the issue then emerged as to how long a system of the intensified exploitation of low cost black labour could stave off the introduction of increased mechanisation in the form of containerisation.

The introduction of containerisation in South Africa was subsequently mediated by the apartheid government's labour control policies working in conjunction with stevedoring firms. Durban handled its first container in July 1977 and the DSLSC was disbanded in 1979 when stevedoring companies realised that labour supply companies were no longer

³ Ports have historically been owned and operated by the state, firstly by SAR&H and its predecessor bodies South African Transport Services (SATS) from 1980 and Transnet from 1990, which has led to port charges being imposed from a monopoly position.

suited to their requirements (Morris, 1986a).

The introduction of containerisation in South Africa contrasted many other situations internationally. Firstly, with the advent of containerisation, many port authorities were encouraged not to undertake stevedoring by ship owners in order to reduce their monopoly power. However, with the advent of containerisation in South Africa SAR&H sought to monopolise container stevedoring, reflecting the increasingly important role South Africa's transport sector to both the national the wider regional southern African economies in the face of international economic sanctions (Berridge, 1987).

Secondly, in South Africa the issue of race was the key factor in the lack of intervention to assist labour market restructuring and therefore cushion the effect of mass retrenchment. With no collective bargaining structures the cost of technological change through containerisation was borne by the black workforce (Hemson, 1996a; 1996b).⁴

Thirdly, the capital cost of embracing container technology in the port of Durban also proved high for employers. This led to a situation where by 1982, South African Stevedores (SAS) emerged with a monopoly over private sector stevedoring in Durban, having prevailed over the demise of over thirteen stevedore companies from 1970 (Hemson, 1996b: 90).

Fourthly, a contradictory approach emerged from employers by their recognising the General Workers Union (GWU) in the early 1980s as a *quid pro quo* to stabilise the industry during the retrenchment process (Morris, 1986a: 110). The GWU's recognition by SAS was short lived due to the machinations of South African Transport Service's (SATS) alliance with its sister-state employers that sought to de-unionise the private sector stevedoring industry by the deregulation of stevedore licensing in 1982. Unionised stevedores were now under-cut by emerging smaller stevedoring firms that utilised almost wholly casualised labour forces.

The level of union organisation amongst Durban's dock workers was only re-addressed after the Federation of South African Trade Unions (FOSATU) was reformed and launched as

⁴ Consequently, employees in the private sector companies fell nationally from approximately 8,000 in 1970 to 2,800 in 1985. In Durban, South Africa's largest port, numbers fell from approximately 2,500 in 1970 to 1,250 in 1985 (Morris, 1986a: 94-95; Hemson, 1996a: 6).

COSATU in Durban in November 1985. The GWU then merged with the TGWU under the COSATU policy of 'one industry, one union'. Although this appeared to be a positive step towards the formation of a national federation, it posed political problems for the organisation of stevedores in Durban. As the new COSATU federation was firmly aligned to the ANC, opposition in Natal stemmed from the Inkatha aligned United Workers Union of South Africa (UWUSA). TGWU as politically aligned to the ANC were to bear the brunt of this antagonism based on both Zulu ethnicity and political allegiance to Inkatha in their attempts to organise Durban's stevedores. This led to UWUSA claiming majority membership among the workers of SAS in 1988. Only in 1991 was TGWU re-recognised following a referendum at SAS.

During this same period of the late 1980s, SATS management, as part of a wider state strategy hostile to the interests of organised black labour, aimed to destabilise trade union organisation amongst quayside dock and railway workers who were members of the COSATU affiliate the South African Rail and Harbour Workers' Union (SARHWU). SARHWU gained recognition from SATS in 1988 after a protracted struggle, but the subsequent organisation of the public sector only re-instated the divisions between quayside dock workers and private sector stevedores organised by TGWU. This hampered efforts to seek a united solution to address the structural casualisation of the dock labour market.

The legacy of these cumulative developments led to a situation in 1994 that can be characterised as the continuation of fractured stevedoring industry and market structures, divided between private and public sector stevedoring and cargo types. The labour market could also be categorised as racially divided in terms of labour process, work organisation and skill levels, which was mirrored by organised labour divided along the lines of public and private sectors, skill and race.

1.1.5 The implementation of the pilot Dock Labour Scheme

Chapter Six is a case study of the implementation process of the pilot Dock Labour Scheme in the port of Durban. The port of Durban was chosen to implement a pilot Scheme due to ongoing industrial action from dock casual workers organised by TGWU from 1994. This chapter discusses the contradictions that emerged among firstly, COSATU affiliates in the port industry organising casual dock workers, and secondly, the contradictions between both state asset restructuring and labour market policies.

Durban has the greatest proportion of casual dock workers in South Africa's harbours, constituting over 50 per cent of the dock labour market. Following the deregulation of stevedoring licensing, an estimated twenty-three stevedoring firms operated in Durban in 1997. From the late 1980s casualisation of the dock labour market was exacerbated by both Portnet's and the private sector's use of labour brokers to supply casual workers. The casual dock labour market was maintained in South Africa as part of apartheid labour policy from the late 1970s to weaken unions. That policy formed the basis for stevedores' profitability.

Firm differentiation between larger, established and multiple, smaller stevedores led to competition on the basis of casual wages and conditions. This in turn led to a decline in permanent employment and the number of dock workers organised by TGWU. Instability within industrial relations developed as a result of the conditions and led to initiatives within Durban between both the TGWU and the nascent Dock Casual Workers organisation to address the issue of casualisation.

The transition to an ANC government and expectations for the possibility of industrial relations and labour market reforms led the TGWU to propose the creation of a NDLS as a solution to casualisation. Post-election wild cat strikes by dock casuals in Durban were aimed at both private sector stevedores and Portnet, pushing them to concede to the establishment of the NDLS (Hemson, 1996: 100).

Confronted with ongoing industrial action and also directed by the 1996 'White paper on National Transport Policy' to address the issue of casual dock labour, Portnet agreed to be involved in the negotiations to establish the NDLS. However, Portnet first had to coordinate its own unions, including SARHWU, to establish a clear position on how it was to implement the NDLS. Under the spectre of possible privatisation, SARHWU's leadership faced the dilemma of members being retrenched from within Portnet and other Business Units within the over-arching state owned transport corporation (or parastatal), Transnet. SARHWU therefore proposed that their retrenched members be eligible for inclusion within the NDLS. Portnet were also pressured from SARHWU not to enter into agreements with TGWU to form a Maritime Industrial Council as it would affect SARHWU's existing collective bargaining structures within Transnet. With Portnet unions divided on this issue, Portnet management postponed initiating a labour pooling arrangement.

Portnet's cross-subsidisation of Transnet Business Units and its pension fund deficit complicated options for its restructuring of Portnet, thereby frustrating the implementation of the NDLS. As a result, TGWU dock casual workers embarked upon further strikes from November 1996. The campaign by TGWU's dock casuals led to negotiations between stakeholders in Durban, culminating with an 'in-principle' agreement to establish a pilot dock labour pool in April 1997.⁵ At the negotiations a 'national forum' was proposed to continue negotiations between stakeholders as an interim measure until the establishment of a Maritime Industrial Council could be resolved between SARHWU and TGWU.

Then in September 1997, TGWU called an 'International Day of Action' across South Africa's ports to demand progress on the implementation of the NDLS. An unforeseen consequence was a split within TGWU. This occurred when an organiser in Durban was suspended for alleged indiscipline by the TGWU's central leadership in Johannesburg. However, as the majority of casual dockers supported the organiser, they decided to form an independent break-away union. Consequently, a new union, the 'Democratic TGWU' was formed in November 1997 incorporating some 3,000 casual and a few permanent dock workers. This union was later registered as the Service Employees Industrial Union (SEIU).

After the TGWU split, negotiations resumed and led to the establishment in February 1998 of a pilot labour pool in Durban. The pool's management was later tendered to the labour broker Mech-Elect on the basis that the contract included the SEIU leadership having a measure of management consultation on a Board of Control (Hemson, 1998a). The pilot labour pool membership then grew to some 2,000 with a large number of those registered alleged to have never worked on the docks. The Department of Transport consequently investigated the labour pool's size due to safety concerns.⁶

With Portnet seen by employers as compromised in its dual function as an operator and authority, confusion reigned over state agency responsibility for oversight of the Scheme. This in turn impacted upon the willingness of private sector employers to support the Scheme and led to a challenge from a number of employers as to the constitutional basis for

⁵ A draft document 'The National Dock Labour Pool Principles' was introduced into negotiations in April 1997 (Portnet, 1997). Negotiations around Portnet's draft document included commitment to the creation of a Maritime Industrial Council to establish the labour pools.

⁶ This issue arose when the South African Maritime Safety Authority reported that the casualty ratio amongst stevedores rose by 500 per cent after the pool came into place. In its first week of operation there were seven reported accidents with serious injury as a result of untrained and inexperienced workers being sent on the job.

the pilot Scheme. Key employers then pulled out of the agreement and began again to source casual workers from labour brokers. A round of mergers and acquisitions signalled by the entrance of P&O Ports also led to the consolidation of existing workforces and a decline in the demand for casual labour.

Given the lack of state commitment, the direction of the pilot pool then shifted its emphasis from aiming to be a regulated Scheme to a commercial contract under the Scheme manager, Mech-Elect, in which the SEIU acted as a joint labour sub-contractor. However, the SEIU imploded after accusations of theft and corruption on the part of its leadership. These events eventually led to the demise of the pilot scheme in March 2001.

In June 2000 TGWU merged with SARHWU to form the South African Transport and Allied Workers Union (SATAWU) which was subsequently party to the establishment of the Maritime Bargaining Council (MBC) in 2001. However, by this time SATAWU had lost the support of the casual workers that TGWU had earlier attempted to organise.

The eventual restructure of Portnet into the National Port Authority (NPA) and Port Operations (SAPO) and the in-principle decision in 2002 to seek to concession Durban's container port operations also worked against the reconstitution of the pilot Scheme. The ANC government's Ports Policy then laid the basis to proceed with the concessioning of SAPO's operations to the private sector, which has further paralysed the implementation of labour market reforms.

1.1.6 Conclusion

Chapter Seven concludes with an assessment of the research hypothesis of the strategic position of COSATU affiliates in the port of Durban in relation to the implementation of the pilot dock labour Scheme. Similarities between the case study and the wider labour movement and industrial relations system are also discussed.

Webster and Adler in their theory of 'bargained liberalisation' argue that stalemate between actors is necessary in order for institutionalised negotiations to achieve compromises over market liberalisation and industrial relations reforms. In relation to the case study, a contradiction appears to have emerged for the ANC government commitment to the NDLS proposal and its later policy to commence port privatisation in Durban. The NDLS case study demonstrates a lack of an effective stalemate and negotiated compromise given the

failure of any market based bargaining and the lack of state participation, let alone regulation, to effect its implementation. This contradiction was exacerbated due to the COSATU affiliates organising workers separated by both their status in the labour market, either permanent or casual and public or private sector. However, there were limitations placed on COSATU affiliates given their continued support for the alliance with the ANC government. These factors precluded organised dock labour being party to an effective stalemate to achieve compromise, prerequisites for 'bargained liberalisation'. Rather, the outcome of the case study illustrates concerns that the ANC's prioritising economic policy is marginalising the formal industrial relations institutions established to consolidate participatory decision-making processes – a strategy of COSATU.

Despite this outcome for organised labour, the issues driving the NDLS reform remain unaddressed, whilst the role of dock labour and industrial relations stability in the port of Durban remains a critical issue for the wider South African economy. The deferral of any mechanism to stabilise industrial relations in the port of Durban based on a market solution entails employers' bargaining with militant permanent and casual work forces. Concessioning could lead to an attempt to further marginalise dock casual workers through the rationalisation of the existing Portnet workforce. The role of SATAWU may well be to 'bargain liberalisation' for their existing workforce to the exclusion of the dock casual workforce they earlier attempted to organise under the NDLS.

Circumstances within the port industry that are similar to the wider industrial relations system include the effectiveness of COSATU's alliance with the ANC government, the issue of privatising state assets and status of organised labour within these restructuring processes, and the status of organising casual workers.

In summary this thesis argues that the strategic position of organised dock labour had received limited effective support through the ANC-COSATU alliance. However, dock workers remain in a strategically located position in comparison to other workers in other industries. They have demonstrated that when effectively organised and mobilised they have the ability to leverage significant economic pressure on the South Africa economy. As it remains unclear how concessioning of port operations to the private sector is to restabilise industrial relations, the failure of the NDLS should not detract from the potential bargaining power of dock workers in the port of Durban.

2 DOUBLE TRANSITION AND INDUSTRIAL RELATIONS

In order to provide both a theoretical and historical background to the emerging South African industrial relations system, this chapter is divided into three parts. Part one provides an historical account of the emergence of the black trade union movement in South Africa and, in particular, the COSATU federation, its alliance with the ANC government, and the challenges facing their relationship in the lead up to the 1994 election. Part two then provides an account of the relationship in the post-election period. This focuses on developments in industrial relations and wider economic policy, and the contradictions that are emerging between the two, especially in relation to notions of flexibility in the labour market and the relevance of the emerging industrial relations system. Webster and Adler's theory of bargained liberalisation is then outlined as a framework to assess the relevance of the industrial relations institutions and legislation developed under the ANC government. They argue that a sectoral analysis is necessary to provide the scope to more fully evaluate the characteristics of the emerging industrial relations system.

2.1 THE ROLE OF LABOUR IN POLITICAL TRANSITION

Webster and Adler's theory of double transition applies to South Africa's transition from the National Party's white minority apartheid regime to a democratic ANC government from 1994, coupled with the current attempt to transform South Africa's economy. Despite the centrality of the labour movement in shaping the institutions, policies, and practices of the transition process to date, Adler and Webster (1995: 92) argue it is an 'open question' as to COSATU's continued influence on the political decision making processes shaping the economy. This situation stems from the post-political transition paradox, where COSATU now faces unprecedented opportunities and threats in its power relations with the ANC government (Webster and Adler, 2000: 5).

A historical analysis of South Africa's industrial relations system to provide a background to the emergence of COSATU is at Appendix A. This includes the development of the black trade union movement within the apartheid industrial relations system. This traverses: the establishment of the first black trade union, the Industrial and Commercial Workers' Union (ICU) during the first world war; the Council of Non-European Trade Unions (CNETU) during the second world war; the ANC aligned South African Congress of Trade Unions (SACTU) in the 1950s; and, the emergence of independent trade unions and

formation of the Federation of South African Trade Unions (FOSATU) during the late 1970s - the precursor to COSATU.

COSATU was launched in November 1985 and in July 1987 committed its support to the ANC and its de facto domestic civic organisation, the United Democratic Front (UDF). With the banning of the UDF, one of seventeen organisations, in February 1988, COSATU filled the resulting political vacuum as part of the so-called the Mass Democratic Movement in 1989 (Eidelberg, 2000: 133). From 1990 COSATU reorientated itself with the formation of a 'Tripartite Alliance' comprising the ANC, COSATU, and the SACP (van der Walt, 1996: 17-8). By 1991, three million workers were unionised in South Africa of which an estimated 1.2 million were COSATU members (Joffe, Maller and Webster, 1993: 14; Baskin, 1991: 448). The following outlines the process by which COSATU in the political transition entered into a formal alliance with ANC and its influence on determining the industrial relations system both pre and post the 1994 democratic transition.

2.1.1 Economic crisis and racial-Fordism

The 1980s began with an upturn in the gold price followed by a further collapse. As such, the decade was also marked by stagnation in output and growth, massive and expanding levels of unemployment and no net job creation in the manufacturing sector.⁷ This was coupled with a trend towards a reversion to primary production with an increased significance in mining and the export of primary commodities (Black, 1991).

Pressure to reform the political and economic structure of the apartheid growth model was also brought about as a state of ungovernability prevailed in 1984 and 1985, which led to domestic and multi-national capital disinvestment and the slowing of the inflow of international finance (Bond, 1991: 49).⁸ For example, in July 1985, due to the announcement of the state of emergency, Chase-Manhattan bank pulled out US\$500 million of credit to South African banks and forced the government to close the Johannesburg Stock Exchange (JSE). The government then introduced a new devalued currency - the financial rand - to stem capital flight, and declared a debt repayment 'standstill' (Bond, 1991: 75-78).

⁷ The number of White, Coloured, and Asian jobless increased by 250 per cent in the three years from January 1974 (Saul and Gelb, 1986: 77).

⁸ Examples included from 1982 international pressure restricting South Africa's IMF monetary access (Padayachee, 1991). This situation lasted up until 1993 when the National Party drew down the US\$850 million IMF Compensatory and Contingency Financing Facility (Katsouris, 1994: 26).

Following the debt crisis of 1985, South Africa became a net exporter of capital (Marais, 1998: 120).⁹ Along with the drying up of financial credit, sanctions also had an increasing effect.¹⁰ By 1986 foreign debt amounted to 36.3 per cent of Gross Domestic Product (GDP) (Department of Foreign Affairs and Trade, 1994: 22). The annual GDP growth rate in South Africa between 1980 and 1990 declined to 1.3 per cent (COSATU, 1992: 9).

The debt crisis, through its restrictions upon access to finance capital, led domestic capital to pressure the National Party government to implement political reform (Mann, 1988: 80). South African capitalist conglomerates in turn forced the National Party “to cope with new fronts of opposition that the ANC could not have opened on its own” (Davis, 1987: 98).

It was within this context that the 'Great economic debate', as it was labelled in South Africa from mid 1980 into the early 1990s, emerged with the prospect of a transition to democracy and what this entailed for the economy (Munck, 1994). The debate was set on addressing the inadequacies of both the liberal and radical theses (Nattrass, 1991).¹¹ Both arguments were now perceived to be inadequate as neither on their own provided an empirical basis for understanding how to move the economy onto the higher growth path necessary for a stable and sustainable post-democratic economic transition.¹² Indeed, Nattrass (1991: 673) has

⁹ Fine and Rustomjee (1996: 247) calculated the debt freeze from 1985 has led to illegal capital flight amounting to as much as 7 per cent of GDP per annum on average between 1970 and 1988.

¹⁰ The economic costs of sanctions included an oil embargo, which was estimated to have costs \$25 billion between 1973-84. Sanctions by developed countries against South Africa's exports between 1983-87 also led to a reduction equivalent to 12 per cent of South Africa's non-gold exports and 7 per cent of total exports. The Trust Bank of South Africa estimated during the period 1985-90, sanctions and disinvestment cost South Africa around \$20 billion and reduced per capita incomes by 10 per cent (Kaplinsky, 1992: 87-8).

¹¹ The debate included 'liberal' economists who argued the apartheid political system hampered the ability of free market capitalism to bring about greater rates of growth. Although apartheid's control and supply of cheap black labour may have been beneficial for the profits of individual *capitalists*, they argued it distorted *capitalism* as a system in South Africa and in the longer term made it uncompetitive (Nattrass, 1991: 659). On the other hand, the 'radical' theorists, who were largely influenced by the structural Marxist tradition which focussed on the primacy of the class paradigm, and argued the apartheid state was functional to both capitalists and capitalism (Nattrass, 1991: 666; Webster, 1995a: 4). This occurred on the basis of cheap black South African and migrant labour control and supply (Wolpe, 1972; Leggasick, 1974). Wolpe (1988: 8), however, later argued against any notion of a tight fit between apartheid and capitalism, and instead saw the relationship as “historically contingent” and “Janus-faced, being simultaneously functional and contradictory”.

¹² Nattrass (1991: 670) notes this occurred as “their conclusions about the relationship between apartheid and capitalism were more a function of underlying theoretical assumptions and premises than the result of inductive reasoning from empirical evidence”.

argued that the political developments in the 1980s demonstrated that the apartheid state was no longer functional to the needs of capitalism.

To influence this debate COSATU established the Economic Trends Group in 1987. The impetus for the group sprang from 1986 when COSATU sought to assess the impact of sanctions and the wider South African economy. Stephen Gelb coordinated the Group's subsequent research into this area. This research was later expanded as COSATU sought a general analysis of the economy as a basis from which to "intervene more effectively in the wider debate on the economy's current problems and future directions" (Gelb, 1991: xi). By 1990, the Group comprised over twenty of South Africa's "progressive economists, economic historians and social scientists" (1991: xi). The Group's report, The Economic Crisis: Recent economic trends in South Africa, was presented to COSATU in 1988. An edited and revised version, South Africa's Economic Crisis, appeared in 1991.

Within these texts Gelb introduced 'regulation theory' as a strategy to redefine the institutions and structures within COSATU and a democratic government in an attempt to transform the 'mode of regulation' of South Africa's political economy. The use of regulation theory emphasised South Africa's form of racial capital accumulation which "explains the transformation of long run apartheid boom to economic crisis and then analyses the crisis itself" (Gelb, 1988: 34). Gelb's analysis of the 'growth model' of the South African political economy was now represented as 'racial Fordist regulation', with both production and consumption racially structured (1988).

According to Gelb's adaptation of regulation theory, economic crisis emerged as a disjuncture between the 'regime of accumulation' (a combination of production and distributional conditions) and the 'mode of regulation' of the economic system (the set of social institutions and norms that organise the economy and mediate conflicts) (cited in Moll, 1991a: 561). Crisis emerged when the "two become dysfunctional and need to undergo various kinds of economic and political restructuring" (*ibid*: 561). This theory, whatever its merits now, provided COSATU with the foundations for its economic strategy (Maller and Dwolatsky, 1993).

2.1.2 Racially skewed manufacturing and consumption

Gelb's description of 'racial Fordism' was based on Western Europe's Fordism model, which boosted mass consumption (through wage increases, larger social spending and

stabilised labour relations through collective bargaining agreements). Similar measures were applied in South Africa but only within the white society (Marais, 1998: 36, footnote 65). Gelb (1991: 13) notes “the post-war combination of apartheid and import substitution industrialisation (ISI) in South Africa can be seen as defining characteristics of a 'racial Fordist' growth model [where] ...both production and consumption were racially structured”. Gelb (*ibid*: 15-6), however, saw sub-Fordism, a caricature of Fordism, as descriptive of apartheid's attempt "to industrialise by using Fordist technology and its model of consumption, but without either its social labour processes or its mass consumption norms". The long-term structural crisis in the South African economy – characterised by the ‘over-accumulation’ of capital - was reflected in the persistent over-capacity and over-production of luxury manufactured goods for the white upper-income consumer market, with growing surpluses of unemployed black workers, heightened financial speculation and intensifying geographical unevenness (Bond, 2000: 18).

In order to restabilise the economy the Economic Trends Group envisaged the need for a form of 'inward industrialisation' strategy as black urbanisation had led to a shift in the distribution of incomes and the composition of consumer demand. This then provided both economies of scale and scope from which to expand and transform production (Gelb, 1991: 31). This alternative economic strategy would produce a lower but more sustainable rate of growth if consumption levels were raised within a relatively short time-scale (*ibid*: 31). In their alternative economic strategy a central role was accorded to the state, specifically to provide a counterweight to the conglomerates which dominated the economy.¹³

Importantly, however, these formulations deriving from the Group's adaptation of regulation theory also necessitated implementing a 'new' growth model by setting a theoretical groundwork for neo-corporatism to redefine the mode of regulation. This would require co-operation, rather than conflict, between business, labour and government, in the sectoral planning process (*ibid*: 31). Gelb envisaged that a result of such co-operation

¹³ The proposals by the Economic Trends Group proved highly problematic due the highly concentrated conglomerate structure in South Africa in which five corporations controlled more than 80 per cent of the shares on the Johannesburg Stock Exchange (JSE) (Michie and Padayachee, 1997: 156). Each mining house has a corresponding holding company for its industrial activities but also a matching set of financial institutions (Fine, 1995: 112). Bond (1991) argues the conglomerates' dominate external finance to industry and subordinate banks to non-bank financial intermediaries within the conglomerate structure. This reinforces non-bank intermediaries' relative immunity from state control. Thus, both Bond and Gelb in their analysis stressed the need for the use of anti-trust policy to restructure the financial networks of the conglomerates. An 'enabling state' was therefore envisaged to be targeted and selective, based upon sectoral planning, where intervention would be pervasive and far-reaching in shaping the activities of economic agents (Kaplinsky, 1992: 95; Gelb, 1991: 31).

would be employment creation through labour-intensive industrial expansion involving trade-offs with productivity growth. Productivity would derive from a sectoral planning approach incorporating new forms of work organisation and methods of production (*ibid*: 31-2). Again, COSATU would be a central actor in this corporatist and sectoral industry strategy.

2.1.3 The irrelevance of racial-Fordism?

The initial critiques of Gelb's adaptation of regulation theory argued that it was fundamentally flawed by the "absence of empirical support for ...the economic trends central to their analysis" (Nattrass, 1991: 676).¹⁴ Maller and Dwolatsky (1993: 2) argue the Fordist framework "obscured much of the complexity within national economies and important differences between them". They also argue that the economic crisis in the South African economy was characterised by an uneven Fordist labour process that overlapped with other methods of organising work (*ibid*: 3).¹⁵ Because of this unevenness, the limited market identified by Gelb shaped the way in which work was organised. They therefore conclude that South Africa's manufacturing sector has never been characterised by the Fordist model, as mass production was not a feature (*ibid*: 14).

For Fine and Rustomjee (1996: 22), Gelb illustrates the point of the "dual dependence of South African intellectual development on internal events and external theory".¹⁶ Fine (1995) and Fine and Rustomjee (1996: 217) instead argue their concept of a Minerals Energy Complex (MEC) has incorporated the 'Fordist' industrialisation that has occurred in South Africa, as this was "typical of production around the MEC core sectors". The MEC is

¹⁴ Nattrass in a critique of Gelb's earlier work (1988) argues that the rate of profit in *manufacturing* is a key economic indicator to demonstrate that Gelb's periodisation of a declining rate of profit is incorrect (1989: 68). Nattrass (1989: 75) concludes, that "declining profitability does *not* imply that apartheid was dysfunctional to capitalism [as] ...[r]apid rates of accumulation can co-exist very easily with high but declining profitability". However, contrary to Gelb (1989: 75), "one should not portray South Africa during the 1960s boom as (racial) Fordist regulation, because such characterisation implies macro-economic *balance* between production and consumption such the *profit rates do not fall*".

¹⁵ For Kraak (1996: 41), Fordist production methods which emerged in South Africa in the 1960s-70s feature a "tendency towards centralisation and concentration of production; Taylorism and scientific management; linear work sequencing and the introduction of the moving assembly line; dedicated machinery and economies of scale; mass consumption based on relatively high standards for whites; and a racially exclusive and interventionist state".

¹⁶ Fine and Rustomjee (1996: 217) note: "It is worth observing that regulation theory has increasingly become eclectic and middle-range in which, for the latter, stylised empirical observations are interpreted as structures which are more than capable of explaining the empirical evidence from which they have been derived". Fine and Rustomjee (1996: 217) also argue Gelb's (1991) racist Fordism approach "has sunk without trace in the rush to post-apartheid economic policy-making, not least in Gelb's own work".

based on mining and related manufacturing sub-sectors, rather than Gelb's characterisation of a sharp division between mining and manufacturing capital. Therefore, a hybrid but implicit 'type' of Fordist regime of accumulation existed in South Africa encompassed within the MEC.¹⁷ They therefore argue that because the process of industrialisation in South Africa is more around primary production than the consumption of goods, "notions that South Africa has industrialised and that its industrialisation is consumption-sector based ...represent false starting points" (Fine, 1995: 112).¹⁸

Fine and Rustomjee (1996: 242) conclude that Gelb's (1987) notion of racial Fordism reflects:

the imposition of a questionable regulation theory originally developed for other purposes with limited purchase on the peculiar features of the South African economy. It is quite incapable of dealing with its complexities and differences at the level of detail.

Bond (2000: 255) similarly argues that "the 1987-1991 rise and collapse of the seminal (if profoundly flawed) poli-econ perspective, 'Regulation Theory', is indicative of the dog days of South African radical analysis". However, despite the range of critiques outlined above, the form of wider macro-economic policy intervention within corporatist institutions implicit in regulation theory became central to the 'Growth through Redistribution' framework endorsed by the ANC and COSATU in May 1990 (Bond, 1991: 30-1). As Gelb noted in the forward to his edited *South Africa's Economic Crisis*, "substantial use had been made of the completed research of the Economic Trends Group" (1991: xii).

¹⁷ An example of this dominance of primary production was that precious metals and base minerals still accounted for 72.6 per cent of South Africa's total exports in 1995 (Horwitz, 1995: 258). Fine argues that by unravelling the South African MEC "mode of operation and its intimate relations to the state and finance it is possible to address the issue of the weakness of manufacturing" (Fine, 1995: 110-11; Black, 1991; Fine, 1992).

¹⁸ The characteristics of the MEC for Fine are defined by three interrelated factors. Firstly, the MEC is the core of the economy that in turn fosters linkages to other sectors. Central to this thesis is the coal industry, which is responsible for 80 per cent of the country's primary energy needs, and in turn provides 20 per cent of the country's exports (one third of non-gold). The vast majority of coal for energy occurs through either its conversion into electricity (over 50 per cent) or into oil (30 per cent). This is primarily due to its use in mining and mineral processing, accounting for 40 per cent of its consumption (Fine, 1995: 111). Fine (1995: 111) argues that the majority of this core of the MEC is "unambiguously dependent upon Fordist inclined production". Secondly, in specifying the nature of the MEC, "whilst the relative importance of its core sectors has declined, this is only because of the more than proportionate increase in large-scale manufacturing immediately downstream from the core - as in heavy chemicals, specifically integrated with the coal-to-oil conversion facilities, and other mineral and metal processing" (*ibid*). A third feature of the MEC is that it is bound to a particularly concentrated corporate ownership structure.

2.2 PRE-ELECTION COSATU AND ANC ECONOMIC POLICY

By 1990 with the release of Nelson Mandela and unbanning of the ANC as a political organisation in South Africa, COSATU had formally used Gelb's theoretical basis to develop its economic strategy. Initially, COSATU and ANC economic policy converged on many key aspects. Historically, the ANC's 'Freedom Charter' of 1956 included 'redistribution' through mines, banks and monopoly industry being "transferred to the ownership of the people as a whole" (Nattrass, 1994a: 344). Nattrass (*ibid*), however, says the Freedom Charter's lack of 'specificity' was "politically expedient in that African nationalists, supporters of the SACP, workers, small entrepreneurs, professionals and others, were able to unite behind broad slogans".

The initial approach taken by Mandela after his release from prison in 1990 was to state that the modification of the ANC's nationalisation policy on mines, banks and monopoly industry was 'inconceivable' (*ibid*). This consequently caused a shock on the JSE and led to the widespread condemnation of ANC economic policy by the South African and international business press. The weight of international and domestic opposition coincided with the collapse of the Soviet bloc after 1989, and led the ANC to soften its position (*ibid*: 345).¹⁹ With the collapse of the Soviet bloc economies, the ANC leadership faced fewer alternatives for financial and ideological assistance to approach South Africa's redevelopment and reintegration into the global economy.²⁰ As a result, the ANC subsequently attempted to broaden its appeal by becoming "more business friendly and less structured by the trade union agenda" (*ibid*: 344).

2.2.1 'Growth through Redistribution'

The ANC's first serious attempt to redevelop its economic policy occurred at the Alliance meeting in Harare in May 1990. This meeting between the ANC, COSATU and the Economic Trends Group led to the release of the *Discussion Document on Economic Policy* in September by the ANC's new Department of Economic Policy (Munck, 1994: 206). Its main themes echoed the Economic Trends Group and "resurrected the influence of the left

¹⁹ The collapse of the Soviet Union also influenced the SACP in modifying its 1985 policy of mass urban insurrection in favour of a policy of negotiations, which was subsequently adopted as official policy at the eighth Party congress (Eidelberg, 2000: 143).

²⁰ One of the SACP's key political strategists, Jeremy Cronin, argued that the SACP must remain in alliance with the ANC in order to maintain the trajectory of the two-stage struggle, the first being national liberation (democracy) followed by the 'socialist' phase. This was also to prevent the working class being challenged to relinquish their support for the ANC and risk being further isolated (cited in Eidelberg, 2000: 135-39).

(mainly SACP and COSATU aligned) within the ANC at the time” (Marais, 1998: 148). The overriding theme in the document was ‘Growth through Redistribution’ where ‘redistribution acts as a spur to growth and in which the fruits of are redistributed to satisfy basic needs’ (quoted in Marais, 1998: 48). The proposed solution for the economic crisis was a new investment programme directed by the state and aimed at producing mass consumption goods for a local market of low and middle income people in which more labour intensive production was central (Bond, 1991: 30-1).

The Discussion document also argued that the state reject employment creation through deregulation and privatisation (Munck, 1994: 206).²¹ There was mention of ‘unbundling’ and greater competition by opening the conglomerates to acquisitions by blacks (Nattrass, 1994a: 347-8). The National African Federated Chambers of Commerce (NAFCOC) and Black Management Forum were central to influencing this ANC position (*ibid*: 348). Also of significance was a central role for organised labour in devising and implementing policy. The document emphasised a ‘high employment, high wage, high productivity economy’ in an attempt to cater to COSATU’s ‘living wage’ campaign (ANC, 1990: 12).²² The emphasis on high wages sought a more sustainable form of competitive advantage based on notions of post-Fordism (Nattrass, 1994a: 350). The ANC therefore emphasised the principle of tripartite negotiations as formulated by COSATU to pursue the high-wage strategy.

According to Nattrass (*ibid*: 349), the ‘growth through redistribution’ framework was adopted because of its “intuitive appeal and because it served the political purpose of uniting various constituencies within the ANC”. Critics of the ANC’s ‘Growth through Redistribution’ formulation soon emerged however from both the left and right sides of politics in South Africa after its release. On the left, Bond (1991: 68) argued: “ANC and COSATU economists have basically accepted the constraints of the over-accumulation crisis as inevitable, and have tried to construct an alternative economic strategy around them”. Bond (1991: 68) perceives the flaw in this approach is one that assumes:

a new economic system ... can be firmly rooted before the devaluation of finance begins in earnest. This logical flaw, passed on to economic policy-makers from regulation theory,

²¹ The document recognised that the ‘capital market does not sufficiently direct savings into productive activity nor into critical areas of infrastructural development ... in a short term scramble for profit’ (ANC, 1990: 12).

²² In 1990 COSATU’s campaign demanded the average black wage in manufacturing increase from R1000 to R1500 a month (Nattrass, 1994a: 349).

sees economic crisis as a 'turning point' rather than a period when contradictions in the system become irreconcilable and a major shake-out results.

On the right, Moll (1991b: 317) isolated two variants of growth through redistribution. The first looked at redistributing income through raising aggregate demand, which assumes there is substantial under-utilised productive capacity in the economy. Moll critiques the macro-economic assumption that there is substantial spare capacity in the economy through examining the empirical evidence.²³ The second variant of the critique examined changing the composition of demand to render the productive structure of the economy more compatible with its resources to stimulate economic growth (*ibid*: 314). Moll (*ibid*: 321) instead argued that there was little evidence to support demand restructuring where poor groups consume relatively labour intensive products.²⁴ Moll (*ibid*: 325) therefore argued both the spare capacity and demand restructuring views were flawed as growth strategies, but were 'macro-economic populist' approaches which believed "income redistribution can be achieved via changes in the level or structure of aggregate demand". Moll (*ibid*: 326) saw this as an attempt to provide "academic gloss on impractical policies demanded by trade unions or political organisations". Natrass (1994a: 356) suggests the ANC's more pragmatic approach evolved as 'growth through redistribution' was theoretically scrutinised, swayed by negative business opinion, and the ANC began to emphasise "long-term sustainable growth to ensure its long-term political future".

2.2.2 Scenario Planning

Business was obviously concerned about the parameters set for economic policy as outlined in the 'Growth through Redistribution' plan. Consequently, it began to fully engage in the economic debate supported by the various critiques. After 1990 a plethora of corporate scenario planning exercises were unleashed, which ultimately had a major impact on ANC

²³ Moll cites the South African Reserve Bank estimate in 1989 that manufacturing capacity was at 84.5 per cent (SARB, *Quarterly Bulletin*, September 1990, cited in Moll, 1991b: 317). This is partly an effect of the decline in real capital stock in the formal manufacturing sector by nine per cent between 1985 to 1989 (*ibid*. cited in Moll, 1991b: 318).

²⁴ The crucial variable is the elasticity of substitution of labour for capital. The higher it is, the more easily labour intensive production methods can be substituted for capital intensive ones in response to suitable financial or other incentives (Moll, 1991b: 322).

economic policy.²⁵ Their common thrust was to “demonise as ‘macro-economic populism’ any attempt to ground future economic policy ...[upon] growth and redistribution” (Marais, 1998: 150).

The first attempt from late 1990 was by Nedcor/Old Mutual. Tucker and Scott’s (1992) South Africa: Prospects for Successful Transition presented a scenario analysis methodology tested on over 45,000 select decision-makers across South Africa that offered ‘alternative paths of evolution’ for the South African economy. This was followed by the insurance conglomerate Sanlam’s Platform for Investment scenario and the social-democratic Mont Fleur Scenarios. The South African Chamber of Business (SACOB) later released Economic Options for South Africa. The Consultative Business Movement (which included PG Bison, Premier, Southern Life, Upjohn and Shell) also conducted a series of workshops on the ‘Role of Business in Transition’ in mid 1992, which led to the report Managing Change (Bond, 2000: 69). The National Party’s contribution to the debate was the release of its Normative Economic Model (NEM) in early 1993.²⁶

Williams and Taylor argue that the multiple linkages between the organisers of the various scenarios provided the impression that the ‘debates’ were largely concocted to deliver their neo-liberal ideological position (2000: 28). According to Bond (2000: 16) a result of the ‘scenario planning’ discourses of the late 1980s and early 1990s, was that a neo-liberal *compradorism* emerged within the ANC policy-making elite.²⁷ The effect of the scenario planning exercises on ANC economic policy was immediate.

2.2.3 The redevelopment of ANC economic policy

At the ANC's 48th National Conference in 1991 and the ANC Policy Conference of May 1992, resolutions to change the Harare discussion document illustrated the leadership’s shift to a more ‘pragmatic’ and ‘flexible’ business-friendly economic policy (Nattrass, 1994a:

²⁵ Fine and Rustomjee (1996: 249) argue: “There has been a tendency to foist associated analytical predispositions upon the South African economy. In general, these have proved inappropriate because ...the economy has been inaccurately specified in terms of its character and dynamics. This is irrespective of the merits of the particular economic theories employed which have themselves often been open to doubt”.

²⁶ This listed the apartheid state’s econocrat agenda, which included hostility to centralised bargaining (Bond, 2000: 76-77). The NEM echoed a January 1992 IMF ‘Occasional Paper’ which reversed the ‘growth through redistribution’ formula and argued for “adjustments that were in step with its standard directives to the South” (Marais, 1998: 153).

²⁷ “The scenario planning game was not meant to challenge the norms and practices of South Africa’s elites, as such as it was to reradicalise further the politicians and technocrats of the democratic movement, precisely in order to prepare them to join the elite” (Bond, 2000: 74).

352). Indeed, the ANC released draft policy guidelines in April 1991 that proposed privatisation and commitment to an export-oriented growth strategy. Although a role for a developmental state was still emphasised, the 'growth through redistribution' slogan was dropped to represent a shift away from demand driven economic policy. The ANC also emphasised its role in representing the poor and the informal economy, contradicting COSATU's views towards the sector and its high-wage policy emphasis (1994a: 353).

The subsequent Department of Economic Policy 'ANC policy guidelines for a democratic South Africa: Document for discussion' released in April 1992 made no reference to the growth through redistribution formula (Marais, 1998: 149). Within the document the wording for 'privatisation' became:

reducing the public sector in certain areas in ways that will enhance efficiency, advance affirmative action and empower the historically disadvantaged while ensuring the protection of both consumers and the rights of employment of workers. (ANC 1992; quoted in Marais, 1998: 173)

However, the May 1992 Policy Conference forced the ANC to consider the concerns of its wider constituency, which led to the ANC re-encompassing elements of earlier 'growth through redistribution' policy in the document Ready to Govern (Natrass, 1994a: 355; Williams and Taylor, 2000: 25).

By 1992 a division was emerging between the economic policy objectives of the ANC and COSATU in the lead up to the political transition. The debate between the ANC and COSATU over economic policy saw the ANC begin to distance itself from COSATU, with the ANC finance spokesperson, Trevor Manuel, telling COSATU they would have 'limited' ability to influence macro-economic policy (Natrass, 1994: 357).

After five years of recession, including negative growth rates between 1989 and 1993, the economy recovered marginally beginning in the second half of 1993 (Michie and Padayachee, 1997: 17). However, this turnaround in GDP growth was off-set by total net capital outflows increasing to R16.3 billion in 1993, or 5 per cent of GDP, the highest since

the debt crisis of 1985 (Michie and Padayachee, 1997: 14).²⁸ By late 1993 the ANC Department of Economic Policy agreed to the independence of the Reserve Bank and agreed to retain its highly conservative governor (Bond, 2000: 75). They also agreed to retain the National Party-appointed Minister of Finance. Finally, in November 1993 the ANC concluded a secret \$850 million loan agreement with the IMF. In return for the loan, the ANC agreed not to cease the agreed monetary policy, to prioritise inflation reduction, to contain government expenditure (indeed, to cap the debt/GDP ratio and to reduce it progressively in subsequent years), and not to raise taxes (Webster and Adler, 1999: 364).

Consequently, the scenario plans became an empirical basis for corporatist deal-making in macro-economy policy (Bond, 2000: 55). A further outcome was “a rush to scenario planning by assorted characters and institutions of the Centre-Left” (*ibid*: 57). The ensuing debate consequently divided into three groups: moderate national leaders; grass-roots activists; and, trade unionists (Nattrass, 1994a: 350). Moderates within the ANC were also represented in the Department of Economic Policy, which had formed the Macro-Economic Research Group (MERG) between 1991 and 1993 as an attempt to address concerns about the macro-economic populism implicit in the 'Growth through Redistribution' framework (Nattrass, 1994a: 350). The second group of activists, many from the UDF, SACP, and the South African National Civic Organisation (SANCO), were concerned with the ANC's shift from the Freedom Charter and top-down approach to policy formulation. They consequently sought 'greater democratic accountability' (*ibid*: 351). The third group, which included COSATU, emphasised 'Growth through Redistribution', but was also concerned about the lack of ANC accountability, especially after 1991 as the national leadership emphasised a more pragmatic business-friendly position (*ibid*). To counter this trend COSATU took two approaches. Firstly, it requested the Economic Trends Group to develop an industrial strategy based on the theoretical assumptions implicit in post-Fordism. Secondly, the possibility of entering into a corporatist accord or social pact with the ANC was explored.

²⁸ By the end of 1993 the National Party reduced total foreign debt to some \$16.7 billion. This was not high in comparison with other indebted middle-income countries and represented a potential positive legacy to be inherited by the new government” (Michie and Padayachee, 1997: 14-15). Total national debt to GDP (including the debt of the homelands) stood at 52.5 per cent in March 1994, which was also not high by international standards (*ibid*: 14). A large component of the debt was mostly created by state pension funds and owed to domestic creditors. This was the result of the 1991 concession to white civil servants that government pension funds would operate on a fully funded basis, requiring heavy borrowing to cover obligations (Webster and Adler, 1999: 383; Williams and Taylor, 2000: 27).

2.2.4 COSATU's Industrial Strategy Project, 1990-1995

Having adapted 'racial Fordism' from regulation theory, and inspired by a growing literature on 'flexible specialisation', COSATU's academic allies began developing scenarios for a future economic growth path ('the regime of accumulation'), characterised by very different institutions, norms and practices ('the mode of regulation') (Bond, 2000: 65). Bond (2000: 65) argues the arrival in 1990 of Raphael Kaplinsky from Sussex University to co-direct COSATU's Industrial Strategy Project (ISP), a further extension of the Economic Trends Group, began post-Fordist thinking in South Africa in earnest.

To achieve the types of outcomes recommended by the ISP, 'post-Fordism' in the South African context needed a new regulatory framework aimed at reforming the ailing capitalist economy on terms beneficial to the working class (Kraak, 1996: 41-42). The progressive notion of 'flexible specialisation' included: a reorientation of trade and investment policy aimed at the attainment of high-tech, higher value-added, beneficated exports; the integration of education and training systems to produce a high-skill workforce capable of teamwork, multi-skilling, enhanced quality control and production innovation; and, a radical variant of codetermination comprising substantial democratisation of work and society via a plethora of multipartite statutory governance councils. This economic restructuring was to encourage manufactured exports, while retaining the central commitment towards an inward-orientated growth model meeting basic needs. To assist this process the ISP's primarily directed its attention to the restructuring of individual sectors towards best practice in the new forms of flexible specialisation (Michie and Padayachee, 1997: 127).

The ISP's research into manufacturing sectors and policy framework document was presented to COSATU in October 1993 (ISP, 1994: 49).²⁹ The ISP emphasised international competitiveness in its report entitled Meeting the Global Challenge (1993), through targeting the export sector.³⁰ In reference to post-Fordist theory, the ISP sought "to formulate a policy for industry in the context of a commitment to the pursuit of industrial democracy" (Munck, 1994: 206). By January 1992 the ISP had investigated the competitive

²⁹ The ISP 'Industrial policy framework' encompassed restructuring the manufacturing sector (1994: 58). Human resource development and work organisation strategies included the promotion of intelligent production through constant skill acquisition, teamwork, and multi-factor productivity measurements that included co-determinist practices (*ibid*: 66-8).

³⁰ However, the ISP also acknowledged that an "outward orientation [was] dubious in view of the ongoing failure of South Africa's export-led growth strategies, not to mention South Africa's tough labour movement, relatively high wages (by international standards) and durable uncompetitiveness" (Bond, 2000: 66).

status of thirteen of South Africa's industrial sectors focussing on their ability to withstand global competition and to meet basic needs (Joffe et. al., 1993: 91).³¹

The ISP concluded in 1993 that a structured forum was required in which 'strategic discussions can be pursued across the spectrum of industrial activity without at the same time becoming swamped in a wider agenda of class conflict' (cited in Bond, 2000: 69). According to Horwitz (1995: 257), in response COSATU sought the adoption of post-Fordist production methods to be conditional upon the "negotiated introduction of flexibility".³² To achieve this COSATU sought centralised, industry-level bargaining to facilitate a coordinated approach to working time issues and plant negotiations (*ibid*: 263).

In order to address COSATU's concerns in relation to post-Fordism a national accord and multi-tier bargaining was seen as necessary. This was to control wages and conditions and prevent an elite of workers, firms and sectors from setting standards that would render other employment uncompetitive.³³ Importantly, the ISP recognised industrial policy as "an ongoing process of policy formulation and implementation, reformulation and further implementation. It is, moreover, a process that must incorporate and galvanise the key actors in the manufacturing realm - labour, business, and government" (ISP, 1994: 61). The ISP sought to regenerate the industrial relations systems through developing a "continuous

³¹ The agenda was again high productivity associated with living wages, which involved the active participation of the labour force in production (Bond, 2000: 65-6). ISP analysis of the poor performance of the manufacturing sector suggests four interlinked objectives for industrial policy: create employment, increase investment, improve trade performance and raise productivity (ISP, 1994: 51). Kaplinsky and his colleagues shared the post-Fordist critique of monopolistic inefficiencies and commitment to skills upgrading. The ISP stressed competitiveness derived from product quality and variety, speedy innovation, capital and labour productivity, and 'the endowment of widely spread skills' (Joffe et. al., 1993b: 17). Instead of suppressing wages to lower input costs, the ISP argued for enhancing productivity through skills upgrading, better training and wages, and greater democracy in the workplace. This also required the state to apply supply-side measures and a range of (dis)incentives to make the market function better (Marais, 1998: 155). The ISP's 'Proposed industrial strategy' included the following sub-categories: move up the value chain (1994: 54-5); reduce the cost of living (*ibid*: 55); improve the extent of local and international competition (*ibid*: 54-8); and, productivity raising redistribution, which recommends the redistribution of power relations both in industrial policy formulation and implementation, and at the shop-floor levels (*ibid*: 58).

³² As racial Fordism represents a simple wedding of a regime of accumulation called up from regulation theory, 'Fordism', to an equally simple empirical understanding of apartheid as 'racial'. There can be no presumption of the prospect of a non-racial post-Fordism (Fine, 1995: 110).

³³ The needs of those excluded from the post-Fordist strategy were then to be met through a "mixture of training and education, promotion of Small to Medium Enterprises (SMEs), and the unbundling of conglomerates which are perceived to have excluded SMEs from access to markets" (Michie and Padayachee, 1997: 128).

engagement of labour in corporate decision-making” (*ibid*: 73).³⁴ The concerns over the impact of post-Fordism led the development of an accord in order for both labour and capital to benefit mutually from the attached productivity or commercial gains (Fine and Rustomjee 1996: 251). COSATU’s agreement on an export-oriented modernisation strategy in 1992 under the ‘post-Fordist’ rubric linking democracy and development also led big business to more confidently ally itself with the ANC (Bond, 2000: 24).

2.2.5 The Macroeconomic Research Group, 1993

The Macro-economic Research Group (MERG) was established in 1991 by the ANC’s Department of Economic Policy to develop a new macro-economic model for South Africa. MERG provided detailed macro-economic and sectoral analysis simulations for a reconstruction programme (Munck, 1994: 215). MERG was based upon a ten-year, two-stage plan to transform the economy. The first stage was to consist of an initial public investment-led phase between 1993 and 1999, followed by a second stage of sustained growth between 1999 and 2004 (Nattrass, 1994c: 220). The second growth phase moved away from the demand-led path of large increases in state spending advocated under the old ‘growth through redistribution’ formula, as it was tied to “expanded and efficiently deployed savings and investment” (Marais, 1998: 159). MERG relied on infrastructure investment and restructuring to improve efficiency and growth in capital productivity, and export growth to facilitate the increase in investment (Nattrass, 1994c: 220-1).

³⁴ The key proposals of the ISP for the transformation of the industrial relations system to a multi-tiered system of industrial relations with three levels: the national level, specifically tripartite institutions as the NMC, National Training Board (NTB), and NEF; the sectoral level, with industrial councils, collective bargaining and enterprise bargaining frameworks; and, the enterprise level, centred upon organisation of work and involvement in decision-making to promote productivity increases (ISP, 1994: 74). The ISP also argued for a legislative framework that provided for the inclusion of employees in corporate governance and strategic decision-making (*ibid*). As ISP economist Raphael Kaplinsky (1994: 534) recognised "the necessity of generating processes in which labour plays an effective role". To do so, he argued, labour was required to be incorporated into the process of production to change the labour process and ensure the political sustainability of the accumulation process Kaplinsky argued that relevant institutions at the firm, meso- (sector and region) and national level were required with a form of legitimacy; or “embedded autonomy” (*ibid*: 534).

Importantly, MERG supported many of the arguments made by the ISP. MERG was critical of the National Party's 'Normative Economic Model' (NEM) of 1993 in a number of areas.³⁵ In particular wages policy and the IMF and World Bank's recommendations to alleviate underemployment through containing real wage growth (MERG, 1993: 152).³⁶ MERG also argued for reforming the industrial relations system's legislative framework to develop human resources and productivity growth. Similar to the ISP's argument, flexible production through multi-skilling, quality at-source and cellular production were to be based on the concept of labour participation in the control over production (*ibid*: 230).³⁷ The development of new forms of work organisation, promotion of an enabling state, higher wages for consumption led growth, and the corporate institutional governance of industrial strategy, were therefore closely interwoven within both the MERG and ISP proposals.

MERG's main report Making Democracy Work, published in late 1993, was met by controversy over the strong contingent of foreign economists in the MERG team.³⁸ This led to "delaying or spoiling tactics" from members of the ANC's Department of Economic

³⁵ Whilst the NEM document concluded that increases in real wages should be limited to the growth in (total factor) productivity, MERG (1993: 152) argued that this "amounts to abandoning government responsibility for achieving an adequate rate of growth of employment". In order to dispel this assumption, MERG simulated the NEM's policy projections for wage earnings capacity for black labour is R306 in 1990 to only R360 by 2010 if no substantial policy changes lead to "greater investment in education and training" (*ibid*: 158). The gap between black and white wage earning capacity moves from 40 per cent in 1990 to only 47 per cent in 2010 (*ibid*: 158-9). MERG's policy simulations in education and training sought to raise the wage earning capacity of blacks to R536 by 2010 and 70 per cent of white wage earning capacity, with only 5 per cent in the lowest education/skill category (*ibid*: 160). MERG economist Harry Zarenda (1992: 11) therefore argued the inverse, that "rising real wages could constitute an integral part of a growth process [as] ...wages rates have other functions than merely indicating the 'competitive' price of labour. Low wages, in fact, encourage low productivity". Increased wages could instead have an indirect positive influence that emerges as a result of labour having improved access to wage goods (*ibid*: 12-14).

³⁶ MERG (1993: 153) argues that the IMF "ignores the fact that there has never been a stable inverse relationship between real wages and the level of employment in South Africa". MERG also noted the World Bank's investigation of four factors in terms of their impact on black employment. These were bottlenecks in the supply of white labour, excessive capital-labour ratios due to high wages and low user-costs of capital (interest rates), recession, and black wages increases. The World Bank concluded that an upward movement in black wages left black employment elasticity at -0.25. However, MERG suggested that with the stagnation in both public and private investment during the 1980s, the quantitative relations discovered by the World Bank "be treated with considerable scepticism" (*ibid*). Rather, the MERG analysis of the poor employment record focussed upon the failure of the National Party to sustain reasonable levels of aggregate demand and inappropriate public sector investment and provision of education. MERG (*ibid*: 154) concluded: "real wages and employment are not inversely related, and that employment is a function of aggregate demand and output, rather than of wage flexibility in the labour market".

³⁷ Continuous improvement in "product innovation and process improvement ...arises directly as a consequence of the participation of the labour force" (MERG, 1993: 230). The workforce is therefore an asset whose "productive potential has to be enhanced" (*ibid*). Obstacles to this approach are the "distance between those in control of the strategic direction of South African manufacturing and the shop floor", as a "complex interaction between skill, hierarchy, and race" remains (*ibid*: 231).

³⁸ MERG later became the National Institute for Economic Policy (NIEP).

Policy. Consequently, MERG members complained that the DEP had frustrated their work (Marais, 1998: 158). Natrass, a key ANC economist, was critical of MERG's proposals for introducing extensive financial regulation, which she argued would lead to a failure to address business confidence. As such Natrass (1994b: 530) argued such policies were limited given the "weakening of labour world-wide as a result of prolonged recession, the increase in capital mobility and the expansion in overseas investment opportunities". There was also no longer the same incentives for capital to "cooperate in corporatist arrangements" (*ibid*).³⁹ Natrass (1994c: 225) argued that capital mobility reduced the scope for governments to discipline and coerce capital, as "capital simply leaves (or does not enter) if the policy environment is perceived as unfriendly".⁴⁰ The argument follows that with the bargaining power of labour and state planners eroded at the national level, "focus on enterprise-level bargaining, where wages are tied to productivity and profits, may be the best path available for organised labour" (Natrass, 1994b: 530).⁴¹

Both MERG and the ISP research groups confirmed the promotion of exports, especially manufactures, to promote economic growth. They also saw the participation of labour in a new cooperative industrial relations system would enhance the process of manufacturing exports and produce a mechanism to explicitly address the inequalities inherited in the apartheid workplace. Whatever the merits of these research groups, and their critics, the two

³⁹ Indeed, business associations in South Africa had demonstrated a preference for bilateral negotiations with the government and de-centralised enterprise bargaining (Pretorius, 1996). Business associations were also criticised for being unrepresentative, as the South African Consultative Committee on Labour Affairs (SACCOLA), with memberships often based on race or ethnic grouping, as the Afrikaanse Handelsinstituut and NAFCOOC (Bendix, 1996: 240).

⁴⁰ In contrast, Michie and Padayachee (1997: 183) argue: "An immaculately conservative government facing instability in the face of worsening material conditions would be as unlikely to persuade investors to part with their money as an interventionist 'populist' one. [The] ...South African investor community seems to perceive the need for the ANC to 'deliver' to its constituency".

⁴¹ Natrass (1993: 222) is therefore also critical of using higher minimum wages to facilitate restructuring, with MERG "rather dismissive of the notion that wages are a determinant of employment". Internationally, she points out, "evidence consistently shows that higher minimum wages have a negative impact on employment". As such, Natrass (1994b: 524) suggests minimum wages be set according to each sector. This focus implies that wages must rise with productivity growth, whilst redistribution follows macro-economic growth and investment (Natrass, 1995: 92). In defence of MERG, Sender (1995: 540) argues "the MERG framework places the long-standing and continued refusal of the private sector to invest its burgeoning financial surpluses productively at the very centre of its analysis". MERG (1994: 540) therefore establishes an account of the "political and economic mechanisms through which a gradual build-up of public sector investment in infrastructure constitutes an essential precondition for renewed capitalist confidence and the resumption of investment". Sender (*ibid*: 540) explains that MERG proposes a very wide range of policies "specifically designed to increase private sector investment rates". Sender argues Natrass equates decreased investment to a simple link between state intervention, rising business confidence and increased investment. Rather, Sender (*ibid*: 541) argues, the "empirical evidence for such a link in South Africa, or other developing countries, does not exist".

groups provided a rationale for the labour movement to become closely allied to the state and embrace corporatism. In reaction, COSATU sought the development of a 'Reconstruction Accord' as a guarantee for their continued influence over economic policy formulation in the lead up to the pending election. Differences over the economic policy debate - or 'scenario planning' – could then be put to one side in the alliance until political power was assured.⁴²

2.3 THE RECONSTRUCTION ACCORD

Despite the emerging differences between the leadership of both the ANC and COSATU over economic policy, the black working class overwhelmingly supported the ANC.⁴³ With the alliance's primary objective to seize political power, COSATU began to accommodate its more radical economic policy positions by seeking a 'reconstruction pact' with the ANC.⁴⁴ COSATU's electoral support for the ANC was to be conditional upon their adoption of an Accord (Nattrass, 1994a: 357). This demand was based on at least three factors: the experience of post-transition national independence political parties and labour movements elsewhere; the role of labour in social contracts; and, COSATU's engagement in corporatist forums from the late 1980s.

2.3.1 National liberation movements and labour in Africa

COSATU's fears of being marginalised by a post-democratic state were well founded as many of the national liberation movements and decolonisation processes in the immediate post-World War Two decades initially involved labour movements (Freund, 1984, Bean,

⁴² Fundamental differences remained however between COSATU and the SACP in relation to their respective attitudes towards capital. COSATU sought a class compromise between organised labour and capital, through corporatism and radical reform (Adler and Webster, 1996: 3). The SACP, on the other hand, sought class hegemony of the broad masses over capital (SACP, 1996: 4-5).

⁴³ This support was confirmed in two surveys both before the 1994 election. Firstly, in a survey of COSATU shopstewards in September 1991, 94 per cent intended to vote for the ANC in future elections, compared to only 3 per cent for the SACP (Pityana and Orkin, 1992: 1-2; 58-9). Another survey, held in April 1994, again confirmed that 81 per cent of COSATU union members supported the ANC-led tripartite alliance and that 75 per cent claimed they would continue to vote for the ANC in 1999 (Ginsburg and Webster, 1995: 85).

⁴⁴ While at most congresses COSATU regularly made more militant statements in favour of nationalisation and worker control of the means of production, these were watered down substantially by its leading strategists particularly the group of post-Fordist intellectuals who were close to key decision makers like Jay Naidoo and Alec Erwin (Bond, 2000: 76).

1994).⁴⁵ Although each context for national liberation differed dramatically, similarities can be drawn in the role of labour movements in political transition and post-colonialism.⁴⁶ This comparative experience within post-colonial Africa has largely been one of labour movements' subordination to the state, as national democratic movements view organised labour as an elite (Ginsburg and Webster, 1995: 106; Fine and Webster, 1989).⁴⁷ Labelled the 'labour aristocracy' thesis, organised labours alleged gains come at the expense of the unemployed and peasantry (Arrighi and Saul, 1973; Adler and O'Sullivan, 1996).

For example, trade unions in Africa have often been expected to play a 'dual role' in both representing their members whilst playing a role in national development (Bean, 1994: 18). As Buhlungu (1997: 73-4) notes: "Soon after independence unions in Tanzania, Zambia and Ghana found themselves *incorporated or subordinated* to the ruling parties who were also their allies. In Kenya, although unions were allowed a degree of autonomy, such autonomy was highly circumscribed". Part of this incorporation was through developing state corporatist institutions that enabled governments to influence both the role and structure of unions through providing benefits or 'trade offs' for union leaderships for their "conforming to the requirements of the development effort and limiting independence of action" (Bean, 1994: 228). And as Friedman and Shaw (2000: 193) note:

In many transitions new democratic governments have shown interest in including labour in economic policy-making through corporatist arrangements; none has followed through on this commitment. This seems to confirm ...that labour's key role in transitions – if it has one at all – is to stabilise them by binding its constituency to democracy at the cost of surrendering the pursuit of social and economic gains.

⁴⁵ The national liberation movement in Africa saw the following new independent states emerge, Ghana in 1957, Nigeria in 1960, Tanzania in 1961, Kenya in 1963, Uganda in 1962, etc. In southern African the process followed Northern Rhodesia (Zambia), Nyasaland (Malawi) in 1964, Bechuanaland (Botswana) in 1968, Mozambique and Angola in 1975, Southern Rhodesia (Zimbabwe) in 1980, and Namibia gained independence in 1990 from South Africa itself.

⁴⁶ However, as Barchiesi (1997: 171) recognises, although the role of labour in political transition in African is acknowledged, the definition of 'labour' in the African context is problematic.

⁴⁷ As Bean (1994: 229-230) recognises: "It is important not to overstate the degree of homogeneity among [developing countries] ...since the pattern is extremely diverse and there are significant differences and variety in Third World industrial relations systems. These reflect not only differential levels of attained development, but also appear to be rooted in the particular historical circumstances of the various countries. Certainly, organisational forms cannot easily be separated from the total environment in which they operate and an examination of developing countries highlights ...the vital importance of the political economy and wider societal influences in shaping the salient features of industrial relations systems".

This historical experience of democratisation processes and labour movements in African states therefore generally points to elite-pacting and/or the marginalisation of labour movements.⁴⁸

A further motivation for this incorporation was to ensure that unions did not “contribute a possible source of political opposition to the ruling elite” (Bean, 1994: 228). Bean (1994: 217) notes that once unions are subordinated to state control, or ‘bureaucratic authoritarianism’, they then play an important role in the process of political mobilisation for the ruling party. However, more recent examples have illustrated unions’ frustration with their subordination to and dependency upon the ruling party, as in Namibia. In contrast in Zimbabwe, Swaziland, Mozambique and Zambia, labour movements now undertake an oppositional role against the ruling parties (Jauch, 1996; Dlamini and Levin, 1997; Dansereau 1996; van der Walt, 1998; Ginsburg, 1997).

The role of international financial institutions is also similar in many post-democratic transitions, with the World Bank and IMF loans associated with Economic Structural Adjustment Programmes (ESAPs) playing a decisive role in the ability of trade unions to function in many African and developing countries. ESAPs have seen the roll back of the state in order to eliminate market distortions through setting economic conditionalities. The roll-back of state intervention can encompass a range of measures, including: cutting social services, freezing public sector wages and downsizing, removing state subsidies for manufacturing and primary production, currency devaluation, liberalisation, privatisation of state assets, and the promotion of primary or low value-added export. Together, these measures encourage labour flexibility and the compression of wage costs (Barchiesi, 1997: 173). Stoneman (1993: 88) argues many countries are now routinely subject to influence, if not “outright determination by the World Bank and the IMF”. Indeed, the term ‘recolonisation’ has been used to describe the impact of ESAPs in the 1980s and early 1990s (Stoneman, 1993: 88).

In line with these developments, Fine and Stoneman argue a regional convergence has been established in the Southern African Development Community (SADC) through the intervention of the World Bank and IMF. This has occurred as their economic interventions are extended through the succession of repeated ESAPs imposed as conditionalities for the

⁴⁸ “An elite is ‘consensually unified’ when rival factions have regular access to each other and seek to bargain with or out-manoeuvre – rather than eliminate – each other” (Higley and Burton, 1989).

granting or renewal of loans (1996: 12).⁴⁹ Consequently, SADC elites' implementation of neo-liberal ESAPs has seen the imposition of labour market deregulation, which has weakened the region's trade union movements and led to an industrial relations convergence. This reflects 'cooperative dependence' established through multi-national corporations' preference for decentralised bargaining (Frenkel, 1994: 274).⁵⁰ As a result:

elites of the smaller Southern African states have abandoned the battle to govern their own economies, and have largely settled for subordinate roles in 'market-led' exploitation of their territories. (Fine and Stoneman, 1996: 22)

Alternately, Fine and Stoneman (1996: 22) saw the prospect of an ANC-COSATU alliance as a possible abrogation to this trend:

South Africa alone, ...remains the key to an alternative pattern of development in the region and, ironically, the main hope for the future of the regional organisation (the SADC) previously set up to combat it.

Munck (1994: 211) argues it would be “naive to expect that the IMF and World Bank will 'respect' the integrity of a democratic South Africa's domestic policies, ...[of] enhancing national self-sufficiency and reducing dependency”.

There of course was also the issue of how meaningful the African post-national liberation experience is to the South African situation? For example, despite South Africa sharing many similarities with its neighbours, it has historically been viewed as significantly different given its colonial and modern history and level of economic development. With a GDP of US\$80 billion, South Africa's economy is three times larger than the rest of the SADC region (Marais, 1998: 133).

However, the parallels of labour movements with other examples of countries undergoing democratic transition, of course, are not limited to the African continent (de Villiers and

⁴⁹ “The sweeping imposition of each of these policies irrespective of the diversity of conditions in which they are applied, subject to a whirlwind assessment by officials and consultants, takes on the character of economic policy as lobotomy” (Fine and Stoneman, 1996: 9).

⁵⁰ Frenkel and Harrod (1995: 9-10) define their theory of industrial relations convergence as follows: “Where states have become dependent on a larger nation or international alliance for security and economic viability, or where national governments have ceded authority to supranational institutions ..., institutional convergence, including convergence in industrial relations structures and processes can be anticipated”.

Anstey, 2000). Webster and Adler (2000: 2) argue that labour movements' involvement in sustaining democratic transitions under the conditions of economic decline and liberalisation are occurring in Latin America, Asia and eastern Europe in the late twentieth century. Przeworski et. al. (1995: 56-57) recognise democratic transition within a neo-liberal economic framework pressures organised labour into a perception of it as a 'special interest' and consequently a catalyst of economic reforms.

Neo-liberal policies themselves also transform the labour movement and their capacity for resistance in a number of ways. As Barchiesi (1997: 172) notes, under state driven ESAPs, "relations between labour and civil society, and the concept of civil society itself, cannot be assumed as static and a-historical". According to Barchiesi (1997: 172), variations between labour movements in transition processes reflect both their role and strength of organisation, and the types of neo-liberal policies that, in turn, modify the nature of civil society itself.

The above concerns in relation to the role of labour and post-colonialism in Africa contributed to COSATU's attempt to develop certainty in its potential to influence economic policy in the lead up to the democratic transition. The experience of the labour movements elsewhere with democratic transition and IFIs, along with the character of the ANC itself, was evidence enough for COSATU's attempt to differentiate itself from the experience of African scenarios through consolidating its role in the alliance (Barchiesi, 2000: 1). A question remained however as to how COSATU could best achieve their objective.

2.3.2 Comparative state-labour accords

Generally, the term neo-corporatism sees competition and conflict replaced by cooperation and consensus in pursuit of the common good by state, employers and trade unions (Fox et. al, 1995: 133-4). Crouch's distinction of bargained corporatism within democratic societies argues that trade union participation is based upon the compromise of militancy in order to accept strategies which forgo self-interest, whilst providing advances for wider interests.⁵¹ Crouch (1979) believes genuine bargained corporatism is only possible in situations where

⁵¹ Crouch's (1979: 135) distinction of 'pure' or state corporatism is synonymous with earlier Fascist models of corporatism, as "power within trade unions is concentrated in a smaller elite rather than autonomous trade unions where power is with the members. Union leaders accept the priorities determined by government and employers and then impose the required restraint on their members". Similarly, Schmitter (1979) draws a distinction between 'state corporatism' and 'societal corporatism'. In state corporatism, trade unions are demobilised and co-opted. In societal corporatism, unions retain their autonomy and engage in militant action and mass mobilisation, even ending an agreement if necessary.

labour is strongly organised, the state does not have the power to be coercive, and capitalist interests are divided.⁵² Cawson (1985, 1986) argues that for corporatism to be effective it must operate across different levels: macro (at the level of whole societies); meso (in relation to particular policy fields or industries); and, micro (at enterprise level).

Social accords or pacts “typically entail class compromise between labour and capital to share the fruits of economic growth whilst ensuring continued capital accumulation” (Nattrass, 1998: 2).⁵³ The notion of a social accord however is not limited to labour and capital.⁵⁴ Indeed, the concept of ‘Fordism’ is characterised by a compact between state and organised labour. This type of compact is often described as societal corporatism.

The expression ‘social corporatism’ stresses the social democratic and trade union component of the Scandinavian version of corporatism as a more or less coherent system. Pekkarinen et. al. (1992) define social corporatism as an economic system whose labour market is characterised by centralised bargains, primarily wage bargaining but also possibly bargaining over government economic and social policies in which the state is either formally or informally involved in the process. They also involve a non-exclusive and egalitarian approach to bargaining. The capacity of social corporatist institutions to deliver improved economic performance originates from the idea of being able to “produce different outcomes in the wage bargaining process than would otherwise occur, and secondly, that these wage outcomes will have beneficial macro-economic consequences” (Michie and Padayachee, 1997:163). The social corporatist approach therefore argues for

⁵² The conditions found in Crouch's (1979: 189-90) bargained corporatism are where: “Unions accept periods of wage restraint, the relaxation of protective practices and similar measures, in the interests of improving efficiency; but on conditions that they receive in return (i) certain other gains for their members and themselves and (ii) a share in making the economic policy of which the efficiency measures are a part”.

⁵³ The outcome of distributional conflict between labour and capital depends in large part on the balance of power between them. The power of capital derives from its ability to withdraw - either abruptly (through liquidation) or slowly by not investing in maintenance etc., and gradually running down the value of capital assets. This exit option is greater the more mobile capital between sectors or countries. Labour can also invoke various exit options such as strike actions resignations, go-slow, sabotage etc. The risks (loss of income and employment) associated with such strategies will be lower the higher the growth rate (and hence the chances of re-employment) - the greater the degree of social security (unemployment benefits, income support etc.) - and the greater the extent of active labour market security policies (retraining, job-placement services etc.) (Nattrass, 1998: 2).

⁵⁴ Capital or business means here the industrial, commercial and service sector corporations and companies as well as organised business associations representing their collective interests (Pretorius, 1996: 255). Labour refers to organised workers within representative trade unions, both their sectoral affiliates and peak industry or national bodies. The ‘state’ follows Skocpol's (1979: 29) definition of as a “set of administrative policing and military organisations headed, and more or less well coordinated, by an executive authority”.

expanding the nature of the bargaining systems to allow commitments to be made by employers and government on investment levels and the use of profits (*ibid*: 164-65).

State-labour accords, however manifest, were a feature of the economic development models of the late 1970s and 1980s (Callinicos, 1988). Although attempts at ranking countries are complex and may be misleading, specific examples of accord processes are often attributed to industrialised economies. Examples are the USA in the post-World War Two period until the 1970s, Northern European countries such as Sweden, West Germany and the United Kingdom in the 1970s, and later Australia during the 1980s (Harvey, 1990; Callinicos, 1988; Bramble and Kuhn, 1999; Natrass, 1998).

These latter models played an important role in developing COSATU's orientation and 'strategic' focus from the early 1990s towards exploring the parameters from which to engage the ANC in a Reconstruction Accord. This was to ensure that the establishment of the appropriate institutional mechanisms would enable the continued engagement of the labour movement in economic policy formation and the consolidation of democracy. However, although the model of social corporatism proved influential it had not been attempted in any country featuring the levels of unemployment as South Africa's (Michie and Padayachee, 1997: 169). COSATU therefore embarked upon developing a model for the Reconstruction Accord that would incorporate corporatist institutions that enabled the participation of wider civil society. This was logical given the role the trade union movement had played in social movements in opposition to the National Party government and the prospect it held out to possibly avoid marginalisation as a 'labour elite' by a future ANC government.

2.3.3 The National Party, COSATU and the emergence of corporatism

COSATU's aim to establish a greater role in economic policy formation and implementation was facilitated through the National Party's forced acknowledgment of its own lack of legitimacy in the political realm. This also led the National Party in the economic sphere to accept the importance of arriving at consensual decisions with key economic and political actors (Schreiner, 1994: 11). The National Party's illegitimacy led it to establish negotiations as a means of stabilising both the political and economic crises, a part of which was the establishment of corporatist forums to partly relinquish control over the economy (*ibid*). The ANC's future Minister for Labour, Tito Mboweni, saw at the time: "By establishing forums we were seeking to establish dual power and make the apartheid government ineffective"

(quoted in von Holdt, 1995: 28). Corporatist forums were therefore seen by COSATU and the ANC as interim bodies pending the election of a democratic government, with trade unions and employer federations independent of the prevailing National Party government (Schreiner, 1994: 12-13).

This COSATU strategy differed from its initial formation to reflect social movement unionism, where the “formal organisational features characteristic of unions are fused with the mobilisational capacity and looser structure of social movements” (Adler and Webster, 1995: 89). When COSATU’s formerly independent trade unions became part of the social movement after 1985 it sought to mobilise against the apartheid state. COSATU’s strategy began as one of ‘*militant abstentionism*’, or a non-identification with the state, in order to achieve a form of ungovernability. Abstention from the state and its institutions was on the assumption that opposition leadership would be co-opted and the status quo would remain (Webster and Adler, 2000: 2). COSATU participated in a series of national strikes while refusing to participate directly in government institutions, or to identify with the goals of management in the workplace.

The objectives of militant abstentionism however changed during the late 1980s and early 1990s with the onset of economic crisis and the National Party government conceded to an engagement in transitional politics, signalled with the release of Nelson Mandela and unbanning of the ANC and SACP in 1990. A significant role was again attributed to COSATU within this process, as the most effectively organised actor in civil society that could mobilise opposition to the National Party government. The prospect of a new democratic order led to a shift in COSATU affiliate leaders' thinking and practice away from abstentionism toward the assumption of a central role and responsibility in shaping new industrial strategy and national economic policy. This direction was labelled ‘strategic unionism’, which in essence, entailed unions becoming proactive, taking the initiative, and seeking to set the agenda, instead of merely reacting to events (Joffe et. al., 1995: 89-90).

2.3.4 COSATU’s ‘strategic unionism’ and ‘radical reform’

COSATU’s ‘strategic unionism’ played a pivotal role in negotiations during the political transition process through a series of mass action campaigns involving civil society against the state. The strategy of engagement with the state was conducted from an “independent and disciplined power base resting on strong factory structures, held together through

practices of democratic accountability” (Adler and Webster, 1995: 81). Strategic unionism also envisaged a broader unity between COSATU and the other major labour federations in South Africa, the black-consciousness National Council of Trade Unions (NACTU), the mainly white Federation of South African Labour (FEDSAL), and other organisations in civil society (von Holdt, 1993: 36a).

According to Von Holdt (1993: 36a), COSATU's 'strategic unionism' envisaged:

a far-reaching transformation of the state, of the workplace, of economic decision making and the texture of civil society, a transformation driven by a broad based coalition of interest groups, at the centre of which is the labour movement. But strategic unionism premises the ensuring of transformation by developing a step by step programme of radical reforms - each of which extends the arena of democratic decision making and deepens the power of the working class.

The concept of radical reform owed its origins to the independent union movement of the 1970s, with its policy of compromise with employers and the state, as opposed to the ANC's own policy, at that time, of armed struggle and the “Leninist notion of revolutionary rupture” (Webster, 1993: 5-9).⁵⁵ The over-arching objective of strategic unionism was therefore ‘radical reform’. Adler and Webster define ‘radical reform’ as ‘radical’, meaning to achieve socialism, but through ‘reform’, both legal and incremental change. According to Friedman and Shaw (2000: 191):

A crucial element of this strategy is a reliance on negotiation that is seen as a means of cooptation by those who hold economic and political power, but as a source of tactical strength to those denied it. ...[N]egotiation and the compromises it brings, this strategy implies, are gains for the powerless because they force the powerful to share decisions they are accustomed to take alone. Inevitably, this implies participation in institutions, formal and informal, in which negotiation occurs.

It was also envisaged that COSATU's strategic unionism in the post-election period was to be manifested by working both inside and outside the new democratic ANC government and wider state (Webster, 1996). This involved COSATU releasing union officials to run as

⁵⁵ Gotz (2000) argues that Eddie Webster (Witwatersrand University) and Alec Erwin (NUMSA) first explored the concept in 1977. The actual term, “radical reform” was not used until 1991 (Erwin and Webster, 1977: 101; Webster, 1991: 63-4, 72; Webster, 1996; Adler, Maller and Webster, 1992). The concept's actual translation into mainstream politics can be traced to the Wiehahn labour reforms of 1979-1981, which first extended the 1924 industrial conciliation system to African labour (Adler, Maller and Webster, 1992: 337, 339; Webster, 1993: 9).

ANC candidates in order to work for the wider labour movement inside the parliamentary system and emphasising union participation within the new established corporatist institutions (Buhlungu, 1994a, 1994b). Secondly, COSATU's influence outside the state and its institutions was to occur through mass action campaigns, which were to be coordinated to influence those inside the state. Therefore, working both inside and outside the state provided a basis for COSATU and wider social forces to engage in the structural reform of the South African political economy (Maree, 1998).

COSATU's strategic unionism, working both inside and outside the state, was also aimed to counter the tendency in comparative experience, according to Webster and Adler (2000: 7), which suggests organised labour has had difficulty adapting to democratisation processes. This occurs as pro-democracy forces are reconfigured by the two transitions at play: "a political transition to democracy and an equally profound economic transition to growth, productivity, and global competitiveness". According to Webster (1995: 9), COSATU in the pre-transition period, through treating state structures as negotiating forums whilst backing-up its bargaining position with mass action such as stay-aways, "developed practices of radical reform". The following demonstrates the significance of COSATU's application of the principles of strategic unionism and radical reform in the lead up to the democratic transition.

2.3.5 COSATU's pre-election negotiations and mass actions

In May 1990, National Party and ANC talks resulted in the *Groote Schuur Minute*, which agreed to a commitment to stability and to a peaceful process of negotiation. In November 1990 the Convention for a Democratic South Africa (CODESA) was established to facilitate a transition of power. To leverage negotiations, union representatives would, if necessary, coordinate their formal bargaining tactics with mass action from the rank-and-file (von Holdt and Webster, 1992: 14, 16; Adler, Maller and Webster, 1992: 338-9). The ANC leadership at key junctures during the negotiations phase also 'turned on and off' mass action by popular organisations (Marais, 1998: 202). Examples of COSATU's use of strategic unionism include: the 1989-90 anti-Labour Relations Act (LRA) legislation and National Manpower Commission (NMC) restructuring campaign; the 1991 anti-Value Added Tax (VAT) campaign; the establishment of a National Economic Forum (NEF), and, mass actions to re-start the stalled CODESA process.

COSATU established a principle of engagement during the anti-LRA campaign in 1989, which entailed the development of “a direct link between the negotiating process and any mass action. When deadlock was reached constituencies were requested to decide on appropriate action” (Bird and Schreiner, 1992: 25). COSATU organised three national stay-aways (general strikes) in 1988 and 1989 and refused to service their members in disputes under the new LRA’s provisions. The NMC, the statutory consultative body on labour relations and labour market issues set up by the Wiehahn Commission in 1979, was also subsequently boycotted by COSATU (Bendix, 1996: 241; Webster and Adler, 1999: 539).

Faced by growing disorder on the shop floor, many companies began searching for common interests with organised labour. This led to a series of bilateral negotiations between labour and business culminating in an agreement, the *Laboria Minute* of September 1990, on the basic contours of a new labour relations system (Baskin, 1993: 1). The minute was signed by the employer association SACCOLA, COSATU, the black consciousness labour federation the National Council of Trade Unions (NACTU), and the Minister of Manpower. It stated:

Legislation on labour relations cannot work unless there has been extensive consultation with at least the major actors ... and a broad consensus on the legislative framework... No future legislation on labour relations shall be put before parliament unless considered by [a restructured] NMC ... broadly representative of the major actors in the labour relations arena (quoted in Baskin, 1993: 1).

When in late 1991 the National Party announced, without prior consultation, a value-added tax (designed in part with assistance from international financial institutions), COSATU initiated a two-day national stay away and again withdrew from the NMC. The 1991 anti-VAT campaign subsequently won a tax exemption on basic foods. COSATU, NACTU and the Federation of South African Labour (FEDSAL) then demanded their participation in a central policy-making forum during the anti-VAT campaign, where economic and social policy could be debated and negotiated in a more systematic manner.

COSATU subsequently demanded the creation of a National Economic Forum (NEF) to halt state unilateral economic restructuring (Nattrass, 1994a: 351-2). A key attribute of COSATU’s advocacy for the NEF was to develop its status as a multi-party negotiating forum (von Holdt and Webster, 1992: 22-4). The National Union of Metalworkers’ (NUMSA), a key COSATU affiliate, argued for a more inclusive multipartite version of

corporatism. This would incorporate “civics, women’s groups, associations of the unemployed and the aged, consumer and rural organisations” (Bird and Schreiner, 1992: 28-9, 32). Advocates of the multipartite corporatist pact sought to empower unions by permitting them to shape macro-economic policy affecting the country as a whole, and not just narrow trade union issues (Vally, 1992: 9-11, von Holdt and Webster, 1992: 23-4; Adler, Maller and Webster, 1992: 332, 339).

CODESA included a joint business-labour forum that also encouraged the National Party to support the formation of a NEF (Munck, 1994: 212). However, the CODESA talks broke down in May 1992 over negotiations on the majority required in a future national assembly to ratify clauses in a post-apartheid constitution and the powers of an upper house. Consequently, in June the ANC endorsed a mass action campaign designed to break the negotiation impasse that led to a 16 June mass action by millions in observance of the Soweto 1976 uprising. Then in July, COSATU called for a general strike of undecided duration to begin on 3 August in support of demands for unqualified majority rule. By 8 July business leaders met with the ANC and other political groups in an effort to resume the negotiation process. This led to a summit on 27 September between the National Party leader F. W. De Klerk and Mandela where they announced a Record of Understanding.

In August 1992 the state agreed to restructure the NMC on the basis of an agreement reached between the Minister of Manpower and representatives of capital and labour (Maree, 1993: 32). The development of the NEF together with the restructured NMC established COSATU's role in tripartite corporatism (Nattrass, 1994a: 352). The NEF gave COSATU, NACTU and FEDSAL unprecedented access to decision-making on macro-economic policy and restructuring through negotiating disputes with the South African Coordinating Committee on Labour Affairs (SACCOLA) (1992: 15).⁵⁶ The NEF subsequently operated as a multipartite forum between 1992 and 1994, parallel to and separate from the main constitutional negotiations (Webster and Adler, 1999: 364).

⁵⁶ The employers' associations present in the NEF negotiations were the South African Chamber of Business (SACOB), the Afrikaanse Handelsinstituut (AHI), the Foundation of African Business and Consumer Services (FABCOS), the Steel and Engineering Industries' Federation (SEIFSA), and the Chamber of Mines (Maree, 1993: 34).

2.3.6 The Electoral Pact

With the establishment of the NEF in November 1992, the ANC dropped the 'Growth through Redistribution' economic agenda. Nattrass (1994a: 353) argues COSATU accepted the change because by that stage, it had “developed a strong enough power base in the NEF to influence restructuring on the supply side”. Also by late 1992 NUMSA had imported a number of economic policy advisers from Australia.⁵⁷

They suggested to NUMSA the idea of an ... [electoral accordist] pact between COSATU and the ANC, whereby the latter in exchange for workers' unqualified support in an election race, would commit itself to a post-transition process of fundamental social and economic reconstruction, grounded in acceptance of the paramountcy of labour interests (Gotz, 2000: 164).

Similarly, in 1993 the SACP's Langa Zita argued that a social contract could only be accepted under a broad anti-capitalist reconstruction programme (Eidelberg, 2000: 144).

The subsequent proposal to consolidate a Reconstruction Accord was prefaced with an understanding of the institutionalising of conflict through the NMC and NEF, which was also to serve as the vehicle for the formation of multipartite institutions (Von Holdt, 1993a: 47, 50). The accord was seen as wider than a social contract by providing a framework to incorporate the unemployed and other organisations in civil society.

The accord was then developed as the foundation for an ANC electoral platform (Gotz, 2000: 165). COSATU emphasised that any post-election maintenance of the alliance would depend upon a mass-driven programme of reconstruction incorporated into ANC policy. The accord intended to obviate any ANC propensity to become complacent in restructuring government and redirecting economic resources (*ibid*: 183). At the 1993 COSATU congress it was decided to release twenty COSATU candidates onto the ANC's election list (Nattrass, 1994a: 357). COSATU's involvement in the elections was in terms of establishing a Reconstruction and Development Programme (RDP), providing trade union candidates

⁵⁷ They included from the Australian Metalworkers' Union (AMWU) Chris Lloyd, Steve Rix and Alastair Machin, and economist Peter Brain, later involved in MERG. In 1980s Australia this contingent had “observed closely and critically the signing of an economic pact between Australia's labour movement and the then ruling Australian Labor Party, a pact which promised workers a concerted government effort to increase the social wage in exchange for their acceptance of lower industry wages” (Gotz, 2000: 164).

and promoting voter education (Buhlungu, 1994a: 8). The RDP was drafted throughout 1993-94 under the guidance of COSATU's former General Secretary, Jay Naidoo.

At first the conceptualisation of the RDP was the preserve of COSATU. Both the ISP and MERG documents were influential in the drafting process for the RDP. The process was then broadened to include other popular organisations grouped in the mass democratic movement (MDM). After a wide-ranging consultation process, COSATU at a special 1993 congress adopted the broad objectives of the RDP (Marais, 1998: 178-179).⁵⁸

After six drafts the final RDP document was submitted to the ANC in January 1994 (Nattrass, 1994a: 358). The ANC's *Reconstruction and Development Programme: a policy framework* was to become the ANC's election manifesto. Although the ANC's National Executive Committee committed to a comprehensive programme for reconstruction and development in February 1993, the ANC did not commit to a strict and binding accord with COSATU. However, a Tripartite Alliance Committee was formed in March and by September had developed drafts of what was to become the RDP Base Document (Gotz, 2000: 169, 171, 174).

Nattrass argues the RDP was markedly different from earlier ANC economic policy, as the RDP document was suspicious of the state's ability to unilaterally formulate and implement policy. This reflected COSATU's influence in the drafting process, which sought to counter this perceived tendency through an emphasis on mass-driven policy (Nattrass, 1994a: 358-9). The 'basic needs' concept also survived as a rhetorical device aimed at massaging possible political tensions within the tripartite alliance (Marais, 1998: 198). The six principles of the RDP were: an integrated programme, based on all the people, that provides peace and security for all, builds the nation, links reconstruction and development, and deepens democracy (RDP, 1994: 7). The RDP's economic policy reflected both the ISP and

⁵⁸ A 1993 COSATU document states: 'an alternate choice is . . . to be a proactive union movement and attempt to restructure the economy' (p. 18). 'The danger is . . . that the union movement will contribute to economic process of seizing state power but will not be well placed to contribute to the economic process of transforming the economy where the state will be the sole instrument of transformation'. Much importance therefore is attached 'to participating in negotiating and interactive forums with a view to blocking unilateral restructuring by the state and countering strong vested interests (COSATU, 1993: 29).

MERG's supply-side measures of training, education and technological advance to boost productivity (Natrass, 1994a: 359).⁵⁹

The RDP's industrial relations policy promoted collective bargaining at national, sectoral and workplace level and envisaged "Agreements negotiated in such forums should be extended through legislation to all workplaces in that industry" (RDP, 1994: 4.8.8). To assist this process the RDP sought to create a National Economic Development and Labour Council (NEDLAC), which combined and restructured both the NEF and NMC to create a central forum for multi-partite negotiations. The RDP also proposed that forums negotiate a wider range of issues, including industrial policy, the implementation of the RDP at the sectoral level, training, education, job placement and job creation programmes (Adelzadeh and Padayachee, 1995: 28).

Despite the progressive framework to consolidate the position of COSATU in the immediate post-election period, as was expected, the political transition involved a "realignment in the balance of power between the members of the tripartite alliance" (Eidelberg, 2000: 129). Callinicos (1996: 40) points to the irony of such change, arguing that any revival of South African capitalism "depends on the ANC in government taking on the powerful workers' movement".

2.4 POST-ELECTION ANC ECONOMIC POLICY AND COSATU

The Multi-party Negotiation Process (MNP) that commenced on 1 April 1993 led to the establishment of a multi-party Transitional Executive Council (TEC) to pave the way for South Africa's first multi-racial elections in April 1994 (Nursey-Bray, 1994). In the National Assembly the ANC won 252 seats, the National Party 82 and Inkatha Freedom Party (IFP) 43, allowing within cabinet posts 18 ANC, six National Party, and three IFP ministers. Within the provincial legislature, voting led to ANC victory in Northern Transvaal, Pretoria-Witwatersrand-Vereeniging (PWV), Eastern Transvaal, North West, Orange Free State, Northern Cape and Eastern Cape, whilst the National Party won Western Cape and IFP KwaZulu-Natal.⁶⁰ With the election victory the ANC would decisively alter the balance of power within the tripartite alliance by achieving hegemony at the expense of

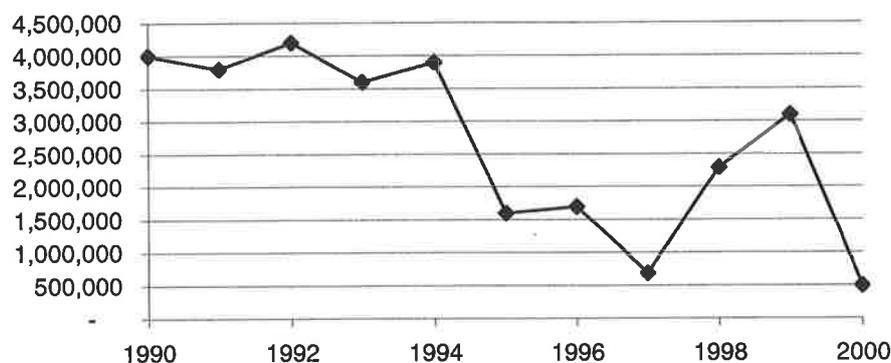
⁵⁹ The RDP was to be financed by withholding 5 per cent of the budget of each Government of National Unity's department. In order to access RDP funds departments' would need to apply for financing and explain how the monies would facilitate RDP objectives. The RDP fund totalled R5.5 billion for 1995-6 or 4.4 per cent of the total budget. (*The Economist*, 1995: 6).

both COSATU and the SACP (Eidelberg, 2000: 154). The following illustrates this shift by examining key developments between ANC economic policy and the influence of COSATU in the immediate post-transition.

2.4.1 Worker expectations and institutional reforms

Almost immediately following the ANC election victory, growing worker expectations led to spontaneous outbreaks of wildcat strikes as COSATU embarked upon a process to progress the implementation of the RDP's objectives and campaign for a 'living wage' (Labour Research, 1994: 19).

Figure 1 Working Days Lost South Africa 1990-2000



Source : Andrew Levy and Associates, *Strike Report (various issues)*

The living wage campaign led to a dispute between COSATU and the ANC, the latter emphasising wage restraint for development. President Mandela at one point labelled COSATU's living wage campaign 'social anarchy' (Connell, 1995: 20). Von Holdt (1994) argued the strike wave was more a reflection of the legacy of the apartheid workplace (see Figure 1).⁶¹ Similarly, COSATU's then General Secretary, Sam Shilowa, argued the strikes were not against the ANC government, but "aimed at reinforcing the ANC's hand to bring about change and 'democratising' the economy" (*Financial Mail*, 1994: 29 July).⁶²

⁶⁰ "Full Election Results", *Guardian* 7 May 1994.

⁶¹ "Strikes are simply a manifestation of this. The South African workplace is characterised by sharp inequalities of power, wealth and skill along racial lines. Decision-making is the prerogative of mostly white managers. Management practices are highly authoritarian and often racist. Income differentials between workers, supervisors and managers are among the highest in the world. All of this creates an experience of extreme injustice at work - which accounts for workers' conviction that things must change" (Von Holdt, 1994: 15).

⁶² According to Shilowa (1995: 31-2) the strike wave showed that "workers expect to see political democracy accompanied by transformation in the economy and the workplace [as employers had] ...by and large, continued to take the view that it is 'business as usual'".

The growing worker expectations for change reflected in the strike wave throughout 1994 led to an emphasis on the draft Labour Relations Bill which emerged in February 1995. The then Minister for Labour, Tito Mboweni, saw features within the draft Bill as a means from which to change a culture of militant abstentionism towards a more constructive institutionalised approach to industrial relations.

The emergence of the draft Bill coincided with the establishment of the National Economic Development and Labour Council (NEDLAC) in February 1995. NEDLAC comprised four chambers: Monetary and Fiscal; Labour Market; Trade and Industry; and Community and Development. As envisaged by COSATU, the latter chamber and Executive Council were open to participation from organisations in wider civil society. Webster (1995: 25-6) saw this concession as an example of multipartite corporatism and a practical manifestation of radical reform.⁶³ COSATU, other labour federations and wider civil society envisaged NEDLAC to be a mechanism from which to influence the new industrial relations policy as NEDLAC was legally obliged to consider all changes to labour legislation and economic policy.

Parties were given to April 1995 to agree on the draft Bill being negotiated in NEDLAC (Benjamin, 1995: 15).⁶⁴ The Bill was then to be considered by the Standing Committee on Labour and then debated by parliament in September with the new Act taking effect from early 1996. The basic provisions of the draft Bill covered collective bargaining and bargaining councils, industrial action, conciliation and arbitration, and workplace forums.

COSATU criticised the draft Bill's failure to reflect its demands for centralised bargaining in national bargaining councils for each sector of the economy which compelled employers

⁶³ There are questions over both the effectiveness of wider organisation in civil society to either maintain a capacity or be representative in this forum. As Marais (1998: 210) argues: "Schooled in launching external frontal assaults on the state, these organisations now have to engage with and within a state which, in formal terms, is controlled by a political ally. ...With the partial exception of the trade union movement few organisations can draw on historical traditions to meet these novel challenges". Friedman and Reitzes (1995) also argued that NEDLAC's attempt to incorporate 'community' in the fourth chamber was artificial, with wider representation the preserve of democratic government.

⁶⁴ Business South Africa (BSA) represented employer associations, with the National African Federated Chambers of Commerce (NAFCOC) having withdrawn from BSA in 1994 (Webster, 1995b: 26).

to participate (Mayibuye, June/July, 1995).⁶⁵ Indeed, the interests of small employers were to be represented on the council and a review undertaken annually to assess whether a bargaining council was representative of its industry. The Minister for Labour also retained the power to extend agreements to non-parties (Benjamin, 1995: 18).

COSATU was also critical of the draft Bill's industrial action provisions concerning strikes, pickets and lockouts. Strikes were prohibited if the issues giving rise to them were regulated or prohibited by a collective agreement or wage determinations, or if they could be referred to arbitration or the labour courts.⁶⁶ Strikes over dismissals or in essential services would also not be permitted. Under the draft Bill any stay-away in support of a demand not directly related to employment issues was deemed illegal and strikers could be dismissed if the strike damaged the employer economically (*ibid*: 20-1). These provisions were criticised by COSATU as they rendered its strike strategy ineffective. As such, COSATU also demanded the right to industrial action on socio-economic matters not to be "unduly restricted" (*Mayibuye*, June/July, 1995).

The draft Bill provisions for workplace forums allowed a majority trade union in any workplace employing more than one hundred people to initiate their establishment. Representatives to the proposed workplace forums were to be elected by the whole of the workforce, not only union members. Negotiations could then be undertaken on the right of consultation, joint decision-making, and information. The draft Bill did not specify which matters were subject to information disclosure, consultation and joint decision-making, but left these issues to negotiation at NEDLAC and arbitration (Benjamin, 1995: 19).

⁶⁵ The draft Bill encouraged bargaining councils to improve their dispute resolution capacity through developing mediation and arbitration procedures. A bargaining council can comprise parties drawn from the private and the public sector.

⁶⁶ The Industrial Court and the Department of Labour's conciliation services were to be replaced by a Commission for Conciliation, Mediation and Arbitration (CCMA). The CCMA was to act as a governing body with equal number of representatives from state, employers and trade unions. Its functions were to promote collective bargaining, prevent and resolve disputes and improve labour relations (Benjamin, 1995: 21). All disputes were to be referred to mediation before either adjudication or industrial action (*ibid*: 19). If no agreement is reached on matters subject to consultation, unions had a right to strike after mediation (von Holdt, 1995: 32). A national Labour Court was also established to grant orders compelling compliance with the LRA and award damages or compensation with any breach of procedures, as unprocedural industrial action. The judges of the Labour Court were to be appointed by the President in consultation with NEDLAC (Benjamin, 1995: 21).

2.4.2 COSATU's LRA campaign

Subsequent negotiations in NEDLAC led to an agreement on the Bill, although these were influenced by a series of COSATU mass action campaigns. Shilowa's 1995 May Day address endorsed rolling mass actions to support negotiations within NEDLAC to amend the draft Bill. Mboweni then gave NEDLAC negotiators until 30 June 1995 to reach agreement over the amendments. COSATU, NACTU and FEDSAL assembled a joint campaign committee to pressure employers over the draft Bill. A two week mass action campaign began on 6 June when an estimated 70,000 workers marched on the JSE. In contrast to Mandela's earlier rebukes of COSATU's industrial action, the ANC supported the mass action campaigns that were joined by Mandela and other alliance leaders. A national half day strike on 19 June 1995 followed, in which an estimated 500,000 workers participated. Although COSATU's mass action gave momentum to the negotiating process, the ANC's support for COSATU intensified pressure on employers during the negotiations at NEDLAC (Matthews, 1995). An agreement was reached and adopted by the NEDLAC Executive Council on 17 July 1995. The National Assembly and Senate consequently passed the new Labour Relations Act (LRA) in September 1995.

Concerns over the form in which the LRA was finally adopted within the final National Constitution led to a further one-day strike on the 30 April 1996 (Ginsburg, 1996). This mass action campaign by COSATU was to support fifteen demands, including opposition to the right for employers to use a lockout clause. The mass action again proved to be successful with nearly all of COSATU's fifteen demands being met, the most important of which were the right to strike, the protection of sectoral bargaining closed shop agreements, and the right to picket (Maree, 1998: 48).

Despite COSATU's use of strategic unionism to influence the development and adoption of the LRA within NEDLAC, the LRA itself changed the parameters in which COSATU's forms of industrial action, such as strikes and mass action campaigns, could legally be undertaken. Although the right to strike over socio-economic concerns (Section 77) was an important concession won by COSATU's LRA campaign, the former means by which COSATU's strategic unionism was effective, was circumscribed through regulations over secondary boycotts and compulsory mediation before industrial action is deemed legal.⁶⁷

⁶⁷ Other concerns in the new LRA, at the time, were provisions banning strikes in sectors deemed to fall within 'essential' or 'maintenance' service areas and their definition.

Apart from these concerns, Webster and Adler (1999: 360) argue that there are four key features of the LRA. For the first time in South African industrial relations history all workers are covered under the one Act, including the public service, farm labourers and domestic workers. The Act promotes collective bargaining by providing organisational rights for unions in the workplace, including access to employer premises, meeting rights, and union subscription facilities. It entrenches the right to strike and picket. The Act encourages parties to resolve disputes through conciliation and arbitration via the CCMA. Finally, its most significant innovation was provision for joint decision making and consultation at the shop floor level through Workplace Forums.⁶⁸

Baskin (2000: 46) argues that COSATU's ability to engage in consultation over economic and industrial relations policy now took at least four forms.

- Firstly, COSATU's political alliance with the ANC and SACP.
- Secondly, formal consultations with cabinet Ministers government and the parliamentary standing committees.
- Thirdly, the institutions of government and civil society in which labour provides input on issues.
- Fourthly, peak-level bilateral negotiation and forms of joint decision making in NEDLAC.

Webster (1995: 9) argues the institutional basis of NEDLAC and the LRA provisions were therefore unprecedented for labour's ability to shape policy at the national, industrial and workplace levels.

2.5 FROM THE RDP TO GEAR

The success of COSATU's strategic unionism and the ability for affiliates to work within the parameters of the LRA and NEDLAC needs to be qualified however as a result of the contradictions that emerged in the ANC's post-election economic policy. These contradictions emerged before the ANC came to power, as noted above, with a series of

⁶⁸ Workplace forums were conceived for codetermination. However, Shilowa (1995: 15) argued against COSATU's participation in workplace forums as he perceived trade unions and shopstewards "in an adversarial relationship due to advocacy of a separation between the trade union and the forum". This occurred through the workplace forum measures allowing individual, as opposed to collective shopstewards, to be present at forums. Also, setting joint targets for productivity precluded strike actions, which were deemed illegal in workplace forums. Finally, forums also assumed that workers not in trade unions were a collective force (non-union participation) (*ibid*: 15). Subsequently, there has been little uptake of the provision by COSATU affiliates as they "appeared very likely to reduce the practical power of trade unions" (Bond, 2000: 84; Webster and Macun, 1999; Wood and Mahabir, 2001).

economic policy reversals through which the ANC leadership adopted positions increasingly consistent with neo-liberal orthodoxy.

Blatchford (1995: 89) argues the ANC's subsequent implementation of the RDP was constrained in a Government of National Unity, as the ANC undertook "a cautious policy of moderate economic growth, slow reconstruction and development - focussing on reducing the budget deficit to manageable proportions". Habib (1996: 101) argues that the subsequent agreement upon clauses within the Constitution ensured that the political settlement "established the parameters of the Government of National Unity's economic programme and conditioned its evolution in a neo-liberal direction". Also undermining the RDP was the institutional structure and mode of operation of the bureaucracy whose future in governance was assured but which was established for past policy goals (Michie and Padayachee, 1997: 134).

The Government of National Unity's initial Finance Ministers were the National Party's Derek Keys, followed by the independent Chris Liebenberg, and then the ANC's Trevor Manuel. All aimed to appease the business communities both within South Africa and abroad in an attempt to increase foreign investment. However, they were met by an unreceptive and often irrational response from the business community. Chris Liebenberg, the Government of National Unity's Finance Minister, announced on 10 March 1995 the abolition of the Financial Rand as a measure to attract foreign investment. The Financial Rand was introduced during the State of Emergency in 1985 as a device to block non-residents to repatriate proceeds from the sale of their South African investments. The two-tiered monetary system was then replaced by a single free-floating Rand, which allowed non-residents to be free from any restrictions on moving their capital (Eidelberg, 2000: 146). However, with the abolition of the Financial Rand the currency was subsequently devalued and opened the South African economy further to the speculative nature of the international monetary system.⁶⁹

⁶⁹ An example of speculative ill effects was in early 1996 when an ambulance, seen leaving Mandela's house of residence for an injured security guard, was thought to have contained the President. The Rand consequently fell in value by 20 per cent overnight (Suzman, 1995).

⁷⁰ Importantly for COSATU the White Paper displayed significant differences over collective bargaining. Adalzadeh and Padayachee (1995: 26) note that the RDP's support for a system of collective bargaining 'at national, industrial and workplace level' (RDP, 4.8.7) was not referred to in the White Paper, which emphasised only "workplace level bargaining (3.11.3)".

The change in ANC economic policy towards neo-liberal orthodoxy was further consolidated with the RDP White Paper document released in September 1994. The RDP White Paper was jointly developed by the Development Bank of Southern Africa and the National Institute for Economic Policy (MERG's successor) producing a mixed result (Gotz, 2000: 182). Adelzadeh and Padayachee (1995: 37) argue that the RDP White Paper followed a fiscally conservative trend, although was incoherent and fragmented as it had significantly changed from the RDP. As such, an imbalance was created which favoured international and domestic capital in economic-policy making, with the principles of the RDP consequently made contingent upon 'fiscal discipline', not 'redistribution' (1995: 7-8, 38).⁷⁰

The ANC Member of Parliament Phillip Dexter (1995: 60) conceded the RDP had been diluted by the Government of National Unity and was impeded by a lack of commitment from business. However, he also criticised COSATU for its failure "to develop a clear strategy to ensure that it asserts itself in relation to the RDP". There were, he argued, two main reasons for COSATU's failure:

The first is that the increasing levels of corporatism have begun to paralyse the unions and the second is that the unions have not found a way to manage contradictions that arise from the transition. Part of this is about the lack of capacity in the labour movement to fight for these to be implemented (*ibid*).

2.5.1 Privatisation and the National Framework Agreement

The first major public contestation over the neo-liberal shift in ANC economic policy occurred in late 1995, when the ANC government unilaterally announced its commitment to privatise important state assets across a range of industries, either totally or partially (Michie and Padayachee, 1997: 224-25). Internal debate about what state assets could be privatised, how this would be done and for whose benefit (black business, foreign investors, and the state) had been ongoing up to this point. However, at its 1995 conference, the ANC accepted the need for privatisation 'in principle' (Michie and Padayachee, 1997: 21). The announcement to privatise state assets by the then Deputy Prime Minister, Thabo Mbeki, was also contrary to the earlier RDP policy on privatisation (Ray, 1997: 11). This shift was then complicated by the release of the ANC's policy document The State and Social Transformation (1995), which opened the prospect for a policy reversal. At the same time COSATU threatened a general strike and demanded the right to negotiate the terms of

restructuring given the ANC government's lack of consultation (COSATU, 1996: 13; Eidelberg, 2000: 152).

By November 1995 the NEDLAC Secretariat facilitated a meeting between COSATU, NACTU and FEDSAL, and the Minister for Public Enterprises, Stella Sigcau. A mass stayaway demonstration led by COSATU then followed in December 1995 (Bond, 2000: 80). Continued confrontation was diverted with the ANC's announcement to establish a National Framework Agreement (NFA) for the restructuring of state assets, which was later agreed to in NEDLAC and signed in April 1996.

The NFA is a bilateral agreement between labour and government to establish processes to restructure state assets on an industry-by industry basis. The NFA consists of three tiers, a sectoral specific task team, a strategic implementation level comprised of six-a-side core representatives from labour and government, and representation at the enterprise level (Butcher, 1996: 50-1). A component of the NFA was to develop social plans to address any retrenchments due to restructuring (Webster and Adler, 1999: 361). Despite the concession of establishing the NFA, many were sceptical about its ability to work in the interests of labour. Ray (1997: 14) argues:

The limited advantages of taking part in such a process are negated by the fact that it is regularly by-passed by government. Ill informed and under researched trade unionists are more often than not confronted with privatisation which is already well under way. The situation is further clouded by the involvement of trade union investment companies, a number of which are jostling for a piece of the privatisation pie.

The effectiveness of the NFA was soon to be tested with the release of the ANC's macro-economic strategy in the middle of 1996.

2.5.2 Growth, Employment and Redistribution

In February 1996 a sudden outflow of foreign capital precipitated a fall in the Rand which was devalued by more than 25 per cent (Michie and Padayachee, 1997: 18; Webster and Adler, 1999: 368).⁷¹ Subsequently, real interest rates remained high, the balance of payments became erratic, and by mid-1996 foreign exchange reserves were equal to just

⁷¹ The nominal depreciation of the Rand resulted in real exchange rate depreciation – meaning wage increases and other sources of inflation did not negate the competitive benefits of the nominal exchange rate depreciation (Nattrass, 1998: 13).

five weeks import cover. These factors and pressures all served to focus attention on the appropriateness or otherwise of the government's macroeconomic policy (Michie and Padayachee, 1997: 224-25).

Also in February 1996 the South African Foundation (SAF), a consortium of South Africa's fifty most powerful companies, published its macro-economic blueprint Growth for All (SAF, 1996). The SAF (1996: 17) argued for a two-tier labour market which "eliminates extensions of industrial agreements to non-parties". In effect, it argued for a second tier labour market with no minimum wages, statutory protection from arbitrary retrenchment, or basic minimum standards legislation (Nattrass, 1996: 27; Bezuidenhout, 1998: 9). COSATU with the NEDLAC Labour Caucus released at the same time the Keynesian Social Equity and Job Creation: the key to a stable future document. This reincorporated some of MERG's key proposals (Marais, 1998: 161). The document proposed a public and private investment policy for job creation and growth. Central to the strategy was an active industrial policy to develop the manufacturing sector along with social adjustment measures to provide for the social costs of restructuring the economy (Webster and Adler, 1999: 368). Other documents concerning industrial relations and labour market policy followed, including that of the Presidential Commission to Investigate Labour Market Policy which included an ILO report Restructuring the Labour Market: The South Africa Challenge.

Two other significant developments in ANC economic policy occurred in 1996. In March, Mandela and his Deputy, Thabo Mbeki, announced a ministerial shake-up that saw the scrapping of the RDP Ministry run by former COSATU General Secretary, Jay Naidoo (Bond, 1996b: 8).⁷² The second key event was the release in June of the ANC's Growth Employment and Redistribution: A Macroeconomic Strategy (GEAR). Arguably, these initiatives were in response to the failure of the RDP to improve foreign direct investment (FDI) and the onset of the currency crisis.

Concerns for COSATU emerged straight away as GEAR was drafted outside of any NEDLAC consultations and on release both Manuel and Mandela stated that GEAR's fundamentals were 'non-negotiable' (Bond, 1996c: 23). Ironically, COSATU's former

⁷² The ANC at the time was converting the RDP White Paper into a formal policy, the National Growth and Development Strategy (NGDS). The NGDS continued the ambiguous straddling between neo-liberalism and the redistributive and equity orientations of the original RDP. However, this document was opposed by the alliance both for its content and the non-consultative process by which the document was written. The NGDS was consequently never publicly released (Webster and Adler, 2000: 368).

research co-ordinator Stephen Gelb was partly responsible for drafting the GEAR policy along with neo-liberal research institutions such as the World Bank, Development Bank of Southern Africa, and University of Stellenbosch.⁷³ With the release of GEAR the RDP Office was closed, and Jay Naidoo moved to Minister of Post and Telecommunications. RDP activities and responsibilities were then divided up between the Ministry of Finance and the Deputy President, Thabo Mbeki's office (Gotz, 2000: 185). This ended the idea that the RDP Office represented an overarching framework that determined government policies and activities (Marais, 1998: 198).

GEAR subsequently followed many of the SAF's recommendations in its Growth for All document. Indeed, Nattrass equated GEAR as similar in content to the National Party's 1993 'Normative Economic Model'. However, following the National Party's withdrawal from the Government of National Unity in June 1996, GEAR was strictly an ANC policy (Williams and Taylor, 2000: 34).

GEAR's focus now made redistribution dependent upon growth (Williams and Taylor, 2000 34). Both the SAF and GEAR documents argued for "economic policy consistency, market-orientated growth strategies, fiscal discipline and investor confidence" (Nattrass, 1996: 26). The vision of these neo-liberal policies was of "an integrated capitalist system where market forces [punish] ... countries which do not obey the unwritten code of 'sound' fiscal, monetary and labour-market policies" (1996: 26). GEAR also advocated privatisation to reduce debt. The GEAR strategy sought private investment and partnerships with the public sector. The development of partnerships would therefore "enable the state to meet its infrastructural and other obligations while simultaneously, trimming state expenditure" (Marais, 1998: 163).

The GEAR growth strategy also centred upon an export-oriented manufacturing sector to 'enhance competitiveness'. This process included trade liberalisation forcing the lowering of input labour costs, which in turn demanded wage restraint and 'improving productivity' (Marais, 1998: 127). Also significant for COSATU was GEAR's presenting specific job creation targets on the basis of "greater labour-market flexibility as the most suitable and effective means of lowering inequality" (Nattrass, 1996: 26; Marais, 1998: 168).

⁷³ Ironically, GEAR's co-authors from the University of Stellenbosch were also earlier involved in the National Party's NEM policy (Bond, 2000: 77).

2.5.3 Regulated flexibility

The industrial relations and labour market policy focus within GEAR was termed ‘regulated flexibility’ (ANC, 1996: 8.3). The GEAR document states: “This entails the regulation of the labour market in a manner that allows for flexible collective bargaining structures, variable application of employment standards and voice regulation [ie. collective bargaining]” (*ibid*: 8.2). The terminology of regulated flexibility reflects a shift from the RDP, as GEAR suggests the need for “industrial agreements which reach across diverse firms, sectors or regions [to be] ...sufficiently flexible” (*ibid*: 8.3). Wages and salary increases were envisaged to be linked with productivity growth, in order to mitigate any inflationary “wage-price spiral” (*ibid*: 8.2). Regulated flexibility of the labour market therefore sought to trade “greater job and wage variation in return for a minimum standard of benefits, thereby ameliorating the impact on workers of variation” (Webster and Adler, 1999: 371). This could be accommodated under the existing LRA provisions, which allowed for dual collective bargaining systems over wage negotiations either at industry or firm level, as defined by individual recognition agreements (Bezuidenhout, 1998: 12).

At issue with the introduction of regulated flexibility was the proposal for “[v]ariations on norms set through collective bargaining ...[to build] on the safeguarding of employment standards and workers’ rights implicated in *existing policies*” (ANC, 1996: 8.3 – added emphasis). The new LRA would provide the basis for bargaining concessions for specific contexts in both bargaining councils and workplace forums (Webster and Adler, 1999: 371). However, the Department of Labour had only released in April 1996 a Green Paper for a New Employment Standards Statute, which was yet to be negotiated by the time GEAR was released. In lieu of new legislation, the 1983 *Basic Conditions of Employment Act* and the 1957 *Wages Act* provided the respective minimum standards and wages, and both were seen as inadequate (Schroeder and Clarke, 1997: 21-2). A further concern for COSATU was that both GEAR and the Presidential Labour Market Commission report, released also in June 1996, did not directly seek the extension of industry wide collective bargaining to non-signatories. Rather, both encouraged greater ministerial prerogative in allowing exemptions (Nattrass, 1996: 27).

Somewhat contrary to GEAR was the Presidential Commission’s emphasis that South Africa’s commitment to democracy entailed that flexibility “must be compatible with labour market *security*” (Standing et. al., 1996: 6 – original emphasis). A similar qualification was

endorsed in the ILO Review, which details different forms of security.⁷⁴ Elements such as a Social Plan Fund to address restructuring and redundancy issues, and the extension of the Unemployment Insurance Fund (UIF) to all sectors based on individual records to assess contributions were two key recommendations aimed at delivering labour market security (*ibid*: 38-39).

In order to deliver on employment security, the Presidential Commission recommended the promotion of industry-wide bargaining councils across the economy and a stronger role for NEDLAC in assisting this determination process. NEDLAC would assist bargaining councils by:

- demarcating the industry or sector based on similar producers or service providers;
- assessing the application of minimum standards in order to cater for differences between locations to ensure they do not discourage job creation; planning for training industry wide; and,
- developing economies of scale for benefit funds, such as pensions, UIF etc (*ibid*: 170).

A key point of departure with GEAR, was the Commission's recommendation that minimum wages and conditions for sectors be set by a reformed Wage Board where no effective collective bargaining exists, and then facilitate a transition to collective bargaining (*ibid*: 203).

Both GEAR and the Presidential Commission sought to pursue a 'National Social Agreement' with labour. According to GEAR, this did not extend to labour negotiating macro-economic policy with government through forums as NEDLAC, but rather remained limited to industry bargaining (Nattrass, 1996: 29). This position was to ensure "the recent depreciating currency does not translate into a vicious circle of wage and price increases leading to instability in the financial markets and a decline in competitive advantage" (ANC, 1996: Chapter 9). The Presidential Commission differed in its recommendation for a National Accord for Employment and Growth between business, labour and government to

⁷⁴ These include: *labour market security* (widespread opportunities for employment); *employment security* (protection from arbitrary loss of employment); *job security* (protection against arbitrary transfer between sets of work tasks and loss of job-based rights); *work security* (health and safety protection in employment); *income security* (protection against arbitrary reduction in incomes); and, *representation security* (secure capacity to bargain and influence the character and term's of employment). (Standing et. al., 1996: 33).

cover issues such as wages, prices and investment. This was primarily in order to avoid 'wage-push' inflation and encourage job creation.⁷⁵

The Presidential Commission emphasised the role of voice regulation, as opposed to state legislative or market forces regulating the labour market.⁷⁶ This entailed a constructive role for bargaining between unions and employer associations in "the productivity-enhancing redesign of the work process, in training and skills development, in employment equity planning and in many other aspects of the employment relationship" (Standing et. al., 1996: 7). The Presidential Commission envisaged the Accord would be reliant upon 'voice regulation' and bargained through NEDLAC (*ibid*: 46, 64). However, the Presidential Commission noted the prospect of establishing an Accord through NEDLAC would be limited if its institutional powers were not strengthened in their scope. NEDLAC was merely one of a number of government agencies setting economic policy and was effectively excluded to set "wages, prices and the level and composition of investment" (*ibid*: 617).⁷⁷

Ironically, the realisation of the Presidential Commission's concerns over labour's ability at NEDLAC to influence economic policy came with the exclusive development process and subsequent 'non-negotiable' status of GEAR itself. Within this process labour and NEDLAC were both simply circumvented by the ANC government in its economic policy development, demonstrating NEDLAC's irrelevance (Bond, 1996a; 1996b). As a result, commentators like Bond were now wary of COSATU's involvement in forums like NEDLAC with the emergence of GEAR.

⁷⁵ Again, this was to occur through a process of wage increases being linked to productivity growth, whilst wage restraint would be in exchange for a commitment from business to exercise price restraint (Marais, 1998: 168).

⁷⁶ The ILO report (Standing et. al., 1996: 8) argues: "Voice mechanisms, or representative institutions, are required, even though the neo-liberal supply side advocates of flexibility and "de-regulation" regard institutions and regulations as rigidities and the main source of inflexibility. Those sirens of de-regulation are wrong, because unless flexibility is bargained between strong negotiators, opportunism would lead to short-term gains by one side or another – usually large-scale, powerful employers that would have long-term adverse consequences for dynamic efficiency".

⁷⁷ A National Jobs Summit, recommended by the Presidential Commission to begin the process of establishing the Accord, was held in October 1998 (1996: 49; Bezuidenhout and Kenny, 1999: 23). Subsequent discussions in NEDLAC led to the acceptance of a "Jobs Summit" to produce an accord on employment and growth (Webster and Adler, 1999: 365). Sectoral Job Summits were also proposed to further advance this proposal (ILO, 1998: 21). However, in the immediate period following the release of the labour market reviews "an all-encompassing social contract was never seriously pursued" (Bond, 2000: 81).

It is not clear whether NEDLAC can serve as a venue for solutions to conflicts and for establishing the government strategy, given that voices of opposition to GEAR may be raised there. Indeed opposition may be so intense that government will slowly but surely pull critical issues out of NEDLAC and leave it as a relatively hollow negotiating forum (Bond, 1996a: 26).

COSATU were also concerned by what appeared to be an attempt by the ANC government to institutionalise and marginalise labour issues in NEDLAC (Barchiesi, 1997, 2000). As Barchiesi argues, NEDLAC appeared to be being used by the ANC as a vehicle for national unity to mitigate the social consequences of macro-economic policy. Issues within NEDLAC, of course, impacted unevenly upon COSATU's affiliates ability to be critical actors influencing industry, workplace and labour market restructuring (Barchiesi, 2000: 2, 13).

2.5.4 Neo-liberalism and the 'hollowing out of the state'

Eidelberg (2000: 156) argues GEAR was a major turning point with the ANC "finally be[ing] forced to take what appears to be a definite stand against the spirit of radical reform". The ANC's commitment to neo-liberal policy through GEAR however had been attributed to their attempt to reintegrate South Africa into the global economy. Nelson Mandela himself stated, "Globalisation is a phenomenon we cannot deny. All we can do is accept it" (quoted in Bond, 2000: 196). In this context globalisation has become a synonym for inaction, even paralysis, in domestic economic policy formulation and implementation (Michie and Padayachee, 1997: 229). Webster and Adler (2000: 2) also acknowledge:

Liberalisation as often as not leads to economic stagnation rather than growth, ...[imposing] high social costs on working people, and 'hollows out' the state by limiting its capacity to intervene in social, political, and economic reconstruction.⁷⁸

Such a position obviously has implications for organised labour. Indeed, the marginalisation of labour became more prevalent from the mid-1990s with globalisation 'hollowing out' the state. This occurs through the state's inability to establish institutional frameworks that can

⁷⁸ An example of this contradictory approach in ANC thinking was the 1996 Discussion document, the State and Social Transformation. While conceding that the contemporary world economic system imposed "a certain surrender of a nation state's control over many areas" (ANC, 1996: 17), it also emphasises that "the democratic movement must resist the liberal concept of 'less government', which ... is in fact aimed specifically at the weakening of democratic state" (ANC, 1996: 7).

assist labour movements in directing economic policy, given the precedence of internationalised capital (Bryan, 1995; Harvey, 1990).

As Bryan's (1995) 'recent internationalisation' thesis outlines, many of the contradictions that now face domestic labour arise from the attempt by the nation state to secure domestic stability for national capital's competitiveness whilst maintaining international accumulation. This occurs in an intensified manner under globalisation due to the immobility of labour contrary to that of capital. Consequently, the nation state works largely on the plain of restructuring labour relations.

Marais (1998: 116) similarly argues globalisation "cannot be divorced from the roles of dominant states in augmenting the expansionist and accumulatory projects of national and transnational groupings of capital".⁷⁹ However, Marais (1998: 112) makes the distinction that although the diminishing state is commonly associated with the globalised economy, it "should not be confused with it, for its wellspring lies in a particular ideological response to globalisation: neo-liberalism".⁸⁰

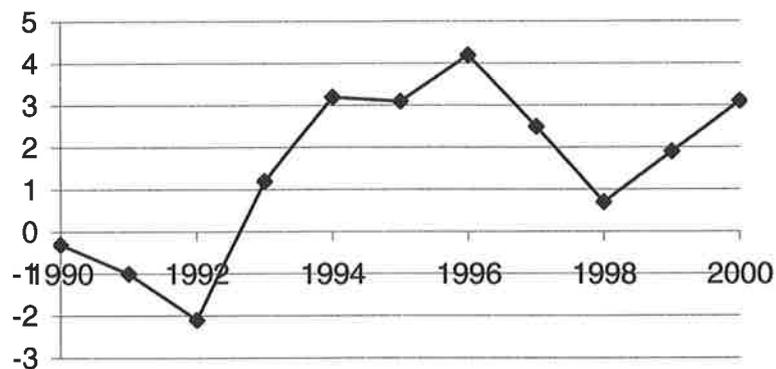
The number of options available to labour was therefore to be seriously affected by the ANC's adoption of neo-liberalism (Barchiesi, 1997: 199). Indeed, Bond (1996a: 23) argued GEAR may well turn out to be "labour's worst nightmare". These concerns were illustrated by the failure of the economy to subsequently reach GEAR's assumptions on projected

⁷⁹ Marais (1998: 118-119) argues: "The globalised and highly mobile character of capital seems to be causing relationships between nation-states to be mediated less by competition between national capitals than by the fluidity and mobility of global capital. ...[N]ational states now strive to attract and retain within their territories a share of the global surplus value, the presence of which in any one location is increasingly momentary. ...The state becomes more and more reactive as it tries to attract capital and immobilise it in the form of productive investment. ...The reproduction of capital [however] still occurs within the framework of regulations and adjustments introduced and managed by states".

⁸⁰ Marais (1998: 12) argues that the process of globalisation is characterised by transnational production, freer passage of commodities, the dominance of finance capital, increasing authority of supra-national organisations and the rapid development and deployment of new labour-saving - labour replacing technologies. These developments have been augmented by trends as the shrinking state and diminished national sovereignty.

macro-economic growth, employment and investment to 2000 (see Figure 2).⁸¹ This in turn heightened concerns about the direction of macro-economic policy and labour's exclusion from influencing the economic debate (Bond, 1999: footnote no. 3; 350).

Figure 2 Annual percentage growth in Gross Domestic Product 1990-2000



Source : *South African Reserve Bank*

The ANC position with GEAR therefore clearly signalled its unwillingness to pursue an alternative developmental state role. In reference to the ANC's adoption of neo-liberal ideology, the 'hollowing out of the state' has been equated to a 'home grown' structural adjustment program (Bond, 2000; van der Walt, 1998). Bond (2000: 1-2) argues as a consequence of GEAR:

the inexorable journey from a self-reliant, anti-imperialist political-economic philosophy to allegedly 'home-grown' structural adjustment that took Zambian, Mozambican/Angolan and Zimbabwean nationalists 25, 15 and 10 years, respectively, was in South Africa achieved in less than five.

⁸¹ GEAR's projections for annual GDP were 3.5, 2.9 and 3.8 per cent growth in 1996, 1997 and 1998. However, real growth fell from 4.2 to 2.5 to 0.7 per cent. Instead of GEAR's anticipated employment gains of 126,000, 252,000 and 246,000, formal sector (non-agricultural) job losses were 71,000, 126,000 and 186,000. The rate of increase in private sector investment fell from 6.1 to 3.1 to a negative 0.7 per cent in 1996, 1997 and 1998 (instead of rising 9.3, 9.1 and 9.3 per cent, respectively) (NIEP, 1999. SARB, 2001). Savings also fell (notwithstanding the rise in the real interest rate from 1996-98) from 18 per cent of GDP in 1996 to 15 per cent in 1997 and 14 per cent in 1998; private savings fell from 20 per cent in 1996 to 17 per cent in 1998 (instead of rising to 21 per cent, as GEAR forecast). The current account deficit worsened from -1.3 per cent in 1996 to -2.1 per cent in 1998 (instead of remaining stable, as GEAR predicted). Exports of South African products (other than gold) rose slowly in 1997-98 (5.3 and 2.1 per cent, respectively), confounding GEAR projections (of 8 and 7 per cent, although 1996 export growth was better than predicted). The real interest rate remained in double digits from 1996-98 (instead of falling from 7 to 5 to 4 per cent, as GEAR hoped), and the value of the Rand collapsed from 3.5 to the dollar in mid-1996 to 6 (at one point, 6.7) in 1998, confounding projections that it would stay relatively stable (NIEP 1999).

Consequently, COSATU faced the immediate post-apartheid era subordinated to the ANC's neo-liberal agenda (Barchiesi, 1997: 1990-200) - one key aspect of which was establishing flexible labour markets. The concluding section explores the issue of flexible labour markets in South Africa in relation to their impact on the newly established formal industrial relations institutions and COSATU's organising strategy.

2.6 FLEXIBLE LABOUR MARKETS?

As outlined above the post-transition period has arguably led to COSATU's institutionalisation and marginalisation, with its pre-election vision subverted by the ANC government's subsequent embrace of neo-liberal economic policies. The issue of developing flexible labour markets is a key component of the ANC's GEAR policy. Given this priority, the extent to which flexibility exists in South Africa and the form it takes is central to any assessment of the emerging industrial relations system and the relevance of COSATU's organising strategy. To address the question of the extent of and need for a more flexible labour market in South Africa, the following examines the literature on this issue that has emerged in the post-transition period. The assessment then examines the industrial relations and labour market provisions that regulate flexible employment practices. This is then followed by an assessment of COSATU's organising strategy in relation to the issue of casualisation.

The ILO (1998: 18) recognises that balancing labour market policy is a critical issue within a globalised economy. It states in relation to South Africa's labour market:

Given that globalisation involves economic restructuring, employment had to be sufficiently adaptable to facilitate adjustment. At the same time, labour market institutions need to ensure that fundamental worker rights and labour standards are not undermined. These rights and standards should protect workers, but they can also have a positive impact on the economy to ensure a degree of social stability.

Similarly, Leibbrandt et. al. (2000: 11) also argues the labour market is central to address inequalities in remuneration and access to employment. However, achieving this balance is complicated in South Africa's labour market, which demonstrates inequalities segmented along the lines of race, gender, occupation, education and skill, and location as part of the legacy of apartheid.

Leibbrandt et. al. argues that the South African labour force can be decomposed into three groups:

- First, the *core consumer economy*, consisting of the dominant high-wage modern sectors of manufacturing, government service, and other industries and services.
- Secondly, those employed in the *marginal modern sectors*, including commercial agriculture, domestic service and mining. And,
- Thirdly, the *peripheral labour force* characterised by substantial job scarcity in the formal sectors and including subsistence agriculture, the informal sector, and the unemployed.

Table 1 demonstrates how the core sector is shrinking.

Table 1 Percentage share of the labour force by access to modern consumer economy

<i>Segment</i>	1960	1970	1985	1994
Core economy	29	46	40	35
Modern marginal economy	47	32	20	15
Peripheral labour force	24	22	40	50

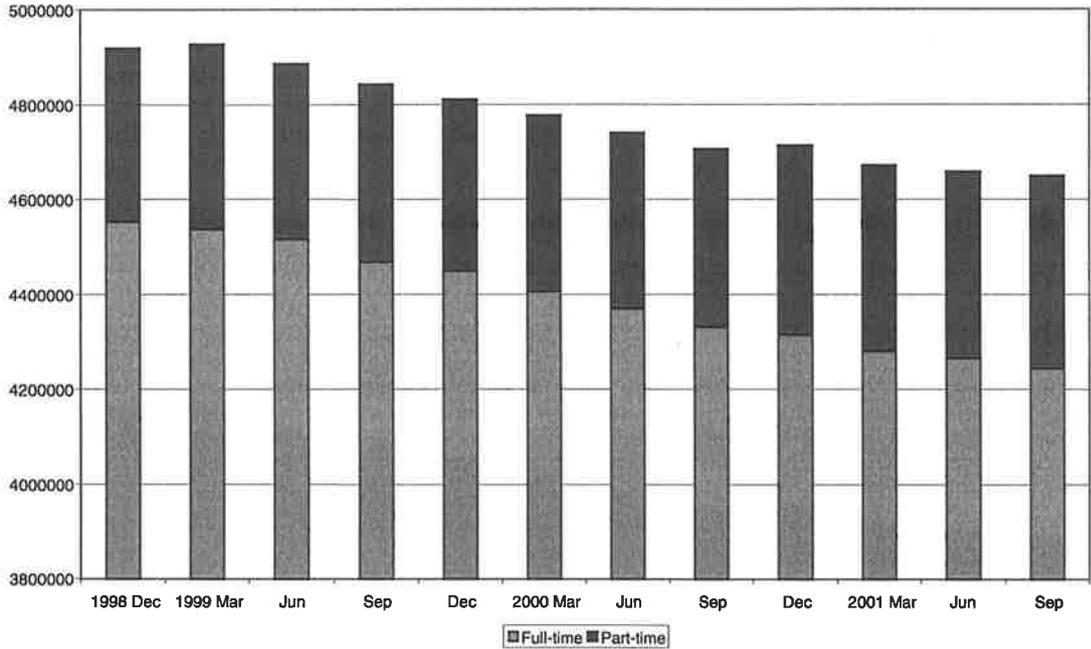
Source : *Bhorat et. al., 2001*

The degree of inequality within the labour market is such that the top 5 per cent of South Africa's population consumes more than the bottom 85 per cent, leading to a Gini coefficient of 0.61, matching Nigeria and Brazil in terms of inequality (Bond, 2000: 18-19). Total African unemployment was estimated in 1994 to be 41.1 per cent, whilst corresponding white unemployment was 6.4 per cent.⁸² Wage income is a dominant factor determining the poverty status of the household and the position of a household in the distribution of total income (Leibbrandt et. al., 2001: 17). In 1997 African workers earned, on average, 63 per cent less the white workers (ILO, 1998: 4). One estimate is that only 13 per cent of the formal sector, excluding agriculture, are covered by South Africa's 76 bargaining council agreements (Naidoo, 1999: 48).⁸³ In 1994 it was estimated that only 12 per cent of the unemployed receive Unemployment Insurance Fund benefits (Standing et. al., 1996; 379).

⁸² According to the ILO (1998: 4), "Official data have often been criticised on the grounds that they underestimate actual employment. These data are based on establishment surveys conducted in the formal business sector. Therefore, non-registered enterprises and almost all self-employed are excluded by definition. However, the ...October Household Surveys, which include informal sector employment, also show that total employment (including agriculture) has diminished during 1994-97".

Casual work, defined as working no more than three days per week, is growing. In 1993 it was estimated that casual workers constituted 9 per cent of total employment (ILO, 1998: 5). Formal employment statistics have only reported desegregated part-time employment from 1998 (see Figure 3). However, unofficially, informal employment is estimated to constitute around 45 per cent of total employment (Naidoo, 1999: 46). Anecdotally, the proportion of casual workers correlates with the size of the informal sector, which is estimated to be between 20 and 34 per cent of the national labour force (Crankshaw, 1997: 30). The ILO Review therefore argues a ‘dualism’ between formal and informal employment obfuscates the stratifying and fragmenting character of the labour market, which available data inadequately classifies (*ibid*: 11).

Figure 3 Total number of employees (salary and wage earners) South Africa – 1998-2001



Source : Statistics South Africa, 18 December 2001

⁸³ The ILO (1998: 20) cite figures on collective bargaining coverage as a share of total formal employment in 1997, as 49 per cent when the public sector is included and 36.4 per cent in the private sector alone. They also argue that given collective agreements can be extended to non-parties the likely coverage is higher again.

2.6.1 Types of flexibility

The trend identified within South Africa reflects that internationally, with formal enterprises increasingly informalising their employment (Standing et. al., 1996: 95).⁸⁴ Horwitz (1995) has undertaken an assessment of South Africa's labour market flexibility against Blyton's (1991) typology encompassing four elements of flexibility: numerical; functional; temporal, and wage flexibility.

- Numerical flexibility is the ability of employers to adjust their workforce through employing permanent, casual, short/fixed term contracts, and externalising work through sub-contracting to suit market demand.
- Functional flexibility is the ability of the workforce to operate across and within grades as demand arises, and includes multi-skilling and job rotation.
- Temporal flexibility is based on the workforce service hours, involving various patterns of work hours, shift systems, part-time work, home-working and temporary work in response to changing economic, technological and demographic demands.
- Finally, wage flexibility is the extent to which remuneration is based on congruence between effort and reward including skill levels. This includes a shift from uniform pay systems towards individualised pay, with variability based on performance (Horwitz, 1995: 257).

This typology of flexibility is contrasted to recent literature on the actual implementation of forms of labour market innovation to give an indication as to the forms of flexibility which presently exist in South Africa.

A key concern for the ILO Review was to assess the institutional and legislative objectives of 'regulated flexibility' against an analysis of emerging trends in the labour market both within South Africa and internationally (Standing et. al., 1996: 16). The ILO Review argues that the labour market in South Africa is already too flexible. The degree of labour market flexibility concerning regulation over dismissal, fixed-term contracts and conditions, allow for sufficient adaptability in comparison to other middle income countries (ILO, 1998: 3). According to the ILO Review, South Africa has an extremely flexible labour market given large scale firms resort to 'informal' forms of employment, through sub-contracting, outsourcing [and] use of casual labour' (Standing et. al., 1996: 12). Based on data from the Labour Flexibility Survey conducted between 1995 and 1996 of the manufacturing sector, the ILO found that 85.5 per cent of firms use temporary labour and 43.5 per cent contract

⁸⁴ Statistics on job creation between 1996 and 1999 estimate total employment rose from 9.3 million to 10.4 million. However, jobs in the formal sector declined by about 400,000, from 5.2 million to 4.8 million, whilst informal sector jobs grew from 900,000 to 1,900,000 over the same period. This signals a growth rate in the informal labour market of 110 per cent over four years (StatsSA, 2000).

labour (Crankshaw and Macun, 1997; ILO, 1998: 6). Also, a decline in full-time formal sector employment and increase in part-time work has occurred as a consequence of significant levels of corporate restructuring and cost reduction (Horwitz, 1995: 265).

Horwitz (*ibid*) also argues that larger South African organisations have focussed mainly on numerical flexibility through reducing their core work force and restructuring by some delayering of hierarchies and outsourcing ‘non-core’ activities”. Horwitz (*ibid*) argues this limited form of work flexibility is unlikely to lead to an enhanced long-term competitiveness without active human resource development policy and employee participation. The main reasons for the decline in full-time permanent employment are as follows:

- Reduced costs to fluctuations in production demands and limiting administrative overheads.
- Evasion of non-wage demands such as pension, provident and medical Schemes.
- Hiring and firing of employees is easier.
- Organisational restructuring through downsizing, delayering and other cost rationalisation measures, reducing dependence on direct employment of low-skill jobs, and avoiding advancement opportunities.
- Subcontracted labour is used in areas which are a risk, health and safety-wise.
- Employers’ attempting to apply lean manufacturing that does not require multi-skilled core workers to do low skill work. And,
- Replacement of labour in strikes (*ibid*: 262).

The ILO Review also recognised the economy is characterised by considerable wage flexibility, with wages in certain industries fluctuating dramatically. An emphasis on wage flexibility demonstrates the significance of casual employment, which enables the avoidance of non-wage labour costs such as medical, accident and unemployment insurance (Standing et. al., 1996: 96; Marais, 1998: 168). Standing et. al. (1996: 96) argue short term income gains for workers can occur through casual employment, as employers forgo non-wage costs and offer day rates above the registered wage. However, over the longer-term, aggregate surveys have found that casual workers receive substantially lower wages (Falon and Lucas, 1998: 14). The South African Labour Flexibility Survey found a third of manufacturing firms paid temporary workers lower wages and 42.4 per cent of firms provided fewer benefits (Standing, 1997). The difference between ‘market’ casual wage rates and the

negotiated industry rates was identified as between 50 to 60 per cent for the building sector and 50 to 70 per cent for the forestry sector (ILO, 1998: 27-8).

The ability to undertake unskilled work is also facilitated through functional flexibility as traditional skill sets and work organisation is arranged into a narrower range of tasks that do not require extensive training and / or experience (Standing, et. al., 1996: 96). However, an oversupply of low skilled workers is already a feature of the labour market with structural barriers to accessing skills and education. Over 65 per cent of South Africa's economically active population in 1995 were estimated to be in low and semi-skilled jobs. This has "limited wider implementation to work flexibility; particularly task flexibility and multi-skilling" (Horwitz, 1995: 263-65).

2.6.2 Flexibility as post-Fordism?

Based on the findings of actually existing forms of flexibility in South Africa which Horwitz and others have examined, Fine and Rustomjee (1996: 251) have observed that there are no guarantees of progressive forms of flexibility. Indeed, they warn of the "the danger of low wages and low investment and productivity as the form taken by cooperation and compromise". Fine and Rustomjee (*ibid*: 250) argue that the virtues of post-Fordism or flexible specialisation's benefits to the workforce "have been heavily exaggerated, depending as they do upon a limited number of success stories which are themselves heavily contested".⁸⁵ This occurs as an 'ideal type' of Fordist production is constructed so that any variation from this is viewed as flexible specialisation (*ibid*: 250-51). The evidence available to chart any transition to post-Fordist flexible production in South Africa is therefore fragmented (Hirschowitz, 1987) and 'uneven' with only a "slow and

⁸⁵ Fine (1995: 116) argues "the intellectual origins of increasingly flexible specialisation theory [are] in the inversion of dual labour market theory". According to Fine the flexible specialisation school is a reproduction of the theory of dual labour markets of the early 1970s, which argued that the labour force is divided into two strata, the primary and the secondary, in correspondence to industrial structure based on mass production and casualised production, respectively. 'Dual labour market' theory provides an understanding "of the structure and causes of labour market segmentation" (*ibid*). He also point to this theory's leading antagonist, Michel Piore, who co-authored the work on both dual labour markets with Doeringer (Doeringer and Piore, 1971) and on flexible-specialisation with Sabel. The *Second Industrial Divide* (1984), the title by Piore and Sabel is based upon their dualism thesis. However, dual labour market theory has given way to segmented labour market theory, with more segments and explanatory factors. With this shift, according to Fine "the flexible specialisation school has ...[reserved] the ranking of the primary and secondary sectors, with the latter potentially providing the key to economic progress and favourable working conditions". The economic theory at the core of flexible specialisation is identical to segmented labour market theory. Fine therefore negates the significance of the flexible specialisation analytical origins as original (ie. as the inversion of dual labour market theory).

uncoordinated drift of new technology and new methods of organising work” (Bell, 1990; von Holdt, 1991).

Swainson (1992: 20) argues that forms of flexible specialisation in South Africa hold great potential for the break-up of large enterprises into low-cost, non-unionised sweatshops. According to Rogerson (1994), almost exclusively small-scale black owned sub-contracting operations represent the major shift to this type of restructuring in South Africa. The informalisation of existing formal enterprises occurs as this form of flexibility seeks to reduce labour costs by limiting unionisation of the workforce (Rogerson, 1991a; 1991b).

Sub-contracting and labour broking

According to Klerck (1994: 38), labour subcontracting tends to operate along existing hierarchies of subordination within specific industry structures.⁸⁶ Labour subcontracting or broking firms also vary in size from multi-nationals to small ‘informal’ businesses. The contracts they offer vary, as does the level of skill of labour they offer, from professionals to cheap, unskilled and unregulated labour (*ibid*: 36). The use of subcontracted casual labour relates to the following factors:

- Firstly, a large surplus population of unemployed.
- Secondly, a balance of class forces where organised labour is unable to limit such forms of employment.
- Thirdly, a segmented labour market.
- Fourthly, an industrial structure developed historically on the differentiation of employment conditions.
- And finally, a broader profitability crisis.

Based on these factors, Klerck (*ibid*: 37-8) argues South Africa is “ideally suited to an increase in the use of casual and unregulated labour”.

Klerck (*ibid*: 38) argues that employers increase their profits (or surplus value) based on a combination of changes in technology, the intensity of work, and/or cheaper wage rates through employing cheaper and weaker labour. The latter is achieved through subcontracting labour. Klerck (*ibid*: 41-2) argues the proliferation of labour subcontractors

⁸⁶ For example, in South Africa an ‘induna’ supervision system of on-site control is defined by subcontracted workers being divided into work groups headed by an ‘induna’ or senior male appointed by the subcontractor (Klerck, 1994: 39). This is based on elements of tribalism and ethnicity as forms of discipline and authority (*ibid*: 57).

or brokers in South Africa is based on a general profitability crisis, where primary firms seek to cut costs in wages through exercising greater control over workers indirectly. This is due to a general inability to expand production or invest in expensive new technologies in the face of the profitability crisis.

Subcontracted labour is legally employed by a firm whose costs are not associated with the actual product or service being provided - so essentially the workers are *outside* of the primary firm. According to Klerck (*ibid*: 40), subcontracted labour is therefore the source of two different, but related, forms of profit. Firstly, the direct profits that the subcontracted work produces for the primary firm and, secondly, the profit made by the subcontractor from hiring out these workers. The labour subcontractor's profitability, however, is directly related to their dependence on providing the cheapest source of labour (*ibid*).

As the employment conditions of subcontracted labour are determined for each individual employee, market forces replace bureaucratic regulation (*ibid*: 39). The temporary nature of the employment relationship therefore enables the sub-contractor to forgo such statutory duties as medical aid, pension funds, and paid leave. The costs forgone contribute to the reduced wage cost for the primary employer (*ibid*: 39). By not directly hiring the labour, the subcontracting of labour is an effective strike breaking mechanism as well for the primary employer (*ibid*: 41). Indeed, the use of subcontracted labour is seen as a threat to wage rates and employment security for permanent employees (*ibid*: 50). Based on this premise, casual labour is 'cheaper' because it is usually unorganised (*ibid*: 49). COSATU subsequently view "flexible work arrangements as a potential threat to full-time employment" (Horwitz, 1995: 264).

Despite this apparent incentive for employers, Klerck (1994: 53) argues there are also limits to subcontracting. These are found in: (a) the availability of suitable firms and groups of workers; (b) the nature of the labour process; (c) opposition from trade unions; (d) attempts by employers' associations to restrict 'unfair competition'; and, (e) pressures upon the state to limit the extent of unregulated employment. Klerck (1994: 53-4) also identifies that a problem in controlling subcontracted workers is that they are excluded from directly shaping wage relations in the primary firm. This limits any incentive for subcontracted labour and deprives these workers from having access to an institutional mechanism that could mediate conflict and/or allow them to voice their grievances.

2.6.3 Neo-Fordism

Kraak argues accounts of both racial-Fordism and post-Fordism within South Africa fail to specify the extent of the sectoral spread of forms of industrial organisation. Rather, they assume an "all-pervasive diffusion of new technologies and work organisational methods across all economic sectors, thereby missing the uneven development of the South African capitalist labour process" (Kraak, 1996: 42). Kraak (*ibid*: 44) argues that hybrid "modes of regulation will emerge ...[through the] combination of elements from both 'ideal-type' form of industrial organisation". This is reflected in the sense that post-Fordist skill requirements are never an expression of national economic need, but rather reflect skill requirements of strategic sub-sectors and their production processes undergoing post-Fordist change. The transition to a new mode of capitalist production and regulation is therefore uneven (*ibid*: 44). However, Kraak (*ibid*) also notes:

- Its success is always contingent on the ability to overcome certain structural barriers to industrial change and the strategic choices made by key political and economic players.

Kraak (*ibid*: 70) therefore sees post-Fordist methods are restricted to only a few strategic sectors targeted for competition in global markets, whilst "the remainder of the economy [is] characterised by uneven development", a hybrid formation of neo-Fordism and Fordism, "coexisting alongside informal sector poverty and rural decline".

Similarly, Rogerson (1994: 4) argues that African countries generally exhibit few of the features of flexible specialisation. Where they have been adapted it has often been initiated under the pressures of globalised production to adopt new organisational forms. These, however, have manifested as flexible low-risk production systems where governments have pressed to remove labour market regulations. Consequently, employment security has been eroded and labelled as 'flexible labour' (Standing, 1989; Rogerson, 1994: 5).

Horwitz (1995: 264-5) similarly argues that there is no consistent approach to flexibility in South Africa and "whether it occurs, the form it takes and the level at which it is negotiated varies sectorally". Indeed, Horwitz (*ibid*: 258) argues that it is "questionable in a dual first and third world economy as to how far work-place flexibility can be implemented" with the dual economy paradox in South Africa translating into sectoral differences.

The literature therefore suggests that, given the unevenness of the application of labour market flexibility in South Africa, either progressive or regressive, an industry level analysis is appropriate to assess the form of flexibility. A number of reasons support this approach. Firstly, there is insufficient evidence to draw a definite conclusion about the type of flexible work arrangements that exists (Horwitz, 1995: 264). As Bezuidenhout (1998: 21) argues, the “unavailability of thorough quantitative studies on the prevalence of atypical forms of employment in South Africa hinders any systematic study of labour market flexibility. This unavailability of empirical data frustrates informed policy debates”.⁸⁷ Secondly, as Klerck (1994: 33) argues “different capitals need different types of flexibility”. This leads to a multi-causal approach based on examining the employment outcomes. For example, subcontracting and casualisation within industries is linked to “the different reasons for its implementation, the forms it assumes, the labour process it operates in, and the labour markets which sustain the availability of labour” (*ibid*). Klerck (*ibid*: 54-5) therefore argues it is necessary to make a distinction between the industrial and employment dimensions of employment arrangements, especially in relation to subcontracting.⁸⁸ Similarly, Fine and Rustomjee (1996: 243) argue labour market segments should be seen as created out of their own specific economic and political circumstances that are distinct from one another.

Indeed, to reflect the multi-dimensional nature of the above forms of flexibility as applied in South Africa’s labour market, Kraak uses the term ‘neo-Fordism’ to reflect a partial movement away from racial-Fordist regulatory practices. Neo-Fordism signals:

the intensification of the Fordist labour process and the weakening of the organised trade union movement through the introduction of more exploitative forms of work organisation using the new technologies. ...It represents a non-optimal and piecemeal utilisation of the new technologies and work organisational methods, driven by a principled opposition to co-determinist and participatory industrial relations (such as teamwork), and by cost-cutting financial imperatives. (Kraak, 1996: 42)

⁸⁷ Bezuidenhout (1998: 21) therefore requests that a “proper national sample survey of flexibility patterns should be priority for the Department of Labour and the Central Statistical Service so as to provide a clearer picture of prevalence of ‘peripheral work’”.

⁸⁸ Based on this approach the range of factors to examine at the sectorally-specific level of analysis to identify the dynamics of subcontracted casual employment includes the following: “the extent of legal and collective regulation of employment conditions; security and stability of work; degrees of incorporation *vis-a-vis* both capital and the state; the extent of wage and extra-wage compensation; skills and the levels of autonomy and control in the labour process” (Klerck, 1994: 33).

This is reflected in the local adaptations of just-in-time (JIT), subcontracting, quality circles and other participatory schemes that are grafted onto existing social relations. Neo-Fordism, as this is termed, therefore emphasises that enhanced labour flexibility does not transcend the fundamental structural antagonism between management and workers, or reverse Taylorist control strategies, but involves work intensification and essentially builds on existing labour control practices (Harley, 1994).

According to Kraak (1996: 52-3) neo-Fordism reflects three factors:

- racially segmented labour markets;
- ‘import-substituting industrialisation’ and ‘free market’ macroeconomic policies; and,
- an authoritarian and obstinate managerial tradition “characterised by hierarchical, authoritarian, racist and adversarial social relations.

Kraak (*ibid*: 66) argues these barriers must be overcome if the ANC government plans to implement progressive forms of post-Fordist flexibility. Kraak also argues that a continuing presence from COSATU is necessary to control an inevitable shift to post-Fordist labour processes (*ibid*: 66). Kraak (*ibid*: 68) cautions that any attempt at industrial transformation that is not buttressed by significant changes in power relations on the shop-floor will be unable to attain the critical hallmarks of post-Fordist production: multi-skilling; teamwork; flattened supervisory hierarchy; and, continuous improvement methods.

Although there appears to be some limit to the introduction of neo-Fordist forms of flexibility, a danger is that existing forms of inequality are being reinforced through the casualisation of the labour market. Neo-Fordism as the prevailing form of labour market flexibility can therefore be seen as a danger to the formal industrial relations system being established in South Africa, let alone addressing employment issues in the informal economy.

The above arguments appear to confirm the ILO argument that the South African labour market is already too flexible. However, the ILO Review (Standing et. al., 1996: 1) emphasises that flexibility in the labour market is a multi-dimensional concept, and is not synonymous with deregulation.

Flexibility should not be a euphemism for more labour market insecurity or be synonymous with a weakening of protective regulation. Sensible regulations can provide a framework

within which disruptive socio-economic conflict can be reduced or avoided while promoting dynamic efficiency, allocation efficiency and x-efficiency.

Given this emphasis on the necessity for protective regulation to guard against the worst excesses from employers' use of labour market flexibility in employment arrangements, the following section examines the various legislation covering casual workers and how this has been transformed under the ANC government.

2.6.4 The legal status of casual workers

Casual workers have historically been insufficiently represented under the existing industrial relations and labour market legislation of the apartheid regime. Limited legal entitlement permitted the widespread use of the 'permanent' casual. The legal definition of casuals under the *Basic Conditions of Employment Act* (BCEA) of 1979 was a worker who worked no more than three days a week. The BCEA also stipulated minimum conditions for workers, excluding those in agricultural, domestic, and public sector work. The minimum conditions included provisions for hours of work, overtime pay, Sunday work, annual leave, sick leave and public holidays (Standing et. al., 1996: 192). The BCEA however made no provisions for notice of termination for casual workers (*ibid*: 13). The BCEA minima could also be over-ruled by either industrial council agreements or Wage Board determinations (*ibid*: 193). The Wage Board covered only 730,000 workers, both union and non-union, with coverage decreasing and limited in terms of wage determinations being infrequent, low wage minimums, and determinations rarely enforced by the Department of Labour's inspectorate (*ibid*).

The process of casualisation in South Africa was exacerbated by the failure of legislation to regulate labour brokers, whose profitability, ironically, was increasingly based on the exploitation of this legislative failure. According to Kenny and Bezuidenhout (1999: 5):

Labour brokers form companies [usually closed corporations] outside the parent firms where the actual production takes places. They merely supply workers in a very flexible fashion, but in some cases they also supervise the work. Some labour brokers called 'general labour brokers', usually take on manual labourers where little formal training is needed and act as middle persons between firms and workers. 'Specialisation labour brokers', on the other hand, supply highly trained workers for firms on a subcontract basis. They can also specialise in one specific area of economic involvement, such as security or cleaning.

Labour brokers were included in the *Labour Relations Act* of 1983 in an attempt to regulate them, but this failed for a number of reasons. Labour brokers evaded minimum standards and frequently colluded with client firms to obtain cheap labour that could be easily disposed, which provided client firms with considerable savings on wages and other entitlements, such as unemployment contributions and training requirements. This increasingly occurred as labour brokers were deemed by the LRA of 1983 to be the employer instead of the client. However, labour brokers simply sub-let to third parties or middlemen to avoid direct contact with their clients or workers, effectively rendering any LRA definition of employer useless (Naidoo, 1994a).⁸⁹ Mass structural unemployment also enabled a supply of workers willing to take any offer of work and accept abusive labour practices and non-compliance with minimum standards. The net effect was that brokers could do what they wanted for sizeable profits (Naidoo, 1994a).

The ILO Review estimated that in 1995 there were more than 3,000 labour broking agencies in South Africa supplying more than 100,000 temporary workers across industries at any one time (Standing et. al., 1996: 95). However, Naidoo (1994b: 3) estimated in 1994 that labour brokers could supply up to one million workers, with the largest component being the construction sector. Labour broking tended to follow areas of increasing union density with ad hoc work processes. In these sectors permanent employment declined as a consequence of labour brokers and other temporary labour suppliers. Existing union labour within these firms was then also pressured to acquiesce, a secondary motive for firms' use of labour brokers.

Subcontracting through labour brokers leads to an absolute commodification of labour, which is deprived of any bargaining power. This occurs as the contractual relationship between employees and the company is replaced by a purely commercial relationship between core and client companies (Kenny and Bezuidenhout, 1999). Such employment practices enable the formal sector to cut costs based on informal sector conditions (Bezuidenhout, 1998).

Both the *Labour Relations Act* (LRA) of 1995 and the *Basic Conditions of Employment Act* (BCEA) of 1997 went some way to address the legislative gaps in relation to the status of casual employees. Labour brokers were forced to register under Section 198 of the LRA as

⁸⁹ Naidoo (1994: 2) explains how this scenario worked: The labour broker ('A') recruits workers and places them at the disposal of middleman ('B'). 'B' independently of 'A', contracts with and provides the workers to 'C', the client. The client, who has no contact with 'A', pays 'B'. 'B', after taking their cut, in turn pays 'A'. 'A' then remunerates the workers.

'Temporary Employment Services' which established joint liability with their clients for compliance to minimum standards. However, employers can still use labour brokers as subsidiaries to provide labour in order to avoid industrial action. Case law demonstrates examples where this has occurred, with the labour broker rendered insolvent by the parent firm in the course of strike action by employees. This effectively leads to the retrenchment of all employees under the labour broker with no recourse for compensation with labour brokers unlikely to have fixed assets (Naidoo, 1999: 47).⁹⁰

Differences over minimum standards led to the 1996-1997 dispute over the *Basic Condition of Employment Act*. The February 1996 release of the Department of Labour's Green Paper on Employment Standards was followed by negotiations in NEDLAC that broke down by mid 1996 after the release of GEAR. In February 1997 COSATU threatened a national strike for May 12, but was pre-empted with the release in April 1997 of a draft *Basic Condition of Employment Bill* (Bezuidenhout and Kenny, 1999: 18-20).

Labour market flexibility became the *cause de celebre* of 1997 as political jousting between labour and government over GEAR was transposed to debate over the *Basic Condition of Employment Bill*. Government's previous measured approach to flexibility which attempted to 'balance' wage, work time and numerical flexibility faded away as COSATU's back arched to fight (Bezuidenhout and Kenny, 1999: 21).

On 2 June 1997 COSATU undertook a national stay away with some two million workers supporting negotiations for minimum standards. COSATU's demands included the reduction of the 45-hour week to 40 hours; six months paid maternity leave, and compulsory negotiation, rather than consultation, over retrenchment issues (Maree, 1998: 48). The World Bank at the time reiterated its prescription for flexible deregulated labour markets as a mechanism for employment growth. A compromise in bilateral negotiations with the Labour Minister Tito Mboweni was reached after COSATU threatened a further strike in October. The Bill was then introduced to parliament in November 1997 (Bezuidenhout and Kenny, 1999: 22-3). The BCEA legislative reforms included the former Wage Board being established as the Employment Conditions Commission, which can make sectoral wage determinates after taking into account sectoral and regional variances (ILO, 1998: 19).

⁹⁰ Another form of employment, the 'independent contractor', is excluded from the definition of an employee under the LRA of 1995. The Confederation of Employers of Southern African (COFESA) representing some 120,000 companies in South Africa claims to have converted 300,000 employees in 6,000 firms into independent contractors (Naidoo, 1999: 48).

The BCEA of 1997 makes no reference to a casual or, indeed, permanent employee. Rather, the BCEA immediately covers all employees' minimum conditions.⁹¹ Under the BCEA an agreement must be reached between the two parties before a contract can be changed and notice must also be given in writing before the change. The changes cannot be less favourable than the prescribed conditions of employment and notice must be in writing (Section 37). Dismissal will only be fair if it is for a fair reason and follows a fair procedure. There are three kinds of fair reasons: misconduct, incapacity (poor performance or ill health), and a retrenchment situation.

However, the LRA of 1995 made it an unfair labour practice if an employee 'can reasonably expect ...the employer to renew a fixed term contract... on the same or similar terms but the employer offered to renew it on less favourable terms, or did not renew it' (Section 187). Records of employment services on a permanent casual basis can therefore provide a stronger basis to dispute both dismissal and retrenchment. The legal definition of an employee is, as a result, now wider where someone having 'continual or long-term working relationship' with an employer can claim rights as an employee (Rees, 1997).

Maziya (2001: 213) notes that the business community reacted to this legislation with the view that it made the labour market less conducive to employment creation, given the perceived difficulties in retrenching employees.⁹² The debate about labour market flexibility as a mechanism to create employment was re-iterated by business and government. This led to a call at the opening of parliament by President Mandela in January 1999 for a review of labour legislation and its impact on employment (Bezuidenhout and Kenny, 1999: 18-20). Following the June 1999 election of Thabo Mbeki, the Minister for Labour Membathisi Mdladlana announced a review of labour legislation with social partners around issues concerning labour market flexibility.⁹³

⁹¹ The conditions include: one day's paid sick leave for every 26 days worked; one day annual leave on full remuneration for every 17 days worked or was entitled to be paid; one hour of annual leave on full remuneration for every 17 hours worked or was entitled to be paid; and, overtime payment (BCEA, 1997).

⁹² This has subsequently led to calls for probationary employees to have no conditions for a notice period as part of the review of labour market legislation. However, as Fallon and Lucas (1991) have found, there is little empirical evidence that reducing job insecurity increases employment levels.

⁹³ These issues included: "probationary periods; unfair dismissal procedures; dismissals for operational requirements; conditions of employment when companies change hands; provisions in the BCEA on Sunday work and notice; the role of the Minister and sectoral determinations in varying core rights in the BCEA; and improving efficacy of some of the institutions set up to assist ...in regulating the labour market; including the CCMA and the Labour Court" (Ministry of Labour, 1999).

An immediate legislative review priority was to establish a Task Team to assess the impact of the BCEA on small business, which suggested the downward revision of a number of conditions for firms employing less than ten people. The proposal to re-assess the application of minimum standards, in reference to their inflexibility, was suggested to take into account the ILO finding that anecdotal evidence suggests small firms evade registration and compliance. Therefore small business applications for exemption by a bargaining council from the extension of sectoral minimums was a secondary concern for in the ILO's view (ILO, 1998: 19-20). According to Bezuidenhout and Kenny (1999: 33):

The forms of flexibility now held in discussion are those which business has all along called for: wage, numerical and work time flexibility. We see that government has accepted business' argument that even the *perception* of inflexibility, if hindering (especially foreign) investment, justifies loosening labour standards. In this context, any empirically based claims that the labour market is in fact flexible have little chance of effecting policy.

Similarly, the legislative review focus needed to consider arguments surrounding the existing labour market structure as inherited under apartheid and whether this works against productivity and efficiency within sectors.

2.6.5 Insiders and outsiders

Preceding the 1994 election in South African, Jane Barrett, TGWU's then national organiser, pointed out a contradiction within COSATU's focus on strategic unionism. The contradiction was based on wanting to restructure national fora and industry wide collective bargaining arrangements, as opposed to addressing the organisation of semi-marginalised workers. She envisaged that if these workers are ignored, "they are unlikely to support the efforts of strategic unionism and may even oppose it" (1993: 48). Barrett's concerns appear to be well founded in the post-democratic era, as despite the apparently progressive legislative and regulatory system established through the LRA, BCEA and NEDLAC, the shift towards more flexible employment poses a major challenge to organised labour.

COSATU affiliates to date have had very different approaches to the issue of organising casual workers. Rees (1997: 10-11) argues:

Unions have not paid sufficient attention to dealing with the problem of casualisation, often being more concerned with their core, permanent membership and improving their

associated benefits and wages. Ironically this regulatory and organisational gap provides good incentive for employers to reduce, particularly their non-wage costs by employing such forms of labour. The commercial contracts governing the employer worker relationship allow employers to exercise far more control over this kind of labour, unmediated and outside of the collective bargaining arrangement. Where some unions have taken up the issues of these workers in bargaining it has been on behalf of, and without the effective representation of these layers. This has often allowed employers to perpetuate the divisions through offering concessions to the permanent workers, and the pressing issues of casual and other workers get dropped in the ensuing settlements.

As noted above, the differences in casual workers status under labour law has also led to differences in COSATU affiliates' organising strategies (Rees, 1997). However, the increased casualisation of labour is also affecting organised workers (Bezuidenhout, 1998: 11; Barchiesi, 2000). The separation of union organisations from potential bases of support and their difficulty to influence societal bargaining outcomes are increased (Rees 1997).

Trends emerging in South Africa by the mid 1990s pointed to the erosion of centralised collective bargaining towards a 'flexible' decentralised focus on the firm (Baskin 1996: 16). The decentralisation and subcontracting of production in South Africa is facilitating the rise of forms of 'atypical' employment, especially in labour-intensive sectors (Kenny and Bezuidenhout 1999).

The process of outsourcing breaks down unions' constituencies through the fragmented nature of employment, but also impacts on the representative capacity of collective bargaining. This can lead to traditional union constituencies being expelled from the labour market by the dynamics of casualisation (Barchiesi, 2000: 20). Indeed, surprisingly, the number of new Bargaining Councils formed under the LRA of 1995 has been limited (see Table 2).

Table 2 Registered trade unions, employers' organisations and bargaining councils (1993-98)

<i>Year</i>	1993	1994	1995	1996	1997	1998
Unions	201	213	248	334	417	463
Union membership	2 890 174	2 470 481	2 690 727	3 016 933	3 412 645	3 801 388
Employers' organisations	195	191	188	196	258	241
Bargaining councils	68	86	80	77	73	76

Source : *Department of Labour Annual Report 1999*

Barchiesi (2000: 20) argues this process has been encouraged by ANC government policy attempts to provide for flexible labour markets, opening sectors to competition through trade liberalisation and foreign ownership enabled through privatisation.

Consequently, the issue of organising casual or informal sector workers was specifically raised on the agenda at COSATU's sixth national congress in 1997 which debated the findings of the September Commission on the Future of Trade Unionism. With the September Commission report, the term 'strategic engagement' was used to emphasise a middle ground between militant abstentionism and the trend towards institutionalised participation, and COSATU's efforts to develop a legislated basis for bargaining mechanisms as workplace forums (Bezuidenhout, 1998; 9-10). The term engagement allows both an emphasis upon common goals, but also disagreement and conflict (Baskin, 2000). As Adler (1999: 4) notes, "(e)ngagement implies a common meeting place, not a common starting point, nor even a common end point".

The September Commission recognised the impact of the restructuring and globalisation process in South Africa contributing to increasing casualisation of the labour market and its subsequent effect on trade union organisation.

In company after company, unions are faced with employer initiatives to cut jobs, subcontract or outsource a range of functions and employ casual rather than permanent workers. Partly because of employer initiatives, partly because of their own weaknesses, unions are being forced into a reactive and defensive mode, rather than a proactive and offensive mode of operating (September, 1997: 96).

The September Commission dedicated chapters to the restructuring of work (chapter 6) and the organisation of new sectors and layers of workers (chapter 7). In doing so the report explicitly recognised the impact of labour market flexibility and the divisions between workers that precarious employment brought about.

Increasing labour market flexibility ... generates increasing differentiation ... within the organised working class as different workers perceive themselves as having different interests. Some workers gain access to new skills and careers paths with good pay, conditions and benefits; others become 'outsiders' with various kinds of non-standard contracts which undermine job security, conditions and benefits. ... [T]hese trends have left unions based in a shrinking sector of the working class: above them a layer of skilled and

professional' workers who see no need to join a union, and below them is a large mass of temporary, part-time, subcontracted and outsourced workers who are vulnerable and difficult to organise. Similar trends are beginning to emerge in South Africa. (September, 1997: 117-118)

The Commission argued that restructuring strategies adopted by management include 'retaining the core business' of the company and retrenching, outsourcing or subcontracting 'non-core' activities'' and "seeking to bypass the union by refusing to consult or engaging in meaningless consultation". The dangers of these initiatives for organised labour include the redivision of workers into 'insiders' and 'outsiders', and the possibility that "union responses to restructuring may create ideological confusion among members and activists" (*ibid*: 96-97).

The September Commission therefore recommended a number of strategies for unions to organise casualised workers at national, sectoral and workplace levels (*ibid*: 125). Firstly, an annual 'Summer Offensive' was proposed for affiliates to seek to organise casual workers in their respective sectors to address differences in wages and conditions between casual and permanent workers (*ibid*: 131). Secondly, the formation of a 'complaints service' within affiliates as a structure to service casual workers. Thirdly, statutory bodies associated with the industrial relations system become proactive in their efforts in relation to casualised workers. Fourth, the practices and attitudes of union officials require change in regard to organising and representing atypical workers. Fifth, the extension of centralised collective bargaining to establish minimum standards for casualised workers in each sector. Finally, tendering in parastatals and the public sector should not undermine labour standards (*ibid*: 134; Bezuidenhout, 1998: 13-14). A further proposal was for vulnerable sectors of the economy, those where unions have limited presence, to be organised through a process of industrial unions cross-subsidising new unions (Bezuidenhout, 1998: 16).

COSATU's sixth national congress in 1997 endorsed the September Commission's report recommendations to undertake a "membership drive among workers that COSATU has not traditionally organised" (COSATU, 1997). However, as Bezuidenhout (1998: 17) notes, because the September Commission placed the issue of casualisation on the agenda, it does not mean that the labour movement is either prepared to or has the means to engage the issue effectively. Barchiesi (2000: 22) also points out that the institutionalisation of labour has "not addressed COSATU's difficulties in representing material changes in form of work, employment and power relation in production". COSATU affiliates therefore need to

address both issues of capacity as well as organising strategy in order to meet the challenge of overcoming divisions between insiders and outsiders in the labour market and emerging industrial relations system.

The September Commission also recommended that COSATU adopt a pragmatic approach of ‘flexible independence’ in its support of electoral pacts with the ANC in order to gain assurance on the delivery of priority concerns, especially those over restructuring and production issues (September, 1997: 31-2).⁹⁴ In doing so the September Commission rejected the idea of wage restraint or wage flexibility tying wage increases to productivity as a mechanism for job creation, as recommended by the Presidential Commission and GEAR. The September Commission (*ibid*: 22-3) argued that the social accord based on a “policy of wage moderation for labour ...would entrench existing inequalities”. In this way as Nattrass (1998) points out, the notion of a prices and incomes accord in South Africa is effectively irrelevant as long as organised labour rejects any commitment to wage restraint.

The above review of COSATU organising strategy positions needs, however, to be contrasted with the broader theoretical literature that was emerging at the same time in relation to COSATU’s role in its political alliance with the ANC government and its effectiveness in influencing industrial relations and economic policy. Arguably, as identified above, the work of Webster and Adler has been influential in shaping both pre and post-apartheid transition debates on the relationship between COSATU, the ANC, and the economy. Their theoretical position of ‘bargained liberalisation’ within the context of ‘double transition’ is examined below in order to establish the parameters from which to conduct a case study analysis of the ports sector.

2.7 BARGAINED LIBERALISATION AND INDUSTRIAL RELATIONS

The issue of labour market flexibility, trade union response, and the extent to which the ANC government either support or rectifies apartheid’s inequities in the labour market through its policy position, were all important and emerging issue in South Africa post 1994. Webster and Adler (2000:7) argue that after the ‘democratic transition’ of 1994 an ‘economic transition’ may lead to a number of possible outcomes for COSATU.

⁹⁴ This recommendation was endorsed at COSATU’s Central Committee meeting in June 1998 (Webster and Adler, 1999: 368).

Labour may remain allied with a ruling party and continue as a major partner, or it could be reduced to a minor participant. ...[A] schism in the pro-democracy forces [could emerge], with labour moving into opposition, or even to the fracturing of the labour movement, and a growing rupture between leadership and led. In both these cases marginalisation is likely.

Webster and Adler (1999: 348) phrase this change in emphasis in policy direction where economic priorities interact with democratic decision making processes as ‘bargained liberalisation’. This is where “prominent groups renegotiate the terms on which a country engages with the global economy”. They use the terms “liberalisation, because the changes involve opening up to the global economy; bargained, because agreements are subject to the institutionally structured interplay of societal interests” (*ibid*: 349-350).⁹⁵ Within the appropriate institutional setting, according to this scenario, labour as a collective actor has a capability of shaping the character of democratisation through its disciplined and strategic use of power. Potentially, the labour movement by participating in negotiated compromises can extract concessions, discipline capital and mitigate the social costs of economic adjustment (Webster and Adler, 2000: 3).

According to Webster and Adler (1999, 2000), the effectiveness of COSATU as a collective actor to influence economic policy and practice, will be influenced by the range of strategic choices it can make. This range in turn is affected by the institutional parameters for negotiation and compromise that exist, and indeed, the willingness of actors to engage in compromise. This implies reaching non-zero-sum enforceable agreements between independent actors based on mutually accepted rules. COSATU’s opportunity to effectively shape the economic transition can however, they argue, be lost either through uncritical participation in or a too hasty withdrawal from tripartite corporatist bargaining processes. Between these extremes COSATU must strike a balance by “combining an involvement in policy-making with the strategic use of power outside formal institutions” (Webster and Adler, 2000: 5).

Of course the process of bargained liberalisation occurs with organised labour as but one of the key actors in both the South African and global economies. The respective positions of labour, capital, state and wider organisation in civil society, reflects the importance of

⁹⁵ For bargained liberalisation to occur requires an institutional setting with the ability to reconcile democracy and economic reconstruction through bargaining. These institutions create new rules of the game, compelling the key social actors - government, organised labour, business and organisations within wider civil society – to bargain over liberalisation by negotiating and concluding agreements on major economic and social policies (Webster and Adler, 1999: 358).

‘embeddedness’, or “the specific domestic configurations of organisations, institutions, and norms that mediate and shape a country’s interaction with the international economy” (Webster and Adler, 1999: 349). For example, Webster and Alder (*ibid*: 349) argue individual firms operate within markets that “constrain choices but do not predetermine outcomes”. Globalisation provides capital with an exit option, but this assumption equates all capital with financial capital and ignores the constraints placed on many firms that are relatively immobile. According to Webster and Adler (*ibid*) “employers may not only be profit maximisers but also risk avoiders interested in steady, long-term, and sustainable profit”.⁹⁶

States are also constrained by a number of factors. For instance, states can pursue economic growth by adopting neo-liberal policies with the aim of attracting investment. However, in South Africa with its existing levels of class inequality, further divisions may be met by popular mobilisations against neo-liberalism either inside or outside the state (*ibid*: 348).

In terms of labour and wider movements within civil society seeking to resist economic liberalisation, Webster and Adler (*ibid*: 348) argue they “may be able to create new institutions through which they can process their demands ... [and] create new rules of the game”. However, Webster and Adler see the possibilities for compromise untied to corporatism. Rather, bargained liberalisation provides workers and marginalised social strata an opportunity to also engage the state and capital over the form and pace of adjustment by the extension of social regulation to those effected by economic restructuring (*ibid*: 349-350, 353).

This ability to engage on a wider terrain to affect adjustment is but one part of the equation. The other is that to effectively bargain each of the key parties must compromise. This in turn requires a mutually shared sense of stalemate, which requires “parties to accept that the costs of not compromising outweigh the benefits to be had by standing firm” (*ibid*: 349). According to this approach it is these “interlocking concessions and gains ...[which] resolve the potential contradictions of the double transition” (*ibid*: 358).

⁹⁶ There are similar arguments that emphasise the ‘fixed’ spatial nature of some forms of capital, the importance of the ‘local’ in relations between capital and labour, and the ability for labour movements to coordinate with social movements on both a local and globalised basis (Waterman, 1999; Harvey, 1996; Moody, 1998).

2.7.1 What scope for ‘Bargaining’ and ‘Compromise’?

Webster and Adler (1999: 370) argue that South Africa has entered a class stalemate in the immediate years following the democratic transition. The stalemate exists as “neither capital nor labour is able adequately to secure their interests by pursuing their traditional demands through adversarial strategies and tactics”. However, they judge the ability of the state, capital and labour to reach a class compromise as impossible “unless all key actors perceive the stalemate and recognise the need to bargain and make concessions” (*ibid*: 370). The condition for a compromise to be meaningful requires that it be negotiated through a range of multi-partite institutions at the national (macro), industry (meso) and workplace (micro) levels (*ibid*: 358).⁹⁷

Webster and Adler then set out at least six necessary conditions for a class compromise to occur.

- First, the parties have to enter a situation of stalemate in which no one party can achieve its objectives (*ibid*: 373). They argue this condition has been met as the ANC government and business’s pursuit of neo-liberal policy has been met with increasing levels of resistance from the labour movement and wider organisation within civil society (*ibid*: 376).
- Second, the stalemate has to lead to a situation where the costs of not compromising outweigh the perceived gains of standing fast. To date they argue it is not fully clear whether the parties have been disciplined by the threat of disorder such that they perceive a sub-optimal solution as preferable to class stalemate.
- Third, the parties must have access to – or be in a position to create - institutional arrangements that allow bargained agreements to be reached (*ibid*: 373). Webster and Adler argue the development of institutions through which bargained agreements can be reached has also been met (*ibid*: 376).
- Fourth, organisations must be able to represent their constituencies effectively and be able to mobilise and restrain followers according to the organisation’s strategic and tactical vision. As we shall see, this remains a critical issue for both COSATU, business associations, the state and wider organisation in civil society at sectoral level, although for different reasons.⁹⁸ It is therefore not yet clear whether any of the parties can maintain their constituencies support in compromise.

⁹⁷ The benefits of compromise in this scenario are the following: “the state ensures that labour gains increased control over the distribution of the surplus and that this is used - through social welfare - in the interests of the population as a whole. Capital gains a more productive workforce and flexibility conducive to job creation, while committing itself to longer-term productive investment. The state achieves economic growth, increased tax revenues, and stability” (Webster and Adler, 1999: 358).

- The most serious problem exists among marginalised groups: those working in the informal sector, the unemployed, rural women, and urban and rural youth. Here formal independent organisation is at best nascent, at worst absent, and there is a possibility that such strata will be drawn into vertical patron-client networks as a survival strategy (*ibid*: 377).
- Fifth, it is imperative that individuals are willing to risk making strategic choices that may break with their organisation's prior commitments. They again argue it is not clear that there are leaders willing to undertake these types of decisions.
- Finally, the international context must be conducive to the settlement or, at a minimum, does not serve to affirm the parties' unwillingness to compromise. (*ibid*: 373)

Webster and Adler therefore suggest a focus on the institutional setting for 'bargained liberalisation' and a method from which to examine tiers of the industrial relations system. As the literature review above suggests, given that the industrial relations system is emerging and information on its ability to address existing forms of flexibility is uneven, a case study method at the macro, industry and workplace levels is necessary to assess the effectiveness of collective bargaining structures. This method is therefore adopted in this study to undertake an assessment of the attempt by the COSATU affiliate the TGWU to address the casualisation of the dock labour market in the port of Durban.

2.8 CONCLUSION

This chapter has provided a historical overview of the emergence of the COSATU federation as a significant political and economic actor in pre and post democratic transition South African industrial relations. COSATU's formation in November 1985 reflected social movement unionism, where the "formal organisational features characteristic of unions are fused with the mobilisational capacity and looser structure of social movements" (Adler and Webster, 1995: 89). COSATU's formerly independent trade unions now became part of the social movement for national liberation to mobilise against the apartheid state. Once the National Party had conceded working towards a political settlement, COSATU endeavoured to engage the state and business through 'strategic unionism'. This entailed working with civil society and coordinating mass actions to support negotiations within a range of forums in order to achieve the 'radical reform' of the legislative system and institutional structures governing industrial relations and the wider political economy (Webster, 1991).

⁹⁸ "Labour has demonstrated great ability to use collective action to open doors but has difficulty walking through them. Even where it has the will, it may lack the capacity to make effective use of the institutions it helped create. ...Business associations are not encompassing and cannot effectively discipline their members. The state - though possessing an advanced bureaucracy ... is undergoing dramatic restructuring to overcome the authoritarian, racist, and commandist legacies of the apartheid era" (Webster and Adler, 1999: 377).

Within the period preceding the ANC's election victory and formation of government, an important question within the ANC-COSATU-SACP alliance was how the state and union movement could work together to transform the existing form of industrial relations? The answer to this question in the post transition period has been characterised by Webster and Adler (1999) as one of double transition, in which democratic change is followed by the 'bargained liberalisation' of the economy. There are key differences in the movement from characterising the influence of COSATU pre-election with the notion of 'radical reform' (achieving socialism through both legal and incremental reforms) to post-election being one of 'bargained liberalisation' (globalisation forcing the liberalisation of the economy – but through institutional negotiations). The latter term recognises the difficulties confronting COSATU in representing organised labour through institutions provided through the formally legislated industrial relations system.

At issue is the marginalisation of organised labour at the macro-national institutional level, the extent to which labour market flexibility means a lack of access to formal sector employment, and the pressures of high structural unemployment. Arguably, the 'dualism' of the labour market is leading to a dualism in the type of industrial relations governing workers. As Friedman and Shaw (2000: 203) point out, the "transition's progress thus far has changed the constituency for which labour seeks to speak – and the challenges it faces in attempting to use 'radical reform' to speak for any constituency at all". The concern is that the marginalised role of organised labour in this process is being further eroded by formal sector employment practices.

Casualisation is therefore a significant factor on COSATU's ability to represent industrial sectors and maintain membership support. Indeed, it also questions the relevance of the formal industrial relations system and its institutions to a growing number of casualised workers. This in turn is leading to divisions between union leadership and membership. This situation is arguably being exacerbated given COSATU's engagement in corporatist arrangements and concomitant weakening of its affiliates base structures. As Marais (1998: 232) argues:

Key to a tripartite framework is the ability of union leadership to win members over (and hold them) to sometimes controversial compromises. COSATU affiliates' poor organisational and communication systems ... and the growing distance between them and national offices casts serious doubt on the federation's ability to hold up its end of a tripartite schema.

Abstention from membership means rejection of the union's own policy (Webster and Adler, 2000: 13). As Webster and Adler (*ibid*) note, corporatism ultimately depends on the capacity of the labour movement to represent its members, to reach and enforce agreements with capital and the state. This requires that leaders have the capacity both to mobilise their members in certain circumstances and restrain them in others.

According to Eidelberg (2000: 156), an option for COSATU might be to reconcile itself to a reduced role within the tripartite alliance:

This involves committing themselves to abandon any claims to entrenched rights in macro-economic policy making, and rather to support the ANC government in its negotiations with overseas capital. In exchange, they could then continue to expect from the state advantageous concessions on issues affecting them more directly and narrowly, to the degree, of course, that such concessions ...[are] possible.

This option would however reinforce the division between insiders and outsiders in the labour market, and further marginalise organised labour within formal sector employment. Also, neither the marginalisation nor elite-pacting of organised labour will address the spoiling role that disenfranchised unionised and non-unionised workers continue to play (Webster and Adler, 2000: 18).⁹⁹

The discussion above questions the relevance of bargained liberalisation as a theoretical assumption given the potential for COSATU's institutionalisation and marginalisation. In so doing it illustrates that there has been significant challenges to the ANC's adoption of a new industrial relations system at the macro level. In light of the above discussion, macro level analysis of the dynamics of labour market flexibility, industry restructuring, and the effectiveness of COSATU's organising structures can be enhanced through assessments at sectoral levels. As Webster and Adler have identified above, as a basis to assess the types of changes envisaged in South African industrial relations it is necessary to examine their

⁹⁹ Friedman and Shaw (2000: 208-9) argue that the 'realist' notion of the ability of an actor to impose their will upon others is inadequate if used exclusively. Rather they argue a 'communicative action' strategy, which develops new capacities through cooperating with business and or government, is necessary with the use of realist power. "The forum strategy will, therefore, demand of union leaders that they find both a strategic and a rhetorical balance between continued adversarialism and new forms of cooperation" (*ibid*: 210). However, the issue of 'Gaining influence and losing power' has led elements within COSATU to advocate some arguments calling for a return to the use of realist power and a withdrawal from forums (*ibid*).

cascading inter-relationship at the national (macro), sectoral (meso) and workplace (micro) levels.

The proposal to implement the NDLS in the port of Durban incorporates dynamics across the three levels identified by Webster and Adler that are necessary to examine the emerging industrial relations system and the role of COSATU and its relevant affiliates. However, these port sector dynamics also have similarities to the experiences of a number of other sectors, and include:

- A deregulated and casualised labour market which threatens permanent employment and union organisation;
- Existing union representation divided between employment status, race and skill;
- The potential for privatisation of a state asset; and,
- Conflict of policy priorities between the ANC and COSATU.

The rationale for utilising a case study research method of the port sector and complementary methods is outlined in Chapter Three. The comparative dynamics of port industry industrial relations and dock labour markets are examined in Chapter Four. This is then followed with a specific historical assessment of the Durban dock labour market in Chapter Five and a case study of the implementation of the dock labour Scheme in the port of Durban in Chapter Six.

3 METHODOLOGY

As discussed in Chapter Two, forms of flexibility within South Africa are uneven with limited information about their implementation. There is also disagreement as to whether flexibility, where present, reflects: a progressive 'post-Fordist' framework; or whether industrial relations legislation and practices contribute to inflexibility; and/or, whether it reflects a more general trend internationally towards non-standard employment as a means to circumvent the formal industrial relations system. A key motivation for the latter is the evasion of minimum standards as a mechanism to cut labour costs. The features of this non-standard 'peripheral' labour market include the trend towards numerical and wage flexibility which is symptomatic of globalisation processes, whilst at the same time in South Africa is based on the inherited apartheid labour market segmented by race, ethnicity, gender, education, occupation and skill and location.

The literature on flexibility in South Africa therefore suggests a sectoral case study is an appropriate research strategy from which to analyse the type of flexibility within the uneven application of the emerging industrial relations system. The case study approach enables an assessment relative to a specific industry and market structure dynamic and the position of the representative COSATU affiliates within this. A case study of the port industry's industrial relations system is selected principally in relation to the TGWU proposal of 1994 to regulate the casual dock labour market through a NDLS. The case study also provides a basis from which to explore the hypothesis that ports provide a strategic position for organised labour, affiliated to COSATU, in relation to implementing reform as the NDLS.

The strengths and weaknesses of this hypothesis need to be explored in the following context. Firstly, COSATU's alliance with the ANC government is influenced in the port industry by the fact that ports remain largely controlled by the state through the parastatal Portnet. The ANC government's control over the state sector of the industry could therefore arguably provide it and the representative COSATU affiliates within this industry sufficient leverage to influence reforms. Secondly, both comparatively and historically, dock labour has held a potentially strategic position within nations' economies principally as a result of industrial action within ports having a multiplier effect on the efficiency of trade (Davies et. al., 2000). This strategic position can be demonstrated historically by the regulation of casual employment within the dock labour market by securing control over labour supply either through union strength or state legislative interventions. Therefore, the position of

dock labour within nations' economies and the reaction of states have often provided dock labour with a strategic advantage in contrast to other workers in their attempt to implement industrial relations and labour market reforms. But this historical relationship also must be contrasted with the more recent trend of states to seek private sector investment in port infrastructure and operations. This has consequently led in many instances internationally to the deregulation and re-casualisation of dock labour markets (Weinhauer, 2000: 603; Davies, 2000: 625-6).

The basis for the case study analysis of the implementation of the NDLS includes the following elements: the specific proposal by a COSATU affiliate for the ANC government to intervene in the port industry's industrial relations and labour market; the role of the state through Portnet; and, assessing the significance of the port industry to the rest of the economy. The aim is to assess the effectiveness of the COSATU-ANC government alliance under the conditions of 'bargained liberalisation', as theorised by Webster and Adler and, in doing so, test the hypothesis of the strategic position of organised dock labour in the immediate post-apartheid period.

3.1 A CASE STUDY APPROACH

Case studies usually refer to the study of an organisation (Cassell and Symon, 1994: 25). This case study is industry based, defined generally as a common output, product or service. The focus on a specific port incorporates a fixed location within the industry, defined by the harbour, berth and wharf space, immediate warehousing areas, and port services. Stevedoring is a component of the port services that is the focus and an essential component in the sequential movement of goods. The following outlines the structure and operation of the container and break-bulk stevedoring industry, its product market and labour market, labour processes and the workforce characteristics within the port of Durban.

The labour process in South Africa terms ship based workers 'stevedores', whilst land based workers are referred to as 'dock workers'. These terms were broken down in other ports in countries as Britain and Australia as a consequence of containerisation. However, within South Africa the distinction was maintained as each type of worker generally designated their employment status within either the private sector or the state. In relation to the product market, nearly all container-handling services are supplied by the state owned operator Portnet. The state sector labour market totalled over 16,000 employees in Portnet across South Africa in 1999, with approximately 5,000 employed in Durban (Portnet, 1999).

However, Portnet is the largest user of casual labour in the port of Durban following a moratorium on the permanent employment of general workers from 1992.¹⁰⁰ In the same year the number of private sector employers providing ancillary services (ie. (un)lashing containers, bulk and general cargo services) was around twenty.¹⁰¹ Casual stevedores from 1994 constituted over 50 per cent of the dock labour market in Durban. TGWU had registered approximately 650 dock casual workers and estimated that a further 1,500 casual workers remained unregistered (Hemson, 1995). By 1999 the total number of private sector permanent stevedoring employees was around 1,500 whilst 1,400 registered dock casual workers constituted the pilot labour pool (Hemson, 2000).

In May 1997 an in-principle agreement was reached between Portnet, private sector employers and unions to implement a pilot Dock Labour Scheme in Durban. As Yin (1994: 38) argues a single case study is appropriate when it is a critical case. The focus is therefore on the port of Durban over the duration of the pilot Scheme's implementation and operation.

In relation to this strengths and weaknesses of the case study level of analysis, an overview of literature reveals the following arguments. Case studies have been criticised because of the way they give the researcher considerable control over the direction of the research which introduces an element of bias (Bryman, 1989: 170). As Strauss and Whitfield (1998: 15) note, "the reported results of qualitative research may be affected by the researcher's biases and expectations". In contrast Mitchell (1983) points to case studies enabling logical or scientific inferences to be drawn from them. Similarly, Ragin and Becker (1992) argue case studies provide a means for building explanations of social processes, whilst Ragin (1987: 27) sees case studies attempt to prove "modest empirical generalisations concerning historically defined categories of social phenomena".

Kitay and Callus argue that case studies follow more a research strategy than a specific technique. They provide a definition of a case study as a "research strategy ... that is used to study one or more selected social phenomena and to understand or explain the phenomena by placing them in their wider context" (1998: 103). As such, case studies can make use of a range of techniques or methods (*ibid*: 102). Kitay and Callus (*ibid*: 104) argue case studies are "most appropriate for examining the processes by which events unfold, as well as for exploring causal relationships".

¹⁰⁰ Interview with Mike Elson, Portnet Industrial Relations Manager, Durban, 24-3-97.

¹⁰¹ Interview with Mark Olmesdahl, Human Resources Manager, Portnet, Durban, 21-10-1999.

Research based upon previous case studies and testing whether the same relationship applies is a key focus of many comparative industrial relations case studies (Strauss and Whitfield, 1998: 14; Strauss, 1998). To do so, case study research strategies can employ both qualitative and quantitative methods (Kochan 1998; Whipp, 1998). Strauss and Whitfield (1998: 25) point out a multi-method research approach allows the use of alternate strategies “from inductive to deductive and back again”. More generally, Whipp (1998: 52) argues qualitative research develops theories inductively based on “evidence that [researcher’s] relate to personal experience through interview or observations. Theory emerges from the data that is “grounded in the empirical details”.¹⁰²

Qualitatively based case studies typically involve a combination of specific techniques, including interviews, ethnography (observation) and documentary sources (*ibid*: 53-5).¹⁰³ As Kitay and Callus (1998: 102-3) argue, the ability to incorporate other research techniques is a key advantage of the case study method and enables the researcher to contextualise the study. According to Yin (1994: 8), the case study approach should also employ more than one source of evidence by using a number of research techniques.¹⁰⁴

The weakness and strengths identified above within case study research strategies therefore highlight the necessity to verify empirical results by drawing upon more than one source of evidence through working in conjunction with other research techniques (Yin, 1994: 8). This study therefore applies a multi-method research technique based upon comparative industrial relations method that suggests a historical contextualisation of each case be undertaken. Primary source accounts and fieldwork then support the contemporary case study analysis of the implementation of the pilot dock labour Scheme in the port of Durban between 1998-2001.

¹⁰² The term ‘grounded theory construction’ developed by Glaser and Strauss (1967) encourages researchers to suspend all prior theoretical notions and gather data relevant to the research. This can then be ‘inspected to discover whether any theory or at least hypothesis could be developed from the patterns of data’ (Tesch, 1990: 23). To an extent the research method followed the ‘grounded theory’ approach, especially in terms of the construction of my identity in the interview process.

¹⁰³ Ethnography involves direct observation of respondents in context in order to witness their behaviour in their natural setting (Whipp, 1998: 55).

¹⁰⁴ Yin (1994: 79-90) argues that case studies require multiple sources of evidence. Triangulation is the process of data dealing with the same phenomena is collected from different sources and compared to assess the validity of results. Triangulation can be applied to qualitative research in order to ensure that evidence from one source is complemented by evidence from a second source. Yin lists six data sources for case study research: documentation, archival records, interviews, direct observation, participant-observation and physical artefacts.

The following section expands on the significance of the port of Durban to the South African economy. The NDLS case study research methods applied to investigate the above hypothesis concerning the strategic position of dock labour are then expanded upon. The remainder of the thesis is then divided into chapters dedicated to each of the supporting research techniques and their findings. The conclusion evaluates the strategic position of COSATU affiliates in the port of Durban in the context of the implementation of the pilot dock labour scheme. Similarities between the case study and the position of the wider COSATU federation within the emerging industrial relations institutional framework are then discussed in conclusion. This focuses on the usefulness of the theory of 'bargained liberalisation' in this context and the utility of a combined macro (national), meso (industry level) and micro (firm level) approach.

3.1.1 South Africa's port industry and the significance of Durban

An examination of the port industry and market structures in South Africa highlights the significance of the port of Durban as the largest container and break-bulk cargo port. The state controlled and operated Portnet is also significant with its monopoly over this port's container terminal and the commercial regulation through licensing of the various private sector break-bulk operations. Table 3 outlines South Africa's transport and communications sectors contribution to total GDP (at 1995 prices).

Table 3 Transport and Communication sectors contribution to total GDP: 1993-2001 (Rand million)

Year	Transport and communication	GDP at market prices (Rand)	percentage
1993	38,507	514,886	7.5
1994	40,281	531,537	7.6
1995	44,538	548,098	8.1
1996	47,271	571,706	8.3
1997	50,879	586,838	8.7
1998	54,273	591,309	9.2
1999	58,141	603,842	9.6
2000	61,001	624,129	9.8
2001	63,354	638,010	9.9

Source : *Statistics South Africa 2002*

South Africa's port industry structure is based upon each ports natural hinterland and defined market. This determines, to a large extent, the product market nature and types of cargo handled at each port and the types of infrastructure facilities, superstructure and equipment and specialised services each port provides (see Table 4).¹⁰⁵

Table 4 Overview of South Africa's port industry structure and product market

Port	Private terminals	Portnet terminals
Durban	P&O Ports break-bulk, Rennies coal, Grindrod paper, SA sugar, Outspan International citrus, Rennies liquid bulk, Rennies dry bulk, and Keeley granite.	Passenger, container, roll-on-roll-off (ro-ro), breakbulk, grain and timber.
Capetown	IHS fruit., Maersk break-bulk	Unitised and breakbulk, dry bulk, bulk chemicals, petroleum, cold store terminal, containers, ro-ro.
Port Elizabeth		Ro-ro, containers, bulk terminal, citrus / deciduous fruit, manganese, wool, motor vehicles and components.
East London		bulk cargoes (ore, grain), unitised cargoes (pallets), and containers.
Saldanah Bay		iron ore, bulk crude oil, breakbulk
Mossel Bay	Mossgas (synthetic fuels and by-products)	
Richards Bay	Richards Bay Coal Terminal	Container, dry-bulk (fertilisers); liquid bulk (chemicals); and, bulk metal.
Coega (under construction)	P&O-Nedlloyd container terminal; GENCOR bulk terminal (aluminium).	

Source : Portnet, 1999

Table 5 Tonnages handled at South African ports 1994 (million tons per annum)

Cargo Type	Richards Bay	Durban	East London	Port Elizabeth	Mossel Bay	Cape Town	Saldanha	Total
Containerised	0,1	10,9	0,5	1,8	0	4,1	0	17,4
Bulk	66,0	6,1	1,9	1,4	0	0,4	20,9	96,7
Break-bulk	3,6	8,9	0,2	0,8	0,1	3,0	0,2	16,6
Total	69,7	25,9	2,6	4,0	0,1	7,7	21,1	130,7
(Including Transhipped)	0	1,1	0	0,4	0	0,4	0	1,9

Source : South African Department of Transport 'White Paper', 1996

¹⁰⁵ South Africa has a significant inland container port in Johannesburg, City Deep, which handles more than 60 per cent of all import and export containers (Hemson, 1997).

Table 5 illustrates the significance of the port of Durban in container, transhipped and break-bulk cargoes. Durban handles about 5000 commercial vessels annually and brings in 26 million tonnes of cargo a year worth R5 billion representing 65 per cent of the total revenue earned by the country's ports (Business Day, 3-12-01; Business Day, 4-12-01). Table 6 illustrates the current and future significance of Durban as a key southern-hemisphere port is to increase.

Table 6 Forecast of SADC regional port throughput, 1995-2017 – medium growth scenario

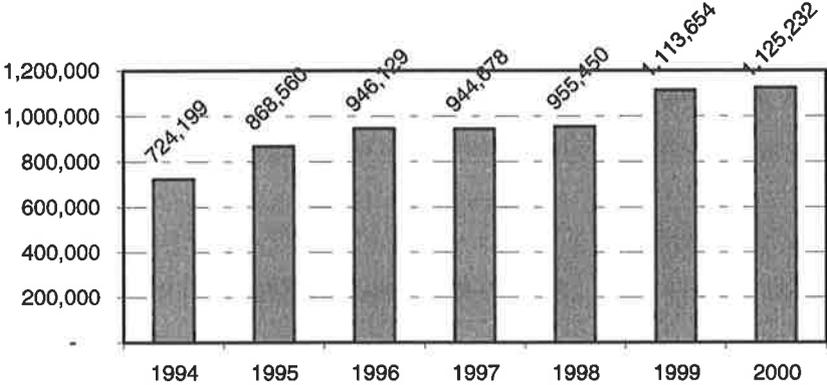
Port	1995	2002	Traffic growth (% p.a.)	2007	Traffic growth (% p.a.)	2017	Traffic growth (% p.a.)
	Volume (000 freight tonnes)	Volume (000 freight tonnes)		Volume (000 freight tonnes)		Volume (000 freight tonnes)	
Dar es Salaam	2.1	2.7	3.8	3.2	2.9	4.8	2.8
Nacala	0.3	0.4	5.5	0.5	3.5	0.7	3.9
Beira	1.7	2.2	4.1	2.5	3.3	3.8	4.2
Maputo	2.4	3.4	5.1	4.1	3.9	6.3	4.3
Port Louis	2.5	3.1	2.6	3.9	4.6	5.6	3.9
Richards Bay	76.1	106.5	4.9	129.4	4.0	190.2	3.9
Durban	20.5	28.7	4.9	34.9	4.0	51.4	3.9
East London	1.2	1.9	4.9	2.3	4.0	3.2	3.9
Port Elizabeth	5.0	7.0	4.9	8.3	4.0	12.4	3.9
Cape Town	7.8	10.9	4.9	13.3	4.0	15.3	3.9
Saldanha Bay	23.0	32.1	4.9	39.0	4.0	57.4	3.9
Walvis Bay	1.3	1.8	3.8	2.4	5.5	3.4	3.9
Namibe	0.0	0.1	4.9	0.1	5.1	0.1	5.0
Lobito	0.2	0.3	4.9	0.1	5.1	0.6	5.0
Luanda	1.1	1.5	4.9	2.0	5.1	3.3	5.0
Total	143.7	202.6	4.9	246.3	4.0	358.5	3.9

Source : SATCC, 1998: 28

The Port of Durban is situated on the Southeast coast of Africa, is a full-service general cargo/container port and is the busiest port in southern Africa. Durban principally handles cargo for the industrialised Durban/Pinetown and Gauteng (some 800km inland) areas and

cross-border traffic.¹⁰⁶ Durban operates as a hub port for shipping in the southern African region to minimise the number of vessel calls and loading times, as containers destined for other ports in the region are redistributed through feeder shipping services (Hemson, 1996: 5) (See Appendix D). The wider services and volumes offered by Durban delivers economies of scale and scope for carriers, importers and exporters. Durban also has subsequently superior infrastructure, shipping feeder service, roads, rail and banking system in contrast to other southern African ports (Hemson, 1996: 5).¹⁰⁷

Figure 4 Total TEUs Port of Durban – 1994-1999



Source : Cargo Systems – Top 100 Container Terminals supplement (various issues)

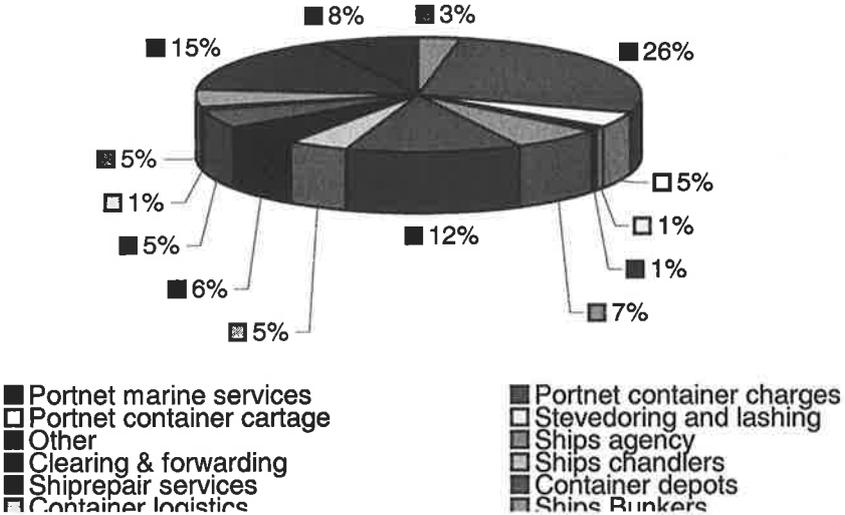
Durban handles around one million containers a year and handles around 65 per cent of South Africa’s container volumes (see Figure 4). By volume, Durban exports 75 per cent of containerised goods and 63 per cent of imports, whilst Cape Town exports 20 per cent and 18 per cent of imports (SATAWU, 2001). In the period from 1992-95 the proportion of transhipped containers in Durban rose from 13.2 to 30.2 per cent of total containers handled.

¹⁰⁶ For example, the land-locked Southern African Development Community (SADC) states of Zimbabwe, Botswana, Malawi, Zambia, Lesotho and Swaziland, remain dependent upon South Africa’s transport chain. Even coastal states such as Namibia, Angola and Mozambique have only recently begun re-establishing their transport independence. However, despite initiatives since 1994 to reconstruct road and rail infrastructure corridors to the ports of Maputo, Mozambique, and Walvis Bay, Namibia, it is the wider services and volumes offered by South African ports such as Durban that deliver economies of scale and scope for importers and exporters, and most importantly, the wider array of shipping services. In 1998 86 per cent of intra-regional imports were supplied through South Africa (Bremen, 2000: 3-4). Imports by sub-Saharan African countries stood at around 35 million tonnes annually and were expected to rise to 52 million tonnes by the year 2004, according to IMF projections (Bremen, 2000: 3-3).

¹⁰⁷ There is an integrated rail terminal facility that is serviced by two rail transfer cranes and the rail network served, covers South Africa, Lesotho, Swaziland, Botswana, Zaire and Mozambique. Until 1998 the separately managed, but closely linked Autonet (a sister Transnet Business Unit) maintained a fleet of 200 truck tractors and 1,200 semi trailers which were used to transport containers within the greater Durban / Pietermaritzburg area (Portnet, 1998).

Jones' (1996) estimates that the average container vessel handling 400 containers at the port of Durban is responsible for direct first-round expenditure in port activities and port ancillary industries of approximately R670,000 in 1994 prices or some R1,700 per container. Jones' analysis also undertakes a breakdown of container expenditure for direct port services (see Figure 5).

Figure 5 Split of container expenditure in the port of Durban – 1994



Source : Jones, 1996

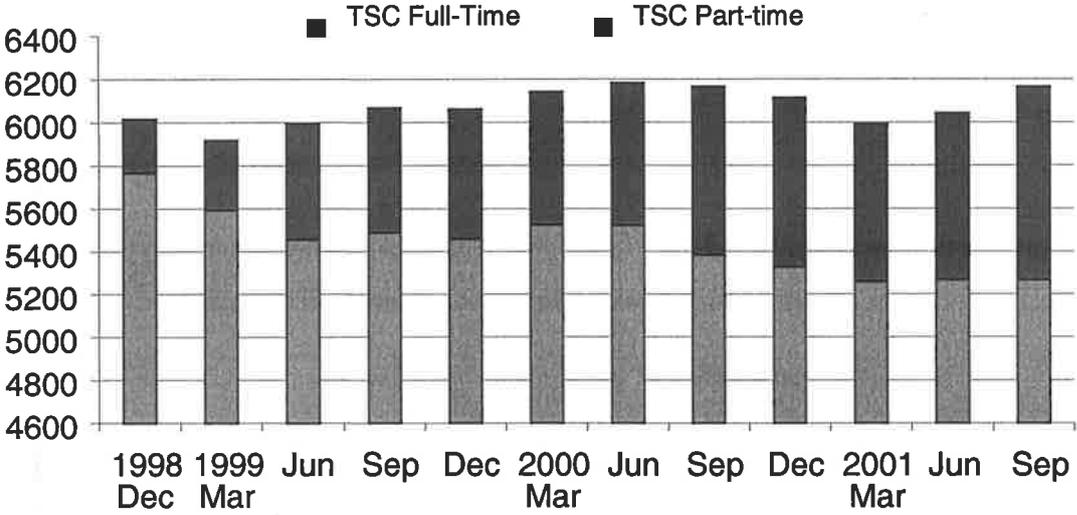
Durban is South Africa's major container port and also has a high share of bulk and break-bulk cargoes. Of the total of 31.2 million tonnes handled in 1998, 30 per cent was break-bulk, which constituted over 50 per cent of South Africa's break-bulk cargo. Durban is also a premier conduit for a number of important commodities including coal, chemicals, steel, citrus products, sugar, grain, minerals, ores, granite, rice, forest products and petrochemicals.

3.1.2 Employment in the Port of Durban

The transport sector is a major employer in its own right, and makes a contribution to GDP that is comparable to a number of other large industries. Despite the rise in GDP in recent years total employment in these sectors has decreased (see Figure 6). The decline in total full-time employment in recent years follows the longer-term trend of employment. This is especially so given the loss of jobs from the state transport sector represented under Transnet.

Formerly, as South African Transport Services (SATS) in 1980, the state transport sector employed 266,403 workers. In 2000, Transnet employed under 80,000 workers (Barrett, 2001; Transnet, 2002). The growth in part-time employment, which includes workers classified as casual, represents a similar trend to employment nationally (although the official employment statistics need to be further qualified as they do not include water transport services such as stevedoring).

Figure 6 Total full-time and part-time employment transport, storage and communications sector South Africa - 1998-2001



Source : *Statistics South Africa 2002*

Within Durban harbour variations between terminal operations determines the number of firms, labour processes, levels of employment and occupations. The port’s 57 berths are serviced by 21 terminals.¹⁰⁸ The coal, paper, sugar, citrus, grain, liquid bulk, dry bulk, and

¹⁰⁸ Durban’s City Terminals consist of four working areas including: Maydon Wharf Terminal which handles general cargo, containers, salt, timber and paper; Point Goad Terminal which handles granite blocks, steel, bulk and containers; T-Jetty Terminal which handles citrus fruits, bagged foodstuffs, bulk minerals vegetable products, and Durban Car Terminal which handles cars and car kits (CKD's) (Portnet, 1998).

granite terminals are privately operated.¹⁰⁹ The passenger, container, roll-on/roll-off (Ro-Ro), break-bulk, and timber terminals are operated by Portnet (Portnet, 1998).¹¹⁰

Jones' (1996: 9) study on the impact of the port of Durban's container activities on the economy of the Greater Durban Metropolitan Area argues the port of Durban provides employment for a minimum of some 8,000 persons in the Durban area on the most conservative assumptions. According to Hemson's (1997) later study, the port's economic impact includes direct support of some 350 businesses that employ over 25,000 people. These enterprises pay wages and salaries totalling around R1 billion annually which directly spends another R600 million a year in the greater Durban area. There are hundreds of additional businesses and workers who are indirectly dependent on the harbour. Jones (1996: 9) argues that a crude estimate is that one person is employed directly in port-related areas for every 80 containers passing through the port.

3.1.3 TGWU Proposal for a National Dock Labour Scheme

In 1994 the proposal from the COSATU affiliate TGWU for a National Dock Labour Scheme was specifically aimed at addressing the instability of industrial relations within the port industry that manifested as a result of the casualised labour market. The proposal was an attempt to address the legacy of apartheid's industrial relations and labour market policies in the industry.

¹⁰⁹ The Private Terminals include a tanker berth, generally for all product and chemical tankers, and the Island View Berths No. 1-9. Berth No. 1 is used as a lay-by berth but is also used for bunkering. Berth No. 2 is the Chemical Terminal handling chemicals, vegetable oils, molasses, tallow and caustic soda. No. 3 is the Durban Bulk Shipping privately owned grain terminal. No. 4 is used for vegetable oils, chemicals, solvents, fuel oil, diesel oil and gas oil. Berths No. 5 - 9 are used mainly for fuel oil, diesel oil and gas oil. In addition, four privately owned bulk handling facilities are available in the port for the import and export of free-flowing bulk commodities. Four coal berths are available for the handling of coal and anthracite. A privately owned sugar terminal is situated at Maydon Wharf and handles bulk and bagged sugar exports. There are also numerous other privately owned facilities for the handling of specialised commodities such as forest products, granite and molasses are situated in the port (Bremen, 2000: 4-3).

¹¹⁰ The Container Terminal with a total length of 2,128 metres, offers 7 deep-sea berths and one coastal berth. The berths are served by 14 gantry cranes, four of which are post-Panamax size and 10 have a working load of 40 tons under the spreader. A fleet of more than 60 straddle carriers is in use to move containers between ship-side and stacking area. The total storage and stacking area is 102 hectares with a capacity of 11,650 TEU ground slots and 528 reefer plug points. The central rail yard is served by 12 rail-bound gantry cranes and tractor-trailer combinations. In 1994, the Combi Terminal was converted into a modern terminal in order to use technologically advanced methods for the handling of breakbulk cargo (Portnet, 1998; Bremen, 2000: 4-2).

According to TGWU, dock workers are within “the most exploitative and inefficient niche outside of agriculture and domestic labour” (Harvey, 1997: 3). In order to address this, TGWU in 1994 proposed for dock workers to be classified separately, along with domestic and agricultural workers, within the draft Labour Relations Bill. Despite this proposal dock workers did not gain special status within the revised LRA of 1995.

The aim of TGWU was then to pursue the issue of the NDLS through influencing the Department of Transport’s policy and through NEDLAC’s institutional arrangements to be established for each sector. The specific proposal was derived from the paper developed by the Assistant Secretary for TGWU, Harald Harvey, in 1994. This proposal was successful as the Department of Transport's 1996 *White paper on National Transport Policy* outlined the need to restructure the ports and to take into account casual dock labour (NDoT, 1996: 49). To reflect these concerns the White Paper states:

The re-structuring of employment to ensure that the variable labour requirement of port service providers are sourced from a common pool at equal unit cost in order to reverse the casualisation of port employment and to improve working conditions and efficiency of service (*ibid*: 51).

The case study therefore focuses on the industrial and regulatory responses to the issue of the implementation of the NDLS.

3.2 RESEARCH METHODS

As mentioned above, to explore the hypothesis in relation to the strategic position of dock labour, a number of research methods are utilised to support the development of a case study approach. The following provides an outline of the research techniques utilised to develop the case study level of analysis. Firstly, this involves a discussion of the key elements of comparative industrial relations theory particularly in relation to the historical and contemporary analysis of dock labour schemes internationally. Secondly, the relevance of developing a historical contextualisation of each specific port and its integration at the micro, industry, national and global levels is discussed. Thirdly, the contemporary analysis of developments in the port of Durban and the use of multiple research methods, including the triangulation and validation of primary and secondary sources, are then outlined.

3.2.1 Comparative industrial relations

Industrial relations primary focus concerns employer-union relations, especially collective bargaining institutions, processes and outcomes. However, given the complexities of industrial relations institutions, the case study approach allows research to consider both 'objective' facts and the values and perceptions of the actors and power relations at stake (Kitay and Callus, 1998: 101). Fligstein and Fernandez (1988: 22-3) argue this is necessary to understand the formation of labour markets because, they argue, their formation is based upon organised systems of conflict formed by the strategic interactions of sets of actors, including individuals, workers, firms, unions, associations and the state. The organisation of these actors is itself a manifestation of power relations amongst the various actors in the labour market, which in turn, needs to be viewed as a dynamic power struggle that changes with the labour market over time. It is within this context that a comparative industrial relations method is utilised.

Hyman (1998) argues comparative industrial relations provides a mechanism to contrast specific institutional frameworks developed to facilitate state, trade unions and employers as actors and their respective interests on the national level and then undertake cross-national comparison. Hyman argues cross-national comparisons are necessary for two reasons. First, comparative analysis is necessary if we are to develop robust explanations and encompassing theories. By investigating comparative experiences either general explanatory arguments or context-bound arguments can be identified. If the latter, it is then necessary to explore which situational factors explain differences. Notions of 'exceptionalism' need therefore to be interrogated through comparative analysis (*ibid*: 6). A second rationale for comparative research is its potential role in deriving 'lessons' and identifying 'best practice' (*ibid*: 1). According to Hyman (1995: 43) this comparative research needs to incorporate different patterns of labour regulation at the macro, meso and micro levels.

Similarly, Barton and Turnbull (2002: 136) argue that international comparative research should be historically grounded and incorporate multilevel analysis (that is, system, societal and dominance effects). They cite Locke and Kochan (1995: 365) who argue that national and sub-national institutional arrangements filter global pressures. The 'dominance effects' at the micro-level is particularly significant in this context. According to Locke and Kochan (1995: 378-9) this will assist in establishing the context for the different 'starting points' of any given firm, industry or nation.

In order to assess the micro-level and its power relations, Smith and Meiksins (1995: 260-1) suggest “comparative international analysis must embrace a historical dimension to incorporate the unfolding interaction between system, societal, and dominance effects”. Locke and Thelen (1995: 338-9) also argue that it is necessary to undertake contextualised comparisons of industrial relations to supplement material that refers solely to ‘matched’ or like with like comparisons. The contextualised comparison should focus on firstly the *process* of change and associated struggles and then their diverse *outcomes* (Katz and Darbishire, 2000).

Following this framework, Barton and Turnbull (2002: 134) argue that “globalisation in the maritime and port transport industry has yet to signal a convergence of industrial relations across countries over time”. Although the systemic effects of capitalism through the annihilation of space by time provide pressures for structural convergence, these are “subject to the diverse ‘societal effects’ of different nations” (*ibid*: 134). Barton and Turnbull’s recent comparative study of three European ports therefore utilises the theoretical assumption that social institutions and informal processes of labour regulation are critical to comparative industrial relations analysis given that social conflict is a key determinant of capitalist development and economic performance (*ibid*: 136). Empirically, they note that industry level analysis in a comparative international context has highlighted the fact that sub-national labour-management arrangements across countries are often more closely related than those between sectors within the same country (*ibid*). Central to this assessment across countries is the incorporation where practical of micro (firm) level analysis. However, critical to this exploration of the specific processes and outcomes it is necessary that a case-based approach is “part of, and not separate from, broader industrial, national and international developments” (*ibid*). Barton and Turnbull (*ibid*: 153) conclude: “when we look beyond, or below, the national (macro) level, we discover ‘customised social regimes’ at the enterprise (micro) and sector (meso) levels”.

Chapter Four discusses in more detail this research method which emphasises a historical comparative analysis of dock labour schemes internationally from which to contextualise the case study of the NDLS proposal and implementation. This approach reflects that fact that TGWU’s proposal for a NDLS in South Africa is based upon various models that have attempted to reform the dock labour market internationally over the last fifty years or more. The literature review of comparative dock labour Scheme also outlines the factors that have

provided organised dock labour with a strategic position to implement such initiatives. This finds the variation in dock labour market regulation related to the stevedoring labour process and the importance of the state in maintaining industrial stability in an important bottleneck to national economies. Significantly, this is dependent on the ability of dock workers to organise, mobilise and engage in industrial actions.

Factors that contributed to the strategic power of trade unions were often influenced not only by the state, but employer strategies and the culture and racial/ethnic identities of the workers themselves. Turnbull (1992: 294) therefore argues that in assessing factors that contribute to dock strikes, it is necessary to integrate the “sociological study of working class imagery and consciousness with an industrial relations analysis of institutions, processes and structural conditions of workplace negotiations over the wage-effort bargain”.¹¹¹ It is a combination of these factors that have provided dock labour with a strategic position in relation to other workers.

Indeed, the comparative review reveals that historical and institutional mechanisms are important in addressing the development of dock labour Schemes and either their ongoing success or failure. More significantly, dock labour Schemes have been subject to changing market structures in the port industry globally as a result of privatisation and inter-port competition. The recent trend towards port privatisation is to encourage states to deregulate dock labour markets in order to attract private sector investment to develop ports. This is not a blanket trend but a contested terrain, with a number of significant ports internationally maintaining the role of unionised labour pool systems despite liberalisation and privatisation processes. The South African initiative therefore needs to be seen in the context of these countervailing trends internationally.

3.2.2 Historical contextualisation

Based upon the findings of comparative analysis in Chapter Four, the assessment of the historical context of each port is necessary. As Turnbull (1992: 297) argues: “To understand the particular pattern of conflict ...it is necessary to examine the nature of the employment relationship itself and especially how it has changed over time”. The comparative experience suggests the success or failure of dock labour Schemes internationally has

¹¹¹ ‘The more institutionally orientated studies of industrial relations ...focus on such variables as changing labour market conditions, work organisation, payment systems, and technological developments’ (Turnbull, 1992: 296).

depended on the historical context in which they emerged and their contemporary dynamic in relation to global shipping and port market structures. As Turnbull and Sapsford (2001: 234) argue:

Dock labour Schemes and their associated labour relations do not ...exist in a vacuum. It is necessary, therefore, to look beyond the regulation of the (casual) labour market to the impact and interaction of port administration, operating structures, cargo-handling technology, and product market conditions. The propriety of such an approach must be demonstrated in a historical context.

It is therefore necessary to provide an historical context for this case study (*ibid*: 236-9). Davies and Weinbauer (2000: 10) outline the approach a comparative labour history methodology should aim to employ:

What the comparative historian can and should do is to identify important aspects and recurring themes in the case under examination, and to seek to explain how and why particular cases diverge from the rest.

Chapter Five therefore seeks to establish the historical context for the emergence of the NDLS proposal and position it against the ports industry's structure and labour market in South Africa as part of the multi-method research approach undertaken in this study.

3.2.3 Fieldwork

Based upon the findings of the comparative analysis and historical contextualisation, Chapter Six develops the case study that examines the contemporary dynamics of industrial relations within the port of Durban by focussing on the implementation of the pilot dock labour Scheme between 1998 and 2001. The case study aims to empirically "link the processes of strike activity to the structural conditions and characteristics of the economy and industry in general, and the workplace in particular" (Turnbull et. al., 1996: 693-94). The case study is therefore framed with reference to the wider national and industry level factors impacting on the initiative at the port level. However, it is limited as a single critical case, as opposed to multiple case studies, by focussing in the South African context on the port of Durban (Yin, 1989: 48-52).

The case study approach is based upon qualitative fieldwork research methods. This utilises a combination of sources including interviews, primary documentation and a range of

secondary sources. The research method also included direct observation fieldwork. The use of multiple qualitative sources was important to validating and cross-referencing (triangulation) of information. The utilisation of semi-structured interviews was particularly important. As Cooper (2000b: 537) argues, interviews to obtain an oral history from dock workers are useful for providing information not captured in official archives and libraries. However, he notes that a variety of sources may also reproduce prior images of dock worker culture as “peculiar and volatile” given much of the official and media material is crisis orientated. He therefore suggests that the focus needs to be kept “simultaneously on the specifics of workplace interaction and on the wider field in which it takes place” (*ibid*: 539). The use of multiple sources of evidence therefore was aimed at dispelling the criticism that the case study method is narrow and therefore unrelated to wider content.

In addition, a number of data collections were drawn upon following initial consultation with industry participants. This assisted in defining the scope of the study and key issues. Quantitative data was drawn from South African government, Portnet, private sector employers and trade union statistics. Specific information was requested on the size and composition of workforces in the port of Durban, or industrial disputes, and productivity indicators. On the whole, the range of quantitative data that related to the South African port industry’s industrial relations and labour market was limited due to the specific size of samples and/or restricted due to its commercial sensitivity. Where information was provided on a ‘commercial in confidence’ basis, workplaces and employees have not been identified.

Primary data was supplemented with secondary information sources. The analysis combines a detailed analysis of available strike statistics, press and industry reports, union and employer records, historical studies of industrial relations in the port of Durban and other published research. Secondary sources specifically focussed on the work of Dr Dave Hemson, a trade union activist and former University of Durban-Westville lecturer, in relation to the private sector stevedoring industry and the organisational activities of its casual workers in the port of Durban.¹¹²

¹¹² Hemson’s PhD. thesis on Durban dock workers (1980) provided a basis for his long term interest in industrial relations in the port of Durban. After his house arrest by the apartheid government for trade union activism in 1975, he went into exile in England to complete his thesis at Warwick University and only returned to South Africa in 1990. From this time however Dr Hemson recommenced his work amongst Durban’s dock workers whilst teaching. Dr Hemson has been an influential figure in a number of trade union activities. He held the position of President of the SEIU from 2000.

Hemson's work previous to, and during, the period of the analysis did not include a significant focus on the state sector dock workers employed by Portnet, either in Durban or nationally. Although organised by a number of unions, the majority of Portnet's workers were organised by the COSATU affiliate the South African Rail and Harbour Workers Union (SARHWU). The roles of SARHWU, Portnet and its financial relationship within the Transnet parastatal, and the ANC government's policy in relation to the NDLS proposal and port restructuring were my initial areas of focus. These remain a significant theme in this thesis and constitute an important element of its contribution to new knowledge about union strategies in South Africa. After 1999 I collaborated with Hemson on a consolidated overview of the Scheme's operation. Having returned to Australia I was largely dependent on his account of events from 2000 in relation to the operation and demise of the Scheme. Information from other official and public sources, where available, was used to validate Hemson's account. A joint paper was then developed in 2002 on the failure of the Scheme in which I contributed an overview documenting the division of Portnet into a National Port Authority and operational Business Unit within Transnet, and the ANC government's port privatisation policy development (Stratton and Hemson, 2002).

Fieldwork involved non-participant direct observation of port facilities and operations in Durban and other ports across southern Africa in 1996-97 and 1999. Fieldwork involved undertaking semi-structured direct interviews to gauge the response to the proposal for a 'National' Dock Labour Scheme. The interviews were conducted in the country's major container and break-bulk ports with government and industry officials, port authority and stevedoring company managers, and trade union representatives (including shop stewards). One limitation from this approach was my dependence on the account of events through this level of representation and not through more direct interviews with workers. Language formed a barrier in Durban as some dock workers have Zulu as a first language. Time restrictions were also a barrier to conducting more interviews. These limitations did not significantly affect the case study focus, which is at a broader level taking into account company, industry and national developments.

Senior workplace managers and union organisers were first contacted to arrange interviews. Employers' permission was sought to conduct interviews with either them or their employees. All interviewees were voluntary with the majority either taking place at workplace or union offices. Between October 1996 and May 1997 I undertook over thirty semi-structured interviews. I attended meetings in April-May 1997 between management

and unions on the implementation of the NDLS at Portnet, Durban. These meetings were attended by a number of the same employer and union representatives I had previously interviewed. I conducted a second round of over twenty semi-structured interviews with either the same or expanded participant group in October-November 1999 to assess the implementation of the pilot Dock Labour Scheme. Other telephone interviews and/or email correspondence were then undertaken over an extended timeframe.

The semi-structured interview approach provided a capacity to set broad parameters with the flexibility to explore issues and obtain first-hand information from participants with detailed knowledge and experience of the stevedoring industry (Productivity Commission, 1998: B3). The semi-structured interview questions were followed by open discussion where particular issues of concern were raised and reflected upon by the participant (Sutcliffe, 1991: 88). The in-depth open interview approach was useful for sensitive subject matter, with participants being given an option of confidentiality. This technique provided a greater opportunity to elicit the views and values of respondents (Whipp, 1998: 54).

Interviews were selected as the preferred strategy rather than, for example, a postal survey questionnaire method given both nature of employer fluctuation, especially sub-contracted labour brokers, and the potential difficulties with language and literacy amongst the workforce, as discussed. Interviews also provided flexibility and spontaneity through the ability to pose more complex questions and open-ended discussion (Bailey, 1982: 182-3; Plowman, 1991: 22-23). A further advantage of the qualitative methods employed was that they enabled the research to be conducted over time, as opposed to a survey, which is fixed in time (Whipp, 1998: 58). This approach also had disadvantages, particularly in relation to the time and expense of interviews, which restricted the sample size and required considerable commitment of time on the part of the researcher and respondents.

Another limitation was the necessity for a number of individual viewpoints to be considered in order to develop a balanced account of events. For example, a possible draw back from this approach to discussions was the potential for selection bias, with participants placing undue weight on certain issues for strategic reasons. As Wellman (1995: 323) notes, "In every field research site those being studied want to figure out the researcher". As Kitay and Callus (1998: 109) point out, case study fieldwork involves respondents trying to "place the research in social space. The researcher must therefore be aware of how he or she is being identified [and where possible] ...make clear his or her impartiality". This created a

situation where questions can be raised about the “extent to which behaviour is likely to be modified by the presence of the observer” (Sutcliffe, 1991: 86).

All interviews were conducted in English. Interviews were audio-taped and later transcribed into written form, with field notes taken either during or after the interview. As Sutcliffe (1991: 89) has discussed, a drawback of the transcribing of unstructured interviews is the large quantity of responses yielded that are often difficult to categorise and the cost and time involved in this process. However, this was largely overcome with initial semi-structured questions focussing on the NDLS and related issues.

It was apparent during field work that racial and ethnic divisions between workers exacerbated during the apartheid era continue in racially-skilled based trade unions within the industry, and of course, in the ownership of business and many management positions.¹¹³ As Wellman (1995: 324) notes, the interview process creates “multiple, but not contradictory, personae”. My persona was constructed during fieldwork as a neutral observer, I believe, by my being a foreign student.¹¹⁴ However, my interactions varied with participants in industry that reflected differences in race, ethnicity, ownership, gender, language, employment status, location, etc.

Various regional differences in race, ethnicity and languages exist between the ports of Durban, East London, Port Elizabeth, and Cape Town. In Durban, casual dock workers were principally from the former Zulu homelands with a minority from Pondoland in the Eastern Cape. In Port Elizabeth and East London dock workers are largely from Eastern Cape and predominantly Xhosa speakers. Asian and coloured people in Durban and Cape Town respectively, generally appeared to be situated between the racial, class and occupational divisions of black and white South Africans. White workers occupied mainly trade or management positions. Language reflects ethnicity to an extent, with Zulu being prominent in Durban whilst Afrikaans more common in Cape Town, although English remains the common language amongst most racial and ethnic groups in South Africa (Pityana and Orkin, 1992: 92).

¹¹³ Maree (1992: 23) provides a working definition of ethnicity in the South African context. Ethnicity refers to social identity formation based on culturally specific practice (including language), a common history, and a sense of belonging to a group that confirms the social identity of members in their interaction with both insiders and outsiders. However, ethnicity interacts with gender, class and racial identities.

¹¹⁴ South African researchers told me that because of this I probably was given greater access to the industry, in contrast to local students in a similar position.

The differences between workers and managements in various locations inevitably changed my behaviour towards interview respondents (Sutcliffe, 1991: 87). For example, my presence in Durban could have been interpreted as giving legitimacy to, if not endorsing, a point of view when present at a dock workers meeting in April 1997 preceding a march through the city. As the only white person observing the meeting the TGWU organiser, who I had previously interviewed on a number of occasions, changed his address to the meeting from Zulu to English and noted my presence as a visitor from Australia. In reference to the Maritime Union of Australia, who had provided me with a letter of support for my research to their South Africa union counterparts, he said: "Globalisation is not just about the globalisation of capital, it is also about the globalisation of union solidarity". I also had a similar experience with a unionist, as did one of Wellman's (1995: 325) respondents who said, "I'm worried about what you're doing. What I'm afraid of is that you may use this stuff against us". In relation to my experience the respondent was hostile when I posed the question that SARHWU were delaying the NDLS process through their indecisiveness.

Another example occurred as I interviewed a researcher about his role in defending the dismissed Portnet Chief Executive manager, Sipho Nyawa, in 1996. I was shown confidential documents (although I was refused copies) of Nyawa's investigations into 'old guard' apartheid bureaucrats in Transnet, undertaken before his sacking for alleged credit-card abuse. I was then told by this researcher that I was not to identify him as I was free to leave South Africa, where as he had to stay and make a living.

The issue of the NDLS implementation and associated restructuring within Portnet and the wider port sector was therefore a sensitive issue to the interview participants. The struggle to control the NDLS by various union factions was allegedly associated with two murders (see Chapter Six). As a foreign research student the relative ability to openly disclose a number of events surrounding the NDLS implementation led to difficulties in the provision of information to interested participants. However, I based my research findings on their confirmation through other sources in a transparent manner.¹¹⁵

¹¹⁵ See Stratton's references between 1997 and 2002.

3.3 CONCLUSION

Together the multiple research methods outlined above conform to the notion of a converging line of inquiry (Yin, 1989: 84-5). The contemporary case study analysis provides a basis in Chapter Seven from which to assess theories of the emerging industrial relations system in South Africa, and specifically, how they relate to recent developments in industrial relation in the port of Durban. The conclusion draws on the relevance of the case study approach in its capacity to generate wider conclusions from the research (Yin, 1989: 44-5). However, as Plowman (1991: 23) argues, a case study enables “a somewhat eclectic approach to data collection ... so as to draw up a detailed set of relationships. However, a major problem for this approach is that it is not appropriate to generalise on the basis of such studies”.

In considering whether this case study of the port industry can be seen to be reflective of general industrial relations in South Africa post-apartheid, a number of points need to be considered. Firstly, as Plowman (1991: 23) argues, “In a longer search for general principles (that is, theory) case studies are useful preliminary investigations as they may bring to light the variables, processes and relationships which deserve more extensive attention”. However, in the absence of an overarching theory, the case study can be classified as descriptive research that can assist in ‘building theory’ (Plowman, 1991: 24). Similarly, Kitay and Callus (1998: 105) argue case study research should not be generalised “from one unit of analysis to another without strong grounds for doing so”.

This does not however discount or preclude the possibility that case study research should not be used to inform wider theoretical debate. Kitay and Callus (1998: 107) acknowledge that a case study “can be used to refine or test theory, which gives case studies a generalisability beyond the individual instance”. Chapter Seven takes these qualifications into account in assessing the issues that emerged from the case study against wider theories of the emerging industrial relations system in South Africa, especially the concept of ‘bargained liberalisation’.

In summary, the multiple research method employed in the following incorporates:

- a comparative analysis of dock labour schemes internationally to assess historical and emerging trends;
- a historical contextualisation of industrial relations in South Africa’s port industry, and in particularly the port of Durban, in order to situate a contemporary analysis;

- a case study of the implementation of the dock labour scheme in the port of Durban between 1998 and 2001; and
- in conclusion, an analysis of the relevance of the case study against the concept of ‘bargained liberalisation’ in order to illustrate issues within South Africa’s emerging industrial relations system.

The following Chapter begins this case study’s multiple research method approach with a comparative analysis of dock labour schemes.

4 THE STRATEGIC POSITION OF DOCK WORKERS AND COMPARATIVE DOCK LABOUR SCHEMES

A historical comparison of dock labour reveals its potentially strategic position within nations' economies that arguably has led dock workers to be considered a 'special case' of workers within comparative industrial relations. This 'special case' can be demonstrated by two factors. The first is that the fluctuating demand for labour in the stevedoring industry is due to the variety of cargoes handled and the irregular arrival of vessels (Saundry and Turnbull, 1999: 272). Casualisation has consequently been a historical characteristic of the dock labour market as stevedoring employers seek access to a supply of labour to meet peak demand. The second factor is that the attempt to regulate casual employment within the dock labour market by securing control over labour supply has been both a goal of, and source of power for, trade unions. The strategic position of dock labour in terms of the effect of industrial actions on economic activity has historically been to achieve control over labour supply and this in turn has often led to concessions from states.¹¹⁶ Consequently, despite differences between national institutional responses, dock workers have historically and comparatively been seen as a 'special case' in relation to union strength and/or state legislative interventions (Reveley, 1999: 36; Turnbull 1992: 229; Turnbull and Weston, 1992: 387-8; Turnbull and Sapsford, 2001). It therefore follows that dock labour can be seen to have a strategic advantage in contrast to other workers in their attempt to implement industrial relations and labour market reforms.

This impetus for both the strategic position of unionised dock labour and its regulation was reinforced by the introduction of containerisation technologies in the shipping and port transport industries internationally from the late 1960s. However, this contrasts the more recent trend on the part of multinational port operators, often in concert with states, to liberalise and privatise stevedoring operations and in turn deregulate and recasualise dock labour markets.

The above themes are explored in this chapter as follows. Firstly, the strategic location of the port industry within economies is outlined which emphasises the potentially strategic position of dock labour. This is qualified through Kelly's (1998) work on the concept of

¹¹⁶ As Hudson (1981: 67) states: "It is axiomatic that a dock strike will have an effect on trade during the course of the stoppage, as no traffic can move if there are no dock workers to handle it".

union power. The framework of mobilisation theory provides a basis from which to differentiate potential worker power (ie. from the strategic location of an industry and/or strategic position of workers in a particular labour process) from the power that such workers actually exercise.

Secondly, the labour process and labour market is examined for both conventional and container stevedoring. The sequential movement of cargo is common to both labour processes, with employment levels dependent upon cargo types, volumes, and levels of mechanisation and technology. Differences however exist between the labour market for conventional and container cargoes which influence employers' demands for either skilled permanent or unskilled casual dock workers.¹¹⁷ This distinction between conventional and containerised cargo labour processes affects the levels of supply and demand in the dock labour market and has also led to different occupational cultures.

Thirdly, the propensity for these two groups of dock workers to use strike actions as a mechanism to increase their wage – employment bargaining power and its effects is discussed in order to illustrate their strategic position. Within this analysis trade unions in container ports are often seen to be in monopoly positions within an internal labour market, and can therefore extract rent through their wage-bargaining power. The basis for this monopoly is their skill levels often accompanied by a union closed shop arrangement. In contrast, casual workers are drawn from the external labour market into relatively unskilled work.¹¹⁸

Despite the differences between both the conventional and containerised stevedoring labour processes, both types of labour share a strategic position in their ability to disrupt the sequential movement of cargo. This remains a key determinate and source of the strategic position of these workers.

¹¹⁷ The term 'dock worker' is used here generically to define both skilled and unskilled workers involved in the physical and operational ship and shore based labour process in the sequential movement for cargo. Where there is a differentiation between ship and shore based classifications specific to a country's work arrangements, or where inland container/cargo (de)consolidation within the immediate port precinct is a feature of dock work, as in the United States, this is raised.

¹¹⁸ Casual workers' disassociation from the institutional framework of the employment relationship has often led to a greater propensity to engage in industrial action, although the types of actions taken by dock workers is not often captured by the 'official' definition of industrial action recorded in strike statistics.

Fourthly, given the TGWU proposal for a NDLS is based on an international model, a comparative analysis of dock labour schemes is undertaken in order to assess their common elements. The role of the state and/or trade union in decasualisation processes is examined, which often occurred in relation to the transition from general to containerised cargo. The analysis reveals that the bargaining power of unionised dock workers is dependent upon a number of factors including the type of port and cargo operations, which in turn determines the labour process and levels of employment (Turnbull et. al., 1996: 692, 721).

Finally, the trends toward privatisation and deregulation are examined. Internationally, the market structure of container liner shipping has become more vertically integrated with other transport modes and this has been facilitated by privatisation. The emergence of global port operators and carriers has led to port competition on a regional scale and port service consolidation and delineation into hubs and spokes. Ports wanting to establish themselves as hubs require massive capital investment, which has led many states to forgo financial responsibility for port development. This, in turn, has created a spiralling effect through states' competing with one another for foreign investment and seeking to create conditions conducive to this. One such condition is seen to be their withdrawal from the direct control of port operations and the deregulation of the dock labour market in order to limit the influence of unions.

In conclusion, the comparative examination reveals the importance of the specific historical context of the institutional and regulatory environment in each port and the relative strengths and weaknesses of the state, employers and unions involved, to the establishment of dock labour Schemes and their ongoing maintenance, and/or dismantling. This is especially significant in the context of the more recent international trends towards port privatisation and labour market deregulation.

4.1 THE STRATEGIC POSITION OF DOCK LABOUR

In an overseas trading economy, the port industry occupies a crucial strategic position due to the link that it provides in the transport chain for imports and exports. The transport sector is central in the economy as it allows economic activity and growth to take place. For example, ports affect the production and costs of import and export dependent industries such as mining, agriculture and manufacturing. The provision of port services is also a key factor in determining the location of economic activity and patterns of employment, especially in relation to firms which increasingly supply markets and source inputs over

large distances. The ability for these firms to deliver finished goods within a short time span is an important element of competitiveness. Port infrastructure and services therefore directly influence industry costs and the nature of economic development (NALEDI, 1996: 1).¹¹⁹

The economic importance of the port industry is based on its size as well as the services it provides to other industries (BTCE, 1988: 71). As the efficiency and reliability of ports impacts on the costs of a country's imports and exports, ports can enhance import and export competitiveness. Ports therefore have a strategic influence on the economic efficiency and activity of nations and regions dependent on the transport chain for the import and export of goods. The strategic location of ports within national economies in turn provides a strategic position for dock workers.

The strategic position of dock workers is however relative to a number of contingent factors. Firstly, unlike many industries that feature highly mobile capital, port industries are defined by the fixed nature of capital investment in their built environment. Although this has, and is, increasingly subject to inter-port competition with the privatisation of many ports internationally, fixed capital location remains a salient feature of employment in ports. Secondly, the strategic position of dock workers is relative to the product market of specific ports, their terminals, and their linkages to wider economic activity locally, regionally, nationally, and/or internationally. The exponential increase in goods that are now containerised in recent decades however points to the significance of container ports to economic activity. Thirdly, the specific structural elements of the labour process associated with the handling of each cargo, and the organisation of labour within this, are critical issues to the strategic position of dock workers. Related to these elements are the employment arrangements for these workers. These factors have led to ongoing challenges to dock workers from state and employers historically in the form of both mechanisation and labour controls in place. These aspects are discussed in more detail below – however the role of trade unions, and especially the power they derive and exercise from the above aspects associated with dock labour, and employer and/or state responses to this, is firstly discussed.

¹¹⁹ In 1973 UNCTAD estimated that the proportion of freight rates was comprised equally of loading, at-sea, and discharging cargo (Turnbull et. al., 1992: 52). Stevedoring labour costs account for around two thirds of the cost in port, so labour accounts for around 43 per cent of the movement of goods by sea transport.

4.1.1 Union power

The strategic position of dock workers needs to be qualified in a general sense of why and how these workers can or cannot obtain their position to exercise power strategically. Kelly's (1998) work on union power is a useful basis from which to consider the specific elements that constitute the strategic position of dock workers. Kelly (*ibid*: 5) is critical of existing industrial relations theory approaches to analysing the concept of power. For example, proxies for union power as strike frequency and union density "are unreliable and possibly invalid" (*ibid*: 10). Other structural factors used as influences on union power, as product markets, labour markets, and the strategic position of workgroups in the production process, all as variables have an impact on the "balance of power [that] is far from obvious" (*ibid*: 10-11). Kelly (*ibid*: 11) therefore argues that "whilst structural factors may facilitate the exercise of power, they do not necessarily generate any awareness of the 'possession' of power or provide the motivation to use it". Kelly (*ibid*: 13) concludes that as such, there "is no consensus on how the concept of power should be defined or measured [and]... there is no agreed theoretical framework for studying its determinants".

In this absence, Kelly (*ibid*: 1) suggests mobilization theory provides a framework in which to "analyse the process by which workers acquire a collective definition of their interests in response to employer-generated injustice". Kelly uses Tilly's (1978) theory of mobilization that sees collective action (and its absence) to demonstrate the conflict of interest in the capitalist employment relationship and how this may lead to conflict behaviour. Its five components consist of interests, organisation, mobilisation, opportunity and different forms of action. Each of these components is defined below and then expanded upon in both the assessment of the stevedoring labour process for conventional and containerisation cargoes and the historical comparative of dock labour schemes.

Tilley's framework is informed by the work of social movement theorists, whereby interests are determined when workers have a grievance or sense of injustice (illegitimacy) that they perceive can be addressed by their collective agency. The process of interest definition is critical for sub-group members (employees) detaching their loyalty from the ruling groups (employers and/or the state) (Kelly, 1998: 27-9). The process by which individual workers coalesce into a social group with a collective interest is then, according to Kelly, categorised by the notions of attribution, social identification, and leadership (*ibid*: 29). The first two categories, attribution, which is the identification and reasoning of an injustice, and social identification, which identifies and forms a group identity around the reason/rationale, are

socially constructed by activists and leaders (*ibid*: 30-1). The leadership of the group is then itself subject to inter-group conflict and in-group cohesion (*ibid*: 32).

Once individuals belong to groups, the extent of mobilisation then depends, within Tilly's framework, on "the definitions of interests, the degree of organisation and the costs and benefits of taking action" (*ibid*: 33). The latter – the costs and benefits of a particular course of action - can be thought of "in terms of *group* interests and *group* gains and losses" (*ibid*: 34, original emphasis). Leaders will play a critical role in mobilising workers for collective action through: promoting group cohesion and identity; persuading members that their interests lie in taking collective action; and, defending collective action from "counter-mobilising arguments that it is illegitimate" (*ibid*: 35).

The form of collective action undertaken depends on other factors. These include the extent to which members retain their identification and interaction with the collective organisation, and the opportunities that present themselves for actions, especially in the face of the counter-mobilising actions from either employers and/or the state, and indeed, the balance of power between the two. Collective action is also not restricted to strike action, but may incorporate other forms of non-cooperation and/or the articulation of alternate positions of legitimacy (*ibid*: 37-8). For example, Kelly (*ibid*: 65) argues the scope of trade union activism often goes beyond that of the immediate workplace or industry.

Activists notions of workers' rights are often derived from general ideologies which implicate unions in political campaigns that go beyond the workplace. It follows that the role of the union is not confined to being an agency of collective bargaining (or individual grievance handling) but also embraces political activity as part of a social movement.

According to Kelly (*ibid*: 38) mobilisation theory therefore provides a basis from which to understand and theorise how "individuals are transformed into collective actors willing and able to create and sustain collective organisation and engage in collective action against their employers". This argument is developed upon below through an assessment of the various contingencies associated with the stevedoring labour process and dock labour market that have enabled dock workers and their unions to exercise the strategic use of power in industrial relations.

4.1.2 The stevedoring labour process

According to Thompson's (1989) reassessment of both Braverman (1974) and Burawoy (1979), the labour process is not only determined by capitalism's impetus to deskill labour and replace it by adopting new technology, but incorporates labour as a commodity. However, this is constantly revolutionising in reaction to the existing and emerging exigencies of competitive capital accumulation. Although this occurs under conditions of antagonistic relations of production, this should not necessarily be limited to the deskilling of human labour. In fact, the inverse may also occur with workers both re-skilling and consenting to the conditions of exploitation. The requirement for control by capital over the labour process can therefore not be assumed to take any particular type of form or technological transformation (1989: 241-50; Martin, 1995: 69).

For example, Finlay (1988: 20-5) argues in relation to the experience of longshore workers with the introduction of containerisation on the United States West Coast that they were able to mediate its imposition. This was especially so as the International Longshore and Warehouse Union (ILWU) retained a monopoly over the industry's labour market and therefore commanded a strategic and powerful position. As such Finlay (1988: 20) argues:

the subordination-of-workers interpretation of technological innovation ... overestimates the willingness of management to place its political interest in domination and control of workers ahead of its economic interests in efficiency and productivity.

This is but one example of the myriad of combinations of employer and dock worker power relations and their associated work arrangements. It should be noted that when comparing these arrangements, variations between and within countries port industry structures and economies influence the scale of operations and the levels of competition between or within ports. These factors have a significant impact on the relative strategic position of dock workers in relation to specific ports operations. The following attempts to take these factors into account by providing a theoretical overview of the dock labour process and labour market for distinct cargo types (or product markets).

The sequential movement of ship based cargo

In relation to the port industry, the sequential movement of cargo determines the labour process. The sequential movement of cargo within a port reflects its basic function as a meeting point for various transport modes with maritime shipping, including waterways,

road and railway transport. The facilities and services required to fulfil the basic functions of a port can be broadly classified as:

- infrastructure, which includes land, water area, docks, locks, breakwaters, channels, navigational aids, physical links to inland transport, etc;
- superstructure, which includes quay cranes, gantries, fork-lifts, warehouses, sheds and so on; and,
- services provided by the port as cargo loading and unloading, with a number of necessary complementary services as storage, pilotage, towage, etc. (Liu, 1995: 164).

Within these services the core functions of stevedoring is the loading and unloading of cargo from ships, and the loading and unloading of cargo from land transport operators servicing a port's docks.

Historically, the traditional role of crew undertaking cargo handling was displaced with the advent of large steamships with fewer crew members. However, shipping companies contracted out stevedoring functions as they sought to discourage port authorities from direct engagement in stevedoring in order to reduce monopoly power (Turnbull et. al., 1992: 41). Master stevedores therefore emerged, as ship owners sought intermediaries to port authorities (*ibid*: 36). This division between employers was 'organisational' rather than technological or production related as a service sector and has subsequently fragmented employer organisation. This fragmentation was exacerbated however by a conflict of interest between the stevedores and ship owners. Ship owners' prefer the number of berths available to be maximised in order to provide immediate berthing. In contrast, the port authority and stevedores' seek to maximise occupancy rates through optimal berth utilisation in order to maximise capital return on their respective infrastructure and superstructure investments (*ibid*: 52; Saundry and Turnbull, 1999: 276).¹²⁰

The capital:labour ratio utilised to provide this service depends upon the type of cargo being moved.¹²¹

- Containerised cargo requires a high level of capital equipment and a relatively skilled labour force to operate it,
- Break-bulk or general cargo (ie. steel, machinery, cars, bagged sugar etc.) is comparatively labour intensive, and

¹²⁰ Berth waiting time and time at the berth is affected by the number of berths within a port terminal, the berth occupancy rates, and cargo handling performance (Turnbull et. al., 1992: 52).

¹²¹ The capital:labour productivity ratio equation relates to the number of dock workers employed to fulfil each labour process required by the nature of cargo type.

- Bulk commodities require minimal labour through the utilisation of equipment as conveyors/feeders.

The stevedoring labour process is therefore based upon the type of cargo being moved and the capital:labour ratio which in turn reflects the extent of investment in technology and equipment. These factors influence the nature and size of the dock labour market.

4.1.3 The dock labour market

Although the stevedoring labour process affects the size and composition of the dock labour market, it is also influenced by external macro-level labour market factors.¹²² These external factors to labour market processes include market forces, institutional forces and sociological forces (Kaufman, 1994: 16). Together they determine labour market outcomes, although their individual dominance varies depending on the industry. In stevedoring, market forces are to a large extent shaped by institutional and sociological forces such as union influence, cultural features and custom and practice.¹²³

The demand for dock workers is a derived demand from firms requiring labour input into the production process associated with the handling of cargo (Barker, 1992: 13). The number of dock workers firms' demand is therefore dependent on factors such as:

- the technical nature of the production process and its function (ie. conventional or containerised cargo);
- the revenue for firms as a result of selling the output of dock workers; and
- the process of labour, capital and other factors involved in the cargo handling process (Kierce, 1996: 3).

Demand for stevedoring services is highly variable and affects planning and labour requirements.¹²⁴ Flexibility in the allocation and use of labour is therefore critical to stevedoring productivity (ie. the amount of output that can be produced from a given set of inputs (labour and capital) (Productivity Commission, 1998: 3).

¹²² These include the level and composition of both demand and supply, the structure of earnings, unemployment levels and composition, money wages versus real wages, poverty and income inequality, and the actual performance level of the whole market (Kaufman, 1994: 7-16).

¹²³ For example, employer fragmentation has often impacted upon dock worker organisation and representation by trade unions (Hill, 1976).

¹²⁴ The variations include terminal operating hours, the unpredictability of ship arrivals, the size of either containers to be exchanged or the cargo type for break-bulk, interface with land transport (road and or on-dock rail connections) and seasonal variability (ie. fruit etc.) and, unexpected factors, such as delayed arrivals and difficult stows (Productivity Commission, 1998: 15).

Variations in the dock labour market are demonstrated in Figure 7, which refers to two types of dock worker. Panel A represents 'unskilled workers' that are equated with casual dock workers, whilst Panel B represents 'skilled workers' that are equated with unionised workers operating within closed shops and/or those workers with a monopoly over specific skills (as in the containerised cargo labour process). D1 and S1 give the demand and supply functions for labour as a whole, to an extent that the equilibrium wage rate is W_1 and the equilibrium quantity rate is Q_1 . An over-supply of unskilled workers in the dock labour market is represented by Panel A. This leads to the supply curve shifting to the right, with wages decreasing, although the total quantity of employment will be greater. Inversely, in the skilled dock labour market, as represented in Panel B, the influx of labour supply is controlled either through the registration of workers within a pool and / or through a monopoly over skill acquisition. This limit on supply will shift the curve to the left, raising wages but reducing the total quantity of employment.

This figure based on neo-classical labour market theory provides a basis for the discussion of the different aspects of the dock labour market in the remainder of the chapter. In the first example of conventional cargo and casualisation, which can be representative of Panel A, the issue of an oversupply of labour was only addressed by changes in the labour market brought about through decasualisation and containerisation. The former may have involved either state intervention through legislation regulating labour supply, and/or a union closed-shop labour pooling arrangement. Both represented a movement towards skill acquisition and/or the regulation of labour supply. These arrangements have ultimately been challenged through the globalisation of shipping and port operators with the trend towards port privatisation in the 1990s. Port privatisation and labour market deregulation represent a return to the earlier levels of elasticity of supply which characterised the casualised dock labour market (adapted from Fick and Hugh High, 1987: 21-22).

The following expands upon these three scenarios for the dock labour market. However, the strategic position of dock labour and the contrast between skilled and unskilled workers and the concept of 'insider' and 'outsider' (unionised or non-unionised) groups is first explored. This is followed with an analysis of the relative bargaining power of each group and their strike propensity. The measurement of industrial action and its effects are also explored in order to emphasise the bargaining position of both groups of workers given their strategic location and position within the stevedoring labour process, labour market, and the relative

strengths and weaknesses of trade unions within these. The chapter concludes by examining the trends associated with conventional cargo and casualisation, decasualisation and containerisation, and more recently, the trend towards port privatisation and labour market deregulation, in order to demonstrate the strategic position of dock labour.

4.2 THE STRATEGIC POSITION OF UNIONISED DOCK LABOUR

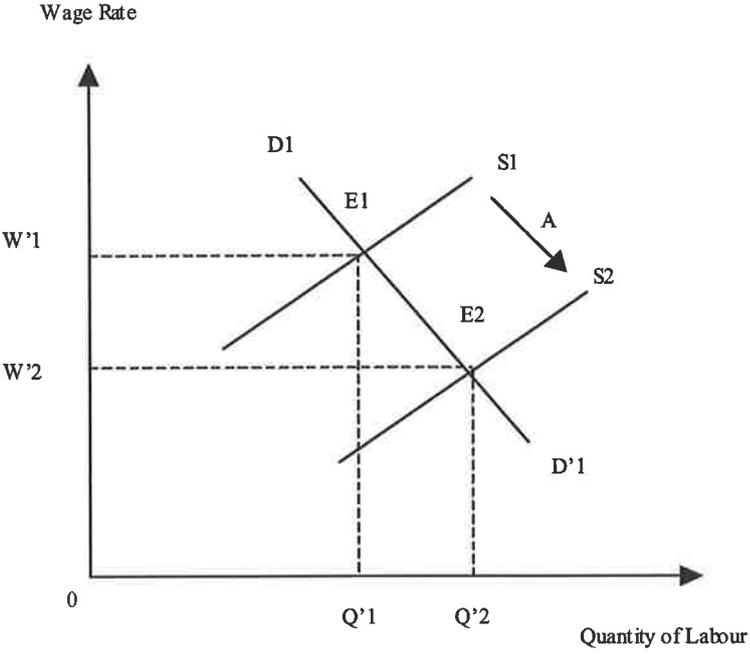
The following argues that the onset of change in the port industry with the movement from conventional stevedoring to containerisation was not uni-linear, but did generally lead to greater bargaining power for those workers which remained in the labour market (Hemson, 1996: 23-4). Technological change in ports could be characterised by the sequence of hook, crane, fork-lift, and container, although this schematic varied from port to port and over time (Green, 2000: 575).¹²⁵ Saundry and Turnbull (1996: 283) argue technological developments increased the number of scheduled services and reduced much of the unpredictability in shipping, but not the variability of labour demand. A particular culture had also developed within dock work in many countries that influenced the process of technological change. However, Green (2000: 575) argues that “[e]ach technological development added to existing tools and machinery, but it was not until containerisation that nearly all the old methods were displaced”. Given the above qualifications as to the variability of change with the introduction of containerisation, the following outlines the strategic position of dock labour in the context of the technological transformation of the labour process and examines the role of trade unions within this.

4.2.1 ‘Insider’ and ‘Outsider’ Theory

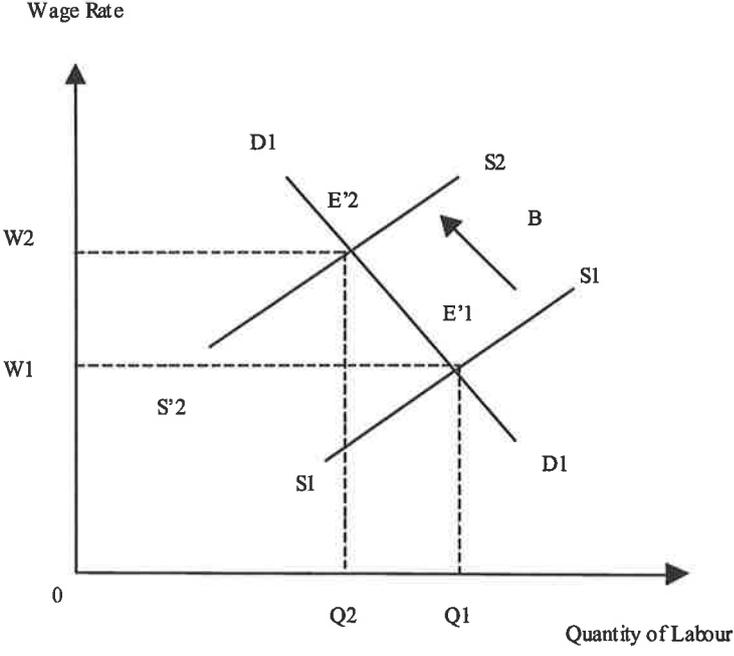
As discussed in relation to South Africa in Chapter Two, ‘insiders’ or core employees can also be classified as trade union members that attempt to maintain a ‘closed shop’ and restrict the supply of labour through maintaining an internal labour market. The insider strategy can therefore seek to limit the supply of labour from the external labour market, which itself can be based on skill formation and grading. ‘Outsiders’ or peripheral employees are those workers in the external labour market where job security remains precarious.

¹²⁵ Green (2000: 576) argues that some stevedore employers were also reluctant to adopt the new cargo handling methods due to, firstly, the relative cost advantage of cheap casual labour and, secondly, the ‘cost plus’ system of charging, where profits were calculated as a percentage of direct costs.

Figure 7 Supply and demand curve for unskilled and skilled dock workers



A = Unskilled workers



B = Skilled Workers

Source : Fick and Hugh-High, 1987

The dock labour markets for each ‘insiders’ and ‘outsiders’ group and degree of labour market segmentation between and within each depends upon the characteristics of the mode of operation and its labour process. Market forces and institutional settings, as collective bargaining, play an allocative or pricing role that can influence the extent of employment security (Barker, 1992: 15). However, the level of bargaining and its effectiveness are usually dependent upon the presence of unions, levels of unionisation and the relative strengths of the actors involved in the employment relationship and regulation of the labour market (Fligstein and Fernandez, 1988). The two factors of unionisation and skill formation are explored below in the context of the dock labour market.

Unions

Trade unions are associations of employees with the primary goal of improving its members’ well being through organising, collective bargaining, and political activity (Hirsch and Addison, 1986: 9, 40). Trade unions are a secondary organisation whose “existence and activity presupposes the existence of capitalist institutions that employ wage labour” (Turnbull, 1988: 111). Collective bargaining regulates individual bargaining and as a rule making process is a power relationship.¹²⁶ The role of trade unions in this process is to “*overcome individuality and define a collective identity and collective objectives*” (*ibid*: 111, original emphasis). In doing so they must “reduce the *costs* of organisation and conflict to offset the power advantage that capital holds over them” (*ibid*: 111, original emphasis).

According to Turnbull (*ibid*: 113), in order to undertake this process trade unions’ structure and behaviour involves a *two-way* process of internal control. Trade unions must mediate pressures within the formal union structures and the goals and activities of the membership. The outcome of efficient or effective organisation and membership control will depend on the “extent of internal union democracy because the membership may be able to pursue their objectives *independently* of official union structure and procedures” (*ibid*: 113, original emphasis). The union as a bargaining agent therefore provides members with a collective voice for their preferences. As a result, a union can “cause wage and non-wage outcomes to

¹²⁶ Workers time, not work, is purchased by an employer, but unlike normal commodities, workers are a partner to the labour contract, “*object and subject* of the exchange relation” (Turnbull, 1988: 110).

diverge from competitive levels, primarily but not-exclusively through the use of the strike threat and other restrictions on factor supplies” (Hirsch and Addison, 1986: 9).

The utility of a union and its members is a positive function of real wage and non-wage compensation and union members’ employment, within the trade-off between compensation and employment (*ibid*: 10). The trade-off between compensation gains and employment losses is more favourable for unions the more inelastic the demand for union labour.¹²⁷ Collective bargaining may also occur ‘off the demand curve’ when unions and firms bargain simultaneously over wages and employment, what’s described as the efficient bargain model (Hirsch and Addison, 1986: 14, Gavasto, 1997: 226).¹²⁸

Skill formation

Container stevedoring can be seen as an internal labour market operating as a bilateral monopoly in which specific skills result in high transaction costs.¹²⁹ Transaction costs result in the distinction between the internal and external labour market and includes the costs associated with specific skill training required to operate the technology used in stevedoring that are specific to the production function.¹³⁰ This in turn has consequences for the level of demand from employers.

The skill specificity and bilateral monopoly arguments that characterise the container stevedoring labour process and labour market can also lead to a situation where collective bargaining encourages inflexibility on the part of the workforce (Elliot, 1991: 363). The cost of employing labour therefore impacts upon the number of people employed, or the

¹²⁷ In relation to Marshall-Hicks laws of derived demand, demand for union labour will be more *inelastic* under the following circumstances: (1) the more inelastic the demand for the product; (2) the more difficult the substitution in production of union labour with capital or non-union labour; (3) the smaller the share of union labour cost to total cost; and, (4) the less elastic the supply of other factors of production (Hirsch and Addison, 1986: 13).

¹²⁸ Gavasto (1997: 226) describes these union bargaining models as *labour demand* (right to manage), whereby wages are negotiated between union and employers, whilst employment is unilaterally determined by the employers. The second model is described as the *efficient bargains* model which implies unions’ bargain with employers over both wages and employment levels.

¹²⁹ A bilateral monopoly is characterised by wage determination where a sole seller of labour (ie. union-closed shops) confront a sole buyer of labour (Fick and Hugh-High, 1987: 40).

¹³⁰ Much of this skill acquisition may be through on the job training or ‘learning by doing’ (Chapman, 1993: 18).

marginal revenue product (MRP).¹³¹ Such a situation can lead to tacit collusion between employers and unions to control both the labour and product markets (Barker, 1992: 19).¹³²

Higher wages also leads to the tendency for employers to substitute labour with capital over the long term (*ibid*: 14). The high cost of skilled insiders works towards employers' tendencies to substitute labour with capital through the increased mechanisation of production. As Hirsch and Addison (1986: 22) note, in a competitive product market (unless monopoly unionism has positive productivity effects that offset increased wage costs), unionised firms will find it difficult to survive over the long term.

'Insiders' in the dock labour market

According to Turnbull (1999: 10), while containerisation offered many potential benefits to individual dock workers, it presented at least three major dilemmas for trade unions. Firstly, labour requirements were dramatically reduced with the unitisation of cargo and its relocation to inland areas. In many developed countries, trade unions conceded to decasualisation and modernisation agreements in return for attractive voluntary redundancy packages and early retirement, on the one hand, and improved conditions of employment for the 'core' insiders who remained, on the other. As a consequence the second major problem for labour was to determine who would be an 'insider as opposed to an outsider'. The third dilemma was work distribution amongst remaining insiders within new container terminals.

Once 'insiders' were determined in container operations, the stevedoring labour market could be characterised as a bilateral monopoly, with a unionised closed shop monopolising skill and associated transaction costs (Kierce, 1996: 49; McConnell and Brue, 1989: 174). For specific skills, such as crane and straddle operations, workers are monopoly sellers of their labour with firms' monopsonistic buyers. Through union closed shops, the wage

¹³¹ The marginal revenue product (MRP) refers to the increase in total revenue resulting from the employment of each additional worker. The extent of wage elasticity is the degree of responsiveness to changes in the wage rate in relation to the quantity of labour employed. This and the costs for employers to substitute labour with technology will determine the demand for labour (Marshall et. al, 1980: 223; Barker, 1992: 14).

¹³² Other characteristics of internal labour markets include the presence of information asymmetry; the prominence of on-the-job training; the allocation of labour and the structure of pay largely being shaped by institutions and rules; long term employment arrangements; low labour mobility; and the existence of the voice mechanism and trade unions in determining pay and conditions (Elliot, 1991: 355-71). This later feature influences worker efficiency when determined by both workers and employers. This in turn links production efficiency to wage efficiency (Kierce, 1996: 53).

bargain and the respective bargaining power of labour and employers become central to the industrial relations environment and outcome (Kierce, 1996: 51).

Although now highly capital-intensive, labour costs remain the highest component of port operating costs in container operations. As employers are constantly re-evaluating working methods and terms and conditions of employment in order to achieve further (marginal) cost savings, container operations are heavily skewed towards a dedicated and highly skilled workforce (Saundry and Turnbull, 1996: 283; Blyton and Turnbull, 1998: 147). As a result the optimum employment strategy for employers is to engage a 'core' of formally trained, highly skilled mechanical equipment operators on a permanent basis. Any peaks in labour demand or less skilled operations can then be filled on a casual or regular casual basis. The latter group can be included into a port-wide labour pool with employers sharing the costs of idle time (Turnbull, 1999: 9).

'Outsiders' in the dock labour market

Casual dock workers involved in container operations face precarious employment from competition in the external labour market, as production efficiency is linked to numerical flexibility. Although many of the 'outsider' skill sets remain important and are dependent on on-the-job training, they do not necessarily involve the technical skills required to operate specific capital equipment.¹³³ According to Drewry Shipping Consultants (1998: 74), the key issues surrounding casual labour are:

- Usually a low cost option for the terminal operator.
- Low risk for the terminal operator, since staff are not full-time employees.
- Especially beneficial during peak periods.
- Casual staff may not be as familiar with cargo needs and customer requirements as permanent staff.
- Casual staff may not have the same level of interest in cargo care.

¹³³ For example, relatively unskilled tasks, as container lashing, are a critical part of the sequential movement of cargo. The lashing gang begins after a ship berths at the terminal. The gang unfastens and removes the steel rods on the containers that are to be lifted. Once the exchange is complete, the lashing gang reboards the ship to fasten the steel rods onto the new containers (Productivity Commission, 1998: C9). Lashing usually involves three or more employees, depending on the difficulty and extent of the task (this includes factors as the ship configuration and lashing gear, as automatic twist-locks), under the supervision of a foreman of the ship (*ibid*: 27, 79). Although increased levels of manning to undertake lashing duties on large exchanges of containers increase productivity, "management must take into account labour costs as well as crane productivity when deciding the number of employees performing lashing duties" (*ibid*: 79). Lashing is often dangerous due to the unfamiliar conditions of each ship, poorly maintained shipboard equipment and weather conditions. As lashing is physically demanding, dangerous, and relatively unskilled work, casuals in a number of ports internationally are often assigned to undertake the lashing task.

In relation to conventional dock work, Green (2000) suggests this include both knowledgeable practices and an element of control on the job. Only one other category, craft, is included in Paul Thompson's concept of 'skilled work' (2000: 570; Thompson, p. xii). However, Green (*ibid*) argues that historically, in the majority of cases, although the "dock labour force was not defined by formal craft skills, it would be a mistake to regard the dock labour force as undifferentiated. In the majority of ports a degree of specialisation among the workforce is evident". Chisholm (2000: 709) also questions any view that dock workers can be classified as 'unskilled'. She says:

Although termed 'unskilled', the dockers frequently exercised strategic leverage on the waterfront, as their experience and co-operation was crucial for the speedy discharge and dispatch of cargoes. The strength of the dockers also lay in their workplace organisation and their community culture.

Therefore, although the conditions under which manual tasks are performed vary, importantly, they also "may affect the sequencing and speed of loading and unloading operations" (Productivity Commission, 1998: C7).¹³⁴

Although the lack of a monopoly over skill does not take away the involvement of casual workers in the sequential nature of the labour process, a critical issue for casual workers is whether their employment status affects their ability to collectively organise. From these workers' perspective the ability to organise enables them to voice their position in the labour process and wage-bargain effort, and if necessary, mobilise to undertake collective action.

There are, however, limits on the labour strike given that the casual employment relationship is dependent upon factors such as employment status, the nature of the work and the excess supply of unskilled labour in the external labour market. Also, issues of efficient wage bargaining on the part of 'insiders' and whether they incorporate the concerns of 'outsiders' depends on the bargaining relationship within and between firms in a port that may not be party to collective industry or legally binding agreements. For example, casual

labours' bargaining power could be further eroded by employers' contracting out to third parties to supply labour. Similarly, the attempt by casual workers to organise to limit the supply of labour and work in solidarity with permanent core skilled workers in industrial actions is dependent upon both groups' approach to industrial relations issues. In fact, the erosion of core permanent workers by casual labour and contracting can provide both the impetus and incentive for both groups to attempt to organise and bargain collectively in each other's mutual interests.

Although the excess supply of labour affects the bargaining position of casual labour, their involvement in both containerised and general cargo operations requires skilled labourers for productivity to be maximised. A dilemma firms face is to either develop skilled workers through more regular employment or to continuously draw on new unskilled labour. The choice to utilise the latter arguably adds to costs inherent in labour turnover, re-skilling and the efficiency of the labour process (Saundry and Turnbull, 1996: 276). It is these set of choices for both employers and workers that are played out in ports around the world relative to the strengths and weaknesses of each actor and their institutional setting.

The following section examines the key factors in the ability of dock workers, whether union or non-union, permanent or casual, to engage in industrial actions in order to illustrate their strategic position. It does so by examining the propensity of dock workers to engage in strikes and other forms of industrial action by assessing how strike activity is measured and its effect.

4.3 THEORIES OF DOCK STRIKES

As ports are already integrated through international shipping into the global economy, they are also often at the forefront of global developments, especially in the area of industrial relations. Waterman (1990: 15) argues, internationally, that transport workers have an increasingly strategic position.

¹³⁴ The manual tasks in container operations can include ship work, as the unfastening of lid covers on board ship bays, lashing/unlashing (which involves lifting heavy twelve foot steel rods to lock in containers on ships), placing/removing cones and twist-locks used to lock in containers, and locating containers. Yard work includes plugging/unplugging and monitoring refrigerated containers and locating containers. Ancillary operations include cleaning containers, machinery, line-marking and refuelling machinery (Productivity Commission, 1998: C7).

In terms of capital accumulation as a whole, transportation is the weak link, representing a dead period between investment and realisation. The dead period for capital accumulation also represents a weak link in the control of labour.

The sensitivity of industrial relations in the port industry is specifically felt through the impact of strike activity having a multiplier effect upon the logistics chain. The multiplier effect stems from the fact that ports can act as a bottleneck for the flow of goods, the reliability of supply and the efficiency of the economy. The spatial immobility of ports is also an important factor in the ability for labour to establish this strategic position. It is therefore an important concern to the wider economy that industrial relations stability in the port industry is maintained.

As argued above, the productive efficiency of stevedoring operations must take into account both core and casual workers given their roles in the sequential movement of cargoes. The strategic position of labour within this process is contingent upon the relative strength of those workers either within the internal or external dock labour market. As Hirsch and Addison (1986: 223) note, the ability to strike is not synonymous with wage-bargaining power or strike effectiveness. For example, in the short term, strikes might boost earnings and protect long-established work rules, especially where employers are prepared to accept a marginal increase in labour costs to ensure vessel turnaround. However, within a competitive industry the long-term effect will be declining traffic share, fewer employment opportunities, and job insecurity, which in turn may lead to further conflict (Turnbull and Sapsford, 2001: 254).

The following section explores definitions of dock strike activity and its effects. This is in order to demonstrate that both casual and core permanent workers potentially are both strategically located and have a capacity to influence wage and employment bargaining through their exercising collective action. These workers therefore maintain a strategic bargaining position in comparison to other workers.

Strike propensity

The historical comparison of the propensity of dock workers to strike is based upon both the stevedoring labour process and, in particular, the casual nature of the labour market (Turnbull and Sapsford, 2001: 234). The comparative analysis of strike actions confirms that casualism does not cause conflict, but creates a context in which strike action is more

likely as it encouraged dock workers to exploit vulnerable employers (Turnbull and Sapsford, 2001: 234; Turnbull et. al., 1996: 708; Turnbull, 1999: 6).

The earlier work of Kerr and Siegel (1954) on dock strikes argued the location of dock workers in society set them apart as an 'isolated' and 'homogenous mass' and led to their propensity to strike (cited in Turnbull, 1992: 295).¹³⁵ However, according to Turnbull and Sapsford (2001: 233), the analysis of Kerr and Siegel's 'strike prone' industries draw erroneous conclusions by focussing on variation in strike activity between, rather than within, industry. They argue strike activity must be examined in relation to intra-industry factors and recognise variation in time and place. To do so requires a combination of historical and sociological analysis. Turnbull and Sapsford (*ibid*: 253) argue:

industry-level variables such as economic conditions in the product and labour markets, the nature of the labour process, occupational subcultures, community isolation, and the like may predispose dock workers to engage in strike action. Such factors are essential to an understanding of the character of industrial relations, the connections between work and non-work activities and ultimately the processes involved in strike action. These factors are critical to understand the ability of dockers to mobilise and sustain collective solidarity in the face of employer and or state opposition. These variables cannot however be used to explain actual incidence of strikes.¹³⁶

Turnbull and Sapsford (*ibid*: 234) argue that in order to determine why strike action becomes part of the discontinuity of work in some countries or specific ports, as opposed to others, requires an analysis of institutional arrangements, employer policy and trade union organisation within each country's port industry.

In Turnbull and Sapsford's comparative analysis of dock strike activity they argue strike action was more frequent where dock workers were able to seize upon the 'variability' inherent in the job itself and the commercial pressure on stevedoring companies to turn

¹³⁵ The dockworker subculture conditions include the casual nature of waterfront employment; the exceptional arduousness, danger and variability of the work; the absence of an occupationally stratified hierarchy and mobility outlets; the lack of regular association with one employer; continuous contact with foreign goods, seamen and ideas; the necessity of living near the docks; and the belief shared by dockers that others in the society consider them a low-status group (Miller, 1969: 304-5).

¹³⁶ Industry level theories, as changing market conditions, need to also include a focus on the connections between work and non-work activity as community isolation and occupational culture. The later provide a basis for assessing "the *processes* involved in strike action, most notably the ability of some groups to mobilise and sustain collective solidarity in the face of employer and/or state opposition" (Turnbull et. al., 1996: 693).

vessels around.¹³⁷ Historically, the fragmentation of employers in the port industry, as outlined above, presented difficulties to address strikes (Turnbull et. al., 1992: 43). This often led to the success of unofficial and targeted strikes to gain concessions from individual employers who were in turn themselves pressured by the affected ship owners. Consequently, many stevedore employers were often willing to settle disputes as quickly as possible to maintain their commercial contracts with shipping lines (Turnbull et. al., 1996: 698).

The effectiveness of dock strikes, especially with conventional cargo and casualism, was also predicated on the extraordinary levels of solidarity that characterised dock workers' group behaviour to control the labour process and shift the wage-effort bargain more decidedly in their favour (Turnbull et. al., 1996: 721). The casual work contract and the lack of institutional support to address issues similarly encouraged dock workers' militancy (Turnbull, 1992: 301). For example, Turnbull (*ibid*: 300) argues that the 'piece rate' wage negotiation (ie. gang labour process and commodity negotiation, of which there were infinite variations) led to regular stoppages, often port wide. These sometimes escalated to port wide strikes when employers' attempted to discipline individuals.

Worker resistance also occurred in a variety of informal responses. Chisholm (2000: 714) argues:

Many of these strategies, such as regulation of hiring, customary work practices and pilfering, were rooted in work gangs, common codes of behaviour and community identity. Informal strategies were frequently incorporated into union structures and contracts. However, they also remained an independent variable that confounded labour relations experts and trade union leaders alike.

With the absence of any institutional mechanisms to resolve casual dock worker disputes, strike action could also become an established 'habit' and an accepted means to resolve disputes by the casual labour force (Turnbull et. al., 1996: 699).¹³⁸ However, Turnbull et. al. (*ibid*: 72) also qualify this assumption:

¹³⁷ Similarly, Wellman argues in the case of the US West Coast longshore workers that casuals pursued short-term goals through confrontation with employers (cited in Turnbull, 1999: 6).

¹³⁸ "Industrial conflict is thus a dialectic process, the pattern of which can be perpetuated, and the parameters occasionally redefined, by conflict itself" (Turnbull et. al., 1996: 699)

The particular variations in strike activity ... across ports suggests that some dockers had more occasion than others to draw on this solidarity, depending on the specific constellation of economic, institutional, technological and cultural variables through which struggles between capital and labour were mediated.

The psychological orientation of dock workers' handling conventional break bulk cargo and their propensity to strike therefore had linkages to the labour process and the casualised labour market. However, from the 1970s with containerisation the culture of the gang turned to one of the individual as decasualisation and containerisation contributed to the demise in 'solidarity' between dock workers (Turnbull et. al., 1992: 59; Turnbull, 1992: 305).

The transition to containerised cargo and its associated labour process did not however replace the strategic position of organised dock workers within the sequential movement of goods. Although containerisation introduced a degree of structural unemployment to the dock labour market, it had not negated the strategic position of those dock workers, which remained. Tilly and Tilly (1998: 251) argue in the case of longshore workers in the United States:

Although containerised cargo-handling has drastically changed routines and productivity on the waterfront, with a consequent decline in the total number of workers, it has actually sustained or enhanced some of the conditions that favour workers' collective action.¹³⁹

In this way the characterisation of organised dock labour as strategically located in comparison to other workers has continued.

Measuring the effects of strike activity

The impact of strikes generally takes into account two factors, the level of strike activity and its effects. Strike statistics are variously defined in terms of numbers of workers involved and/or the length of the dispute (Turnbull et. al., 1996: 698; Turnbull and Sapsford, 2001: 232). The strike indicator for inter-industry comparison – days lost per 1,000 employees –

¹³⁹ These favourable conditions include: "location in firms with substantial market power, high capital-labour ratios, extensive worker discretionary control over firm capital, high impact of workers performance on firm's aggregate performance, and institutions confirming worker rights. The carryover of reputations and relations from the days of conventional handwork has given [dock workers] additional advantages in asserting their rights" (Tilly and Tilly, 1998: 251).

is, however, according to Turnbull et. al. (1992: 20) inadequate in assessing the effect of industrial actions.¹⁴⁰

Rather, the nature and size of dock strikes, as illustrated above by the range of industrial actions undertaken by casual dock workers, raises issues as to how and when they are classified as 'strikes'. As Turnbull and Sapsford (2001: 233) argue, dock strikes may be "small, short, localised stoppages designed not simply to signal the dockers' discontent but their organisational capacity to disrupt cargo handling without creating any serious delays to shipping". Strike activity can therefore be misleading as an indicator of the behaviour of total conflict in the industry, making it necessary in the port industry to note the distinction between strikes and other 'unorganised' forms of industrial conflict (Sapsford and Turnbull, 1994: 262). For example, unorganised forms of conflict such as labour turnover are much higher in the non-unionised sector of the economy where organised/collective forms of conflict expression are limited (*ibid*: 263). Turnbull et. al. (1996: 692) therefore argue:

to fully explain the actual incidence and intensity of strike action over both time and place also requires analysis of the particular pattern of labour regulation at different ports and the consequent patterns of conflict and accommodation at the workplace level.

¹⁴⁰ Sapsford's (1982: 3, 6) review of the economic analysis of strike activity highlights two major streams of analysis: firstly, aggregate time series studies and secondly single equation econometric models. The first typically demonstrate a positive relationship between both strike *threats* and *activity* and the level of business of economic activity that is often seasonal on an annual basis in its frequency. Three factors contribute to this seasonality: the timing of holiday periods; the tactical advantages present to both workers and employers in particular industries in relation to annual variations in the business cycle; and, any structured wage bargaining rounds (*ibid*: 4). Sapsford (*ibid*: 6-7) argues in relation to the second of these factors that the time series/cyclical literature has generally failed to take into account the motivation and forces of employers' behaviour. In this sense there exists an *identification* problem in relation to whether strike frequency is related to workers strike threats and the behaviour of employers to union demands. As such, many studies have "failed to provide an adequate representation of the fundamental two- (or multi-) party nature of union-employer bargaining and its breakdown" (*ibid*: 8).

Sapsford (1982) in his analysis of both time-series and econometric strike analysis¹⁴¹, and later Turnbull (1988: 101), argue employers' managerial strategies and work organisation "must be considered a crucial determinant not only of the firm's rate of profit, but also the behaviour of trade unions".¹⁴² Turnbull (*ibid*: 109) argues that with conventional econometric procedures it is less plausible "to apply similar assumptions to the objectives and procedures of a union with heterogeneous members whose interests and objectives not only diverge but possibly even conflict". It is in this way that industrial relations research is useful for the theoretical and empirical study of "all aspects of job regulation - regardless of whether these are seen as being formal or informal, structured or unstructured" (Bain and Clegg, 1974: 95, quoted in Turnbull, 1988: 106).¹⁴³

There are similar uncertainties in attempting to measure strike effects as there are in classifying strike activity. Sapsford and Turnbull (1994: 249) argue strikes are not synonymous with industrial conflict and question whether strikes can be seen

¹⁴¹ In relation to the econometric models of strike activity Sapsford (1982: 8-9) argues they are generally based on the following concepts. Firstly, the bargaining process is modelled within a bilateral monopoly and a distributional framework where the problem is the determination of the quantities of a fixed endowments (ie. money) to be exchanged between isolated individual (ie. employer and workers). The assumption here is that bargaining is a two-party exchange where each party behaves as a perfectly coordinated individual. The concept of a threat as a commitment to a definite course of action to determine the bargain can be subdivided into fixed and variable costs. The former has a unique consequence (ie. the inability to trade if the threat is carried out), whilst the latter implies each party has a number of choices in possible threats that may lead to various states of conflict (*ibid*: 9). In Sapsford's (*ibid*: 25) review and adaptation of various econometric studies he finds that strike frequency is related to the union's target real wage and to the union's threat accompanied money wage demand and the level of the employer's product price. This account therefore applies the earlier assumption often missing in the time-series analysis, that the behaviour of employers to union demands should be seen "also with counter-cyclical employer resistance behaviour" (*ibid*: 7).

¹⁴² Turnbull argues that the 'political' theory of trade union behaviour informs 'institutional' economic analysis of trade unions. For example, Freeman and Medoff (1984) examine the (political) 'voice' effects of American trade unions in comparison with the traditional 'monopoly' effects of unions derived from orthodox economic analysis (Turnbull, 1988: 100, 114). Turnbull (*ibid*: 100-1) argues that the 'political' theory of trade union behaviour is useful to the extent that it examines the social relations of production. Although these social relations take the form of a market exchange (the hiring of labour) they do so under a *command* relationship which is hierarchical and does not solely reflect efficient market price outcomes or problems of transaction costs and/or malfeasance.

¹⁴³ As such, Turnbull (1988: 106) finds that worker bargaining over jobs and/or work rules should be "recognised as 'managerial' as opposed to 'market' relations and modelled accordingly". "Negotiations over 'market relations' such as wage payments cannot ...be analysed in isolation from negotiations over 'managerial relations', because negotiations over the former inevitably lead to negotiations over the latter, in particular the control of work. Collective bargaining over market relations becomes an 'institution for regulation labour management as well as labour markets' (Flanders 1970: 236), thereby challenging the 'rights of capital' both to hire labour at only its market determined prices, and to direct and control labour by managerial prerogative. ...The management of labour is therefore a *political* issue, in the wide sense of being concerned with authority or command relations, which negates a purely economic approach to the study of trade unionism" (Turnbull, 1988: 112). These terms are defined as follows: 'Managerial relations' concern the deployment, organisation and discipline of the labour force after it has been hired (referred to as procedural issues), whereas 'market relations' basically cover the substantive issues of exchange such as pay and hours of work (*ibid*: 115, footnote 8).

metaphorically as either ‘balloons’ or ‘icebergs’. The balloon hypothesis implies the existence of offsetting counter cyclical variation in other forms of industrial conflict, whereas the iceberg hypothesis sees strikes and other forms of industrial conflict as complementary. The latter occurs where increases in strike activity are accompanied by corresponding increases in other forms of industrial conflict (*ibid*: 250). The implications for the economic analysis of strikes are therefore to direct research to “industry level studies to institutional arrangements, and to industrial conflict as opposed to just strikes” (*ibid*: 263).¹⁴⁴

The direct impact of strikes and ongoing industrial conflict needs to be considered against much of the literature on the economic importance of dock strikes. For example, Palomba and Palomba (1974), Hudson (1981) and the BTCE (1987) studies determine the effects of particular industrial disputes on economic activity. These studies attempt to provide a practical framework for analysing the possible impact of a dock strike.¹⁴⁵ However, given the complex nature of linkages within the economy, the BTCE (1997) argues it is not possible to quantify many of the costs of a major dock strike. Rather, a qualitative approach is necessary to determine a strike’s effect.

For management, the costs of industrial conflict in ports are readily quantified, namely lower levels of efficiency and delays to shipping which imposes short-term costs on ship-owners, importers and exporters. Unreliability and inefficient performance in stevedoring

¹⁴⁴ Turnbull et. al. (1996: 695) argue that periods of intense conflict on the docks were linked to qualitative changes to the general system of labour regulation. For example, in Britain, the “most intense strike activity ... were associated with significant changes to the control and administration of the employment relationship” (*ibid*: 699). Conflict in some ports was “magnified by, a series of intra- and inter-union difficulties” (*ibid*: 706).

¹⁴⁵ Hudson (1981: 70) identified three time periods in which one would expect changes in economic activity to occur due to a national dock strike: the anticipatory period - where shippers begin to take measures to alleviate the impact of an impending strike; the period of impact - the period in which the strike occurs; and, the rebound period - where shippers attempt to regain lost production after the dispute has finished. These periods are referred to as the pre-strike period, the strike period and the post-strike period. An attempt to determine the costs arising from a dispute before it occurs includes the parameters affecting these expected costs as the assumption of how long the dispute is to last. The time period in which input stockpiles may become depleted would vary according to the expectations and strategies adopted by each firm that is effected by a stoppage. Also, the availability of inputs is only one factor to consider. For small and medium sized enterprises (SMEs), the interruption to normal cash flows as a result of a stoppage may cause the cessation of operations before stockpiles of inputs have been exhausted. Similarly, in relation to assessing the economic impact of dock strikes, the BTCE (1997) identify three levels according to the consequential impact on economic activity. These types of strikes are a minor strike, a major strike, and a critical strike. A strike would be considered minor by a firm when there is little or no disruption to the firm’s core activities. A major strike is defined as a stoppage that causes the firm to make significant adjustments in order to survive the disruption caused by the dispute, usually by reducing output. A strike becomes critical to a firm when the firm can no longer function.

imposes both direct and indirect costs on users of stevedoring services and the wider economy.¹⁴⁶ Stevedores incur costs when ships are delayed through either their losing contracts with lines or through penalties being imposed within performance clauses, estimated to be within around half of all contracts between shipping lines and stevedores. However, the largest single factor is the financing costs for inventories, goods in transit and ships. Indirect costs include maintenance of higher than normal inventory levels, loss of confidence by overseas buyers and discouragement of investment throughout the economy. Inefficiencies in stevedoring also weaken the capacity of the wider distribution chain to perform to its potential (Productivity Commission, 1998: xviii).

The cost of unreliability has been demonstrated as the factor that most concerns traders (BTE, 1988, 1990). In the long term all cost-increasing effects through unreliability, as unscheduled delays to ships and cargoes, are passed on to consumers and will appear in lower levels of exports and imports. Unreliability also creates reluctance on the part of shipping lines and major shareholders to invest in a port's facilities (Productivity Commission, 1998: 138; Turnbull, 1999: 1).

Consequently, the bargaining power of unionised employees in skilled operations is heightened as a result of the high costs of delays or stoppages imposed on shipping lines (Productivity Commission, 1998: 138). Industrial conflict and strikes across a number of the world's ports has therefore proven to be a very effective strategy for some groups of dock workers. When unions develop a reputation for striking, employers are more likely to offer generous wage settlements (Turnbull, 1999: 1).¹⁴⁷ Dock workers are therefore conscious of their ability to impact on wider economic activity through industrial action and the consequent pressures that bear on their employers. This strategic position of dock workers has also prompted structural and technological change that has affected their bargaining power and work, eroding their occupational culture (Turnbull, 1992: 314).

¹⁴⁶ An example of these costs can be seen in Australia, where berthing delays were estimated in 1995 to cost around AUS\$30,000 per day for a 2,000 TEU capacity ship (BTCE, 1995).

¹⁴⁷ The benefits of co-operation, and at least the absence of strikes for management appear to be greater investment and consequently higher levels of efficiency, which in turn attracts more traffic and port investment. For labour, the benefits of co-operation as opposed to conflict are more difficult to quantify as any improvements in efficiency might be passed onto shareholders and customers rather than employees (Turnbull, 1999: 1).

In summary, the above assessment of theories of dock strike activity and effects points to the importance of examining a range of qualitative rather than quantitative factors over time. These include:

- the historical and locational aspects of a specific port's industrial relations setting;
- formal and informal institutional and bargaining arrangements;
- organised and unorganised forms of industrial conflict; and,
- employer strategies.

As Turnbull et. al. (1996: 721) argue, to take the above factors into account the object of study must be labour regulation rather than strikes *per se* - "especially in accounting for the periodic outburst of industrial action within individual ports and across the industry as a whole at particular historical junctures".¹⁴⁸

The following section expands on the historical comparison of dock labour in order to develop the argument that dock workers are potentially strategically located to effect industrial relations reform. It does so through further examining the trends associated with conventional cargo and casualisation, decasualisation and containerisation, and more recently, the trend towards port privatisation and labour market deregulation.

4.4 CONVENTIONAL CARGO AND CASUALISATION

In order to cover all possible contingencies in terms of the flow of trade volumes for employers, surplus casual labour was historically used to service trade (Turnbull et. al., 1992: 8). With labour requirements for general cargo operations less predictable and more variable, the irregularity of employment and income became the key obstacles to a more stable and efficiently functioning labour market (Saundry and Turnbull, 1996: 283; Turnbull and Sapsford, 2001: 235).

For stevedoring employers, as labour costs constitute 60-70 per cent of port operating costs, they employed dock workers casually in order to ensure maximum numbers when required and to minimise costs when not required. Ship owners also preferred this arrangement as it

¹⁴⁸ As Turnbull et. al. (1996: 721) argue: "industry level variables ... may deter or predispose workers to engage in strike action, and as such account for no more than the *general* characteristics of the time and place, must be combined with the detailed and *particular* analysis of the different patterns of conflict and accommodation that are produced and re-produced at the workplaces".

reduced their berthing costs (Turnbull et. al., 1992: 40-42; Turnbull, 1999: 9).¹⁴⁹ International shipping companies were also largely dependent on the stevedores as intermediaries as they often confronted differences in “race, religion, [and] language ...of the local labour market” (Davies, 2000: 608-9).

The bargaining strength of the gangs was derived from the foreman or brokers need for competent dock workers, often dictated by the type of cargo/product being loaded/unloaded (Chisholm, 2000: 712). Cooper (2000b: 529) also points to the significance of intermediaries, as gang bosses, in this process. He argues:

ordinary dock workers needed them because of the insecurity of the hiring process. Employers needed them not simply because of overall conditions in labour markets, which fluctuated considerably, but because they needed a means of control that penetrated to the level of the hatch.

Within each local setting the availability of casual work often precluded informal controls, as the structure of permanent gangs, which would restrict access to this work (Chisholm, 2000: 711). According to Green (2000: 563) the “composition of gangs in many ports rested upon ethnic, linguistic, cultural, familial or geographical affinities”. These characteristics of the traditional hiring process often became persistent in their influence (*ibid*: 564). Unionisation often mirrored these ethnic/racial divisions, with strike-breakers similarly derived from competing ethnic/racial groups (Chisholm, 2000: 712).

The basic aspects of the casual dock labour market were however the same, uncertain and irregular employment, which is continual, of short duration, and subject to chance.¹⁵⁰ According to Morewedge (1970: 9-10) three main elements characterise the demand for casual dock work: the continuity of irregular demand; the attachment of both employer and workers to the market; and, frequent periods of short-term employment. The random

¹⁴⁹ In Australia, container stevedoring services are around a third of port costs, with labour costs accounting for over half of container stevedoring operating costs (Productivity Commission, 1998: xvi).

¹⁵⁰ Morewedge (1970: 14) defines casual employment as “intermittent employment on the part of a large body of unskilled workers”. Morewedge then classifies four forms of employment within the casual labour market. Firstly, *seasonal employment* is characterised by industrial demand for casual labour, where although there is a period of unemployment, an assurance of work exists when the season resumes (*ibid*: 19-22). Secondly, *occasional employment* is characterised by the demand for casual labour for specific periods of production (*ibid*: 22). Thirdly, *semi-regular employment* infers a continual attachment to the market of both the employer and worker, or worker alone. This is a result of continuous market organisation with irregularities in demand for labour. However, the final classification, the characteristics of *irregular and continuous employment* are specific, Morewedge argues, to the dock labour market (*ibid*: 26-8).

fluctuation of demand was the major factor leading to supply problems (*ibid*: 10). However, this led to a problem where reserve labour was attached to each employer and inturn grouped as competing units. Each competing firm therefore had a sufficient number to supply their maximum demand, instead of being pooled for the industry (*ibid*: 15). It was this excess supply of labour that historically formed the key problem for dock labour markets (*ibid*: 30).¹⁵¹

Morewedge (*ibid*: 18-9) argues the following dynamic resulted as a consequence of the conventional cargo stevedoring labour process and casual dock labour market:

- the creation of a needless quantity of reserve labour because it is kept by each employer separately.
- the particularity of demand resulted in an unfair distribution of labour income, as well as chronic underemployment and dissatisfaction on the part of dock workers. This situation eventually led to a number of long strikes, which endangered national economies.
- the severe economic and social effects of casual employment and restabilisation of industrial relations often necessitated government intervention.

Turnbull and Sapsford (2001: 235) also argue that to achieve a measure of labour market stability the total supply of labour must be controlled by being broadly matched to anticipate (peak) demand for all employers in the port. Without such measures, the industry will be “stricken by chronic excess supply and, as a result, labour unrest”. Therefore, according to Turnbull and Sapsford (*ibid*: 235).

‘frictional’ unemployment can be reduced by measures to control the hiring and allocation of labour, such as the centralisation and formalisation of hiring procedures [as the] ...allocation of labour from a single pool, such that dockers are allocated to work for which they are best suited by skill, aptitude, or preference. Mobility can be further enhanced through the (collective) provision of training to extend the cognitive skills of the workforce, which also facilitates more equal work opportunities. ...Finally, a system of ‘work or maintenance’ must be instituted to provide security of income.

¹⁵¹ Consequently, Morewedge (1970: 15) argues that as “the amount of employment offered by any one firm fluctuates daily, ...a large surplus of unemployed labour is inevitable [as dock workers] ... expect to get *some* work each working day they become underemployed” their work is not continuous. Similarly, although both employer and worker are attached to the market there is no permanent attachment between employer and worker. As such, since the number of workers employed fluctuates incessantly, a large proportion of workers cannot count on being re-employed when their period of temporary employment ends (*ibid*: 17).

These common elements within the dock labour pool model were based upon the registration of dock workers on a port wide basis. This was undertaken either through joint employer/union or union control over labour supply in order to develop a work rotation and equalisation system. This was often based upon a minimum number of days per week per worker with a minimum attendance payment, whether there was sufficient work or not. The minimum payment was supported through a combination of either a levy on employers, cargo, or state financial support. Employers, however, generally preferred guarantees to be partly funded through state contributions (Turnbull and Sapsford, 2001: 239).

In this context, the state was significant in determining the type of regulatory environment governing labour supply. State involvement through introducing regulations prescribing decasualisation through the establishment of dock labour Schemes and/or allowing unionised closed shop arrangements were critical to address the casualisation of the dock labour market. This trend towards decasualisation and the adoption of labour pooling Schemes was, however, reinforced by the introduction of containerisation in the 1970s. The following sections examine the control over supply to the dock labour market through decasualisation and changes to the labour process with containerisation.

4.5 DECASUALISATION AND CONTAINERISATION

The speeding up of the circulatory process in world trade led to changes from break-bulk cargoes (in the form of packages and loose items), through palletisation (the bulking of packages on wooden pallets), to the transformation of cargo handling through containerisation. World War Two influenced the speed and spread of containerisation. The new cargo handling methods were adopted by the United States' armed forces and then in the post-war era introduced internationally, often into ports that had been destroyed during the war (Green, 2000: 577). Cooper (2000b: 533) argues that in the post-World War Two period that states had "heightened interests and capacities for rationalising port labour ...[which followed] a conception of organised, regulated capitalism shared in western Europe and the United States and sometimes, at least, projected to colonies and ex-colonies".

According to Barzman (2000: 629), the state's influence in ports was shaped by a numbers of unifying factors. These included: the need for major investment; ports as conduits for foreign trade; ports as instruments for foreign policy – including military activity; ports being subject to advances in international shipping and cargo handling technologies.

Barzman (*ibid*: 629) says that “[t]aken together, these factors meant that the economic activity of dockers was generally far more influenced by state policies than that of other workers”. The reasons for direct state intervention in the dock labour market, according to Barzman (*ibid*: 639), included the following:

- fears that ports were to be dominated by port employers and dockers unions;
- the conflict between these two leading to industrial disputation;
- alliances between the two in competition with other domestic ports;
- excessive competition between ports leading to duplication of investments; and,
- regional/local government separatism.

Barzman (*ibid*: 634-5) notes that the evidence of state intervention through military, police or other forms of alternative workforce is abundant “when strikes proved capable of winning, or simply threatened to interrupt important traffic, or to harm port employer profits”. The undermining of the power of unions in this context was also undertaken through the process of decasualisation (Cooper, 2000b: 532).

It is estimated that between 1971 and 1985 containerised cargo had increased 700 per cent, whilst 80 per cent of world maritime cargo is now containerised (Hemson, 1996a: 5). Containerisation is an intermodal transport system, not merely an interface between land and sea (Turnbull, 1992: 303-4). This process was coupled with the mechanisation of warehousing and transport from docks to final destination (Hemson, 1996: 2-3). This door to door control of transport chain processes required deeper berths and greater land areas for storage of containers, and new terminals to facilitate deepwater berths for container vessels. Containerisation therefore led to employer rationalisation as the shipowner’s function (which begins and ends at ports with break-bulk cargo) was changed as containerisation led to opportunities of vertical integration (Turnbull et. al., 1992: 72; Turnbull, 1992: 307). With unitisation employer organisations therefore experienced both horizontal and vertical integration with shipping companies, forming consortia, establishing dedicated berths taking control of port handling and inland services (Turnbull et. al., 1992: 60).

The focus of the stevedoring labour process therefore shifted from the labour-intensive loading/unloading of vessels, which employed large numbers, to their displacement by capital-intensive machinery based on the shore. Containerisation “reduced the work force ... [and] took away the central importance of the hatch gang from the labour process as much as the hiring system” (Cooper, 2000b: 536).

Containerisation also led to structural unemployment due to the introduction of new technology and capital-intensive labour process. This led to the necessity for mass retrenchments of surplus labour. Consequently, containerisation reduced stevedoring labour to a relatively small activity in the overall movement of cargo with the reduction of the workforce in and around the port estimated at between 80 to 90 per cent (Turnbull, 1992: 304; Hemson, 1996: 17). Examples of the decline in employment from the introduction of containerisation can be seen in Table 7.

The process of retrenchments however led to a corresponding rise in militancy amongst dock workers, necessitating many governments to intervene in order to stabilise ports' industrial relations. The combination of dock workers' strategic importance with the peculiarly casual nature of employment led governments to conclude intervention was necessary to both ensure reasonable working conditions and to secure the docks from strike action (Sapsford and Turnbull, 1990: 33). In this context, Weinhour (2000: 602) notes:

The dock labour market was the most contested terrain in the ports all over the world. It became the main theatre for employers' and governmental social policy and a test case for the quality of corporate ways to solve industrial conflicts.

Table 7 Dock worker employment - an international comparison

	<i>1970</i>	<i>1985</i>	<i>1992</i>
Britain	70,000	20,000	8,500
[registered]	[45,00]	[9,300]	[4,383]
Hamburg	17,265	7,666	NA
Australia	30,000	6,500	3,600
New Zealand	6,832	3,697 (<i>1987</i>)	1,773 (<i>1990</i>)
USA West Coast	11,227	7,825	9,200 (<i>1989</i>)
Spain		12,000	3,900 (<i>1995</i>)
Rotterdam		5,540	1,409
South Africa	8,000	2,500	2,000
(stevedores)			

Source : Hemson, 1996, Reveley. 1997; Saundry and Turnbull, 1999; Ichra and Garey, 1992; Baudelaire, 1986.

Barzman (2000: 654-5) argues that it was these historical conjunctures, particularly in times of war, post-war reconstruction, and/or times where a national economy requires rapid technological improvement, where labour co-operation on the waterfront was sought by the

state. It is during these times that a “partial convergence between dockers’ aspirations and the economic policy of the state could arise” (*ibid*: 656). Barzman (*ibid*: 638) argues in the international comparison:

different configurations of power suggests that states did not have an entirely free hand in ports and faced a variety of social forces, each of which had to be consulted or bypassed, if the state chose to implement a coherent policy. Among these social forces, labour, [was] present diversely as ethnic groups, subcontractors, union officials or the rank and file.

New forms of employment security through decasualisation were to allay dockers’ fears of redundancy and the loss of exclusive control or jurisdiction over ‘dock work’ with the introduction of containerisation. Hemson (1996: 17) argues measures that facilitated the reduction in the size of the labour force were the formation of national unions for dock workers and the provision of statutory institutional frameworks to resolve the contested interests of workers and employers. Turnbull and Sapsford’s (2001: 236) comparative examination of dock labour Schemes reveals these were usually either established through institutional and legislative support from the state or through the ability of trade unions to develop a closed shop (internal labour market) arrangement with employers.¹⁵² Consequently, decasualisation emerged with containerisation in most industrialised countries as employers conceded to pressure from organised labour and state agencies to some form of labour market regulation (Turnbull, 1999: 6).

According to Weinbauer (2000: 581) the outcome of decasualisation was largely dependent on the role of the state in that it was “willing and able to ensure that the agreements ...translated into actions”. Decasualisation often failed where there was a lack of state intervention in the form of regulations to ensure that employer, as well as employee, organisation changed so that as many stakeholders as possible were part of a registered pooling scheme (*ibid*: 589). The restriction of dock labour supply through the decasualisation process therefore often also necessitated the rationalisation of employers. Weinbauer argues (*ibid*: 602) “it was highly important to establish a general employer that could administer the decasualisation measures and act as a single employer for casuals”. Whether decasualisation was either under the administrative controls of a union, as in San Francisco, or employer, as in New Zealand, the process required “corporate organisations on

¹⁵² Appropriate institutional structures, such as new forms of labour market organisation and effective industrial relations procedures, were developed to maintain industrial peace and maximise the productive potential of mechanisation (Turnbull and Sapsford, 2001: 234-5).

the employers' and workers' side that were able to guarantee that the negotiated policy would be followed by its members" (*ibid*: 597).

Dock labour Schemes were therefore seen as necessary to ensure the efficiency of operations and security employment. As Turnbull et. al. (1992: 44) note:

the *quid pro quo*: a trade-off between 'modernisation' and job and/or income security. The basic formula was everywhere the same – the 'buy-out' of casual employment and all the associated casual work practices in exchange for employment/income security – but the precise details of the deals struck around the world differed in many subtle and fundamental ways.

Indeed, one of the outcomes of the dramatic changes occurring as a result of the introduction of containerisation was for the International Labour Organization (ILO) to develop the *Dock Work Convention 1973* (Convention No. 137) which sought to share the benefits of the new methods of cargo handling. This was to be achieved principally through employers' adoption of permanent or regular employment (*Article 2*) established through the registration of dock workers within either a single pool and/or pools for regular and reserve registers (*Article 3*). The pool size and register was to be periodically reviewed and sustained by a guaranteed income or attendance/ unemployment benefit (*Article 4* and Recommendation No. 145). Improved efficiency through employer/employee cooperation, training and safety were also seen as necessary elements to dock labour employment arrangements (*Articles 5 and 6*). Recommendation No. 145 also emphasised the role of government support in allowing excess dock workers to find work elsewhere and/or by providing financial assistance for redundancies (ILO, 1996: 35-6).

It is beyond the scope of this study to provide a comprehensive comparative of dock labour Schemes established internationally in response to the introduction of containerisation, although a number of such studies have been attempted (see ILO, 1998b; Turnbull, 1994 and 1999; and Turnbull and Wass, 1997). A summary of decasualisation, the introduction of containerisation, and deregulation and port privatisation are illustrated for Rotterdam, the United States east and west coasts, Britain, New Zealand and Australia in Appendix B. This includes a tabling of some details about dock labour employment arrangements in a number of other countries. This overview includes some of the more significant dock labour Schemes established as dock workers were accorded special status either by statute or by virtue of union membership. 'Dock work' was therefore restricted to registered or

unionised workers with the implementation of container handling in many countries (Turnbull and Sapsford, 2001: 236).

Some caution, however, should be taken in contrasting ports. The selection of cases is based upon those countries that have been readily documented in industrial relations literature over a period of time.¹⁵³ This is in order to contrast the establishment of labour pools, the effect of containerisation and later the effect of port privatisation and/or labour market deregulation. Similarly, for the purposes of the comparative undertaken, the South African proposal to establish a National Dock Labour Scheme is modelled on a number of the features of those incorporated in industrialised countries Schemes. As discussed above, these features include union controls over labour supply arrangements to ensure availability, effective allocation and mobility of labour, and maintenance payments.

The extent to which dock labour Schemes met the needs of employers and employees varied from one country to another and even within the same country from one port to another (Turnbull and Sapsford, 2001 and Turnbull et. al., 1996). Countries with the most effective dock labour Schemes, principally the northern European ports and the West Coast of the United States, also had the lowest strike incidence and the highest productivity rates. However, in Britain, Australia and New Zealand the Schemes were resented by employers and many rank-and-file dock workers (Turnbull and Sapsford, 2001: 239) (see Appendix B for details of each case).

In developing countries a similar resentment of the decasualisation process occurred, although in many instances the process was under the auspices of colonial administrations and not trade union activism. For example, according to Cooper (2000a: 160) casual labour was viewed differently in colonial Africa than Western Europe. In Mombasa, as elsewhere, colonial authorities viewed casual labour as typical of Africans' work ethic – irregular and minimal. This reflected the fact that casual dock work was also supplemented by labouring in rural production (*ibid*: 163). Casual labour also did not face, to the same extent as more permanent employees, the threat of dismissal (*ibid*: 171).

¹⁵³ The cases selected are therefore based on primarily industrialised countries as the literature on comparative dock labour employment arrangements in developing countries is limited as it does not cover the time periods under consideration here (ie. Cooper, 1986; Waterman, 1990).

In Mombasa, arguably more permanent work became more a factor of the increased regulation of supply side controls on the part of the colonial administration. This began after a series of strikes from 1934 and a wider general strike in 1939, without any union presence, led to a series of government inquiries into the role of dock labour in the colonial system (*ibid*: 168). Cooper argues (*ibid*: 167) the social nature of the labour process was transformed in the mid to late 1950s with the formalisation by the colonial state of administrative controls over dock labour. From 1944 a registration process attempted by the colonial administration was largely unsuccessful (*ibid*: 172). Post World War Two a general strike in 1947 led to the formation of the African Workers Federation (*ibid*: 170). It was after 1954 that monthly contracts became entrenched as the employment means for the majority of dock workers (*ibid*: 172-3).

Similarly, in the port of Tanga, Tanzania, according to Kaijage (2000: 294-5), the 1939 general strike began the process of registering casual labour, the formation of gangs, a rotation system and 'retaining fee'. The Tanga Dockworkers and Stevedores Union later registered in 1950, on the basis of 'colonial paternalism' with its formation encouraged by the colonial administration (*ibid*: 310). However, absenteeism and strikes led to a more elaborate system of 'total control' from 1956 (*ibid*: 295-6). This displaced the earlier system, similar to Mombasa's, of *serangs* sub-contracting gangs for shipping companies (*ibid*: 298).

Within both these developed and developing country examples, the Schemes introduced new conflicts. This occurred as they challenged either established casual work practices without providing sufficient compensating benefits for dockers or where they preserved the extended outmoded work rules to the detriment of operational efficiency and the consequent vexation of employers (Turnbull and Sapsford, 2001: 239). Consequently, Schemes became "the focus of conflict and deadlock rather than a forum for the effective regulation of employment and the resolution of industrial conflict" (*ibid*: 242).

4.5.1 Containerised cargo and the labour process

The process of decasualisation and containerisation began to establish divisions between dockers on container and break-bulk cargoes (Turnbull, 1992: 308; Turnbull et. al., 1992: 61). The global investments in the new containerisation technologies during the 1970s and 1980s led to the demand for intensive capacity utilisation, which, in turn, required a skilled workforce and the regularisation of employment. According to Green (2000: 578),

containerisation required workers “trained in operating sophisticated equipment to load and unload the containers”. Casual labour could therefore not provide the “adequate, responsible and skilled labour necessary to move cargo efficiently through a modern port using advanced equipment” (ILO, 1996: 19).

In many countries, such as Britain, containerisation transformed job content and broke down the distinction between shipside and landside dock workers, as these functions now became integrated (Turnbull et. al., 1992: 86; Drewry, 1998: 73). Containerisation led to individual tasks and functions in operations cycles and work organisation (Turnbull et. al., 1992: 57). This occurred as container operations required a skilled, experienced and permanently employed labour force for ships to be un/loaded quickly, efficiently, and with minimum risk or damage to vessels, boxes and equipment.¹⁵⁴

Table 8 Work organisation and skills on general cargo and container operations

General cargo	Container operations
<ul style="list-style-type: none"> - the work area is mainly on board ship, rather than on the quay - the job is done in close team-work - the job is concentrated in a small area - the work method allows a great deal of improvising - limited use of equipment - few administrative procedures - often dirty and physically straining work - the job is mostly performed in day and night shifts 	<ul style="list-style-type: none"> - the work is mostly restricted to the yard area - the job is mostly done individually, as an operator of equipment - the job takes place in a vast yard area - the work method mainly consists of following strict procedures - extensive use of equipment support aids - many administrative procedures Practically no physical strains - the job is performed on the basis of semi- or fully-continuous working Schemes

Source : Bosselaar, 1983: 144

Most container ports also operate on a twenty-four hour basis given the need to load or unload ships to reduce the amount of time and costs associated with a ship at berth to maximise capital utilisation for vessel owners (Productivity Commission, 1998: 49).¹⁵⁵

¹⁵⁴ As container stevedoring is a capital intensive industry, operational employees who perform the operation of heavy machinery and manual tasks generally require skills to operate equipment as quay cranes (portainers), straddle carriers and or gantry cranes. Their level of skill is critical to the overall performance in the timely and reliable movement of cargo (Productivity Commission, 1998: 18).

¹⁵⁵ As such the supply of labour is often planned through a roster system on a twenty-four hour, seven day a week basis. The roster system needs to be flexible enough to cater for variable and unpredictable workloads. Rostering systems often constituted a basis for the equalisation of work opportunities and earnings for operational employees within functional categories (Productivity Commission, 1998: 59).

Consequently, dock workers began to identify with the firm, as opposed to the port or industry (Turnbull et. al., 1992: 56). Differences between the work organisation and skill required on general cargo and container operations are listed in Table 8.

Two classes of dock worker had therefore emerged for conventional and container stevedoring (Turnbull et. al., 1992: 62).¹⁵⁶ The above overview of the institutional mechanisms that facilitated the transition to containerisation demonstrated the concerns by state and employers as to the strategic position of dock labour in this process. It was the propensity for both the continuation of elements of occupational culture and the efficiencies surrounding the operation of dock labour Schemes that led to the further transition of deregulation and privatisation from the late 1980s in a number of countries.

4.6 PRIVATISATION AND DEREGULATION

The ineffectiveness of a number of Schemes internationally came to the fore as a consequence of the trend in the 1990s for governments to privatise port operations and deregulate dock labour markets. The 1990s can be seen as a historically distinctive era in the employment arrangements for dock work as the ownership and market structure for ports became increasingly global. This led to two significant implications for dock workers and their national industrial relations regimes.

Firstly, although port privatisation was constituted by the specific arrangements put in place between state/port authority and private operators that can exist in various combinations (see Table 9), governments internationally have more recently embraced the practice of private investment in and control of port operations, particularly container stevedoring.¹⁵⁷

¹⁵⁶ The stevedore employer however was still required to match available labour and capital equipment to meet variations in demand (Productivity Commission, 1998: 49-50). Manning scales in container and general cargo stevedoring therefore remained based upon the gang as the basic work unit. Generally, there are separate gangs for ship working, and for receipt and delivery operations. In ship working operations, each gang is assigned to a quay crane. Work arrangements that affect gang size in ship working operations include whether there are continuous work shifts, manning scales for heavy equipment, and manning scales for other duties such as lashing (*ibid*: 72).

¹⁵⁷ The allocation of property rights for the infrastructure, superstructure and services among various parties, either public or privately owned, give rise to different patterns of ownership. At one extreme there are so-called *landlord ports* in which the port authority concerned restricts its duties to the provision of the infrastructure, while the provision of superstructure and services is leased out to private-sector companies. At the other there are *service ports* in which the public authority is responsible for everything and runs ports as a total organisation (Liu, 1995: 164-65). Spanning these extremes is the *tool port*, where the port authority provides both infrastructure and superstructure but licenses the operations, as stevedoring, to the private sector (Saundry and Turnbull, 1999: 277).

Table 9 Models of Port Organisation

Port Type	Port Authority Responsibilities		
	Infrastructure	Superstructure	Stevedoring
Landlord	Yes	No	No
Tool	Yes	Yes	No
Service	Yes	Yes	Yes

Source : Saundry and Turnbull, 1999: 277

Secondly, related to this trend is the type of employment arrangements preferred by private sector investors. Employment arrangements were often established as a precondition for private investment based on maximising managerial prerogative through the ability to employ labour flexibly. Indeed, the concessioning of stevedoring operations from the public to private sectors has been seen as a mechanism to introduce changes to restrictive work practices (Harding, 1990: 19).

Consequently, this led to the demise of a number of dock labour Schemes and their centrally controlled labour pooling employment arrangements due to an increased competition often accompanied by the use of sub-contracted labour supply and the re-casualisation of dock labour markets in order to reduce labour costs. The following section expands upon these two developments and then provides an overview of a number of countries where their dock labour Schemes have been affected. However, a brief overview of the changes to the ownership and structure of the international container shipping market and the emergence of global port operators, and the role of the state within this, is provided as a basis to explain the deregulation of dock labour markets.

4.6.1 Alliances, Mergers and Acquisitions

The trend to deregulate the dock labour market has been prompted by changes in the global ownership and market structures of the shipping and ports industry. For the shipping industry the 1980s began an unprecedented decline in freight rates due to the oversupply of vessels (Peters, 1993). This prompted the horizontal integration of shipping lines through alliances, mergers and acquisitions.¹⁵⁸

¹⁵⁸ Strategic alliances were the preferred form in the late 1980s and early 1990s, culminating in the formation of the Grand and Global Alliance. However, in the 1990s merger and acquisition took precedence. Hapag-Lloyd, NOL, NYK and P & O formed the so-called 'Grand Alliance' in 1995, covering services in both the Europe-Asia and Asia-North America trades. APL, MISC, Mitsui-OSK, Nedlloyd and OOCL responded by forming the short-lived 'Global Alliance', while Maersk and Sea-Land created a global operating network featuring vessel-sharing agreements in the Europe-Asia, trans-Atlantic, trans-Pacific and intra-Asian trades.

Porter (1986) states that the globalisation of industries leads to the globalisation of other industries which supply them with services.¹⁵⁹ Liner shipping appears to be as case in point as the globalisation of manufacturing industry enhances the worldwide demand for liner shipping due to intra-firm movements of non-bulk, semi-processed materials and components, in order to transport industrial final production from least-cost locations to areas of demand.

Although the liner shipping industry has been established internationally and characterised by conference systems for decades, Drewry (1993a: 26) state that leading liner operators have, for several years, been engaged in a “quest for global status”.¹⁶⁰ According to Drewry (*ibid*: 26) the goal of these operators is a “presence in each of the major trading zones ... and on each of the routes linking them”. These are defined as “Western Europe, North America and the Far East, but also include any or all Eastern Europe, Latin America, Australasia, Africa, India and the Middle East when the occasion demands or suits” (*ibid*: 26). Drewry estimated as a minimum, representation on two of the three axial trades was needed.¹⁶¹

The evolution of liner firms into global liner shipping or logistics operations, either independently or in alliances with other firms, may assist these liner operators in the

¹⁵⁹ Globalisation refers to the evolution of large firms becoming world-wide in the scope of their operations. The forces driving this globalisation process are basically firms' ambitions for growth and increased profitability in wider markets. Attempts to clarify the term 'globalisation' have led to distinctions being made between a global firm and an international or multinational firm, and between a global firm and a multidomestic firm. An international or multinational firm is one which, while it may operate in many countries, or indeed operate worldwide, has a corporate structure centred on its country of origin (BTCE, 1994). The operations of a multidomestic firm, on the other hand, are sufficiently independent of head office to be considered as a domestic operator in each of its markets. In contrast, Porter (1986: 18) defined a global industry as one in which "a firm's competitive position in one country is significantly affected by its position in other countries". Whilst Dicken (1992: 1) defined globalisation as "a more advanced and complex form of internationalization which implies a degree of functional integration between internationally dispersed economic activities".

¹⁶⁰ Conferences are cartels of liner firms, which are specific to particular liner trades, in which individual lines fix prices and co-operate in other ways.

¹⁶¹ These are the East-West so-called “Mainline Trades”: Europe-Far East, TransPacific (North America-Asia), and TransAtlantic (Europe-North America). In 1994, capacity deployed (Eastbound plus westbound) in the Europe-Far East trade was sufficient to carry more than 6 million TEUs per year. Capacity deployed in the TransPacific trades was more than 8 million TEUs per year in 1994. Mainline service patterns may be end-to-end, pendulum (which link two of the three mainline trades) or round-the-world. In 1991, only Evergreen, Maersk, Sea-Land, OOCL, and the round-the-world operators, DSR Senator and Cho Yang were active in all three East-West mainline routes.

exploitation of economies of scale and scope in liner shipping, and perhaps also to enhance their market power. Global firms, or alliances of firms, may achieve economies of scale and scope based on vessel capacities and network sizes.¹⁶² Recent shipping literature deals with two themes of particular relevance to the recent globalisation of the shipping port industries, the emergence of global alliances in liner shipping and “mega-carriers”.

Strategic alliances enable a common pool of ships to deliver savings in capital and operating costs through the operation of a combined fleet. Under such ‘Vessel Sharing Agreements’ participating lines are allocated a percentage of the available space in vessels operated by the consortia. Members of an alliance can also share common landside facilities and inland distribution networks. Global shipping alliances have therefore developed commercial relationships which save costs by sharing equipment, terminal space, and even labour through using workers from neighbouring terminals (Marges, 1996).

Alliances however were subject to mergers between lines belonging to competing alliances.¹⁶³ The early 1990s then saw a series of global amalgamations lead to the reduction in the number of liner conferences through the creation of global mega-carriers (Rimmer, 1998; Heaver, Meersman, Moglia, and Van de Voorde, 2000). The objective of mega-carriers were to gain greater efficiencies in turn-over by increasing vessel size and limiting the number of port calls, due to the increasing fixed costs that arise from the deployment of larger vessels. Shipping lines then sought to develop synergies with ‘hub’

¹⁶² Quiggin (1996: 55) argues: “Economies of scope arise when it is less costly to produce two different goods in a single enterprise than to produce them in separate enterprises. ... This is an example of horizontal integration, ...the joint production of multiple final outputs. The issue of economies of scope is also important in considering vertical integration ...the combination of different stages in production within a single enterprise”. Although it is preferable a single firm undertaken production/services, it may exploit its monopoly power. A balance then needs to be struck with “cost reductions associated with monopoly production against the possible welfare losses associated with monopoly pricing” (*ibid*: 55).

¹⁶³ For example, the P&O Nedlloyd merger eventually led Nedlloyd to quit the ‘Global’ in favour of the ‘Grand Alliance’. Similarly, the merger of NOL and APL led NOL to abandon the ‘Grand Alliance’ and form, along with members of the former ‘Global Alliance’, the ‘New World Alliance’. Since this time however the trend has been for alliances to leave marketing responsibility to the individual member lines. In 1997 P&O’s merger with Nedlloyd led to a combined capacity of almost 250,000 TEU. The April 1997 merger between Neptune Orient Line and American President Line created a carrier with a capacity of 170,000 TEU, while the March 1997 takeover of DSR-Senator Line by Hanjin raised the latter line’s capacity to 190,000 TEU. In 2000 A.P. Moller’s (Maersk Line) take over Sea-Land’s shipping services to create a carrier with a capacity of 500,000 TEU, almost double that of its closest rival. (Meyrick, 2001: 12-14).

ports that could handle larger vessels.¹⁶⁴ This has led to the development of hub and feeder systems where global shipping alliances participate in container terminal operations in order to guarantee a faster turnaround of larger vessels and/or ensure instant berth availability so that reliable mainline-feeder connections can be maintained (Lawrance, 1998: 10).¹⁶⁵ The major terminal operating shipping lines are Sea-Land-Maersk Line, Evergreen, Cosco, OOCL and NOL/APL.

4.6.2 Globalisation and port privatisation

The trend in alliances between shipping lines has extended into alliances and mergers between terminal operators (UNCTAD, 1998: 75, 77). The trend towards shipping lines involvement in land based activities reflects their aim of controlling inter-modal interfaces to vertically integrate transport logistics so as to offer a door-to-door service to customers between shipping lines, ports and land transport operations (Notteboom and Winkelmanns, 2001: 78; Lawrance, 1998: 10). This trend has been labelled the emergence of 'fourth' generation ports, which although physically separated are linked through common operators or administration (UNCTAD, 1999).

¹⁶⁴ Hub and feeder ports are based upon the ability of shipping lines to offer multi-string services in order to broaden the scope for direct calls by operating a number of strings (stand-alone services with dedicated vessels). Each shipping line offers different port calls and/or a different port rotation that has consequently led to the development of 'core' ports. In contrast, 'non-core' ports are generally served by only one string of a multi-string service or have their containers transhipped at a core port. Gilman (1999) has argued that the desire to operate multi-string services has been one of the driving forces behind the growth of alliances.

¹⁶⁵ The North-South container trades link major Northern Hemisphere trade generating areas - North America, Europe and Asia - with Latin America, Oceania, and parts of Africa and Asia south of the equator. Drewry Shipping Consultants (1995) have estimated that the North-South trades generate annual cargo movements of slightly fewer than 8 million TEU, or almost 20 per cent of global container movements. Until the late 1980s, most container services to Latin America, Africa and Australia were provided by shipping lines that specialised in the North-South trades. Such lines that offered direct services from Africa, Australia or Latin America to Europe, North America and Asia. Typically, North-South services were operated by relatively small vessels with a capacity less than 2,000 TEU and were characterised by lower levels of competition than mainline Northern Hemisphere trades. However, major East-West carriers (including Evergreen, Hyundai, Maersk and Sea-Land) entered the North-South trades, typically by way of feeder services linking with their round the world or Pendulum services at major Northern Hemisphere hub ports to establish global shipping networks.

Multi-national port operators have themselves been in a bidding war over the last decade or so to control strategic locations within regions and the world maritime trade. P&O Ports Australia, PSA Corporation (Singapore), Hutchison Port Holdings (Hong Kong), International Container Terminal Services (Philippines), European Container Terminals (ECT) (Netherlands) and Stevedoring Services of America (SSA) (USA), are but a few examples of these multi-nationals. Each is constantly exploring new avenues from which to invest and gain a foothold in ports globally. One key mechanism that has facilitated this process of the vertical integration of ownership is through governments' adoption of privatisation policy (Woodbridge, 1999: 97-9).

Privatisation theory

Privatisation is the transfer of assets or activities from the public sector to the private sector (Abelson, 1987). A number of other major initiatives are also commonly regarded as privatisation, include leasing and management contracts. Meyrick (2001: 86) argues a useful approach to understanding the structural reform of public sector business operations is to distinguish between market reform, enterprise reform, and privatisation. While each intends to deliver users higher quality services at a lower price they do so differently.¹⁶⁶ Although, in contrast to market reforms and enterprise reforms, privatisation does not aim, either directly or indirectly, at improving the efficiency of public involvement in business activities, but rather aims to reduce the scope of that involvement.¹⁶⁷ There are various

¹⁶⁶ Market reforms are concerned primarily with changing the structure of the markets within which the port operates. The two key elements of market reform are typically increasing the scope for competition, and attempting to ensure that as far as possible competition takes place on a fair and equitable basis (Meyrick, 2001: 87). Enterprise reform differs in that it is concerned directly with improving the efficiency of public enterprise. The general direction of change has been towards a more commercial style of operation, with ports emulating the structure and conduct of private sector enterprises. Privatisation, on the other hand, can be the sale of a publicly owned trading enterprise to private interests or include any activity that leads to an increase in private sector participation in the economy (*ibid*: 88).

¹⁶⁷ Kent and Hochstein (1999: 315) argue that there are limits to privatisation without effective competition: "Competition is an important constraining factor on monopolistic tendencies. Competition serves as a market-based regulatory tool in controlling pricing abuses: generally, the private operator cannot price his services much above his long-run marginal costs. A zero competition environment would enable the private sector operator to price above marginal costs on a continuing basis, unless some framework is established to regulate pricing. Without competition, therefore, port service responsibility is simply a transfer from one party to another, the end result of which may be no meaningful change in service quality or pricing". There is a risk of transferring a public sector monopoly to a private sector one, a scenario which is more likely in a non-competitive environment with limited cargo volumes (*ibid*: 316).

arguments for and against the merits of increasing private sector participation in ports.¹⁶⁸ These are briefly explored below.

The late 1980s and early 1990s signalled a wave of privatisation internationally and was one of the major global legacies of the Thatcher and Reagan regimes (Iheduru 1993: 31). The economic case for privatisation is based on the belief that private firms are likely to be more efficient than government enterprises.¹⁶⁹ Privatisation, it is argued, should increase productive efficiency. Also, in the absence of regulation, a privately owned firm pursues profit-maximising strategies by minimising costs. In contrast, productive efficiency may be distorted by public ownership.¹⁷⁰

This trend towards micro-economic reform on the basis of introducing market principles was, according to Quiggin (1996: 51), against the earlier tendency for post-war states to occupy a role in the provision of infrastructure, goods and services where natural monopolies existed. The latter is defined where perfect competition does not apply to market structures. The common perception was that when the production of a good or service displays increasing returns to scale, it may be provided at least cost by a single enterprise. Allowing unrestricted competition therefore leads to the wasteful duplication and/or inefficient services (*ibid*: 54).

The most common form of natural monopoly is found in the local provision of network goods/services (as railways) in a geographically specific area (*ibid*: 55). Network

¹⁶⁸ Arguments for increased private sector involvement include: “improvements in efficiency through private sector management skills; enhancement of service quality through improved commercial responsiveness; reduction in the fiscal burden of loss making state enterprises or the need for future subsidy; a reduction in the financial demands on central and local government through access to private sector capital; and additional revenue streams” (McDonagh, 1999: 18). Arguments against increased private sector involvement include: “risk that the statutory public service functions that a public port authority has been entrusted with may be neglected by private operations; where limited competition exists, the likelihood that a public monopoly may be replaced with a private one; division of responsibility between the public sector and a number of private operators may result in poor coordination of investments, services and operations leading to reduced efficiency; private operators may favour the interests of their owners, thereby discriminating against other common users; and the cost of private sector capital may be higher than funding through public sources reflecting perceived level of default risk” (*ibid*: 18).

¹⁶⁹ Economic efficiency requires both productive efficiency (i.e. minimisation of cost of production for any given quantity and quality of product or service) and allocative efficiency (i.e. production of products or services of the desired qualities at an acceptable price and in the quantity demanded).

¹⁷⁰ For example, the economic principle is that: public enterprises are not subject to takeover, preventing financial markets from disciplining performance; governments may exert political pressure, forcing public enterprises to pursue policies incompatible with long run economic health; public sector employment conditions and industrial relations policies may limit the operating flexibility of public enterprise; and, incentive structures may be flawed (Meyrick, 2000: 18).

economies entail that a single firm can “provide service to large area at lower costs than a number of smaller monopolies” (*ibid*: 55). The public interest approach argues for monopoly services to be provided by governments in order to deliver the benefits of scale economies to the wider community (*ibid*: 61). The public interest approach therefore aims to address ‘market failure’ (*ibid*: 53).¹⁷¹

Ports historically have been seen as natural monopolies, given their geographical location and linkages to the wider economy. This includes the ability of a single service to provide economies of scale and prohibitive set-up costs for competitors (McTaggart, Findlay, Parkin, 1996: 270). This perception and the need for government to maintain a stake in all aspects of port ownership and operations was however challenged by micro-economic reform and the preference for the private interest approach within many governments from the 1980s.

Alternatives to public provision included regulated private monopolies, the common carrier principal and competition policy. The regulated monopoly approach argues for a regulated private firm to provide monopoly services, but to do so at a satisfactory price and standard. The *rate of return* is regulated to the monopolist accordingly which takes into account the capital and level of risk involved with the enterprise (Quiggin, 1996: 61). The common carrier principle therefore limits the scope of the monopoly. For example, similar to the landlord port authority model, port infrastructure may be provided solely by the state but stevedoring services utilising this infrastructure on a competitive basis. The port authority provides their service on a non-discriminatory basis (*ibid*: 61).

Public choice theory, sometimes referred to as the ‘government failure’ model, critiques all forms of government regulation. This is based on the approach that all political process should be assessed on the basis of market processes; that is, an assumption of rational self-interest (*ibid*: 66; 72). For example, rate of return regulation encourages ‘cost padding’ where the policies of state owned enterprises are controlled by interest groups, as their respective bureaucratic managers and unionised employees (*ibid*: 67). This includes the notion of regulatory ‘capture’ whereby a “commonality of interest [exists] ... so that

¹⁷¹ Public interest approach ‘is based on policies with the aim to increase social welfare. Within welfare economics, a competitive equilibrium is a Pareto optimum, where no one can be made better off within making someone else worse off (Quiggin, 1996: 52).

regulation benefited the industry it controlled rather than the public it supposedly protect” (*ibid*: 73). Interest groups are therefore ‘free-riders’ that benefit “a small concentrated group, and losses to a widely dispersed and poorly organised group” (*ibid*: 72). Competition either aims to break up monopolies or encouraging competition against them. This is “desirable only in industries where economies of size are small relative to the benefits of competition” (*ibid*: 61). However, the break-up of these networks may lead to an increase in operating costs. Unregulated and unrestricted markets are likely to lead to inefficient duplication and over-investment will lead to under-investment in other areas. This may eventually lead to a situation where one firm will merge with or drive competitors out of business and lead to a monopoly (*ibid*: 55). As Quiggin (1996: 56) argues: “Unrestricted competition implies the dissipation of the entire social surplus associated with the existence of the natural monopoly industry”. In relation to port privatisation, the above conceptual arguments can be applied within the following framework.

Elements of port privatisation

Baird (2000: 397) argues that different models of port privatisation are based on three elements – port landowner, port operator and port regulator. Any of these elements can be transferred from the public to private sectors.

- The port regulator function is typically undertaken by the port authority and is based upon the ‘jurisdiction’ of the port. Such regulatory functions include maintaining the port approaches; pilotage; licensing port works; adhering to various laws and regulations (ie. those pertaining to the environmental and health and safety); and, controlling natural monopolies (*ibid*: 398-99).
- Tasks in relation to the port as landowner function include: developing the port estate; civil engineering; maintaining channels, locks, turning basins, berths, piers and wharves; and, road and rail access (*ibid*: 399-400).
- Port operations include pilotage, towage and possibly ship repair, whilst stevedoring services may extend to warehousing, packaging and storage (*ibid*: 400).

Baird argues that regulatory functions are the least likely to be transferred from the public to private sector, whilst port operations are the most likely to be privatised. An analysis of the world’s top 100 container ports lists 88 with stevedoring operations undertaken by the private sector (the notable exceptions include Singapore, South Africa and Israel). Within

this group British ports prove an exception rather than the norm through their introducing extensive privatisation to both the landowner and regulatory functions.¹⁷²

Baird (2000: 410) is critical of the British experience, arguing that a key objective was to raise finance for the Treasury from the sale of state-owned assets and ideologically encouraging share ownership. However, the privatisation of port operations has been seen as positive for the reduced pressure on public sector expenditure and leveraging private investment without necessarily losing either control of the port industry or property rights in respect to land.

Meyrick (2001: 89), like Baird, argues that the three main forms of privatisation are firstly, the transfer to the private sector of specific services within the port (for instance, stevedoring) previously provided by a public port authority. Secondly, encouraging the private sector in the development of new port infrastructure. Thirdly, the transfer through sale or long term lease of entire ports to the private sector.¹⁷³ However, Meyrick (2001: 18-19) argues that privatisation in itself will not necessarily achieve allocative efficiency if an uncompetitive environment leads to monopoly pricing.¹⁷⁴ Governments have therefore sought to improve the international competitiveness of national products via ports being more responsive to market forces through privatisation. Ports are then free to budget, invest, restrict tariffs, and hire and fire without bureaucratic interference (Kent and Hochstein,

¹⁷² Along with privatised port operations Tilbury and Felixstowe had also privatised the port land-owner function, whilst the private sector has regulatory responsibilities in Southampton, Liverpool and Thamesport (Baird, 2000: 402-3).

¹⁷³ There also exists the combination of models, which may either include or exclude private sector participation. These models are commercialisation/ corporatisation; joint ventures; and privatisation of management. Commercialisation introduces commercial principles and objectives in the management and operations of ports. This can be based on negotiated contracts between governments as port owners and port management. Corporatisation involves transforming the public port authority into a corporation. This involves changes in legal and financial structures and the appointment of a board of directors, who are usually responsible to government as the sole shareholder. Joint ventures between the private and public sector enables the former access to previously restricted markets whilst the latter has access to foreign capital, technology, networks and expertise. The privatisation of management takes three principle forms; management contracts, leasing or concessions. Contracts are used to enable private firms to manage public operations. Leasing maintains the lessor's ownership of the asset, but grants the lessee to use the asset for profit in return for a rental fee. A concession enables responsibility for capital and expenditure investments. This is more commonly used to address government funding shortfalls in provision of infrastructure. The concession can itself take several forms, which include: build operate transfer; build own operate transfer; lease develop operate; and, build own operate concessions (McDonagh, 1999: 18-19).

¹⁷⁴ Arguably, the area in which privatisation has most to offer is in enhancing dynamic efficiency — the ability of shipping operators to innovate and respond quickly to new challenges and opportunities (Meyrick, 2001: 22). However, as the World Bank has pointed out, while it is possible to achieve this under state ownership, privatisation often provides the simplest and most reliable means of achieving this objective (Muir and Saba, 1995).

1998: 315; Everett, 1997; Everett and Robertson, 1997). Privatisation in short is seen as the freedom to manage.

Private sector global port operators and shipping alliances and wider stakeholders have encouraged this process. This is based upon the premise that stevedoring charges are a significant component of total shipping costs and the indirect costs associated with poor stevedoring performance are high (Meyrick, 2001: 79).¹⁷⁵ Greater flexibility in hours and conditions of access to port facilities creates opportunities for more efficient vessel utilisation. Access to competitive stevedoring services is also likely to contribute to economic efficiency

The increased privatisation of ports internationally and the consequent intensive competition for trade within and between nations regionally has accelerated a need for massive capital investment. However, this level of competition, spurred through an initial round of privatisation, is also arguably feeding into another intensification of competition and compelling a need for investment in extra-capacity to maintain competitiveness. This drive is self-fulfilling to the extent that it leads governments to seek private sector investment in order to develop competitive port infrastructure.¹⁷⁶ Consequently, governments' are compelled to create conditions attractive for private capital. The expansion of private sector involvement in the provision of stevedoring internationally can therefore be seen as an increasing trend with implications for dock worker employment and unionisation.¹⁷⁷

¹⁷⁵ In 2000 it was estimated that the daily costs for a large container ship are around US\$30,000 per day. Therefore, small increases in the efficiency of fleet deployment can yield significant benefits (Meyrick, 2001: 79).

¹⁷⁶ The port privatisation process has also been supplemented by international financial institutions such as the World Bank. Indeed, privatisation may be a 'conditionality' for these institutions to fund port development in many developing countries (Iheduru, 1993: 32). For example, in 1995 the World Bank supported more than 230 port reform programs with funds provided by the Bank and other commercial institutions that year were estimated at US\$11.5 billion globally. In 1998 the World Bank estimated concessions were to be signed in 100 ports introducing private capital and/or management for a total estimated investment of approximately US\$6.3 billion. In over 100 further cases plans were being developed to introduce private investment and/or management in terminal and port operations (Marges, 1997, Marges 2001).

¹⁷⁷ A study conducted by the International Association of Port and Harbours (IAPH) indicated that the share of private sector involvement in the provision of stevedoring services has only recently overtaken that provided by state owned port authorities. Of responding ports, 36 per cent of container terminals were run by private stevedores, with 34 per cent operated by port authorities (Baird, 2001: 18).

4.6.3 Deregulation, Privatisation and Unions

Whatever the merits of the degree of privatisation and competition on the efficiency of ports, one direct consequence can be seen through the impact on labour standards and organisation. According to Turnbull (1999: 10), three factors stand out as contributing to the tide against trade union organisation in the world's ports. Firstly, the lack of a united union response to privatisation. Secondly, the division between 'insiders' or core workers and 'outsiders' (the re-emerging non-union casual labour force) due to enterprise employment. And, finally, the withdrawals of state support for dock labour schemes in order to lure investors through marginalising unions. Turnbull argues that this latter process has occurred as terminal operators demand greater financial and operational freedom from both port authorities and organised labour to secure their investments and service their major clients.

[With] the levels of capital investment involved most operators' demand a minimum 30 year infrastructure lease from the port authority ... [and] will usually commit to investment only if labour co-operation and flexibility can be assured. The latter is often a euphemism for the abandonment of long-standing employment arrangements associated with containerisation or even casualism. (Turnbull, 1999: 13)

The International Transport Workers Federation (ITF) acknowledges that the experience of privatisation varies from country to country, although they stress the implications of privatisation are negative if labour is not enabled to participate in the restructuring (Marges, 1999). The ITF argue privatisation has generally led to the deregulation of industrial relations and labour market policy.¹⁷⁸ In many cases, governments provide fiscal support to employers in order to offer redundancies to dock labour, which, in turn, impacts on union membership and debilitates organisation. Privatisation can also lead to the contracting out or out-sourcing of 'non-core' functions. The trend is for tenderers to gain subcontracts on the basis of cutting labour costs through employees not being covered by collective agreements. Ironically, this process of reintroducing non-union and casual workers often involves employing retrenched workers on lower rates.

¹⁷⁸ This in turn has a major impact on the required skills and training of port workers, health and safety in the workplace and retirement conditions and are reducing wages and other benefits (ITF, 1997). Further consequences for labour have included: the repeal of legislation protecting workers' rights as the ability to strike; the abolition of life-long employment guarantees; amendments to legislation enabling employers to dismiss workers more easily; the abolition of the legal basis for collective bargaining; the termination of collective agreements for working conditions; and, forced acceptance of fixed term contracts or replacement by casual workers (Marges, 1997).

Alternatively, Turnbull (1999: 2) argues that examples where dock labour Schemes have been successfully retained, it has been with either supporting state regulation or strong trade union organisation. For example, Antwerp, Rotterdam, and Spain have retained a combination of regular enterprise employment and a labour pool, although the latter were heavily subsidised by the state (Turnbull and Sapsford, 2001: 251).¹⁷⁹

An example of the benefits of retaining state support for dock labour schemes is through training subsidies. According to Turnbull (1999: 275-6), these subsidies improve productivity, reduce costs, and enable the right sizing of the labour pool through multi-skilling.¹⁸⁰ The pool system also ensures a ready source of skilled and specialised labour for employers (Drewry, 1998: 74).¹⁸¹ Such functional flexibility therefore allows for a reduction in the number of pool workers due to the minimisation of any mismatch between available skills and work opportunities (Saundry and Turnbull, 1999: 283).

Turnbull and Sapsford (2001: 243) also argue that successful Schemes have depended upon “effective dispute resolution procedures” through the relevant authority.¹⁸² According to Drewry Shipping Consultants (1998: 74), a pooling system may be an advantage to the terminals operators with labour disputes one step removed from direct employment.

¹⁷⁹ In Rotterdam the split between permanent and pool labour is estimated to be 50:50. In Antwerp, all dockers are (*de jure*) casual but foreman hire them from the state hiring hall, which means some dock workers get more than others. Unemployed dockers receive around two thirds of the basic wage (Turnbull and Sapsford, 2001: 251-2). In Spain dock workers engaged new management practices and embraced the introduction of ‘functional flexibility’, ‘quality’, and ‘empowerment’ by redefining these terms in workers’ interests. For example, empowerment needed to embrace and preserve trade union representation, while quality initiatives must also protect health and safety standards and improve working conditions (Turnbull, 1999: 14-15).

¹⁸⁰ According to Saundry and Turnbull (1999: 291) “the number of pool workers, and therefore cost, is inversely related to the level of competency among the workforce: if dockers are multi-skilled, there is less likelihood of shortages and surpluses of labour co-existing (a situation where employers require dockers with particular skills but those available in the pool do not have the requisite competency)”.

¹⁸¹ There is a qualification to this endorsement: “It should be noted that such a system only really works in a large multi-faceted port where there is a range of terminals. In the instance where there is a single container terminal in a port and limited other activity, the critical mass to sustain a pool system may not exist, and direct employment of staff may be a better bet” (Drewry, 1998: 74).

¹⁸² Examples of what Turnbull and Sapsford (2001: 249) describe as ‘integrative bargaining’ is the ILWU’s agreed US West Coast Scheme initiatives for dispute resolution mechanisms, the introduction of steady workers and attractive pensioning arrangements. Under the dispute resolution agreements, as the ILWU agreed to continuity of work while disputes were in procedure (Wellman, 1995: 300; Turnbull and Sapsford, 2001: 244-5). The steady workers rationale was based on the Pay Guarantee Plan (PGP), where to qualify for the guarantee a longshoreman must be committed to set working minimum hours per week and available seven days, and take allocated jobs. The pension and early retirement benefits offer under the Mechanisation and Modernisation (M&M) agreement also encouraged older workers to leave the industry, thus “ensuring a broad equilibrium between labour supply and ...demand through a process of voluntary wastage” (Turnbull and Sapsford, 2001: 249).

Saundry and Turnbull argue that in the cases of Antwerp, Spain and the US West Coast industrial peace and employee competencies have been secured on the basis of employer-employee cooperation and coordination, with dock workers in these countries employed on identical terms and conditions under collective agreements. Cooperation between management and labour is also dependent upon both cooperation between employers and consensus in trade unions, as dock workers often have a reputation of defiance to official trade union policy (Turnbull, 1999: 2-3). Based on the international experience, Marge's (1997) notes it is the lack of trade union unity that has acted as an impediment to organised labours' ability to play a role in privatisation processes.

Turnbull (1999: 4-5) also argues that limited gains to trade union 'insiders' from cooperation can lead to a danger for management of rank and file dissatisfaction. However, mutual gains can be secured if management is prepared to invest in human capital and human relations and if unions are prepared to engage in a pro-active strategy to defend their members' interests with the prospect of privatisation. Turnbull (1999: 14-15) argues:

'win-win' solutions can be created [where] ... collective bargaining becomes an integrative rather than a distributive process. Such 'militant co-operation' – seeking to defend members interest by pro-actively engaging with management initiatives rather than simply defending the 'status quo' – has arguably been a feature of successful trade union strategies in many ports over many years ... precisely because it seeks to adapt to the transformation of cargo handling operations and new sources of competitive advantage in the industry.

For example, Saundry and Turnbull (1999: 277, 286) argue that both Spain and Britain prior to their respective reforms in the 1980s and early 1990s were classified as 'tool ports' where stevedoring companies minimised costs by limited fixed investment in superstructure and the utilisation of casual labour. Consequently, this emphasis on temporal flexibility led to labour market insecurity, inefficient operations and industrial action.¹⁸³ Spain's experience

¹⁸³ In Spain the reforms of the mid-1980s led to the restructuring of ports towards a 'landlord' model complemented by a system of labour regulation. The licensing of private stevedores was initially on condition of their employing a 25 per cent permanent workforce within the existing labour pool (OTP) organised under the Ministry of Labour. In 1986 a proposal to privatise the OTP was resisted by the principal Spanish dock workers' union, the Coordinadora. Their strike led to the concession to reconstitute the pool as a non-profit company, the *Sociedad Estatal De Estiba* (Estiba). The Estiba was subsequently jointly owned by the state (51 per cent) and the stevedoring companies (49 per cent). The Estiba retained a monopoly over the provision and training of dock workers and their allocation on the basis of a rotation system. Stevedores retained a permanent labour force for skilled operations at typically 15 to 20 per cent of the workforce. Casuals were only allowed on the basis that all Estiba dock workers were utilised fully trained and engaged on the same terms. The guaranteed minimum did not however apply for casuals. Consequently, as permanent dock workers were guaranteed as minimum number of days work per year it was more cost effective for employers to draw their labour requirements from the pool especially as state support was made available for financing

of port and labour reforms differed from Britain's by including industry wide training and the maintenance of industrial stability in order to optimise allocative and productive efficiency.¹⁸⁴

4.6.4 The ILO's review of Dock Labour Conventions

The emphasis upon the costs and benefits of maintaining labour pooling arrangements in dock labour markets has also been reviewed by the International Labor Organization. The ILO in November 1998 invited governments of members States that had not ratified ILO Convention No. 137 (1973) to report on what national law and practice dealt with dock work with a view to its possible revision. This was proposed as only twenty two countries had ratified the Convention, which focussed on the social repercussions of new methods of cargo handling - containerisation. Two earlier tripartite meetings held by the ILO in 1995 and 1996 on the social and labour problems caused by structural adjustment in the port industry led to divergent views. Worker representatives insisted on the relevance of states' ratification of Convention No. 137 in order to register dock workers. Employer representatives however maintained the convention was "obsolete as it did not respond to the modern needs of the port industry" (ILO, 2002: 31-2), namely private enterprise employment. This meeting concluded by requesting the ILO establish a Committee of Experts to conduct a general survey on the Convention's application (*ibid*: 10-11).

This Committee's findings emphasised that the application of the Convention could be achieved by collective agreements (*Article 7*) and as a last resort through the responsible government ensuring its application (*ibid*: 87). The Committee also found that Convention No. 137 and Recommendation No. 145 "retain their relevance, both where the nature of dock work has not changed and in situations in transition" (*ibid*: 94). Transition refers to both privatisation and deregulation (liberalisation) of a country's port industry. The Committee also emphasised that dock workers "deserve greater attention at the international

payments for a guaranteed wage. Although as a non-profit company any profits from the Estiba were to be returned to the stevedore employers (Saundry and Turnbull, 1999: 281-2).

¹⁸⁴ Saundry and Turnbull (1999: 274) identify a number of factors identified by Streeck as preconditions for achieving diversified quality production as a source of competitive advantage. These factors include *congenial organisational ecology*, which includes strategic alliances and joint ventures between competitors (horizontal cooperation) and trust between buyers and suppliers (vertical cooperation). This type of organisational transition can facilitate the development of non-dedicated *redundant capacities* that deter horizontal competition. Examples of this include the importance of industrial stability and training. Finally, the provision of *collective production inputs* includes the contribution of public goods as part of state market relations. These factors combine in order to provide a 'productive constraint' on employers competitive strategies, in order for the sub-optimal resource allocation in both the product and labour markets (*ibid*: 274, 282).

level in view of the fundamental role that can be played by the port industry” (*ibid*: 94). In light of the continued relevance of both instruments, the Committee (*ibid*: 94) argued for:

the continuation of technical cooperation ...to identify and resolve the problems arising out of structural adjustment, establish effective machinery for collective bargaining and the settlement of disputes, revise regulations and promote [their] ratification and application.

Turnbull (1999: 15) also argues that there is a qualitative difference between the privatisation experience in the developed countries and that of developing countries.

In developing countries the cost/benefit equation is very different, as social welfare and other state benefits that might underwrite management initiatives, or cushion the impact on workers, are largely absent. Moreover, whereas ports in the developed world have passed through an essentially sequential process of casualism, containerisation and commercialisation, developing countries are faced with a combination of minimal employment protection (allowing casualism to flourish), rapid technological change, and severe financial constraints (often imposed under IMF or World Bank Structural Adjustment Programmes). ... However, the basis for co-operation, and mutual gains, is similar to developed countries.

4.7 CONCLUSION

The above overview of the strengths and weaknesses of dock labour Schemes in the contemporary globalised port industry demonstrates the divergence of opinion as to their relevance. The examples presented illustrate that privatisation and deregulation during the 1990s has had serious implications for the level and type of employment in the world’s ports, and consequently, on union organisation within them.

In many developed countries this has stemmed from ideological drivers as privatisation and labour market deregulation that have sought to limit union influence and lower costs through increasing numerical and temporal flexibility in employment. Despite these drawbacks, dock workers maintain a strategic location in relation to servicing trade dependent industries and their position within the stevedoring labour process. Whether trade union organisational strategy can be maintained through exercising either cooperation or collective action appears to be based on their strategic position within each national and

local setting.¹⁸⁵ The historical comparative demonstrates that although there is a general convergence towards privatisation of port services and the deregulation of employment arrangements, these factors are “mediated by national institutional arrangements and refracted into *divergent* struggles over particular national practices” (Locke and Thelen, 1995: 338). As Castree (2000: 272) recognises from an analysis of the Liverpool dockers’ dispute in the 1990s, globalisation has not diminished the local and national scale for labour struggles.

The South African proposal for an NDLS therefore appears contradictory in many respects when contrasted against global trends in relation to port privatisation and dock labour market deregulation. However, as demonstrated above, a number of Schemes do remain in place. Similarly, the ILO review of the relevance of Convention No. 137 and Recommendation No. 145 argue they be endorsed by countries undergoing transition, namely port privatisation. The ILO argues also that dock labour Schemes may be relevant to developing countries that have not passed through a ‘sequential process’ of transition that includes decasualisation or where they do not have a capacity to provide for welfare measures to stabilise industrial relations in the port industry. Indeed, dock labour Schemes offer the potential to deliver increased efficiencies and productivity through allocative flexibility and multi-skilling to enable the right-sizing of labour pools to off-set the costs of restructuring. Therefore, based on the above comparative overview, the relevance dock labour Schemes internationally varies according to the level of stability established in the dock labour market.

In addition, Turnbull and Sapsford’s (2001: 253) comparative analysis argues it is necessary to focus on factors below the industry wide level. This is to demonstrate antagonisms between capital and labour which can “be mitigated by an appropriate system of labour regulation, integrative collective bargaining, and effective dispute-resolution procedures”.

¹⁸⁵ International solidarity is an important strategy for unions to go beyond national industrial relations legislation. The ITF as an international union confederation is comprised of 446 affiliated unions from 120 countries. Modern communication technologies (as the Internet) have facilitated this process of informing and igniting, almost instantaneously, international solidarity campaigns when necessary. Together, the ability to campaign both internationally and domestically can provide a basis from which to address the issues that derive from the port privatisation process which have confronted trade unions the world over during the 1990s and into the twenty first century. The 1998 MUA-Patrick’s dispute illustrated, as with the disputes in Chile and Liverpool also, it is no longer merely adequate to rely on an incommensurate position in the economy to organise ‘place’, traditionally encompassed in a closed-shop across national port operations. Rather, if dock workers’ organisation is to remain incommensurate to other forms of labour organisation, it must now seek to organise across space, utilising new forms of solidarity networks globally to regain a strategic position *vis-à-vis* capital (see Stratton, 1998 and 2000a for accounts of the MUA’s international campaign).

Similarly, Kelly's (1998) use of mobilization theory points to examining the various factors that lead to collective organisation and possible actions, and both either their presence or absence. The latter is indicative of the counter-mobilising strategies of employers and/or the state.

It therefore appears that effective trade union organisation and engagement and the role of state regulation are critical to the implementation and maintenance of dock labour Schemes. To explore this contention, the following chapter examines the historical context of South Africa's port industry and industrial relations in the port of Durban. This is in order to provide an overview of the dynamics from which the proposal to establish a NDLS emerged. A case study on the implementation process for the NDLS then follows.

5 THE HISTORICAL CONTEXT OF INDUSTRIAL RELATIONS IN THE PORT OF DURBAN

To understand the specific dynamics of contemporary South African industrial relations within the port transport industry, it is first necessary to explain its historical context, especially in relation to the legacy of apartheid. The industrial relations and labour market problems inherited by dock workers emerge from the cumulative legacy of various governments. These include the administrations from the colonial era, the formative governments from the Act of Union under the South African Party, the Nationalist–Labour Party Pact, United Party, and then the system of apartheid itself established by successive National Party governments. These political regimes' changes were in turn interspersed by developments in the industry and market structures within South Africa's ports that had to adapt to developments in the international shipping and stevedoring industries.

One constant throughout these periods was that South Africa's stevedoring industry developed, as with the process of industrialisation more generally, on the basis of racial division. This was based on the dynamic between the state and private sector in the exploitation of racial divisions. Consequently, the historical development of dock worker unions reflected these developments. The legacy of these developments led to a situation inherited by the ANC government in 1994 that can therefore be categorised as:

- a fractured stevedoring industry market structure, with a division between private and public sector stevedoring;
- a labour market that is racially divided by work organisation and skill levels; and,
- the continued division of trade union organisation along the above lines.

The following account provides a historical context as to why, and how, this situation emerged. It does so through concentrating specifically on black trade union organisation in the port of Durban. This follows the development of private shipping and stevedoring' concerns in contrast to the state's control over ports and elements within shipping. The analysis of these industry components and, most importantly, their interrelationship incorporates the development of trade unions across both the private and public sectors.

Although based on secondary accounts, this analysis focuses on the dynamic dependencies that developed between the private and public sectors, especially in relation to the role of racial exploitation and employment status, during the conventional stevedoring era and the

introduction of containerised stevedoring. The chapter concludes at the point where the ANC formed government in 1994.

5.1 DURBAN'S DOCK LABOUR MARKET TO 1959

The colonial shipping and stevedoring industries established the practice of utilising indigenous black labourers on a casual and migratory basis to unload/load conventional break-bulk cargo. The origins of this system were based on both the establishment of the *colonial labour market* that depended on migrant labour which, in turn, fostered an *urban-rural consciousness* amongst black dock workers. Similarly, the colonial period until the Union of South Africa formed the basis of the future division of private and state owned functions and the racial segregation of dock workers.¹⁸⁶

The Southampton based shipping companies Union Line and Castle Line dominated the Britain-South Africa trade of the late nineteenth century (Berridge, 1987: 7). As the main British carrier, the movement of gold was a bonanza for Union-Castle in terms of the *ad valorem* fixed rate (Young, 1991: xiii). However, the mail contract was also important as it enabled berthing priority for mail ships in ports, which made the lines popular with both passengers and shippers (Berridge, 1987: 7). Union-Castle emerged as the dominant line within the Europe-South Africa conference as it was the largest carrier of passengers, mail and cargo, and its ships would ply via South Africa's ports to service routes from Britain to the rest of the British Empire and later Commonwealth countries.

¹⁸⁶ Port Natal (Durban) was first settled in 1824 and latter established as the British colony of Natal in 1843. Under British colonial administration ports were developed in Cape Town and Natal Bay. Both ports operated as hubs for ship repair and victuals, in particular, before the initial construction of the Suez Canal was completed in 1869, for firstly sail and latter steam ships. The relative importance of how each port developed in the colonial period depended on the geographical location of their natural harbours on trade routes and their access and depth to allow for larger vessels. Also of importance was the size of a port's population and connections to the various trades in their hinterlands, which invariably became dependent on the establishment of rail connections (Davenport, 1989: 22). Port Natal (Durban) was first settled in 1824 and latter established as the British colony of Natal in 1843. Under British colonial administration ports were developed in Cape Town and Natal Bay. Both ports operated as hubs for ship repair and victuals, in particular, before the initial construction of the Suez Canal was completed in 1869, for firstly sail and latter steam ships. The relative importance of how each port developed in the colonial period depended on the geographical location of their natural harbours on trade routes and their access and depth to allow for larger vessels. Also of importance was the size of a port's population and connections to the various trades in their hinterlands, which invariably became dependent on the establishment of rail connections (Davenport, 1989: 22).

In South Africa, Union-Castle line employed its own stevedores to service their vessels (Young, 1991: 52).¹⁸⁷ The historical development of stevedoring in South Africa as a distinct function within the port transport industry followed from that of Britain. Therefore, a complex form of employer organisation also developed in South Africa with the fragmentation of operations in the sequential movement of cargo. This trend towards the fragmentation of employer organisation and inter-organisational relations impacted upon dock work as the divisions were not necessarily conducive to establishing greater efficiencies in the movement of cargoes (Turnbull et. al., 1992: 36).¹⁸⁸ However, in South African stevedoring, a further lowering of costs rather than ‘efficient working’ emerged through the extensive use of indigenous migrant labour.

5.1.1 The colonial dock labour market

Stevedoring, as within many other industries, adopted the widespread use of indigenous migrant labour in a similar although arguably more intensive and systematic process than in other colonial settings. This has also been documented by studies of African dock labour markets in the British colonies of Mombasa, Kenya and Lagos, Nigeria (Cooper, 1986: 255; Waterman, 1992: 102). Other African examples have been cited in Chapter Four above. Cooper makes the general point that in the pre-containerisation era the concern for colonial administrations was rural society moving to the city, rather than the development of an urban proletariat. However, there was variation between the various African ports in the extent and control of this phenomenon. As such Cooper (2000b: 536) cites Durban as a case in point, where as in South Africa generally, the eventual creation of black ‘homeland’ states led to “extremely authoritarian methods ...and ...state-wide mechanisms (notably pass laws) for tracking migrant African labourers”.

¹⁸⁷ When sailing ships still dominated international trade, crews were large enough to directly perform cargo-handling operations. However, as ship size increased, and as steam replaced sail, ship’s crew declined in number and the complexity of cargo handling. This led to the appearance of Master Stevedores and Warehousemen, “the former specialising in the task of loading and unloading ships and the latter in moving cargoes from quay to shed and then storing goods in warehouses until the merchant was ready to take delivery” (Turnbull et. al., 1992: 40). Also the 1889 dock-strike in Britain led shipowners being responsible for the discharge and loading of cargoes. Master Stevedores now played an intermediary role between shipowners, to whom they were contracted, and the dock companies. (Turnbull et. al., 1992: 36). Shipowners preferred contacting Master Stevedores, as they would employ labour on a regular but casual basis. Doing so ensured shipowners ‘the most rapid turnaround of their ships at the minimum cost’ (Turnbull et. al, 1992: 42).

¹⁸⁸ ‘Divisions between employers were based not on any production or technological logic but rather coincided with organisational boundaries. [These were] ...basically arbitrary and incompatible with efficient working, since they did not coincide with logical discontinuities between processes’ (Hill, 1976: 84; quoted in Turnbull et. al., 1992: 37).

The stevedoring industry's use of migrant labour in South Africa therefore reflected the requirements of the labour process associated with the movement of cargo, with the labour market characterised by a surplus supply to shipping demand.¹⁸⁹ For colonial capital, securing access to the indigenous labour market became an important objective because, as Cooper (1983: 8-9) argues: "The most elusive of the commodities capital had to renew was human labour power". This in turn raised a number of contradictions for the colonial authorities in South Africa. Achieving a stable supply of indigenous labour proved problematic for both the colonial authorities and the private sectors demands as the labour power of indigenous dock workers that would normally necessitate their social reproduction in an urban setting. However, the attempt to address this contradiction of the necessity of utilising large numbers of indigenous labour in the urban environment of the port was based on an intensified form of labour control which in turn led to a number of further contradictions.

As mentioned above, the casual employment relationship was now synonymous with stevedoring at the behest of shipowners in both colonial and industrialised countries. Combined, the three elements of legal sanctions enforcing labour control, rural production subsidising wage labour, and casualism, enabled the colonial authorities in unison with capital to establish a system of labour control that would ensure a cheap supply of migrant labour.¹⁹⁰ Although stevedoring in South Africa remained similar to other colonial settings, the utilisation of migrant labour to achieve low labour costs was based on an intensified system that emerged largely under the auspices of mining capital (Levy, 1982). This system

¹⁸⁹ Maintaining a surplus supply of dock labour was also a basis for the profitability of the stevedoring industry. As there was minimal capital investment for stevedores operating as intermediaries between shipowners and dock companies, stevedores as 'operational employers' basically profited from the use of labour power in the stevedoring labour process associated with conventional break-bulk cargo. In order to pursue maximum profits there was a constant tendency towards reducing the cost of labour by depressing wages below the value of labour power (Hemson, 1980; Turnbull, 1994: 71). Thus it was in the interest of a stevedore operation's profit margins to ensure that sufficient labour control was maintained so as to have access to a surplus supply of labour.

¹⁹⁰ Cooper (1983: 9) has identified three distinctive elements of colonial labour markets from those of industrialised countries. Firstly, authorities had to grapple with achieving labour control through 'the development of predictable patterns of behaviour, obedience and effort'. Labour control was directly related to establishing workers' time as a saleable commodity through the colonial authority's use of the law (*ibid*: 19). Secondly, the reproduction of indigenous labour power was supplemented by 'surviving pre-capitalist forms of production' (*ibid*: 9). The urban wage being supplemented by production in rural areas enabled "capital is able to pay the worker *below* the cost of his reproduction" (Wolpe, 1972: 425). Confining women in rural areas and consolidating their roles within the re/production of labour power was also important to colonial authorities establishing the basis for the supply of cheap labour (Bond, 2000: 7). Thirdly, the system of labour control by maintaining urban workers as migrants linked to rural areas was essentially achieved through the 'casual' nature of the employment relationship (Cooper, 1983: 14).

was supported by the litany of 'pass law' legislation that stemmed from as early as 1760 and extended during the nineteenth century.¹⁹¹

A consequence of control over migration as a form of cheap labour was indigenous labours' circulation between wage labour and rural production. This however spurred contradictions for established forms of labour control, as migrant labourers were now part of the urban proletariat albeit dependent upon rural areas for a proportion of their income (Hemson, 1977: 88-89). In the South African context, this interaction of indigenous migrant labour working in the urban environment of the port manifested itself in a number of industrial relations disputes during the colonial era.

The following therefore outlines the emergence of contradictions within the colonial labour market with an emphasis upon how the authorities were responsive to disputes emanating from the urban-rural dichotomy. Significantly, the authorities responded to address labour agitation through the intensification of institutional and legislative mechanisms.

5.1.2 Colonial labour and the 'Durban system'

Although stevedoring in the port of Durban came to rely on the use of Zulu speaking migrant labour, its establishment can be seen to generally reflect labour practices that were to develop within the wider South African context - indeed, the British from 1843 pioneered urban segregation in Durban (Marx, 1998: 37). From the mid-1870s Zulu *togt* (day) labour became a widespread phenomenon in Durban's colonial labour market. This was based on black workers preference for day labour as opposed to longer contract periods. This posed specific problems for white colonial capital seeking to maximise profit on the basis of their control over indigenous labour, as "African workers were only to be tolerated in the urban setting if they were serving as cheap labour to the white employer" (Hemson, 1996a: 148).

The problem of maintaining a sufficient supply of labour but limiting numbers in urban areas signalled a specific range of solutions from the colonial authorities in Durban in order to maximise labour control. To facilitate this process the colonial administration saw its role as ensuring the conditions of cheap labour were reproduced by excluding African

¹⁹¹ Davies et. al. (1988a: 171) argue the pass laws common objectives were to maintain a system of cheap indigenous labour through: restricting the freedom of movement of black persons so as to channel workers where employers required cheap labour; enforcing employment contracts by making sure that workers stay where they are wanted as long as they are wanted; policing workers and allowing the 'weeding out' of the unemployed and 'troublemakers'; and, confining and barricading the 'surplus population'.

families from urban areas and reinforcing tribal society. These provisions for the control of indigenous labour provided a basis for capital accumulation within the stevedoring industry.

The repressive apparatus under the formal controls of the Native Affairs Department included municipal police, compounds and beer-halls. Together they served to develop the principle of 'self-domination' imposed from 1874 by Theophilus Shepstone, Secretary of Native Affairs, as an 'extra-contractual' element to the employment of black labour (Hemson, 1996a: 148-9).¹⁹² Some whites as a form of paternal governance also saw the 'Durban system' through maintaining blacks' ties to the land (*ibid*: 149). Indeed, the Durban system's use of migrant labour in reserves within Natal province preceded the extension of reserves nationally under the 1913 *Natives Land Act* (Davies, O'Meara and Dlamini, 1988a: 200).¹⁹³

However, the impoverishment of rural areas was to contribute to an emerging resistance amongst black workers, including dock workers, in the 1920s. The various authorities that presided over the Durban system confronted the contradiction of an increasing worker consciousness from the form of labour control which allowed for the circulation of migrant labour between wage and rural production (Hemson, 1977: 88-89). The rudimentary forms of union organisation that emerged reflected the *toget* migrant labour market to be reflected in the nascent - but persistent - black trade union struggles within the strategic position of the stevedoring labour process and dock labour market.

Significantly, a parallel development was emerging amongst white labourers employed by the state to service the increasingly large investments in rail and harbour infrastructure, that were being developed to cater for the shipment of ore (Marx, 1998: 38). The following expands firstly on the emergence of the formal white industrial relations system and its unions, specifically within South Africa Rail and Harbours (SAR&H), and then illustrates

¹⁹² Under the *Native Affairs Act*, self-domination required black workers to pay a fee to register as day labourers, which then funded the municipal barracks and municipal police and forced dock workers once contracted into municipal compounds (Hemson, 1996a: 148-9). According to Marx (1998: 37), the principle of self-domination followed Shepstone's wider policy practices of urban segregation and the establishment of a 'native reserves' from 1864.

¹⁹³ This Act limited black residence to 7.3 per cent of South Africa into 'reserves' classified by tribe. The Act not only restricted the purchase of land by 'natives' but together with a poll or hut tax, forced blacks off the land where they could no longer be solely self-sufficient by rural production and therefore ensured a large supply of labour for urban capital (Marx, 1998: 95-6). The establishment of such a system was also significant for the opposition it generated. The *Land Act* acted as a spur for the formation of the South African Native National Congress, the early manifestation of the ANC (McKinley, 1997: 5).

the consequences for this on black activism and trade union organisation in the port of Durban.

5.1.3 The establishment of SAR&H

In the years both preceding the Boer War and the establishment of the Union of South Africa in 1910, railway and customs policy became an increasingly important issue between the colonies and republics (Freund, 1985: 174). Between 1880 and 1895 there was a considerable number of rival railways built in an attempt to service the export of gold from the recently discovered fields in the Witwatersrand region of the Transvaal (Davenport, 1989: 202-3).¹⁹⁴ Also with the discovery of over half the world's then known deposit of diamonds in 1867 and later the discovery of gold in 1886, British capital in both the Cape and Natal colonies had an increasing interest on the Boer republics of the Orange Free State and Transvaal. English mining capital in particular aimed to establish a unified South African state to 'police labour and internal tariffs, develop railroads to transport minerals, and reduce costly competition among the mining houses' (Marx, 1998: 85). This period culminated in Cecil Rhodes failed Jameson Raid into the Transvaal in 1895-96, was followed with the Anglo-Boer War (1899-1902). Post-war, to consolidate a unified South African pact between the British and Afrikaners, past discrimination was consolidated to reinforce the racial order and diminish intra-white conflict. Within the first two years after the war, both the colonies and ex-Republics passed legislation segregating blacks into compounds and reserves funded through a tax on beer (Marx, 1998: 93).

In relation to the development of a national transport system, two Inter-colonial conferences met in 1903 to reconcile the interests of the four colonies. The South African Customs Union (SACU) from 1903 abolished all internal customs dues and replaced them with a 10 per cent *ad valorem* duty on imports. At the second conference the Inter-colonial Council assumed responsibility for railways that had been up until this point privately owned (Lacour-Gayet, 1978: 230). The Council decided to amalgamate the Transvaal and Orange Free State (the latter now called the Orange River Colony) railway systems into the single Central South African Railway (Davenport, 1989: 226).

¹⁹⁴ This included the American E. McMurdo establishing a railway from the Portuguese colonial city of Lourenco Marques to the Transvaal in 1882 as part of the then Transvaal President Paul Kruger's strategy of ensuring economic independence from the British colonies' ports (Davenport, 1989: 203). This strategy was successful to the extent that by end of the Boer War 63 per cent of the Transvaal's trade was transported via the Lourenco Marques railway, whereas only 24 per cent was via the Durban railway and only 13 per cent via the Cape railway (Lacour-Gayet, 1978: 229).

A National Convention in 1908 to discuss the union of the colonies led to the establishment of a central Railways and Harbours Administration (later SAR&H) to manage and operate the entire South African railways and ports systems on a commercial basis. This agreement established a new division of trade from the Transvaal, with Lourenco Marques in Portuguese East Africa (now Mozambique) maintaining its position as the major port, but traffic guaranteed at minimums to Durban of 30 per cent and the Cape of 15 per cent (Davenport, 1989: 245). After this series of conferences the South African Party, led by Louis Botha, eventually emerged to form government (*ibid*: 252).

5.1.4 The emergence of racially segregated trade unions

The emergence of SAR&H was significant to the role of organised labour, as it created a clear distinction between the private and public sectors based on racially segregated labour markets. A clear distinction between wharf and ship based stevedoring began to emerge under the *South African Act* of 1909 to establish the Union of South Africa.¹⁹⁵ The Act provided a clear operational rationale for the restructuring of the colonial transport administrations under the newly created SAR&H and the right of the private sector to engage in ship-based stevedoring.¹⁹⁶ SAR&H now monopolised the quayside port and rail operations and, significantly, controlled the licensing of private sector stevedores. The *South Africa Act* and the later *Railways and Harbour Regulation, Control and Management Act 1916* provided the legislative basis for this division (Horwood, 1969: 47). Preceding this new legislation, the Minister for Railways and Harbours in Durban had managed the port separately from the railways (*ibid*: 59). However as a result of these legislative and operational mechanisms, by 1918 a sharp division emerged between ship-based stevedoring and shore-based dock work (Hemson, 1994: 52).

¹⁹⁵ Also in 1910 the liner companies that served the Europe-South Africa conference were engaged by the South African government in a long-term contract called the 'Ocean Freight Agreement' (OFA) first signed in 1910 (Berridge, 1987: 3-4). The Conference was solely represented by Union-Castle Line. By 1912 the conference and the government had three 'nationally' distinct agreements: a 'Mail Contract', a government 'Freight Contract' (Southbound); and a 'Homeward Produce Agreement (Northbound) (*ibid*: 4). The last two constituted the OFA, and led to Union-Castle's reductions in the freight rates for South Africa agricultural exports in return for the government awarding the mail contract. This effectively gave Union-Castle a monopoly of government cargo for the next ten years (*ibid*: 4).

¹⁹⁶ For the purposes of this study, the employment of white railway workers is aggregated with that of white dock workers and port administrators when information is limited to enable any further distinctions. This aggregation is based on the fact that they were often given the same categorisation within the same state employer, SAR&H.

The division between the ownership and organisational operation of the stevedoring industry also worked in concert with the consolidation of racial employment policy. Prior to 1907, the Railways Administrations were based on private sector employment practices, with black migrant labour occupying mostly unskilled positions. However, with the end of the Boer War and recession years of 1906-9, the state increasingly sought to provide employment for unskilled whites through 'relief work'. To reflect this demand from white workers, the Union government established a comprehensive colour bar under the 1911 *Mines and Works Act* to ensure black entry into the labour market would not displace whites (Marx, 1998: 96; Duncan, 1995: 37).

The reliance upon the state sectors for employment increased as the private sector withdrew from providing 'relief work'. Consequently, 'relief work' began to reflect the wider political environment in which organised white labour demanded either the imposition or restoration of the job colour bar (Davies, O'Meara and Dlamini, 1988a: 98). In response the state increasingly utilised the railways to address the 'poor white' (unemployment) problem by replacing unskilled black with unskilled white labour - with SAR&H becoming the biggest employer of relief workers (Davies, 1979: 105).¹⁹⁷

Importantly, after a general strike in 1914 that included SAR&H's white employees, SAR&H was deemed an essential service and precluded from strike action under the *Railway Regulation Act* of 1908. Smuts also introduced the *Riotous Assemblies Act* to prohibit strikes in state utilities (Davenport, 1989: 268-9). The legislation enacted by the South African Party government established a future basis for the division of industrial relations legislation between the private and public sectors. Consequently, the legislation further divided black and white workers in their ability to undertake unified industrial action on the docks and intensified the job colour bar. This was illustrated with the formation of the first black union on the docks, the ICU, and its failed campaign to overcome the divisions created between white and black workers.

5.1.5 The demise of the Industrial and Commercial Workers Union

During this period the ICU attempted to organise Durban's dock workers. A.W.G. Champion was the leader of the ICU in Durban and centred the ICU's legal campaign upon the extra-contractual element of *togt* dockwork (Hemson, 1996a: 152-3). The ICU general

¹⁹⁷ The number of 'poor whites' reached 106,518 (8 per cent of the white population) by 1916 and over 300,000 (17.5 per cent) by 1932 (Davies, O'Meara and Dlamini, 1988b: 243).

secretary, Clements Kadalie, then dismissed Champion in 1928. This proved to be a fatal decision for the ICU as a national organisation, as Champion managed to maintain his support in Natal (the largest membership of the ICU nationally) in the wake of his dismissal, and formed the 'independent ICU' (Ncube, 1990: 41). Champion then launched a campaign in Natal centred against the local authority's beer monopoly.¹⁹⁸ With the influence of the Communist Party in this dispute, by November 1929 the authorities launched a crackdown on the Point municipal compounds in the port of Durban which housed dock workers, leading to the arrest of hundreds charged with failing to pay poll tax (Hemson, 1996: 154). As a result, Champion was deported in 1930 for a period of three years under the *Riotous Assemblies Act* (Ncube, 1990: 43). The banning of Champion led to the demise of the independent ICU of Natal (*ibid*: 44).

Hemson argues it was this early interaction between Durban's dock workers and social movements such as the ICU and Communist Party that led to militant campaigns centred on both wage and the wider extra-contractual system imposed by the Native Administration Department. However, this relationship led to the state's determination to "maintain stable conditions of subordination" (Hemson, 1996a: 155). The failure of the black trade unions also contrasted that of the emerging institutionalised relationship that developed between white labour and the state.

5.1.6 SAR&H under the Pact and United Party governments

In the wake of the Rand Rebellion of 1922 and the institutionalisation of industrial relations for white labour (see Appendix A), SAR&H was central to the implementation of the Pact's 'civilised labour' policy which obliged state departments to replace black employees with whites (Davies, O'Meara and Dlamini, 1988a: 98). Within SAR&H between 1924 and 1932 the number of unskilled white labourers increased from 6,363 to 12,042, while the number of blacks employed fell from 35,532 to 17,467 (Davies, 1979: 225). Table 10 illustrates the trend in white and black employment in SAR&H for select years between 1926 and 1975.

Afrikaans speakers represented a high proportion of white labour working within SAR&H. The first 'Christian National' trade union, Spoorbond, was established in 1934. Membership

¹⁹⁸ Both African men, who boycotted municipal beer halls, and women, whose livelihood often involved brewing, supported this. In 1929 the ICU launched the Anti-Kaffir Beer Manufacturing League. An assault by white vigilantes on the ICU hall in Durban led to the involvement of dock workers in a battle that resulted in six black and two white casualties (Hemson, 1996a: 153).

largely consisted of Afrikaans speaking white manual employees and clerical staff.¹⁹⁹ By 1935 Spoorbond also succeeded in capturing the membership of the rival white moderate union the National Union of Rail and Harbour Staff (NURAHS) (*ibid*: 286-87, 299).²⁰⁰

Table 10 Employment of Whites and Blacks on South African Railways and Harbours, for selected years - 1926-75

Year	A: Whites	B: Blacks	A as % of Total
1926	50,800	44,900	53.1
1933	49,300	28,000	63.8
1938	66,100	54,900	54.6
1948	98,100	89,600	52.3
1950	103,400	84,600	55.0
1968	114,539	93,583	55.0
1970	110,314	96,579	53.3
1972	110,854	99,815	47.4
1975	111,120	116,599	48.8

Source : *Brotz, 1977: 78*

The intensification of both the job colour bar and increase in the number of Afrikaners in SAR&H through the expulsion of black railway workers led to the launch of the South African Railways and Harbour Workers Union (SARHWU) in Cape Town in October 1936 (Baskin, 1991: 9). In the 1936 Census, dock workers made up 43 per cent of the section of transport workers; 22 per cent railway workers (2,168) and 21 per cent (2,001) stevedoring workers (Hemson, 1977: 90). SARHWU was formed under the leadership of a Moses Mabhida, a previous President of the South African Communist Party (Slabbert and Bruwer, 1991: 317). By the early 1940s SARHWU expanded nationally and claimed a membership of 20,000 (Baskin, 1991: 9). The growth in SARHWU's membership reflected the irony of the 'civilised labour' policy where whites moved from occupying unskilled 'relief work' positions in the labour market towards more supervisory type roles. This trend led to an increase in the number of unskilled black employees within SAR&H and further challenged the established industrial relations system.

¹⁹⁹ Spoorbond targeted: the inactive and bureaucratic NURAHS; the fall in the white:black employment ratio within SAR&H from 1.7:1 in 1934 to 1.2:1 in 1939; and the relaxation of bilingualism in the railways administration favouring the promotion of English speakers (Davies, 1979: 285).

²⁰⁰ However, Spoorbond was only recognised by SAR&H in 1942 with an estimated 29,000 members out of the 77,000 white employees (Davies, 1979: 286-87, 299).

Despite the South African Party's extensive realignment of the industrial relations system in favour of the white labour movement, the Rand Rebellion led to the emergence of the Nationalist-Labour Party 'Pact' government in 1924. The Pact government did not significantly change the approach to industrial relations of the previous government and, indeed, were subsequently dualist in their approach to placate white unions. For example, the Pact government introduced legislation precluding strikes by white workers before compulsory mediation whilst at the same time intensify the job colour bar through the implementation of a 'civilised labour' policy. However, a further change in political allegiances occurred in 1933 as a split emerged between the Pact government that in turn led to a reformation between the Nationalists and South African Party into the 'Fusion' United Party government. The creation of a Fusion government then led to a further split within the Nationalists, with the right wing *Purified* National Party emerging in opposition to represent Afrikaner interests.

Concessions to the existing system signalled an emerging detente between the state and black unions preceding the onset of World War Two. As a result black labour increasingly became involved in both unskilled and skilled positions to fuel the war economy. The collapse of the existing labour market structures and a strike wave by the first black union federation, the Council of Non-European Trade Unions (CNETU), led to a dramatic increase in both the urbanisation of black workers and their real wages. However, by the end of the war the CNETU had lost its strategic position with a re-intensification of state repression to placate the white labour movement (see Appendix A).

5.1.7 'Togt' dock worker union organisation

During World War Two dock workers in Durban were to have only limited success in the formation of their own independent union. Dock workers resistance was demonstrated before the 1940s in campaigns against the poll tax, passes, and the municipal monopoly over beer brewing (Hemson, 1977: 91). However, with the war came an exponential increase in production, prices and increasing organisation. In 1939/40 tonnage landed in Durban harbour exceeded two million tonnes and dock workers employed daily by four major stevedoring companies and SAR&H numbered approximately 3,000 to 4,000. Dock workers employment was based on an average of 3 to 4 days a week to cater for fluctuations in shipping with employers' seeking maintain labour supply to meet maximum demand. The reserve labour also served to maintain pressure on reduced wages (*ibid*: 91). However, the

process of African migrants circulating between wage labour and agricultural/pastoral production led to their increasing participation in the urban proletariat, and in turn, this experience being taken back to the rural areas (*ibid*: 88-89).

A consequence of the increased significance of the port of Durban and extension of black employment in the docks because of the war was that in 1939 more than a thousand *togt* dock workers elected Zulu Phungula as their leader (*ibid*: 93). Philemon Tsele organised SAR&H workers nationally, but black SAR&H dock workers in Durban identified primarily with the *togt* labour force (*ibid*: 92-3). Durban's *togt* dock workers under the leadership of Zulu Phungula specifically rejected the principle that rural production contributed to their livelihood. However, the authorities responded to this demand by maintaining the overall level of labour circulation in Durban's dock labour market. According to Hemson, the authorities also increased the level of repression under War Measures in order to access a reserve army of labour (*ibid*: 94-7). The authorities would use of the reserve supply of dock labour to break organised action and maintain the level of supply by recruiting the unemployed from either the urban areas or the surplus population in the rural areas.

However, the authorities faced the contradiction of maintaining the *togt* system where as day labourers, dock workers had no impetus to work apart from their deportation from the urban area. This situation was exacerbated as the strategic position of dock workers' increased relative to the demands of the war economy on the port's efficient throughput. The authorities' recognised this strategic position by threatening dock workers with mass deportation and banished Phungula from the Durban area for five years (*ibid*: 99-100). However, it was significant that despite this level of state intervention was required to control industrial unrest in the docks in order to maintain the war economy. It also demonstrated that this had been the most fruitful period yet for the organisation of dock workers in Durban.

The war years also demonstrated the ongoing contradiction between the employment conditions and supply of labour to both private sector stevedores and SAR&H. The contradiction existed in the preference for employers to maintain casual migrant labour by sourcing and circulating dock workers between the urban and rural areas in an attempt to maximise labour control and subsidise the wage rate with that of the rural economy. With employers' preference for the *togt* labour system, dock workers as casual day labourers could strategically withdraw their labour and initiate industrial action, with the knowledge

that they could return to rural areas and subsist. This situation remained unaddressed until the advent of the National Party apartheid regime's raft of new policies.

In the post-war period in July 1948 the Durban City Council enforced the prohibition of entry by black job seekers into the urban areas. This led to an estimated reduction in surplus black workers in Durban from 10,000 to 6,000. This decision directly affected employers of *togt* labour, which was exacerbated by the Durban City Council's decision to refuse employers the right to issue *togt* exemption licences until they provided more extensive compound accommodation. Negotiations resulted in the temporary suspension over restrictions on *togt* licences whilst employers agreed to finance accommodation for 1,500 dock workers. *Togt* employers were later exempted under the Labour Bureaux from registering their service contracts every day and from contributing to the Unemployment Insurance Fund (*ibid*: 116).

Phungula also returned to Durban in 1948 to resume *togt* work after the period of state banishment from the municipal area. When Phungula again demanded a minimum wage, now £1-a-day, the call for a general strike to pursue this was defeated by more moderate elements led by Christopher Mbonambi of the African National Workers' Federation (*ibid*: 110-111). By April 1949 Phungula, now President of the Natal Zulu National Workers' Union, then called on black workers to demand £32.10s a month, and gave an ultimatum of 1 May for the demand to be met. On Monday 2 May 1949 some 800 stevedoring workers went on strike in support of the ultimatum, which was later supported by ship painters, baking and milling, whaling, timber sugar and chemical industries (*ibid*: 113). With Phungula arrested on the first day of the strike, and charged for vagrancy under the Section 29 of the *Native (Urban Areas) Act* of 1945, the strike waned. Phungula was then sentenced to a further period of banishment in Ixcopo for ten years.

According to Hemson, "Phungula's banishment was a prelude to a vigorous reassessment of the controls over *togt* labour and a determination to crush militancy in the harbour areas" (*ibid*: 114). Blacks were subsequently banned from joining unions and from 1950 the government de-registered the stevedoring Industrial Council. However, this process was again to be challenged primarily after the intervention of SACTU.

5.1.8 SARHWU and SACTU

Dock workers were represented at the Inaugural Conference of SACTU in March 1955 by J. Ngulube of the Cape Town Stevedoring and Dockworkers Union and SARHWU (Luckhardt and Wall, 1980: 235).²⁰¹ SARHWU, which had affiliated to the CNETU in 1944, affiliated to SACTU in 1955 (Slabbert and Bruwer, 1991: 317).

An early organising document titled SACTU and organizing the unorganized (circa 1955) signalled SACTU's intentions to organise workers in the metal and transport industries. The latter category SACTU estimated consisted of 150,000 unorganised railway and dock workers. From 1958 National Organising Committees were established in the attempt to recruit these workers, and the Committee on Transport specifically included dock workers in its terms of reference (Luckhardt and Wall, 1980: 169-70).

Four branches of SARHWU were established in Durban, Port Elizabeth and Cape Town by 1960 with a total membership of 4,677 (*ibid*: 172, 176). By 1960 there were some 3,500 SARHWU members in Durban (*ibid*: 249).²⁰² SACTU's organising approach recognised that as dock workers were predominantly migrant workers housed in compounds and their employers were private stevedoring companies, that they should be organised into a separate union to that of SAR&H dock workers.²⁰³

In Durban, negotiations in 1954 and 1956 between dock workers and the Central Native Labour Board were assisted by SACTU's Fanyana Majosi and Stephen Dhlamini (Hemson, 1977: 117). On 1 July 1954, dock workers' in Durban undertook a strike for a wage increase and established pickets to prevent the use of scab labour. The strikers also demanded the return of Zulu Phungula. Negotiations began on 8 July between the Central Native Labour Board, stevedoring companies and representatives of *togt* dock workers. A small wage increase was awarded, along with the recommendation from S. D. Mentz, Chair

²⁰¹ In 1956 the Port Elizabeth Stevedoring and Dock Workers Union also affiliated to SACTU (Luckhardt and Wall, 1980: 177).

²⁰² In Durban Philemon Tsele organised SARHWU railway workers from the 1940s whilst Moses Mabhida, the Natal SACTU Local Committee Chairman, organised from 1956 until his exile from South Africa in 1960 (1980: 174).

²⁰³ By 1962 black workers made up almost 50 per cent of the 218,000 workers employed by the SAR&H. Of these 108,000 were Africans, 7,600 were Coloureds and 600 were Indians. The average wage was £8 and almost half the African labour-force, 43,467, were casuals subject to dismissal on twenty-four hours notice (Luckhardt and Wall, 1980:170-1).

of the Central Native Labour Board, to establish a permanent labour force on a weekly or monthly basis. Permanency was aimed at the lowest possible number of dock workers to maintain a functional core labour force and reduced reliance upon casual labour.

In 1956 a strike by dock workers was aimed at the elimination of the *togt* labour system through the demand for workers to be paid on monthly basis, although at the same rate of pay which they were receiving as *togt* labourers. For employers and SAR&H, despite legislation banning strikes, the *togt* system perpetuated the contradiction that dock workers retained a necessary presence in the rural areas to supplement their wage. This led to their ability to engage in industrial action – the only sanction being their temporary banishment from the urban areas back to the rural areas. With the establishment of a monthly contract, a strike by dock workers would hold them liable for prosecution as they were in breach of contract (Luckhardt and Wall, 1980: 279).

In Port Elizabeth in 1957, dock workers and railway workers embarked on a go-slow over demands for a wage increase.²⁰⁴ Shipping companies and SAR&H shipped stevedores in from Cape Town and East London to maintain trade, whilst police took control of the dock and rail yards as dock workers' refused to end their demands - they were then banished from the port. Similarly, on 5 March railway workers were replaced by prison labour. It was only after SACTU appealed to the International Confederation of Trade Unions that the Minister for Labour, Ben Schoeman, removed the prison labour from the docks. However, although the stevedores were later re-employed, albeit at a reduced wage, the railway workers remained dismissed (*ibid*: 282).

In November 1957 Hendrik Verwoerd, then Minister of Native Affairs, announced intentions to remove the Point compounds from the port of Durban and restrict the number of dock workers to 2,000. However, events overtook this announcement as the SACTU - Congress Alliance announced a three day Stay-at-Home beginning 14 April 1958 with the demand for £1 a day (*ibid*: 279).²⁰⁵ Negotiations between employers and *togt* dock workers led to a wage increase of 14s a day and an increase in overtime and Sunday wages. This

²⁰⁴ Dock workers sought an increase from 11s 6d per day to 26s per day whilst railway workers sought an increase from £4 10s to £7 a month.

²⁰⁵ Although the success of the stay-away was mixed, dock workers in Durban observed the stay-away. This was followed with bans on overtime and Sunday work until the £1-a-Day demand was met.

outcome led to approximately 2,000 SAR&H workers demanding and achieving a similar wage increase (*ibid*: 280).

Despite these successes, SACTU perpetuated the division between *togt* and SAR&H workers by declaring its intention to organise these workers separately, as manifest in SARHWU. Despite this, arguably the most significant gains by SACTU for both groups of dock workers was the wage increase in Durban in April 1958 following the Congress Alliance 'Stay-at-Home' campaign. However, SACTU had ultimately failed to organise a national union of dock workers due to the difficulty of accessing compounds to recruit members and the immediate reaction of the state to protect 'this strategic industry with whatever degree of force necessary' (*ibid*: 177).

Indeed, SACTU's influence on Durban's docks was to wane, as with its influence on the wider black union movement, after it took the decision to engage in armed struggle after the Sharpeville and Langa massacres and subsequent banning of the ANC and PAC in 1961. However before this eventuated, specifically within the port of Durban, measures were introduced to enhance employers' control over dock workers in which, ironically, SACTU played a role in consolidating. This was to have disastrous consequences for *togt* labour and the ability of dock workers to organise within unions during the 1960s.

5.2 THE DURBAN STEVEDORING DOCK LABOUR SUPPLY COMPANY

The success of SACTU's overtime ban campaign by *togt* and SAR&H dock workers led to a meeting on 27 November 1958 between the Natal Employers Association, the Department of Labour, Department of Native Administration and municipal officials. The meeting called to extend controls over stevedoring labour and to end the *togt* labour system. A centrally administered compound for dock workers was established under the Durban Stevedores' Association, which would now monopolise labour supply for all employers' labour requirements. The new system sought to improve labour control through removing 'undesirable' labour through the state's influx control measures (Hemson, 1977: 119).

However, *togt* dock workers resisted the measures as employers sought to incorporate *indunas* (African foremen) into the structure of the authority. Previously, *indunas* were partly responsible for the recruitment and marshalling of workers into gangs, but with the proposal of a company to supplant this function, employers sought to compensate the change in *indunas* status with a wage increase. The Wage Board subsequently undertook an

investigation in 1958 that allowed for the *indunas* wage increase, but no increase for labourers.

On 24 February 1959 an estimated 1,500 dock workers went out on strike when it became clear the wage increase was only for *indunas*. Subsequently, all striking workers were dismissed and ordered to vacate the compounds. Several workers sustained injuries and 87 were arrested (Luckhardt and Wall, 1980: 280).

Employers then took advantage of the defeated strike and from February 1959 introduced the Durban Stevedore Labour Supply Company (DSLSC). The DSLSC began to selectively re-employ dock workers on a permanent weekly-paid wage system (Hemson, 1977: 121). SACTU supported the new system, despite claims by re-employed *togt* workers that they were now disadvantaged under a weekly wage of £3, which was less than what they could earn under the previous system. Re-employed dock workers therefore rejected SACTU's endorsement of the weekly-paid wage system by placing a ban on overtime to support their demands for a wage increase. However, this demand and action led to disastrous consequences as 'employers responded by dismissing the entire labour force and recruiting new workers from Zululand to take their places' (*ibid*: 122).

The successful operation of the DSLSC was now secured under the auspices of the apartheid regime, which had successfully transformed by 1959 the *togt* 'day' labour market in Durban into a weekly contract labour regime under the control of a centralised labour pool administration (*ibid*: 89). This reflected employers and the apartheid regimes' mutual interests by controlling labour supply to limit any forms of resistance in this strategic industry.

The DSLSC was faced with the immediate problem of re-establishing the existing levels of productivity with a new workforce. The growth in the economy (expanding between 1963-68 on average at 6.2 per cent per annum) and the accompanying increase in goods handled in South Africa's ports, exacerbated the predicament. Both employers and the state faced the contradiction that the existing cheap labour system on the docks was central to maintaining low freight charges, but this in turn created bottlenecks in labour supply due to the racial allocation of work. This situation could only be effectively resolved if either the

job colour bar was dismantled or if increased mechanisation was adopted.²⁰⁶ The DSLSC, confronted with white unions closely allied to the state, rejected any overt attempt to break the job colour bar. Instead, the contract labour system was to be managed to enable the transition to further mechanisation at the lowest cost (Hemson, 1980:58).

The establishment of the DSLSC created new economies of scale for Durban's stevedores, which assisted the future mechanisation program. The DSLSC operated on a non-profit basis to supply stevedoring labour to the four shareholding companies. Although staffing arrangements led to improved economies of scale, the transition from daily to weekly wage contracts also increased the wage bill as workers were paid an attendance fee for reporting when no work was available.²⁰⁷ To address this additional cost the DSLSC's maintained surplus dock workers at a minimum, enabling inter-changeability between companies, extracting more labour time from those employed (particularly through overtime), and, intensifying the pace of work.

The DSLSC pool was also established with the objective of denying the previous 1,800 *togt* dock workers from returning to work in the harbour. An estimated 3,350 dock workers were initially introduced by 31 October 1960, but later reduced to 1,961. By 1961 the DSLSC circulated dock workers with an unpaid four-month rest period per year and twelve days paid leave, which acted to maintain dock workers links to rural areas. Ironically, this was part of the employers' objective to prevent a reversion to the *togt* 'urban' culture.

A new element of collaborative African participation was also developed principally through Works Committee's which sought to enhance tribal authorities political control. J. B. Buthelezi, a cousin of Chief Mangosuthu Buthelezi, was employed by the DSLSC on 11 July 1959 to head the Disciplinary and Welfare Committee. The aim was essentially to weed out the '*togt* complex' and ANC supporters. Within the port of Durban, the newly recruited

²⁰⁶ The post-war period introduced changes in the methods of shipping and packing that changed the nature of the work. Loose cargo became increasingly palletised, mechanised and bulk loading of major exports such as sugar, maize, manganese, became universal. Greater uniformity in the size and quality of the cargo (either bulk, packaged, or loose) was achieved.

²⁰⁷ The previous individual stevedoring companies had employed five compound managers; this was now reduced to two compound managers and one Bantu Personnel Officer. From February 1959 the number of *indunas* was reduced from between two and sometimes four per hold to one per hold. The increased organisation of the workers as a whole permitted some reduction in the number of *indunas* by 12 per cent. However, *indunas* were compensated with a wage increase far in excess of the stevedores. Friction between the *indunas* who had previously been paid by various companies was reduced by their wage equalisation under the DSLSC (Hemson, 1980).

dock workers included former *togt* dock workers. Ethnic Zulus were now segregated at the 'Point' wharf compound, whilst others ethnic groups were sent to the Maydon Wharf compound. An estimated 400 'ex-togts' were employed by SAR&H, the stevedoring company Grindrod Gersigny and a chipping and painting operation, Dusty Miller.

Buthelezi's outstanding concern was with the *indunas* and gangwaymen who had previously been employed as *togts* and resented their new employment arrangements. The *indunas* were now trained as 'inspectors', with senior *indunas* in supervisory roles, which effectively enabled their operation as a secondary tier management with their links to chiefs in the reserves. This system effectively enabled policing of the workforce on behalf of the employers. Subsequently between 1959-61, 1,305 dock workers were discharged, resigned, absconded, or died, and only 255 workers were re-engaged. Buthelezi was later promoted to designated 'Bantu Liaison Officers'. The intensification of the labour process and the 'weeding out' of undesirables reduced the work force to almost half its original size. According to Hemson, an unintended consequence of this reduction was the exhaustion of the remainder of dock workers that led to a breakdown in the cycle of leave and work (*ibid*).

The increased powers of management, intensification of labour time and the rate of mechanisation had all increased productivity. By September 1960 the docks started operating on a twenty-four hour basis. Increasing productivity necessitated changes to the labour process and work organisation.²⁰⁸ Night shifts were facilitated through the greater control of the DSLSC over shifts and labour allocation.²⁰⁹ The night work had effectively speeded up the turn-around in Durban and this increased the competitive advantage of the port within the region (Shaffer, 1965: 76).²¹⁰

²⁰⁸ The DSLSC estimated a gang size of ten stevedoring labourers with gangwaymen and winchmen for each crane, to which is added derrick gangs if bulk cargo was being handled. The gangs in the holds of the ships tended to operate autonomously under the general supervision of a hatchman or foreman and the immediate direction of the *induna*. The work required close coordination between the crane operator on the quay and the gangs in the holds, with the day's work is set out by the foreman from instructions and the ship's plans. The coordination of the two spheres of work, on the quay and in the holds, was dependent on the gangwayman to signal directions to the crane operator. In turn, the pace of work in the holds was determined by the speed with which the crane operators moved the cargo and were ready to take on the next load.

²⁰⁹ The two shifts worked from 7.20am to 9.00pm and from 9.00pm to 6.00am (Horwood, 1969: 85).

²¹⁰ To the shipping companies, the night shift meant the difference between ships spending ten hours in every 24 hours lying idle, or the prompt discharging and loading of vessels without any wasted time. This in turn led to greater profitability for ship owners through the increased utilisation of vessels.

Successive wage determinations classified groups now specialised to handle cargo and machinery. Wage determinations expanded the number of job definitions for which wages were laid down from nine in 1959 to thirteen in 1969.²¹¹ However, the conventional colour bar debarred *indunas* from further progression up the hierarchy of job classification. This was despite the fact that employers sought to lower the total costs of supervision with the immediate supervisors increasingly being *indunas* rather than white foremen. Another trend was the numbers of gangwaymen and winchmen increased by 52 per cent in the period 1964-68. This marked an increase in the capacity and adaptability of the workforce as a whole (see Table 11).

Table 11 Semi-skilled stevedoring labourers 1964-68

	Gangwaymen	Winchmen	Indunas
1964	2,259	164	122
1968	2,239	250	107

Source : *Hemson, 1980*

These changes demonstrated that the Wage Board had adopted a special approach with the DSLSC. In 1963 it determined that instead of raising the weekly wage, an increase in the daily allowance of 15 cents to 50 cents would be allowed. The daily allowance was traded-off by a decline in overtime and Sunday and public holiday rates. In real terms, this allowance led to the basic wage being adjusted downward (Hemson, 1980: 446).²¹² In addition, the *Wage Act* set criteria for Wage Board recommendations not to establish national wages throughout an industry. This led to the contradiction that although Durban handled the majority cargo and worked the longest hours, its dock workers were the worst paid (*ibid*: 448).²¹³ According to the Wage Board the justification for the low wages was

²¹¹ The categories included: drivers, foremen, gangwaymen, indunas, leaders, learner stevedores, liaison indunas or serangs, maize trimmers, mobile hoist operators, senior indunas or serangs, stevedoring hands, storemen, and winchmen.

²¹² In 1967 the stevedore hands, gangwaymen, winchmen and *indunas* received a basic weekly wage of R6, R7 and R10.50 respectively. In addition they were paid 50 cents a day for each day worked (55 cents for winchmen) (Horwood, 1969: 84).

²¹³ In the stevedoring industry wages were highest in the Cape (where labourers were better organised and Coloured labourers paid slightly higher to differentiate them from black workers) (Hemson, 1980: 448).

that dock workers in Durban were housed in a compound and did not have any transport costs (Horwood, 1969: 83).²¹⁴

Ultimately, the DSLSC had established an intensification of work based upon an inequitable wage regime that successfully exploited the circulation of migrant labour. In the face of this inequity, one study on the port of Durban in the late 1960s could claim “labour at the port of Durban is not a problem [and] ...since the formation of the company no labour unrest of any kind has been experienced” (*ibid*: 78, 83). However, by the end of the 1960s, with the labour process further intensified with greater controls over wage and labour supply, a number of the contradictions in the DSLSC operations become manifest in the course of actions undertaken by its workforce.

5.2.1 The strike of 1969

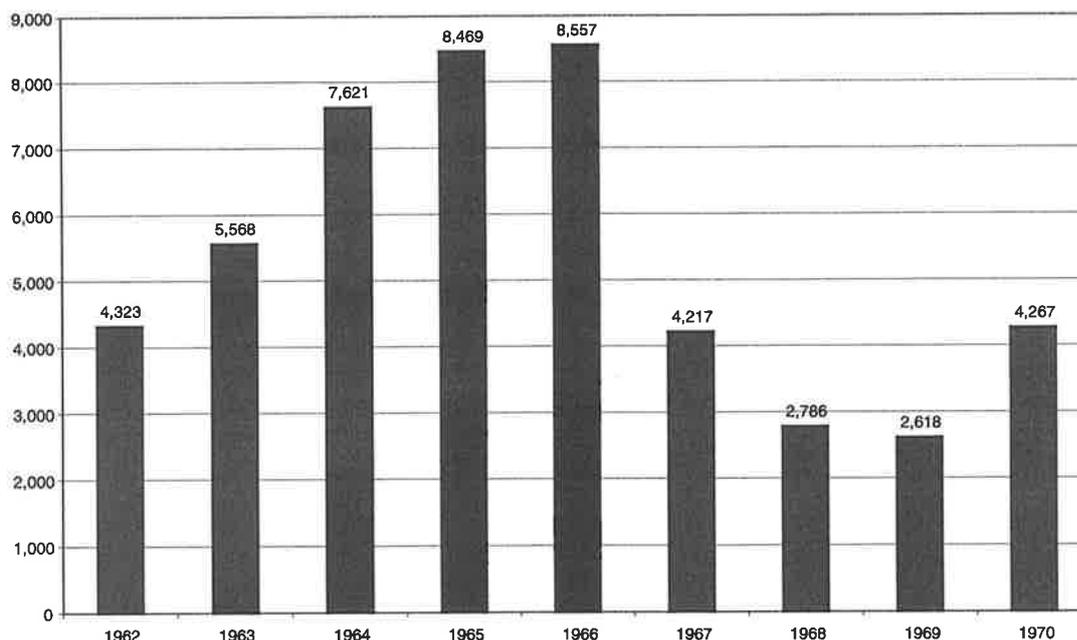
The number of disputes on the docks in Durban had fallen during the 1960s under the DSLSC, with the state and employers working in tandem to crush any dispute that emerged.²¹⁵ Only in 1969 did a dispute occur that was to have significant ramifications for the future of the DSLSC and black dock worker union organisation.

A decline in economic growth during the late 1960s led to a fall in imports that in turn caused a decline in the cargo handled by dock workers (see Figure 8). Accordingly, employment declined within the DSLSC from the highest employment figures in 1964 of 2,923 workers to 2,211 workers by July 1969. The relative decline in dock work led to little movement in wage levels. The issue of wages however came to a head with the introduction of the *Bantu Tax Act* in 1968.

²¹⁴ By 1967 it was estimated only 135 of the total labour force resided in townships, whilst the rest were housed in the compounds, which could accommodate 2,049 (Horwood, 1969: 84). In 1967 the personnel of the Durban Stevedore Supply Company consisted of 12 white and 4 Indian administrative staff. Within the African Labour Section there were eight white and 66 African staff, totalling 90 Administrative and Compound staff. The African labour force totalled 2,786 (*ibid*: 83-4).

²¹⁵ Workers employed by Consolidated Stevedoring and Forwarding Agency, one of the principals of the Company, struck on 27 December 1961 in support of a demand for an annual bonus and were subsequently prosecuted. Again a strike had occurred in March 1966 by workers employed by C.G. Smith and Company in support of demands for a wage increase, a tea break, overtime, and overalls. The state’s response in both strikes, which were followed by prosecution, demonstrated a determination to severely punish any instances of working class activity against employers (Hemson, 1980).

Figure 8 Cargo landed in Durban, 1962-1970, tonnes



Source : *Statistical Year Book, 1976*

With the enforcement of the *Bantu Taxation Act* Number 92 of 1969 all black workers earning above R360 a year were liable to income tax at R14 a week. However, at the time the dock workers in Durban were being paid a basic weekly wage of only R6. The higher taxation imposed by the *Bantu Taxation Act* of 1969 led the dock workers to demand R14 a week from the DSLSC. An attempt was made to present this demand to the Wage Board, which began a Wage Determination investigation in June 1968. However, when the Wage Determination came into effect on 4 April 1969 with no increase in the basic wage, a strike was called.

An estimated 1,000 dock workers picketed the DSLSC offices and the other workers refused to break the picket.²¹⁶ As the dock workers realised any worker representatives would be arrested they shouted demands in unison. Although the *indunas*, gangwaymen, and winchmen did not join the strike, they were laid off as a result of the action. The harbour was subsequently crippled with work on about thirty-five ships halted. The losses sustained by the shipping companies per ship (estimated at R1,000) grew with each day of the strike. Two sessions of emergency talks were held on Saturday, 5 April 1969 between the senior officials of the Security Branch, the Departments of Labour and Bantu Administration, and

²¹⁶ The strikes were illegal in terms of at least two laws: the *Bantu Labour (Settlement of Disputes) Act* of 1953, and the *Bantu Labour Act* of 1964, as labour was withheld and demands made by the workers. The picket was also illegal in terms of the *Riotous Assemblies Act*.

the directors of the four stevedoring companies. However, without a resolution to the dispute, on Sunday 6 April 1969 employers' dismissed the 1,043 strikers. Dock workers were instructed to collect their severance pay by employers and then given four hours to leave Durban by the Bantu Administration and the police.

By Monday, 7 April 1969, it was estimated that there were 40 ships needing stevedoring gangs. To address the backlog of shipping the DSLSC management re-hired by screening dock workers who reapplied for work. The estimated 450 dismissed stevedores were re-engaged to make up a core of trained workers to rebuild the workforce. Influx control was suspended after the dismissals to enable a short-term surplus in labour supply. By Tuesday 8 April there were 1,502 workers available, plus another 250 for the night shift, although this fell short of the required 2,400.

Post-strike

In the strike's aftermath a problem for employers was training the new workforce and restoring productivity to previous levels. As well as a decline in productivity, the effect of the mass influx of inexperienced workers was also reflected in the accident and fatality rates.²¹⁷ This problem was exacerbated by an increase in imports in 1970 reflecting a recovery in the South African economy. Shipping companies operating the South African route consequently introduced a surcharge on freight to Durban because of the delays they faced.²¹⁸

With the increasing numbers of ships lying idle off Durban harbour, the shipping industry criticised SAR&H for being unable to move landed cargo away from the port. SAR&H's inefficiencies were blamed on its commitment to using white labour and delaying further mechanisation. Stevedoring companies utilising the DSLSC, on the other hand, were not criticised because of their ancillary position to SAR&H. In 1967 both SAR&H and the

²¹⁷ While the last time the accident rate had risen above 200 was in August 1967, in the month of the strike, April 1969, the rate soared above the 200 mark to an unprecedented 313 in June 1969 (Hemson, 1980).

²¹⁸ At the beginning of the year there were twenty-two ships lying idle off the Durban port, some of them facing a five-day delay in getting a berth. It was estimated that the number of general cargo ship days lost each year was growing rapidly from 364 in 1968, to 521 in 1969, and to 1 189 in 1970. The Durban Chamber of Commerce estimated that unless urgent action was taken the figure could exceed 2,000 ship days lost at a cost of R4 million in berthing delays to shipowners, quite apart from other costs. The shipping companies who claimed they lost up to R2 000 for each day a large freighter lay idle in anchorage off Durban raised their freight charges to commerce and industry twice towards the end of 1970 (*Sunday Tribune*, 24 January 1971 quoted in Hemson, 1980).

DSLSC accounted for a total of 10,500 persons directly employed in the Port of Durban (Horwood, 1969: 85).

The shipping industry saw three main elements as necessary for SAR&H to introduce to address the inefficiencies. These were to: reverse the racially graded structure of employment; de-nationalise the docks; and, increase the level of mechanisation. The main criticism however was against the 'administrative' racial job allocation practiced by SAR&H. Out of SAR&H's total of 7,766 employees in Durban, 34 per cent were classified white and 61 per cent classified black. Of the total SAR&H employees 14 per cent of white and 19 per cent of black labour were casual (*ibid*: 78). SAR&H only allowed whites to operate harbour cranes, drive fork-lift trucks, check cargo landed, and have overall supervision for the gangs of black workers. White labour was also relatively protected from competition and unemployment, and demanded higher wages.

Employers' proposals for a more extensive utilisation of black labour at a lower cost was based on racial wage differentials (Hemson, 1980).²¹⁹ However, SAR&H's conditions of service and wages for black dock workers were worse than that of the DSLSC.²²⁰ In 1969 the daily basic wage was R1.40, in comparison with the daily wage of a stevedore set by Wage Determination 251 of R1.80. Unlike the stevedoring companies, SAR&H had not introduced weekly employment for the wharf and casual railway labourers. For SAR&H there was little incentive to improve the conditions of black labourers.

However, by the late 1960s the dock workers in Durban were handling 59.2 per cent of the cargo and 35 per cent of the shipping. As it was then estimated that only 33.7 per cent of capital as invested in plant and equipment in South African harbours (Horwood, 1969: 45, 44, 98), the low level of mechanisation in Durban continued the reliance on the cheap and efficient workforce – one with increasing levels of skill specification. This however now more problematic given the decline in productivity following the stevedoring strike in 1969 (Hemson, 1980). Mass sacking as a form of labour control was increasingly becoming a non-viable solution to resistance from black workers. Also, with only limited

²¹⁹ Subsequently, some modifications were made to allow Indian shunters' mates and raise the total number of African forklift drivers to 170 (Hemson, 1980).

²²⁰ In 1967 the casual labourers working day extended from 7.20am to 9.00pm, of which the period 5.00pm to 9.00pm was considered overtime. The majority of black casuals in Durban were housed in four compounds owned and run by the Durban Corporation, two at the Point, one at Wests on the Bluff and one at the Bayhead, with the remainder of the workforce accommodated in Umlazi township. Most of the permanent black employees lived in the KwaMashu township (Horwood, 1969: 82).

mechanisation of stevedoring work the intensity of labour relied increasingly on efficient black supervision, which in turn depended upon the adherence of a collaborative segment of the black workforce. This too was increasingly problematic after the 1969 strike.

The increase in trade volumes had therefore led to the situation where the extension of the working day and intensification of labour were mutually exclusive. However, in the absence of any alternative mechanisation plan, longer working hours was maintained. This in turn was to generate an entirely unprecedented reaction from Durban's dock workers in the early 1970s.

5.2.2 SAR&H in the 1970s

According to Bond (2000: 22), the slow down in the South African economy from the mid 1970s led to the state investing in outward export orientated transport infrastructure, as the construction of Richards and Saldanha Bays and formation of South African Airways demonstrated. During the 1970s SAR&H therefore attempted to facilitate growth in the economy by extending the capacity of the transport system. Scoping investments in containerisation was a part of this commitment to shipping and port infrastructure. State spending in transport and storage and communications increased by 65 per cent between 1970 and 1977 per annum in real terms (*ibid*: 22). However, SAR&H's investments also led to an extension of black workers as a component of its total workforce, although this extension was predicated on maintaining wage differentials between race classifications.²²¹

Table 12 **Employment figures and average earnings in SAR&H - 1971**

	Numbers Employed	Average monthly salaries and wage R
Whites	111,526	318
Coloureds	15,231	71
Indians	1,409	54
Africans	99,503	53
TOTAL	227,669	

Source : *SRR, 1972: 317*

As a result of this extension plan, major shortages for graded labour existed, especially

²²¹ SAR&H experienced its own boom during the 1960s as assets doubled from R1,410 million in 1960 to R2,634 million in 1970. Imports rose by 12.9 per cent and exports by 75 per cent (with the closing of the Suez Canal in 1967 significantly increasing the cargo handled by South Africa's ports).

between 1970-72. This resulted in a major restructuring of job colour bar restrictions, as well as the labour processes themselves in the ports and railways, with blacks increasingly moving into manual jobs vacated by whites moving into supervisory and clerical positions (Davies et. al., 1988a: 98-9).²²² In 1971 it was estimated 15,355 formerly white jobs had been transferred to black employees (*SRR*, 1972: 318-9). In 1972 a further 2,871 positions were transferred in both graded and non-graded positions (*ibid*: 320).²²³ By 1974 the number of black employees had gained significant momentum for the National Party government to incorporate these workers into SAR&H's Pension Fund, first established for whites in 1941 under the *Railways and Harbours Pensions Act*.²²⁴ By 1978 SAR&H employed 22,000 blacks employed in previously white jobs with only 6,889 of these positions classified as temporary workers (Davies et. al., 1988a: 99-100). However, despite the rate of job transfers between racial groups, the racial wage gap remained. Table 12 demonstrates the extent of the gap in 1971.

The private sector stevedoring companies maintained different skill levels for ship based stevedoring. These were largely preserved for black workers, under the direct supervision of senior *indunas* or whites. More significantly, the increased demand on stevedoring services in the expanding economy of the 1970s increased the strategic position of all dock workers. The types of grievances similar to that of black SAR&H workers were the racial wage differential and persistence of the job colour bar. These factors played an important part in shaping the emerging movement to reform black unions in the docks which were also redeveloping in the wider community.

²²² The then Minister of Transport, Ben Schoeman, in 1971 indicated a shortage of 1,206 white staff in the port of Durban. He also addressed white railway workers warning that they would have to become accustomed to 'an increasing number of Blacks taking over work traditionally done by Whites' (*SRR*, 1972: 319).

²²³ An example of this trend was in Durban when in 1973 SAR&H appointed 34 Africans as crane drivers and 87 as fork-lift drivers in place of whites in Durban (*SRR*, 1973: 258).

²²⁴ The pension fund excluded foreign nationals and casual labour, with eligibility being based on five years of service (*SRR*, 1974: 307).

5.2.3 The Durban strike wave

In Durban in September 1971 an estimated 2,000 dock workers employed by the DSLSC threatened strike action in demand of increased wages. Again, the demands were made anonymously for fear of employer reprisals. The DSLSC announced a 30 per cent increase in wages from October (*SRR*, 1972: 247). In July 1972 dock workers then requested the minimum weekly wage of R8.50 to be increased to the poverty datum line of R18.²²⁵ The dock workers were assisted from 1971 by staff and students at University of Natal, who became involved in the Wages Commission.²²⁶ One student, David Hemson, came into regular contact with the stevedoring workers, was assigned the task of developing members of the General Workers' Benefit Fund (GWBF) employed by stevedoring companies into an organised section of the fund (see Appendix A).²²⁷

On 23 October 1972 an estimated 1,000 stevedores went on strike, after a number of workers who appeared at the Wage Board sitting were dismissed by the DSLSC compound manager. In an attempt to avoid employers' intimidating individuals, a letter from 'The Stevedoring Workers' to the Wage Board in 1972 demanded the return of 'those who stood for us in 1969', attacked the privileges of the indunas, and presented a demand for R18 a week (Hemson, 1996b: 160). The manager of the DSLSC, W. S. Dreyer, issued an ultimatum that dock workers either return to work and await the Wage Board determination or face dismissal. Many dock workers were subsequently sacked (*SRR*, 1972: 325-26).²²⁸

In Cape Town, dock workers also attended the Wage Board hearings on 24 October 1972, later beginning an over-time ban that continued for 31 days. This ended after the Wage Board decided to increase minimum wages by approximately 40 per cent (Friedman, 1987: 45, *SRR*, 1972: 327).²²⁹ The election of negotiation committees was a further outcome of the action in Cape Town (Harvey, 1997). The minimum rate in Cape Town was now R16

²²⁵ Other demands included danger pay allowance, a holiday bonus, a skill determination for operating machinery, shorter working hours and non-compulsory overtime.

²²⁶ They also produced pamphlets and workers' newspaper *Isisebenzi*.

²²⁷ Hemson's initial role in organising dock workers spanned until January 1974 when he was banned the following February.

²²⁸ Seidman (1994: 174-75) suggests that SACTU, never formally banned inside South Africa, had established an office in Durban in 1972 and may have had some links to the dock workers strike that year.

²²⁹ In October 1974 the Cape Town dock workers again undertook an overtime ban to limit working hours and raise wage levels. The dispute was settled when SAR&H initiated changes from a twenty-four hour schedule to a two-shift system, from 6.00am to 2.00pm and 2.00pm to 10.00pm, which the stevedores immediately accepted (Maree, 1974: 62).

per week, while in Durban it was R9.50 for a five-day week plus R1 for every day worked. The Wages Commission recommended increases for daily-paid stevedores from R2.30 to R3.50 a day in Cape Town and from R2.07 to R3.20 in Durban. However, the Durban stevedore employers later rejected the Wage Board recommendation and lodged a formal objection with the Minister of Labour (*SRR*, 1972: 327-8).

Despite the set-back in Durban, both this and the Cape Town actions signalled a return to initiating demands in an industry that was seen as one of the 'key points' of the apartheid government's economic structure (Hemson, 1996b: 161). As the 1972 reaction of the DSLSC to striking dock workers in Durban indicated, mass sacking as that undertaken in 1960 and 1969 as a form of labour control were an increasingly non-viable option to address the necessity to enhance stevedoring productivity.

These actions in the docks were also seen as significant to the wider issues wage and job inequities under the apartheid government and the lack of effective trade union organisation to seek these demands in the wake of the decision by SACTU to pursue armed struggle in 1961. They were arguably a precursor to the re-emergence of independent black trade unions, which emerged, often with the assistance of radical student activist organisations, in the early 1970s. This was best characterised by the Durban strike wave in 1973 (see Appendix A). This re-emergence of independent trade unionism until its repression in the wake of the Soweto massacres in 1976 was to establish the basis for the trade unions that ultimately shaped the COSATU federation.

In summary, despite the limited success in wage increases achieved in the 1972 actions in both Durban and Cape Town, South Africa's docks were left largely unorganised except for nascent organisation in Cape Town. Despite the ineffective attempt to organise dock workers, structural changes to the port industry were underway which were to profoundly affect the dock labour market and industrial relations.

5.3 THE INTRODUCTION OF CONTAINERISATION IN SOUTH AFRICA

The increase in trade volumes and intensification of labour were mutually exclusive - where lengthening the working day led to lower work intensity. This decline in the level of productivity from conventional stevedoring led employers and shipowners to increasingly focus on increased mechanisation. The era where cheap labour supply could negate the necessity to introduce new technology was also diminishing, given the exponential

extension of containerisation internationally in the 1970s. However, the switch to introduce containerised shipping and cargo handling techniques was comparatively over a longer timeframe in South Africa as stevedoring was predicated on the abundance of cheap labour and the nature of shipping interests owned by South Africa. The following briefly explores the connection between South Africa's shipping industry and the introduction of containerisation.

5.3.1 Shipping under the National Party

The experience of World War Two led to the establishment of South African flagged shipping. During this period the British government had appropriated its merchant shipping fleet, including Union-Castle line, for the war effort (Berridge 1987: 8). Post-war the Smut's United Party government sought to address this situation by achieving a concession from Union-Castle to establish a number of vessels under the South African flag. However, events soon overtook this agreement as the National Party, largely hostile to the interests of British capital, came to power with the intention of establishing a South African merchant fleet.

The demand for shipping led to a number of new lines emerging in South Africa from 1946. These included South African Lines, Alpha South African Steamship Company, and the South African Marine Corporation. It was the latter of these lines, called 'Safmarine', which emerged as the most prominent new player. The South African Dr H. J. van der Bijl and an American shipping line, the States Marine Corporation, formed Safmarine in 1948 when it purchased three vessels from the US Maritime Commission to begin a regular service between South Africa and North America (Berridge, 1987: 18-9).

Both SA Lines and Safmarine were permitted membership of the Europe-South Africa Conference in January 1950 (*ibid*: 35-6). In 1958 Safmarine's major shareholder, States Marine, sold its 54 per cent shareholding to the South African government's Industrial Development Corporation (IDC) (Young, 1991: 59-60; Berridge, 1987: 78). South Africa's largest insurance company, Old Mutual, then became the chief shareholder of Safmarine (Young, 1991: 64).²³⁰ These developments intensified pressure on the Conference to increase the sailing rights of Safmarine (Berridge, 1987: 79).

²³⁰ Old Mutual is the largest life assurance company in South Africa – and in Botswana, Lesotho, Swaziland, Malawi and Zimbabwe. In 1986 it was estimated Old Mutual controlled 0.8 per cent of shares listed on the Johannesburg Stock Exchange. However, it also held shares in a number of the seven companies that control 80 per cent of the JSE (Hanlon, 1986: 67-68). Old Mutual did not normally acquire controlling interests in companies, but in 1984 took control of Safmarine.

Therefore, within just over ten years the National Party government had achieved control of its own South African flagged shipping line, Safmarine, with a major stake in a number of emerging conferences, including a dominant role in the important Europe-South Africa conference. This development was to have major ramifications for future changes in the nature of shipping services to South Africa's ports and indeed on the development of those ports.

5.3.2 Container shipping and the National Party

The influence of the National Party government on domestic and international shipping services was to come under renewed pressure with the introduction of the new technology of containerisation. Since 1965 the South African government had pressured the Europe-South Africa Conference to examine the introduction of 'new transport techniques'. However, the Conference concluded in 1967 that containerisation was feasible but not economically viable. Northbound cargoes from South Africa to Europe were seen as not suitable for containerisation. Significantly, according to Berridge (1987: 170), "there would be few savings to be made in the Republic's ports since they did not suffer from high labour costs and trade union militancy which were encouraging containerisation on other routes".²³¹

In March 1968 a working party was established between members of the Conference and South African government, headed by Professor W. F. J. Steenkamp. The working party reported in August 1970 and concluded in favour of the introduction of containerisation as soon as possible.²³² Steenkamp also recommended that SAR&H should consider the possibility of "leasing the container berths and their stacking areas to the shipping companies, provided they will be operated without discrimination" (quoted in Berridge, 1987: 171-72).

²³¹ There were also problems within the Conference securing new agreements against a divergence of interests that included: the preoccupation with more immediate and complex issues; to wait and establish how containerisation was being introduced to Australia, with its similar trades as South Africa's to Europe; and, jeopardising the existing investment in mail and refrigerated vessels (Berridge, 1987: 170).

²³² Steenkamp argued that the direct benefits of containerisation included: the faster turn-around times of vessels; the greatest part of the capital cost through investing in new vessels and boxes would be borne by the shipping companies; and, the government would be required to provide only approximately 20 per cent of the total costs for port and inland facilities, or around R20 million for servicing a five ship fleet (Berridge, 1987: 171).

The Conference was still undecided on how to approach the introduction of containerisation by December 1972. Events then overtook the National Party government's deliberations. This occurred when the Europe-South Africa Conference sought the introduction of container vessels after the Norwegian controlled 'outsider' shipping company, Enterprise Container Lines (ECL), registered under the South African flag and began providing the first containerised shipping service for the Europe-South Africa route from January 1973 (*ibid*: 169).²³³ This led to a number of the lines, including Safmarine, establishing an Executive Planning Board (EPB). The EPB was to propose a response to the Steenkamp report and the ultimatum by the Secretary for Commerce, Joep Steyn, for the Conference to develop a proposal by December 1973 (*ibid*: 172-73). The EPB reported that the introduction would be complete by 1977 with an initial ten cellular vessels and roll-on/roll-off (Ro-Ro) vessels, both with perishable capacity (ie. for the refrigerated carriage of fruit and meat) (*ibid*: 174-75).²³⁴ Steenkamp's recommendation that container berths and stacking areas be leased to the shipping lines was however rejected by SAR&H, which was to remain in control of the berths (*ibid*: 176).

In July 1977 the South African Conference introduced containerisation estimated to have cost US\$1.5 billion (*ibid*: 210-11).²³⁵ The Executive Planning Board also implemented a number of changes in organisation, forming in early 1976 the Southern African Europe Container Service (SAECS) (*ibid*: 211-13). SAECS began to dominate the container service and established Southern African Container Depots (SACD) to provide logistics services to

²³³ By 1977, Safmarine estimated that ECL was carrying 16 per cent of the total break-bulk cargo and 83 per cent of containerised cargo in the Europe-South Africa trade. ECL approached the Conference for membership in mid-1977. This reflected the imminent container capacity of the new builds coming into service for the Europe-South Africa Conference that year (Berridge 1987: 208-08).

²³⁴ Whittaker (1975: 239-40) approximates that fourteen cellular vessels replaced 100 conventional ships then servicing this trade. Ten of the cellular vessels serviced Northern Europe-South Africa, while the remaining four serviced the Mediterranean-South Africa trade. The lines operated on a 5 ½ day frequency. The participating conference lines ran a joint service operation where each were able to ship containers by partners' vessels through a slot sharing Scheme. Safmarine controlled approximately 40 per cent of this trade (*ibid*: 240).

²³⁵ Safmarine and Unicorn now invested heavily in container liners. Safmarine during the 1970s built in France yards for US\$70 million each, four 2,400 TEU container vessels with capacity to handle refrigerated boxes (Young, 1991: 70). A consequence of cost of transferring to new container vessels led South African Lines agreeing to a takeover by Safmarine (*ibid*: 71). In 1977 Unicorn built two container vessels in Durban to move 350 boxes each on the trade between Durban and Walvis Bay and later also bought two French built Roll-on Roll-off vessels to service break-bulk and car carrying trade between Cape Town and Durban (*ibid*: 75). Safmarine later formed SafBulk as the carrier of bulk commodities. However, as the majority of export bulk commodities as coal, ore and steel, remained shipped by foreign carriers, South African shipowners and brokers preference is to hire foreign carriers for bulk commodities as their trade comprises a one way haul. Contracts with bulk vessels are therefore terminated at the end of the voyage (*ibid*: 76).

the landside movement of containers. ECL also announced its withdrawal from the container trade due to Norwegian government's decision to obstruct trade with South Africa on political grounds (*ibid*: 215).

The establishment of South African flagged container shipping that could participate in international conferences was an important component to the National Party's policy of 'Transport Diplomacy'. Berridge (*ibid*: 220-21) argues the National Party government had gained important concessions from the Conference. Firstly, in its objective to establish a national merchant marine, South Africa rose from less than 130,000 gross tons under its flag in 1947 to 273 vessels over 600,000 tons in 1985. The South African flag was then in a position to be able to carry at least half of all foreign trade. Secondly, the government through the Conference established discrimination against Southbound cargo freight rates in favour of Northbound trade. This partially subsidised the agricultural sector and protected domestic manufacturing. Thirdly, the Conference provided some security against sanctions and provided government influence over trade relations with neighbouring countries.

These concessions secured the shipping leg for South Africa's transport network, which increasingly gained regional importance during the campaign of destabilisation waged by South Africa against its northern neighbours, targeting specifically the regional transport network (see Appendix C). In turn these factors added to the significance of containerisation being introduced into the port of Durban.

5.3.3 Containerisation in the port of Durban

The strikes of 1969 and 1972 in Durban led to extensive losses through ship delays and illustrated the limitations of the stevedoring industry's labour control measures. Costs were also escalating due to labour intensive operations and marginal scope for increased productivity due to limited mechanisation. There was also an extensive pilferage of cargo noted by insurance (Young, 1991: 69).

In contrast, the benefits of containerisation for stevedores were a dramatically reduced workforce, whilst for shippers the alleviation of a congestion surcharge of 20 per cent for freight and a reduced risk of pilferage. Similarly, for ship owners, as each container represented up to 20 tonnes, the speed of working was much greater so that the ship's turn-around was shorter, assuring a greater number of round voyages per year and greater revenue (Whittaker, 1975: 241; Young, 1991: 69).

SAR&H absorbed the majority of investment costs in capital equipment and infrastructure when containerisation was introduced from the mid-1970s. The investment necessitated ports setting aside special wharves, providing appropriate cranes to lift containers and transport them to and from the stacking areas. There was also an effect upon other modes in the transport interface, with special rail cars and dedicated road transport required. An array of new ancillary business was also generated for the construction and repair of containers and shipbuilders either modifying existing general-cargo ships or building larger sophisticated container ships (Young, 1991: 69). However, there were other costs for shipping companies, SAR&H, and stevedores in the transition to containerisation.²³⁶ Stevedores to a lesser extent needed to re-invest in capital equipment, as they primarily either worked bulk or break bulk trades or undertook lashing services. Costs for stevedores were to be offset by the expected shedding of the workforce. Accordingly, with the advent of containerisation, labour productivity measured in tonnes handled per employee across South Africa's harbours increased from 3,795 in 1971 to 4,286 in 1977 and 7,602 by 1981 (Davies *et. al.*, 1988a: 99-100).

Before 1970 there were thirteen stevedore companies across South Africa, but by 1980 there were only three. This was partly a result of shipping companies' realisation of the effects of containerisation on the labour process and consequently led to their selling stevedoring operations to independent stevedoring companies like SASSCO. According to Morris, the result was a very rapid and major concentration of capital in the stevedoring industry (1986a: 93) (see Table 13).

²³⁶ Many shipping liner services were now largely made redundant at huge cost through either the scrapping of vessels or their modification (Whittaker, 1975: 241). SAECS consequently spent an estimated US\$1500 million to adapt to containerisation. Similarly, SAR&H's existing four-tonne wharfside cranes were inadequate to handle containers (Young, 1991: 70, 75). SAR&H consequently updated port facilities in 1977-78 at a cost of £150 million by contracting Paceco portainers to be manufactured under license in South Africa for use in Durban, Port Elizabeth, and Cape Town (Whittaker, 1975: 241).

Table 13 South African stevedoring companies - 1960-82

1960-70	1976	1981	1982
Brock & Co			
Buffalo Bay Steve.	SASSCO	SASSCO	
Cape Town Steve.		Freight Services	
Table Bay Steve.			
AAAS	Aero Marine		
Tafelberg Steve.			SAS Ltd.
Consol. Steve.			
East London Steve.	Rennies Group		
Southern Steve.			
Thomas Watson Steve.		RGCS	
ACS	Grindrod Group		
Frank Robb & Goodwin			
Storm & Co	Insolvent		
Afship Stevedores	Dissolved		

Key:

AAAS African Associated Agency Stevedores
 SASSCO South African Stevedores Servicing Company
 RGCS Rennies Grindrod-Cotts Stevedores
 ACS African Coasters Stevedores.

Source : (Morris, 1986a: 95)

The advent of containerisation had led the stevedoring companies to the realisation that labour supply companies were no longer suited to their requirements and that a new system of labour control and utilisation was required (*ibid*: 103). Consequently, the DSLSC was disbanded in 1979 after SASSCO's withdrew its support. The dock workers were then divided up proportionately between SASSCO, Rennie's and Grindrod-Cotts under each company's direct control (*ibid*: 104). Importantly, the stevedoring companies in Durban were able to avoid expensive redundancy settlements due to insufficient labour laws that prevailed for black migrant workers. Consequently, in Hemson's (1996a: 87) assessment, they dumped the cost of change directly onto the workers.

In 1980 SASSCO controlled an estimated 60 per cent of the stevedoring business, whilst Rennie's Stevedoring and Grindrod-Cotts Stevedoring accounted for the other 30 to 40 per cent. With the merger of Rennie's and Grindrod-Cotts in 1981 to form Rennie's Grindrod-Cotts Stevedoring (RGCS), the two remaining stevedores employed a similar number of dock workers and maintained parity in market share.

SASSCO, as part of Freight Services, was backed by Anglo-American whilst RGCS was within the Rennie's group, in turn, linked to General Mining Union Corporation (GENCOR) (Baskin, 1982: 24). Rennie's was also connected with the Hong Kong based Jardine-Matheson until 1983 when it disinvested from South Africa, selling its 74 per cent share in Rennie's to Old Mutual. Formed in the Cape Colony in the nineteenth century Old Mutual was then South Africa's largest life assurance company, which also functioned as an investment company with holdings across various sectors in the South African economy (Davies et. al., 1988a: 80).²³⁷ The advent of containerisation had therefore resulted in SAS's monopolisation of stevedoring in South African ports by the early 1980s (Hemson, 1996a: 90).

²³⁷ In August 1982 SASSCO bought out RGCS and renamed itself South African Stevedores (SAS). Safren was formed in 1984 after Old Mutual's acquisition of Rennie's from Jardine Matheson in 1983 and in 1984 its purchase of the National Party government's controlling stake in Safmarine. In turn, Safmarine's 60 per cent interest in Manica-Freight Services (the other 40 per cent was held by Anglo) led to Safren's control over both stevedoring and freight forwarding. With the high level of conglomeration in South African monopoly capital, the formation of Safren led to the cross ownership of Old Mutual and Anglo in stevedoring and freight forwarding. Manica and Rennie's freight forwarding agencies together controlled 90 per cent of South African forwarding and clearing, the vast majority of forwarding in the neighbouring states, and control over the operations of container depots in the region. Manica and Rennie's then merged to form Renfreight in 1985 (Hanlon, 1986: 331). Renfreight, as forwarding agencies, organised transport paperwork and arranged ships and trains, selecting the respective port. Forwarding advice by Renfreight led to the intensive utilisation of both Safmarine and South African ports (*ibid*: 70).

During this period however, Durban was to secure its position as the pre-eminent port within South Africa as it primarily serviced the hinterland of the greater Johannesburg or Pretoria-Witwatersrand-Vereeniging (PWV) region. Consequently, the catchment areas of Cape Town, Port Elizabeth and East London shrunk to their immediate regional hinterlands (Fair and Jones, 1991: 37). The tonnages (excluding classified petroleum products) handled by the three ports fell by an estimated 30 per cent from 14 million tonnes per year in the late 1970s to 10 million by the late 1980s. Although the construction of container facilities did take place in Cape Town's Ben Schoeman Dock and Port Elizabeth's Charl Malan quay in 1977, East London was relegated to a second tier port to be serviced by feeder ro-ro vessels from Port Elizabeth and Durban. Similarly, the South Africa enclave of Walvis Bay on the Atlantic coast was also a second tier port serviced by feeder vessels from Cape Town (*ibid*: 37-41).

With the initial outlay in capital costs throughout the 1970s estimated at R2000 million, SAR&H needed to be recoup its outlay. One method of achieving greater profit apart from increased productivity and efficiency in port operations was established through regional competitive advantage (see Appendix C). The introduction of containerisation after 1977 (coupled with the earlier automation of train control after 1974) established the South African transport system's technological advantage over other ports in the southern African region. As a result, it has been estimated that SAR&H earned R200 million in 1979 and R240 million in 1980 from carrying the goods of neighbouring states. These earnings helped subsidise SAR&H's modernisation of ports through containerisation (Hanlon, 1986: 70). Political developments in the southern African region during the 1970s and 1980s therefore assisted the establishment of transport and trade dependency in the region upon South Africa's transport system.

The competitive position of the port of Durban increased also with the demise of regionally significant ports as Lourenco Marques (renamed Maputo) after the independence of Mozambique from Portugal in 1975. The Total Strategy and destructive engagement policies adopted by the apartheid regime evolved its own logic of 'Transport Diplomacy' during the late 1970s and early 1980s. This ensured not only the sabotage of both transport infrastructure and trade through other southern African ports, but also its redirection through Durban. Controls over labour within the port of Durban therefore became increasingly significant to the continued viability of the apartheid economy.

Maintaining trade dependency highlighted the importance of labour control in South Africa's ports. By the late 1970s however this was further challenged with the fall-out from the introduction of containerisation. This led to important changes to both the dynamics of the stevedoring industry, the dock labour market and consequently, trade union organisation. The following expands on the impact of containerisation on the port industry in South Africa and its implications for the dock labour market, specifically in the port of Durban.

5.4 THE WESTERN PROVINCE GENERAL WORKERS UNION

After the dock strikes in 1972 in Durban and Cape Town, it was the latter port where trade union organisation developed that was to have a national presence. The Western Province Workers' Advisory Board (WPWAB) emerged as a coordinating body for independent workers' committees. The WPWAB organising strategy and position on non-registration was to become influential in its organising base, the wider Cape Town region (Bendix, 1996: 203).

Black workers were concentrated into select industries in the Cape Peninsula, including marine engineering, stevedoring and SAR&H. However, black workers only comprised a minority of workers, 14 per cent, compared to coloured workers at almost 50 per cent. This reflected the National Party policy from 1955 that Western Cape province constitutes a coloured labour preference area (Maree, 1992: 1128-9).²³⁸ Also, with constraints over residence an estimated 85 per cent of black workers were migrants housed in municipal compounds (*ibid*: 129).

Given the nature of the labour market in Cape Town for black workers, the WPWAB viewed traditional trade union organising in particular industries as inadequate with limited protection for unskilled black workers. A more general form of organisation was therefore seen as necessary to reflect the numerical strength of unskilled workers and "compensate for their lack of bargaining power based on acquired skills" (Horner, 1987: 13-14). This led the WPWAB to promote 'general' unionism that sought to provide workers with a base as they moved from job to job or industry to industry and therefore ensure a continuity of interest.

²³⁸ Under this preferential policy employers were compelled to employ coloured workers and were required to obtain permits for African workers stating the unavailability of coloured employees. African workers were therefore characterised in the Cape by their working in undesirable low skilled jobs.

Initially, with the formation of the WPWAB, African workers were encouraged to organise by electing factory committees and registering them as workers' committees under the provisions of the *Black Labour Regulation Act* of 1973 (Maree, 1992: 130). The WPWAB then evolved a Controlling Committee of elected representatives of African workers that in 1976 was estimated to consist of representatives in thirteen factories employing about 3,000 workers (Horner, 1987: 15).

But soon the repression of trade unions that followed the Soweto riots also led to a crackdown on WPWAB organisers.²³⁹ Despite these setbacks the Controlling Committee was later reformed in April 1977 and in June 1978 the WPWAB reconstituted itself as the Western Province General Workers Union (WPGWU). This reflected the fact that membership was now across a number of industries within eleven factories (the majority of members in the engineering and construction industries) (Maree, 1992: 235).

The WPGWU's former SACTU organiser, Zora Mehlomakulu, then attempted to organise dock workers in Cape Town. The WPGWU began to make in-roads in the organisation of Cape Town's stevedores - all of which were members of the Cape Town Stevedores Association (CTSA). The CTSA operated as the direct employer of ship based dock workers in Cape Town. The CTSA was also part of the national employers association, the South African Stevedores Council (SASC), based in Durban. Similar associations operated in Port Elizabeth and East London, whilst the DSLSC remained in Durban (Morris, 1986a: 101). These companies sourced and exploited migrant labour as a particular form of labour control.²⁴⁰ The following expands on the emergence of trade union organisation across South Africa's stevedoring industry in the late 1970s and early 1980s.

5.4.1 Cape Town

In Cape Town an estimated 600 dock workers worked within three stevedoring companies: South African Stevedores Services Company (SASSCO) (a member of Freight Services);

²³⁹ In September 1976 of WPWAB organiser, Storey Mazwembe, who was detained and found dead in his cell. By November a further five WPWAB officials were placed under banning orders (Maree, 1992: 134).

²⁴⁰ In Port Elizabeth contract workers migrated from Peddie (200km from Port Elizabeth), in East London migrants were from the Ciskei (although after the 1970s stevedores were mainly local East London residents) and in Durban contract workers were drawn from the KwaZulu homeland (areas as Nongoma, Mahlabatini, Mtunzini). Consequently, as migrants the majority of dock workers resided in compounds in the urban areas of these cities' ports (Morris, 1986a: 99-100).

Grindrod-Cotts; and, Rennies. The WPGWU organisers initially made contact with dock workers through their accessing the hostel complex in Guguletu, one of the Cape's townships. By March 1979 weekly meetings were being held attended by an estimated 200 dock workers. In May the WPGWU demanded a recognition agreement from the CTSA management (WPGWU, 1980: 60-61).²⁴¹ Seven months after the initial request by the WPGWU for recognition, a general meeting attended by approximately 400 workers on 8 December 1979 elected a three-man delegation that requested a meeting with the CTSA management. However, this delegation was only to be informed that SATS had refused the CTSA permission to hold a meeting with the WPGWU committee.²⁴²

Dock workers subsequently embarked on a 24 hour strike (*ibid*: 65).²⁴³ The following day the dock workers were called to a meeting by the CTSA management who informed them that their committee would be recognised.²⁴⁴ A WPGWU mass meeting on 15 December led 300 dock workers to then join the union despite the refusal of the SASC to negotiate with unregistered unions (*ibid*: 66-7).²⁴⁵

The CTSA recognised the Cape Town Stevedores Committee (CTSC) after the joint negotiation of the final contents of its constitution. Although recognition of the constitution did not grant the WPGWU an official recognition agreement, in practice the WPGWU gained considerable rights (Maree, 1992: 136). The WPGWU's membership figures were

²⁴¹ In August a representative committee was elected comprising five representatives from each of the three firms, as well as a Chairman and Secretary. However, the CTSA initially refused to recognise either the WPGWU or the dock workers' committee as neither was officially registered (WPGWU, 1980: 62). SASSCO's parent company, Freight Services, had sought a meeting with the committee in mid-November but was later forced to renege under pressure from the CTSA.

²⁴² The manager however also informed the dock workers that a meeting was to be held the following day in Durban with the SASC to discuss the issue of recognition and that he would report back on 14 December.

²⁴³ The SASC met in Durban issuing a press statement that stated the SASC had decided to form a National Employers' Association (in terms of the *Industrial Conciliation (Amendment) Act* of 1979). Secondly, that the Association was in favour of workers exercising trade union rights through the Industrial Council system. Thirdly, that the Association would talk to registered and unregistered trade unions. Fourthly, that the Association would only enter into a negotiation with registered representative unions.

²⁴⁴ During this time TUCSA had also been encouraged to intervene in an attempt to recruit dock workers. When TUCSA called a meeting for Saturday 15 December, the WPGWU reciprocated with its own mass meeting. The WPGWU mass meeting was attended by over 300 dock workers whilst TUCSA's drew only one worker.

²⁴⁵ The issue of registration remained prevalent for dock workers in Cape Town and elsewhere before the *Labour Relations Act* of 1981 that amended the non-recognition of migrant workers as 'employees'. As many African dock workers hailed from the Homelands their membership to the WPGWU remained outside of the official industrial relations framework.

then estimated at 500 workers (WPGWU, 1980: 75).

According to WPGWU organiser, Mike Morris, the recognition in Cape Town had implications for the national organisation of stevedores into one union (Morris, 1986b: 101). Firstly, the strike in Cape Town allowed the progressive Freight Services management (who owned SASSCO) to facilitate recognition in other ports (*ibid*: 101). Secondly, organising all of Cape Town's dock workers, then working for SASSCO, Rennies and Grindrod-Cotts, into one joint organisation, was a crucial lesson for organising the other ports (*ibid*: 102). Accordingly, the WPGWU began to take advantage of the opening created through the concentration of capital in the stevedoring industry to enable it to engage in national collective bargaining whilst remaining an independent trade union.

5.4.2 The General Workers Union

An unsuccessful meat workers strike in Cape Town organised by the WPGWU coincided with the organisation of stevedores. The May 1980 meat industry strike began when the WPGWU attempted to organise Table Bay Cold Storage (TBCS) after it had successfully organised the majority of meat workers, but were then refused recognition by TBCS management. Subsequently, estimated 750 meat workers' engaged in an industry-wide strike within the Cape region.²⁴⁶

The strike ended unsuccessfully after twelve weeks. This was due to a number of factors including: the majority of coloured workers refusal to participate in the strike; the state's detention of a number of WPGWU organisers; and, the anti-strike position of a Black Consciousness group that the strike was unduly impacting on African butchers' livelihoods (Maree, 1992: 136-8). More significantly, the meat workers strike was undermined by the intervention of meat industry employers from other regions by their supplying red meat to the Cape Town region.

Consequently, the WPGWU took the position to organise along industrial rather than a general base, and to organise nationally instead of focussing solely on the Western Cape region.²⁴⁷ In 1980 the WPGWU moved into the Eastern Cape and then Durban to establish

²⁴⁶ The black community also supported the strike with butchers and consumers boycotting red meat over the duration of the strike.

²⁴⁷ The WPGWU still adhered to the political policies of general unions, anti-registration, and opposition to Industrial Councils.

a national presence. To do so its industrial priority centred on expanding nationally union organisation within the stevedoring industry (Morris, 1986b: 103-4).

5.4.3 The General Workers Union in Port Elizabeth, East London and Durban

In August 1980 the WPGWU sent organisers to both the Port Elizabeth and East London dock workers. However, a demarcation dispute emerged in the Eastern Cape principally with the South African Allied Workers Union (SAAWU) and, to a lesser extent, with the Transport and General Workers Union (TGWU) (Morris, 1986b: 105). For SAAWU, as a regional general workers union, controlling its base of East London was critical as it had organised workers 'through a strategy of community organisation linking back to the factories' (Hemson, 1996a: 88).

A demarcation agreement between SAAWU and WPGWU led to the latter organising within East London the SATS workers. Morris (1986b: 105) argues that this agreement was later broken by SAAWU officials who attempted to poach dock workers from the WPGWU. However, the WPGWU's gained the majority of union membership amongst East London's stevedores (Hemson, 1996a: 88). By the end of 1980 the stevedores in East London gained a recognition agreement, whilst Port Elizabeth's stevedores gained a recognition agreement in 1981. At the Annual National Conference in May 1981 the WPGWU changed its name to the General Workers Union (GWU) to reflect its new national organisation.

Durban was crucial to the GWU's attempt to organise the stevedoring industry nationally with around twice as many stevedores as the rest of the ports together (Morris, 1986b: 106). The GWU's attempt to organise in Durban came after employer' controls over labour market supply had undergone tumultuous change with the collapse of the DSLSC in 1979 and rationalisation of the number of stevedoring companies.

In May 1981, the GWU opened an office in Point Road, Durban, for officials that had come from other ports to begin organising in Durban.²⁴⁸ Durban again provided a regionally specific context in which several unions were already organising. As dock workers were largely contracted from rural KwaZulu they were initially suspicious of the Xhosa speakers in the GWU. However, Mr. Gwadzi, who was prominent in organising SASSCO workers in

²⁴⁸ They included 'Rev' Marawu and Mr. Gwadzi, who were joined by a young Durban woman Sindi Mngadi.

Cape Town, by December 1981 had recruited over 500 dock workers predominantly from SASSCO (Baskin, 1982: 18-19).

There were also similarities to organising with the other ports with the majority of dock workers either housed in hostels bordering the docks or housed in township hostels. Organising therefore centred on union organisers and shop stewards accessing these hostels.²⁴⁹

The GWU organisers also confronted an existing system of liaison committees used by the stevedoring employers SASSCO, Rennies, and Grindrod. Within the liaison committees worker representatives were appointed by *indunas* in order to maintain control over dock workers' representation. As management aimed to define the committees on Zulu tribal authority, leaders of the liaison committees had their own constituency and not necessarily the support of workers (Hemson, 1996a: 89). Initially the GWU organisers attempted to bypass the leaders of the liaison committees and, for a period, the liaison committees maintained their separate existence. However, eventually, all these leaders signed on with the GWU (*ibid*: 89).²⁵⁰

A further obstacle to the GWU's organisation was inter-union rivalry. Although the other unions that attempted to organise in Durban never achieved majority membership or recognition for employers, the GWU had the advantage of having organised the other three ports. The largest established union in Durban's docks prior to the entry of the GWU was the Federation of South African Unions (FOSATU) affiliate, TGWU. Earlier established under the General Workers Benefit Fund and then the Trade Union Advisory and Coordinating Council (see Appendix A), from 1978 the TGWU started a renewed organising drive. However, management in both Grindrod and Rennies refused to talk to the TGWU as they remained unregistered under the prevailing legislation.

When TGWU did eventually register, after the FOSATU decision to strategically use the provisions within the Wiehahn reforms (see Appendix A), management still refused recognition claiming the TGWU lacked a 50 per cent membership. By early 1981 when

²⁴⁹ The hostels were considered 'prisons': visitors were not allowed; rooms were crowded and without privacy with up to 20 to 24 men living in a single room; the beds were without mattresses; the quality of the food was poor; there were no proper toilets (only a hole); and, alcoholism was rife (Baskin, 1982: 19).

²⁵⁰ In SASSCO there was Mtshali, in Rennies Philemon Zulu, in Grindrod Shangase.

TGWU was granted access for recruiting membership its active members had been dismissed (Baskin, 1982: 27-28). TGWU then claimed a membership of only around 300 dock workers, mostly within Grindrod.

Two other unions were the National Federation of Workers (NFW) and SAAWU, each with only small pockets of support. Although the NFW later agreed to the GWU organising dock workers and transferred their members, SAAWU and TGWU remained opposed to withdrawing from the docks and came into conflict with GWU.

SAAWU's limited membership was disruptive within the one section where they had a presence. TGWU refused the GWU's offer to jointly organise the docks. However, when Rennies-Grindrod merged in August 1981, dock workers began to join the GWU. By late December 1981 SASSCO dock workers joined the GWU en masse after they successfully intervened against proposed retrenchments.²⁵¹ By February 1982 the GWU had approximately 75 per cent membership in SASSCO, 33 per cent in the ex-Rennies, and a small membership in the ex-Grindrods. TGWU's membership was now only around one hundred in SASSCO and about 700 in the merged Rennies Grindrod-Cotts Stevedoring (RGCS).

The GWU then became the majority union in RGCS through a referendum in early May 1982. Only 277 RGCS workers out of 922 voted against the GWU (Baskin, 1982: 28).²⁵² With the majority of dock workers employed by RGCS and SASSCO joining the GWU, management recognised the GWU as the representative organisation and the TGWU subsequently withdrew from organising stevedores.²⁵³

The primary factor enabling the GWU's recognition in Durban was its response to the decline in working hours by the dock workers and their subsequent demand for a guaranteed

²⁵¹ In early December SASSCO management had informed the GWU that it intended retrenching workers. The GWU organisers, together with four elected workers, pressured SASSCO management with assistance from dock workers in the other ports to postpone any retrenchments. A number of dock workers then resigned voluntarily, each receiving R300 in redundancy payments. As a result the remaining SASSCO dock workers decided to join GWU.

²⁵² The May referendum amongst RGCS workers saw the outcome of 89 per cent support amongst ex-Rennies workers to about 50 per cent support amongst the smaller number of ex-Grindrod workers for the GWU (Baskin, 1982: 30).

²⁵³ SAAWU also unsuccessfully attempted to recruit ex-TGWU members in order to undermine the GWU majority (Morris, 1986b: 106).

wage (Baskin, 1982: 23). This situation was exacerbated as containerisation led to a decline in the average working week. The GWU negotiated with SASSCO the introduction of a three-day guarantee in early 1980 and a four-day guarantee in 1981. However, with the spate of mergers in the industry, as the formation of RGCS in August 1981, workforces remained unconsolidated. The GWU was therefore now confronted with organising three distinct workforces, but only two employers. Despite this a guaranteed weekly wage of 4.6 days was introduced in RGCS in November 1981, which was seen as a major victory for dock workers by mid 1982 (*ibid*: 25-6).²⁵⁴

Table 14 **Approximate stevedore retrenchment numbers in South Africa - 1970-1992**

	1970	1978	1982	1985	1992
All ports	8,000	-	-	2,500	-
PE	-	400	-	175	-
East London	-	270	-	78	-
Cape Town	-	1,000	-	350	-
Durban	2,500	-	2,240	1,248	900

Source : *Morris, 1986a: 94-95 and Hemson, 1996b: 6*

By August 1982 a Durban Stevedores' Committee under the auspices of the GWU began negotiations on a joint constitution between the companies (Baskin, 1982: 24, 28). This however coincided with the emergence of South African Stevedores (SAS) when SASSCO renamed itself after its takeover of RGCS. It now appeared that the stevedoring employers had engaged the GWU to help implement mass retrenchments and maintain stability in the industry (see Table 14). As Morris (1986a: 110) acknowledged "The *quid pro quo* for the stevedoring management was a restabilising of the industry as it entered a most difficult period".

Stevedoring companies had therefore recognised the GWU and provided guaranteed wage concessions on the basis for preparing a drastic program of retrenchments (Hemson, 1996a: 92). The impetus towards labour control set into motion with the advent of containerisation

²⁵⁴ By June 1982 SASSCO paid R12 per day with a four-day wage guarantee if there was insufficient work, whereas RGCS paid a basic R66,50 per week with an additional R2,20 pay for every day worked. The R12 per day at SASSCO's in Durban compared with R15 in Cape Town, R14 in Port Elizabeth's and R13 in East London. In RGCS the various categories of dock worker who worked five days a week earned R57,50 (stevedore-hand) R60,45 (gangwayman) R63,95 (winchman) or R72,70 (Induna).

had therefore resulted in the complete monopolisation of stevedoring in South African ports. Ironically, given the limited and prescribed influence of the black trade unions, this process led to recognition of the GWU to facilitate the mass retrenchment of the dock workforce (*ibid*: 90).

5.4.4 The SATS dispute

The success of the GWU in organising dock workers and recognition by stevedoring employers in 1982, albeit on the basis of restructuring the workforce, was countered in the same year by SATS. This occurred when the GWU attempted to organise SATS wharveside dock workers in Port Elizabeth and East London, after workers had demanded to join the GWU.

Although the GWU had not initially intended to recruit SATS workers, in Durban the GWU began organising amongst railway workers in an attempt to counter the refusal by SATS management to deal with the union (Baskin, 1982: 31). The GWU dock workers in Port Elizabeth and East London had also taken the position that the separation between themselves and the workers in SATS was artificial and began recruiting them into the GWU (Morris, 1986b: 105). Morris (1986b: 105) acknowledged: "The logic of this organising position was unshakeable. In most other ports in the world they would all be regarded as stevedores and organised into one union as dock workers".

After the GWU's recognition by private sector stevedores, SATS took a hostile approach to the GWU's attempt to organise dock workers in Port Elizabeth and East London (1986b: 108).²⁵⁵ SATS had distinguished itself as incorporating among the most repressive and antiquated labour relations practices through its own separate provision under the 1980 *Labour Relations Act* (Green, 1986: 27).²⁵⁶ SATS refused the GWU's request that a workers' committee representing dock workers in Port Elizabeth be recognised and also

²⁵⁵ See also R. White (1983) *An investigation into labour relations in the South African Transport Services: the dispute between the General Workers Union and SATS 1981-1983*, unpublished honours dissertation, Rhodes University.

²⁵⁶ The Federal Council of South African Railways and Harbours Staff Association was established in 1942 with seven white unions, representing in 1982 some 115,000 white employees. Two coloured and one Indian union were also affiliated representing some 25,000 employees in 1982 (*WIP*, 1982: 47). However, SATS staff associations had no bargaining relationship within SATS own labour legislation. Alternatively, the staff associations sent delegations annually to the Minister of Transport to make wage claims which were announced in the railways budget.

objected to the GWU as an unregistered union. SATS subsequently formed its own Black Staff Association (BSA) in April 1981 (Green, 1986: 28).

The BSA was established by the General Manager of SATS, Dr. Kobus Loubser, and claimed a membership of 50,000 out of a potential 130,000 after only six months operation. The BSA was immediately recognised by the Minister of Manpower, Fanie Botha, and soon after registered and affiliated to the SATS Federal Council (Baskin, 1982: 32). There were now eleven in-house staff associations to represent SATS employees.

In response to the BSA proposal SATS East London dock workers began joining the GWU in April 1981 and in June some 400 demanded recognition from SATS. Port Elizabeth dock workers began joining the GWU in October with some 860 dock workers by the end of the year demanding recognition (Maree, 1992: 139; Green, 1986: 29).

SATS then began intimidating and threatening GWU members and in January 1982 dismissed the chair of the Port Elizabeth workers' committee, Jeremiah Tolwana. Although Tolwana had worked in SATS for 13 years continuously, all black workers were classified as 'casual' workers.²⁵⁷ SATS pre-empted court action on the issue of work classifications when Tolwana settled for the 30 days notice pay provided to temporary employees and an agreement that SATS review the terms and condition of its casual employees. The action led SATS to reclassify a number of black workers to 'temporary', which gave them more security. However, existing contract workers were excluded from the reclassification (Baskin, 1987: 306).

In March 1982 the International Transport Workers' Federation (ITF), to which the GWU was affiliated, intervened by requesting SATS recognise the GWU. But SATS ignored the request by claiming the GWU was unrepresentative with a membership of only 1,000 of SATS 8,000 dock workers nationally. Then in June 1982, 264 Port Elizabeth GWU members signed a letter charging SATS railway police were intimidating workers

²⁵⁷ This divide between SATS employees was established under the *South African Railways and Harbours Services Act* of 1960. The Act divided SATS employees into three main categories - casual, temporary and permanent workers. The job security of temporary and permanent workers was protected by the Act's provision where disciplinary procedures involving hearings, were adhered to before a worker in either category was dismissed. Permanent workers could only be dismissed on specific grounds after a reasonable notice period was provided. However, the provisions of the Act did not cover casual workers, with their terms and conditions of service contracts determined by SATS management. This allowed for the dismissal of casual workers with 24 hours notice (Anonymous, 1982: 15).

(Friedman, 1987: 306).²⁵⁸ SATS refusal to recognise the GWU subsequently led to mass resignations from the BSA in 1982 (Green, 1986: 32). The GWU then warned ship based stevedores would become involved in the dock workers recognition dispute through solidarity strike actions, which would threaten supply to Port Elizabeth's auto industry. The GWU also urged stevedoring companies to persuade SATS to agree to a recognition agreement. SATS in turn threatened stevedoring companies that it would withdraw their licenses if they continued to support the GWU position.

In August 1982 an estimated 600 GWU members in Port Elizabeth sent SATS a petition with the ultimatum to negotiate. When SATS ignored the request dock workers undertook a go-slow rather than a strike in order to avoid dismissal. On 1 September SATS dismissed some 400 workers over three days, bussing them out of Port Elizabeth. Ship based stevedores in the GWU threatened a sympathy strike, but were persuaded to return to work to await the outcome of negotiations with both the management of the newly formed South African Stevedores (SAS) and the Department of Manpower (Maree, 1992: 139). The following week, Friedman (1987: 307) argues, the "stevedoring employers ... defused the conflict by publicly criticising SATS and privately urging it to rehire the strikers". The GWU stevedores did not strike again and the ITF did not pursue offers of international solidarity strikes from foreign dock workers. Friedman (*ibid*: 307) argues:

This was largely a tactical decision by the GWU; SATS's threats to stevedoring employers convinced it that it wanted a strike so that it could pressure employers into firing GWU members, thus driving the union from the docks.

The GWU instead took the decision to make representations to the SATS committee investigating staff associations (*WIP*, 1982: 47). SATS therefore demonstrated it could resist the GWU's attempt to organise dock workers, and at the same time, counter the influence of stevedore employers through the threat to withdrawal licenses.

From this dispute emerged the *Condition of Service (SATS) Act* of 1983 that banned all strikes and required disputes to be referred to a Conciliation Board, whose members were appointed by the Minister of Transport, including the chair, with the other half appointed through staff associations (Green, 1986: 28).

²⁵⁸ The ITF also requested SATS Loubser investigate the alleged assaults on dock workers. SATS apparently promised to investigate but then undertook no follow up action.

Following the SATS defeat the GWU emphasised the need for the railway workers to be organised with the assistance of a trade union federation (Morris, 1986b: 109). As the support the GWU received in the SATS strike came mainly from FOSATU in the Eastern Cape (to which the TGWU was an affiliate), aligning to this federation became a priority for the GWU (*ibid*: 109). The defeat now moved the GWU closer to FOSATU as both agreed that “unity was essential if the unions were to organise state owned concerns” (Friedman, 1987: 291).

5.4.5 SATS and licensing

Technological changes such as containerisation had led to changes in the nature and variability of cargo volumes. Consequently, the GWU’s membership of permanent workers was increasingly subject to changes introduced by containerisation and the declining market share of SAS. However, the overriding feature of the stevedoring industry was SATS control over the issuing of stevedoring licenses to various companies. SATS began issuing stevedoring licences to non-unionised stevedoring companies in an attempt to undermine the GWU and negate the recognition agreement it had under the SAS monopoly. As a result ‘the number of stevedore license holders mushroomed’ to 26 license holders by 1985 (Morris, 1986b: 112; Green, 1986c: 31).

The spate of mergers that led to the SAS monopoly over private sector stevedoring reflected the tight margins in the wake of containerisation. However, SATS’s issuing of licenses now pushed these margins even further as the competition in stevedoring rates was through the emergent smaller non-union stevedoring companies under-cutting SAS’s market share.²⁵⁹ SAS was also disadvantaged through the costs of maintaining wage guarantees it had negotiated with the GWU. Morris (1986b: 112) notes:

having created a stable collective bargaining forum in which to attack casualisation and raise wage levels substantially, the GWU suddenly found the stevedoring management it was negotiating with complaining bitterly that it was undercut and losing customers.

²⁵⁹ SATS initiated the involvement of stevedoring licences in 1983 through the assistance of its sister state Iron and Steel Corporation (ISCOR) which offered stevedoring steel contracts to Keeley Forwarding in Durban and Castle Crane Hire in Port Elizabeth (Morris, 1986b: 113). Conditions and wages in Keeleys were inferior both to the 1979 wage determination and those at SAS (*ibid*: 113).

Ironically, to fulfil their new contracts new entrants as Keeley stevedores employed retrenched stevedores from SAS. However, as these workers were previously unionised they approached the GWU for membership. Consequently, after a strike in April the GWU gained recognition at Keeley by early May 1983 (*ibid*: 114). Also when the Stevedores Employers Association (SASEA) drew up a new wage determination in order to standardise wages and conditions in late May 1983, GWU forced Keeley's to fully back-pay workers and standardise wages and conditions with the rest of the industry (*ibid*: 114).²⁶⁰

Despite the success of the GWU in organising Keeley's, concerns remained as to the way SATS dispersed stevedoring licenses to small firms which could draw on casual 'sweated' labour for short periods, but at regular intervals (Green, 1986c: 32). In 1984 negotiations between the GWU and the National Association of Stevedoring Employers led to the publication of a wage order. This was difficult to enforce however as most new employers were not members of the association.

SAS therefore sought to cut its permanent unionised workforce and reduce the guaranteed wage. In response the GWU suggested the formation of an Industrial Council to standardise the labour practices of the other firms. But there were doubts as to whether an Industrial Council agreement could automatically extend to all employers in the industry.²⁶¹ The GWU also saw that SAS's aim was reduce its permanent workforce and draw, undermine the wage-guarantee agreement, and begin a process of replacing unionised with non-union casual labour (Green, 1986c: 28-9).

By 1986 the Cape Town stevedores' guaranteed minimum wage had been in place for seven years. Green (*ibid*: 33) estimated between 1981-86 between 30 and 40 dock workers had retired per year and were not replaced leaving an estimated 340 stevedores employed by SAS. SAS had also began to use casual labour whilst allocating its permanent workforce to

²⁶⁰ The equalisation of wages lasted only until the end of 1983, when GWU negotiated a higher national wage with SAS (who employed 90 per cent of all stevedores) while Keeley's continued to pay lower wages (Morris, 1986b: 115).

²⁶¹ Other solutions were to pressure SATS and ship-owners to re-organise the workload of stevedores and for workers to become involved in the planning of schedules by the Harbour Advisory Board that controlled traffic in the ports (Green, 1986: 33).

limited shifts.²⁶²

The GWU agreed to a reduction in the guaranteed pay from 4.68 days to 3 days until mid-March or until work increased on the proviso that casual labour not be used while permanent workers were on short time. When SAS management refused to accept this the GWU declared a dispute. When mediators could not get the parties to reach agreement they appointed a conciliation board and the opened the way for a legal strike. The dispute was then settled in early April when SAS management agreed to reinstate the guaranteed-wage retrospectively to mid-February whilst retrenchment talks were postponed (*ibid*: 27).

This however proved only ever a stop gap measure in the struggle for the GWU to redress the onset of what was now the structural casualisation of the stevedoring labour market. Despite the GWU's limited successes, casual non-unionised stevedores became an increasingly significant priority to contend with. The GWU now had to organise an almost wholly casualised labour force utilised by small stevedoring firms, which threatened the employment of its permanent members (Morris, 1986b: 113). Morris argues: "Fundamentally the problem was that there existed no statutory collective bargaining forum encompassing the stevedoring industry on a national or port basis" (*ibid*: 115). However, while the GWU remained an unregistered union, a "statutory form of industry wide bargaining was precluded as an option" (*ibid*: 115).

The experiences of the GWU in the early to mid 1980s attempting to organise dock workers nationally, firstly stevedores and later SATS dock workers, profoundly affected their organisational strategy. Firstly, the GWU determined to change its focus from a general workers union to a national industrial union based around stevedoring. Secondly, the experience of the SATS defeat led the GWU to becoming part of a national federation with the greater resources necessary to organise SATS. Thirdly, the need to form an Industrial Council became a priority in order to gain standardised wages and conditions and address the onset of casualisation in the stevedoring labour market. The dilemma for the GWU in establishing a national Industrial Council was their policies of general unionism, non-registration and anti-industrial councils (Maree, 1992: 146). The impetus to change these

²⁶² In January 1986 after a wage agreement that guaranteed a 4.68 days a week, SAS management told the GWU that the amount of work available had declined by about 30 per cent and was expected to decline further. SAS suggested 170 workers go on unpaid leave in cycles pending the retrenchment negotiations for about 90 workers.

policies was only brought about with the wider impetus in the black independent trade union movement with its decision to reform a national federation. This is discussed below.

5.4.6 The GWU and affiliation to COSATU

At the GWU's 1984 Annual National Conference it redefined itself constitutionally as an industrial union - a transport and general workers union - and resolved to be part of forming a new federation (Morris, 1986b: 111). With the amended *Labour Relations Act* of 1981 there was also little difference between the status accorded to unregistered and registered unions (*ibid*: 116). In fact, non-registration acted as an impediment to the GWU by limiting its access to stop orders (the collection of union dues). Subsequently, a special conference in March 1985 unanimously agreed to the GWU's registration (*ibid*: 117).

The GWU had played a major role on two occasions calling for the establishment of a national and industrial federation, the first time in August 1981 and again in April 1983.²⁶³ With the formation of COSATU in 1986, the GWU's emphasis was to now merge with its fellow affiliate the TGWU in order to meet the objectives of the COSATU policy of 'one industry, one union'. At the time of merger the GWU had some 10,000 paid up members of which 4,000 were in the transport sector. The TGWU had an estimated 14,000 members, 6,000 of which were in the goods and passenger road transport sector, 6,000 municipal workers, and 2,000 in cleaning and security sectors. The two unions formally merged on 25 May 1986, retaining the name TGWU, with 22,000 paid up members (Maree, 1992: 141). Jane Barrett, former general secretary of TGWU, was appointed the new TGWU general secretary.

The new TGWU now contemplated the challenge of organising SATS workers, although this was seen as a controversial issue within COSATU.²⁶⁴ SARHWU took the position that private and public sector workers could not be organised in the same union given particular "problems involved in organising railway workers ...[and] peculiar conditions ...at SATS"

²⁶³ The GWU decided against affiliating to the UDF for two principle reasons. Firstly, there was a possibility GWU members could be embroiled in UDF campaigns although not involved in their decision making process. Secondly, as unions are working-class organisations their interests could be subsumed in multi-class organisations. However, the GWU did support the possibility of a wider trade union federation playing a leading role in the national liberation struggle (Maree, 1992: 147). However, the GWU argued it would not itself affiliate to the UDF because it did not want to open divisions amongst its ranks, and in turn, would act on mandates from their members (Lewis, 1988: 244-5 cited in van der Walt, 1996: 15).

²⁶⁴ Unions as SAAWU, for example, argued that railway workers should be organised separately into their own union, as in some European countries (Green, 1986a: 48).

(Green, 1986b: 32; 36). Although TGWU had intended the formation of COSATU to assist its objective of organising both ship and quay-side dock workers, as attempted earlier by the GWU in Port Elizabeth, the reality was that an even more oppressive political and industrial environment prevailed by the mid-1980s. Given this environment it is not surprising that SARHWU sought to organise separately from TGWU. Thus the artificial division of stevedoring and quayside/railway dock workers was set to continue with SARHWU's attempt to organise SATS. This, however, was to have far reaching implications for future organising strategies that attempted to redress structural casualisation.

TGWU were therefore confronted with the more immediate difficulty of maintaining its existing membership amongst private sector stevedores. Primarily these difficulties consisted of the increasing number of small stevedoring companies licensed by SATS that were hiring casual labour and threatening TGWU's permanent membership. Specifically in Durban, TGWU were also threatened by the emergence of a new Inkatha aligned union, the United Workers Union of South Africa (UWUSA). The launch of COSATU in Durban in November 1985 posed political problems for the organisation of stevedores in Durban as the new COSATU federation was firmly aligned to the ANC. This in turn brought opposition from Inkatha in Natal. These issues in relation to TGWU's attempts to maintain and expand its organisation are expanded upon below.

5.4.7 TGWU and UWUSA in Durban

The hostility of UWUSA to COSATU has its origins in the increasing political rivalry between *Inkatha* and the ANC from the 1970s onwards. This rivalry was based on the conflict between *Inkatha's* 'loyal resistance' versus the ANC's 'national liberation struggle' and led to a major split between the two in 1979 (Stratton, 1997: 131). Chief Buthelezi and his Inkatha Zulu cultural/political organisation most prominently represented the politics of 'loyal resistance' or 'collaborative opposition' within the central South African state from

1975.²⁶⁵ Hemson (1996a: 96) argues that Inkatha sensed COSATU's launch as a 'decisive shift against its politics in the industrial field'. TGWU were to bear the brunt of this antagonism in their attempt to maintain the organisation of Durban's stevedores.

The launch of UWUSA on May Day 1986 at an Inkatha rally in Durban had a symbolic coffin buried bearing COSATU's leaderships names – this clearly signalled UWUSA's intentions. For the Durban stevedores, many of who were migrants from KwaZulu, it signalled a time of apprehension. Many stevedores who resided in compounds in Durban left behind their families in rural areas under the rule of the chiefs beholden to the KwaZulu authorities. As a result, dock workers were vulnerable to UWUSA's counter-insurgency tactics, which aimed to distinguish workers politically aligned to Inkatha or the ANC-aligned trade unions.

The dock workers, after the series of mass retrenchments under the former GWU, had also been 'demoralised and confused and divided by the dramatic changes within the docks' (*ibid*: 96). When UWUSA entered the Durban docks it had no specific demands to 'stevedoring management and no method of work as a trade union, but rather relied on ethnic mobilisation and threats of violence against opposition' (*ibid*: 97).²⁶⁶ Workers' leaders in the stevedoring companies representing TGWU now either made their peace with UWUSA or were summonsed to Ulundi, the seat of KwaZulu regime (*ibid*: 97).

²⁶⁵ The origins of Inkatha date back to the 1920s when the Zulu King Solomon, formed *Inkatha Ya Ka Zulu* (Zulu national movement) in 'attempt to generate mass support for the monarchy faced with the disintegration of pre-capitalist social relations' (Davies et. al., 1998b: 388). Buthelezi then revived Inkatha in 1975 in reaction to the National Party's attempt to build around the King Goodwill Zwelithini (Buthelezi's nephew) a series of political alliances and possibly to oust him as 'Chief Minister' of KwaZulu (*ibid*: 388). When Buthelezi first assumed his chieftainship in 1953 he had strongly and successfully resisted the imposition of the 1951 *Bantu Authorities Act* in Zululand and joined the ANC in the 1950s. However, by 1970 he had finally accepted his own participation in the Bantustan Scheme but used his position to voice opposition to apartheid, declaring his personal preference for a system of universal franchise in a unitary state and rejecting the fragmentation of South Africa. Buthelezi also argued that in the absence of any other power base, Africans had to use the system to fight the system. However, the Black Consciousness Movement condemned this position (*ibid*: 389). Despite this condemnation Buthelezi persisted in assuming the mantle as the internal wing of the banned ANC in order to legitimate his position although he increasingly came into open conflict with other petty bourgeois internal groups. Then in 1979 when Buthelezi publicised discussions in London with the ANC, which the ANC intended to remain confidential, the ANC strongly repudiated Buthelezi's attempt to increase his own political credibility and led to a final breach in 1980, undermining Buthelezi's post-1976 strategy for Inkatha (*ibid*: 393).

²⁶⁶ The Minister for Law and Order, Adriaan Vlok, revealed it in 1991 that the police had provided R1.5 million in funds to UWUSA. According to *The Weekly Mail* 'UWUSA's regions were unable to produce monthly records of income and expenditure, that no regions maintained proper cash books, and that legally required annually audited financial statements were not presented in 1987, 1988 and 1989 (Forrest, 1991: 6-7).

As the intimidation of TGWU members continued UWUSA representatives claimed by May 1988 to have a majority membership among the workers of SAS.²⁶⁷ By June SAS claimed that its TGWU members were less than UWUSA's, although the latter provided no figures for membership. Consequently, in August SAS cancelled the recognition agreement with TGWU. When TGWU organisers demanded a referendum to test the support of the different unions they were refused by SAS management and then denied access to the compound (*ibid*: 98). This stalemate continued until April 1991 when TGWU finally pressured SAS management to hold a referendum that led to a convincing majority victory for TGWU.²⁶⁸

The use of ethnicity and political allegiance by the larger stevedore firms, favouring Inkatha-aligned Zulu workers, had for a time served to destabilise TGWU organisation. Such tactics reinforced the structural casualisation of the industry's labour market. During this same period, SATS management aimed to destabilise trade union organisation amongst wharf-side dock and railway workers who were increasingly joining the COSATU affiliate, the South African Rail and Harbour Workers' Union (SARHWU). This is discussed below.

5.5 THE SOUTH AFRICAN RAIL AND HARBOUR WORKERS' UNION

SARHWU was launched in October 1986 in Grahamstown (although 'relaunched' is a more accurate term as it claimed to be a revival of the old SACTU affiliate that demised under intensified repression of the early 1960s). SARHWU was also officially represented at the COSATU launch in December 1985. SARHWU's launch was soon followed by its campaign from December 1986 to organise SATS and undermine its Black Staff Association (BSA) (Green, 1986b: 32). The launch of COSATU brought the resources of the federation to assist SARHWU in organising SATS workers.

SARHWU began organising rail depots on the Witwatersrand (Baskin, 1991: 171). SARHWU were also in a position to recruit workers in the Eastern Cape, after the defeat

²⁶⁷ Hemson cites three cases where TGWU leaders were victimised by Inkatha. In 1985, Father Zulu, chairman of the then GWU branch, was forced into a car that travelled to Ulundi where he was told to resign. In March 1987, Mtshali, a key shop steward in SAS, was hacked to death in the compound after many death threats (Hemson, 1996a: 97-8). In November 1987, Gceba, a key shop steward, was attacked after death threats.

²⁶⁸ Ironically, in the male bastion of stevedoring, a female TGWU organiser, Ntokozo Mbhele, buttressed by the union stalwarts in the stevedoring companies secured the TGWU's majority and re-recognition (Hemson, 1996a: 99).

under the GWU of railway dock workers who had attempted to organise from 1983-86 in East London and Port Elizabeth by forming their own committees (Green, 1986b: 32-3). In April 1986, 700 workers from 22 depots met to discuss plans for the continued organisation of the committees. On May Day, railway workers organised in Port Elizabeth by the committees observed a COSATU stay-away call. This action, however, resulted in the dismissal of around 300 casual workers employed by SATS (*ibid*: 33). The failure in Port Elizabeth convinced SARHWU to set up committees of SATS employees nationally. This was to prevent the dismissal of strikers re-occurring through being in a position to respond with national actions (*ibid*: 34).

SARHWU called a rally at the COSATU hall in Johannesburg on 8 March 1987, where workers asserted that the SATS' BSA was management imposed to control workers (Matiko, 1987a: 6).²⁶⁹ SARHWU members then resolved on a 15 March deadline for SATS to stop deducting a 50 cents membership fee to the BSA (*ibid*: 8). SARHWU shopstewards also discussed the City Deep (Johannesburg's SATS controlled inland container depot) dispute between workers and SATS over the dismissal of a driver, Andrew Nedzamba, and demanded his unconditional re-instatement (Matiko, 1987b: 9).²⁷⁰ When SATS management refused to talk to SARHWU over the unconditional reinstatement of Nedzamba, workers in depots and railway stations began solidarity actions with their City Deep comrades.

An estimated 8,000 striking workers became involved on 25 March, rising to 16,000 on 27 March, and over 20,000 by the first week of April. A meeting of over 450 delegates from 12 depots was held on 25 March, which revised Nedzamba's reinstatement demand to include a commitment from SATS to eliminate racism; not to impose disciplinary action against

²⁶⁹ By November 1986 food strikes in the railway hostels led workers to form hostel committees. SARHWU and the Eastern Cape committees agreed to campaign against the staff associations in SATS (Green, 1986b: 36).

²⁷⁰ In October Nedzamba returned late one Friday to the City Deep depot from his round of deliveries and was unable to hand over an money collected until the following Monday. Five months later on 11 March 1987 Nedzamba was dismissed (Baskin, 1991: 171). Black workers at City Deep downed tools in protest against Nedzamba's dismissal. In response to this action SATS management reinstated Nedzamba at a demoted level, but when this was rejected by SARHWU, SATS further suggested that Nedzamba could be reinstated on condition of his paying a R80 fine (Baskin, 1991: 172). When SARHWU again rejected this at a later meeting on 21 March, attended by more than 4,000 railway workers, SARHWU members resolved to take strike action if SATS failed to resolve the City Deep dispute by 23 March (Matiko, 1987b: 9).

strikers; and, payment over the strike period. The strike then spread to depots nationally within two weeks.²⁷¹

SATS responded by applying for a court interdict to stop workers from disrupting operations. The Minister of Transport, Mr Eli Louw, also published a special government gazette giving SATS management the right to dismiss strikers without notice (*ibid*: 10).²⁷² SARHWU claimed by the twentieth day of the strike that membership had increased to 20,000 (Matiko, 1987c: 1).

SATS then attempted to break the strike through a combination of repression, scab labour, threats to the striking workers, and arrests.²⁷³ SATS issued an ultimatum on 18 April to strikers to return to work by Monday April 20 (later extended to 21 April) or face dismissal (*ibid*: 6). However, on 22 April, with a continued refusal to return to work, SATS dismissed all striking workers. Between 23 and 24 April 16,000 strikers were dismissed (Baskin, 1991: 173).²⁷⁴

SARHWU members' were incensed after the killing of striking workers and adamant that their strike would continue. Three elements were seen as crucial to this: the maintenance of unity amongst the strikers; the disruption of SATS' operations; and, the prevention or limitation of scab labour (Baskin, 1991: 177-78). In the community at large, attacks on train coaches and SATS' property continued and commuters refused to pay for transport. Other COSATU unions also began solidarity actions.

The strike again took a turn for the worse when on 28 April a group of strikers accosted five

²⁷¹ When the strike spread to Kaserne depot there was an estimated backlog of 1,800 goods containers whilst in City Deep losses in SATS earnings were at half-a-million rands a day (Baskin, 1991: 173).

²⁷² Louw alleged workers had contravened Section 26(1) of the *Conditions of Employment (SATS) Act* of 1983 (Matiko, 1987b: 10). SATS management insisted that the BSA still represented the majority of workers and that negotiations should be conducted through them.

²⁷³ By the second week of April, at least 21 workers were being held under emergency regulations, whilst in the Eastern Transvaal 300 SARHWU members were detained. SATS also attempted to evict strikers from their hostel accommodations (Baskin, 1991: 174).

²⁷⁴ A large number of strikers at COSATU's Germiston offices were also assaulted by police who forced their way into a meeting, killing three strikers. Workers fled to SARHWU's head office in COSATU House in Johannesburg to report the shootings to thousands of strikers assembled in the main hall on the ground floor. The workers then sent a delegation to Germiston to assist but were met by police at Doornfontein station who opened fire and killed another three workers. Over 200 heavily armed police then cordoned off and entered COSATU House, destroying property and equipment floor by floor. Over 400 people were then detained and SATS proceeded with evictions of an estimated 9,000 workers (Baskin, 1991: 176-77).

scabs and took them to a hall in COSATU House where they were beaten. Four scabs were later killed by 'neck-lacing' on open land near the Kaserne depot. On 29 April police again cordoned off COSATU House and arrested eleven suspects for the murders. Eighteen people were subsequently tried for murder with eight found guilty of direct involvement and four sentenced to death. Both COSATU and SARHWU denied responsibility for the killings and condemned the violence.

COSATU then called for a two-day nation-wide protest on May 5 and 6 coinciding with the white general election (Matiko, 1987c: 7). Baskin suggests that as the strike coincided with the white general election the National Party feared the loss of voters to the extreme-right Conservative Party if a conciliatory policy towards black strikers was taken. This together with a reactionary SATS management led to a hostile approach to defeat the striking workers. On 7 May, COSATU House was destroyed in a bomb attack (Baskin, 1991: 178).

SARHWU consequently took legal action on the grounds that the mass dismissals were illegal (Matiko, 1987c: 7). SARHWU lawyers argued in defence of the sacked workers that an invalid law was used for dismissal, as 'SATS dismissed workers using the regulation gazetted by the Minister of Transport, which could not override the Act governing the Conditions of Employment in SATS' (Anonymous, 1987: 30). The State Attorney agreed with the SARHWU position and established that the legal precedent should apply to all dismissed workers (Green, 1987c: 33). In the interim pending an appeal to the decision, SATS management were divided on the recognition of SARHWU, and used alternative tactics in which over 400 SARHWU members were detained during the strike (Anonymous, 1987: 32). The SATS dispute ended on 5 May with SATS management agreeing to union demands and the re-instatement of more than 18,000 workers (Green, 1987b: 30).²⁷⁵

SATS' recognition of worker representatives meant in practice recognising SARHWU's shop stewards. However, after the settlement, the BSA was renamed the Black and Allied Trade Union (BLATU) and held by SATS management as the representative union of black railway workers (Baskin, 1991: 180). Despite this the strike achieved many of SARHWU's objectives in their attempt to organise SATS, including the right for workers to resign from

²⁷⁵ The agreement consisted of the following provisions: dismissed workers, including Andrew Nedzamba, were re-instated without loss of benefits; detained workers were re-employed on their release from jail; black workers had the right to elect their own representatives; SATS agreed to spend R10 million upgrading hostel facilities; and, black workers were entitled to permanent status after two years' service (Baskin, 1991: 179-180).

staff associations and the de facto recognition of SARHWU as the workers' representative (Roux, 1989: 76).

SARHWU's membership grew in other regions as a result of this victory, although within a situation where 'the rights won through the strike in Transvaal were not automatically extended to SARHWU members elsewhere' (*ibid*: 77). In particular, SATS sought to prevent the recognition of SARHWU in Natal with its concentration of railway and harbour workers around Durban, as the country's main export harbour (*ibid*: 77). But SATS tactics were faced with an explosion of SARHWU membership across the coastal regions of South Africa.²⁷⁶

In the wake of the strike the *SATS Conditions of Employment Act* was amended in September 1988.²⁷⁷ While significant concessions within the amendments were made to enable SARHWU to organise, the new regulations still outlawed strikes and excluded 'casual' and 'contract' workers from participating in both union and collective bargaining forums (*ibid*: 92). The *Labour Relations Amendment Act* was then introduced in September 1988 after COSATU protests over the Bill from September 1987. The Bill proposed a number of new restrictions over the right to strike.²⁷⁸ However, at SARHWU's National Congress in October 1988, its decision to register under the prevailing legislation was impeded by SATS. This led to an even bloodier and bitter strike in 1989-90.

It has been estimated that between 26,000 to 40,000 SATS employees were involved in the strike from 1 November 1989 that lasted thirteen weeks and cost 24 lives. After a strike in Durban in 1988, SARHWU began negotiations with SATS management where it was initially agreed, as carried in the SARHWU National Congress, that SARHWU would register as a precondition to gain recognition at SATS. However, negotiations over the issue of an interim recognition agreement from July to October 1989 led to an impasse.

²⁷⁶ After the strike membership in southern Transvaal trebled within three months in 1987, from 8,000 to 22,000. In Natal SARHWU membership grew from 2,000 to 15,000 in about nine months. The national membership rose from about 9,000 at the time of the strike to at least 43,000 at the end of 1988 (Roux, 1989: 77).

²⁷⁷ The new regulations made provisions for grievances to be referred to conciliation boards as well as for a collective bargaining Labour Council which allowed recognised union/staff associations to be represented, but only if a three-quarter majority of the Council accepts the union (Roux, 1989: 92).

²⁷⁸ These included outlawing secondary, intermittent and sympathy strikes, imposing punitive damages for illegal strike action against unions and their officials, and forcing unregistered unions to hold secret ballots prior to any collective action (Baskin, 1991: 261; Wood, 1998: 32). The powers of the Industrial Court were also reduced, although a proposed schedule of Unfair Labour Practices was introduced (Baskin, 1991: 264).

SARHWU argued that “registration and discussions on substantive issues were two separate things, and that the latter process should continue while recognition talks were underway” (Cooper, 1991: 64). When SATS refused to negotiate with worker representatives before their registration process was completed, SARHWU initiated strike action.²⁷⁹

In response SATS management dismissed some 23,000 striking workers, evicting them from hostels. Negotiations remained deadlocked between 4 to 18 December on issues such as dismissals, recognition and wages. SATS then offered to re-employ only 50 per cent of its sacked workforce, which was subsequently rejected by SARHWU. As the deadlock continued non-union SATS employees supported by vigilantes and unofficially endorsed by white supervisory staff attacked strikers. Most of the attacks occurred after 4 December when the talks were deadlocked. However, the worst incident was on 9 January when an estimated 1,000 vigilantes ambushed 800 strikers at Germiston railway station, leading to eight casualties and 67 injured (Cooper, 1990: 36). In spite of the violence negotiations continued during January and led to the SARHWU position of postponement of wage demands until the April annual wage talks, in exchange for interim recognition. A settlement was finally agreed on 27 January 1990 that allowed for SARHWU’s interim recognition and re-employment of dismissed workers, provided it registered under the *Labour Relations Amendment Act* (*ibid*: 39). The thirteen week strike was estimated to have cost R38.5 million in destroyed SATS property and R44 million forfeited in wages (Baskin, 1991: 418).

In relation to Durban’s dock workers within SATS, SARHWU’s eventual registration under the *Labour Relations Amendment Act* was impeded by the fact that this Act failed to recognise casual employees and compounded by SARHWU’s constitution containing no provisions to cater for casual workers (Roux, 1989: 89). Consequently, although SARHWU and TGWU eventually achieved or maintained recognition they did so by conceding to managements in both sectors increasing pursuit of the structural casualisation of employment in the dock labour market. Such a concession was to have important ramifications for TGWU and SARHWU permanent members.

²⁷⁹ Grievances included R1,500 as a minimum wage (a 150 per cent increase); discussion on the disciplinary code; safety measures; and, privatisation. SARHWU also now refused to register under the *Labour Relations Amendment Act* as the majority of members’ temporary, casual or contract status excluded them from any coverage under the legislation. Similarly, there was no prerequisite under the amended *SATS Conditions of Employment Act* to register to gain recognition from SATS (Cooper, 1991: 37). On the issue of registration, however, Baskin (1991: 418) argues more practical measures as ‘poorly organised ...offices and administration ...systems and methods were not adequate to the tasks it needed to perform. [SARHWU] had difficulty in maintaining detailed membership records, ...a prerequisite for registration’.

5.6 CONCLUSION

The above chapter provided a historical context for assessing the contemporary dynamics of industrial relations in the dock labour market of the port of Durban. It did so through assessing the inter-relationships and dependencies that developed between the private and state sectors, especially in relation to the role of racial exploitation and employment status during the developments of the conventional and containerised stevedoring industry. These divisions emerged in Durban, with the private sectors utilisation of *togt* (day) workers, whilst with the eventual formation of SAR&H consolidated the respective roles between the private and state sectors within the stevedoring industry.

The nascent forms of organisation and collective action by black dock workers in Durban led to the consolidation of the dock labour market through the DSLSC. Employers and the apartheid regime stabilised industrial relations through the intensification of labour supply controls and repression, although the underlying contradictions in the migrant labour system remained and re-emerged. Within ten years the newly recruited workforce of 1959 had by April 1969 again been dismissed. As Hemson (1977: 124) argues:

it is ...demonstrably true that employers and the state learn from the struggle of workers. [However] ... issues are not resolved to the point where no further contradictions within the system of control are possible.

This was the case in Durban, which culminated with the need to introduce the new technology of containerisation.

The decision to introduce containerisation for stevedores and SAR&H, in particular, was a difficult one given their dependence on cheap black labour in maximising profits. However, the introduction of containerised shipping and stevedoring to South Africa during the 1970s was significant as it demonstrated how apartheid's system of labour control could off-set, compared to other countries, the costs of the technological transition. The political destabilisation of regional southern Africa also gave rise to the importance of South Africa's transport network and Durban's status as the hub container port within it.

The 1970s were also significant because they signalled the re-emergence of black trade unions, which provided an organisational foundation for South Africa's modern trade union

movement. The 1972 dock workers' strike in Durban demonstrated the re-emergence of industrial organisation and agitation based on grievance over racial wage differentials and the job colour bar, and systems of labour control, which were also issues in the wider community. Dock workers were seen as strategic to the newly established workers' advisory bodies that sought to support nascent union organisation. Although the workers advisory bodies in both Cape Town and Durban were relatively short-lived after the spate of bannings, the experience of the early 1970s assisted the re-emergence of union organisation on the docks by the late 1970s.

The intensified repression of nascent union agitation and organisation was also significant as it reflected the wider strategy of the apartheid state to maximise control over the port of Durban. SAR&H, later SATS, maintaining control of container stevedoring reflected the increasing importance of ports in the economy. The deliberate actions by SATS to destabilise black union organisation amongst both the state and private dock workers on a national basis demonstrated the concerns the apartheid state had with the potentially strategic position of dock workers.

The dynamics of both the workforce organisation and the market structure of the stevedoring industry then changed dramatically with containerised shipping and cargo-handling technology. The changes to the stevedoring labour process led to the demise of the existing labour market structure with the disestablishment of labour pooling systems, as the DSLSC and the Cape Town Stevedores Association in 1979.

These developments in the late 1970s coincided with events driven within the apartheid state. Arguably, the 1979 Wiehahn Commission's recommendations for industrial relations reforms facilitated the registration of the re-emergent black unions. This led to black unions attempting to organise through an industrial, national, and federated organising strategy for dock workers. This was facilitated by stevedoring companies, particularly with the emergence of the monopoly company South African Stevedores, who initially aimed to use the presence of the General Workers' Union to their advantage to facilitate retrenchments. SATS however targeted the GWU when it attempted in Port Elizabeth to organise both state and private sector dock workers. With the increased organisation of black workers across South Africa's ports, SATS issued new stevedoring licenses in order to break the monopoly of SAS. This was partly aimed at countering any establishment by a black union of a closed shop in the strategic bottleneck of the docks.

Issues of ethnicity and political allegiance to either the ANC or Inkatha also complicated the ability of dock workers to unionise in Durban. Consequently, the Zulu political union UWUSA gained a recognition agreement from SAS management. It was clear that SAS now sought to undercut union wages and conditions in an attempt to compete with the proliferation of smaller non-union stevedoring companies. However, UWUSA's ineffectiveness as a union and the wider political situation in which the ANC were gaining prominence led to the TGWU's eventual re-recognition as majority union within SAS.

Similarly, SARHWU gained recognition from SATS only after a protracted struggle. But this re-instated the division between quayside dock workers and private sector stevedores organised by TGWU. This occurred despite the fact that both unions were now part of the same COSATU federation. When SATS emerged as Transnet in 1990, the legislative basis for the division of industrial relations between the private and state sectors was reinforced, as was the continued division between workers on the basis of race in their employment status and union organisation. This process of union demarcation was established against the increasing prevalence of black casual dock workers in both the state and private sectors.

It appears, in hindsight, that on the cusp of political transition the black trade unions under COSATU struggled to gain a foothold in organising both state and private sector dock workers. They had not however sufficiently consolidated an organising and industrial strategy from which to coordinate against casualisation. This was despite the fact that casualisation was being used by state and employers as an employment strategy against the further unionisation of this strategic sector. This division between COSATU affiliates, it is argued below, consequently hampered efforts to seek a united solution to the proliferation of structural casualisation in the labour market.

The expectations of dock workers to change their situation increased with unbanning of the ANC in 1990. Subsequently, with the 1994 election of the ANC government a proposal was developed by TGWU to establish a National Dock Labour Scheme (NDLS) to regulate the structural casualisation of the dock labour market through the establishment of a national system of dock labour pools. Chapter Six examines the implementation of the pilot dock labour Scheme in the port of Durban.

6 CASE STUDY: THE IMPLEMENTATION OF THE DOCK LABOUR SCHEME

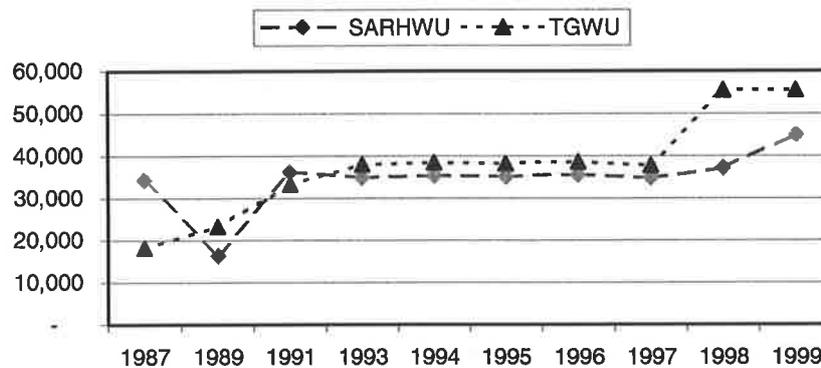
Chapter Six employs a case study research method in order to investigate the implementation of the pilot Dock Labour Scheme in the port of Durban. When the ANC government formed in 1994, the port of Durban the labour market, based on the range of state and private terminals and services was is segregated on race, occupations and skills. Trade union organisation largely reflects the racial segregation of the labour market and divisions between permanent and casual employment. Structural casualisation had become a feature of the private sector stevedores' dock labour market, and this issue provided the basis for a campaign seeking to address it that was launched through a joint organising campaign between TGWU and the Dock Casual Workers' Organisation (DCWO).

The following overviews the nature of casualisation within Durban's dock labour market, trade unions organisation, and provides a context for the TGWU's proposal for a NDLS. The reactions to it from employers and other unions, principally the COSATU affiliate SARHWU - which organises within Portnet - is then examined. Issues in relation to Portnet's restructuring precede a summary of events leading to the April 1997 in principle agreement to establish a Dock Labour Scheme in Durban. The split in TGWU in September 1997 and emergence of an independent union when the pilot Dock Labour Scheme began operating in February 1998 is followed by an account of the implosion of this union, the Services Employees Industrial Union (SEIU) and demise of the pilot scheme in March 2001. An overview of the ANC government's Port Policy from late 2001 and announcement to concession Durban's container terminal in May 2002 is then discussed.

6.1.1 Trade union organisation in the Port of Durban

The diverse number of unions within the port industry largely reflects the divisions between private and state sectors and the inherited racial and ethnic skill and occupational segmentations that were encouraged under apartheid's industrial relations system. Although transport sector affiliates are relatively small as a percentage of total COSATU membership, they are the most prominent of any of the transport sector unions (see Figure 9). In 1994 both SARHWU and TGWU represented approximately 18 per cent of COSATU's total membership.

Figure 9 COSATU's transport unions membership 1987-1999



Source : *Baskin 1994 and Naidoo 1999*

TGWU had organised dock workers in the private sector stevedoring companies from 1986, with bargaining conducted through individual company negotiation (Mokate and Baskin, 1993: 29). Union agreements only existed with a limited number of the larger private sector companies, as SAS and Keeley (later renamed National Stevedores). However, where collective agreements did exist they only covered the wages and conditions of permanent employees (Hemson, 1996a: 100-101).

From 1986 TGWU's constitution had aimed to organise casual workers as members.²⁸⁰ In 1993 TGWU's membership in the docks sector nationally was 2,228 (Motake and Baskin, 1993). In 1995, TGWU membership across the private sector stevedoring industry in Durban was approximately 1,000 permanent dock workers, whilst casual dock workers were estimated to be around 650 (Hemson, 1995). However, there were as many as 1,000 casual dock workers in the private sector stevedoring industry that were not organised.²⁸¹

In contrast, SARHWU had organised quayside dock workers from 1987 in Portnet with membership in 1997 at 4,015, or 35 per cent of employees (Portnet, 1997). SARHWU did not organise casual workers despite the 1992 decision by Portnet not to employ permanent general workers. SARHWU also organised across all of Transnet's transport related Business Units. These included South African Airways, Autonet (trucking), Spoornet (rail),

²⁸⁰ Interview with Willie Cirah, TGWU docks organiser, Durban, 19-3-1997.

²⁸¹ No reliable records of engagement were available given the prevalence of third-party labour brokers supplying casual labour to quantify the levels of casual employment.

PX (parcel forwarding), and Petronet (petro-chemicals). Transnet's workforce in 1993 totalled 124,119 that had reduced substantially from 230,000 in the early 1980s.²⁸² Portnet's workforce constituted around 10 per cent of the Transnet total in 1996.

Table 15 Union Membership Portnet Durban - 1996

Union	Membership	%
BLATU	379	3
DELTUSA	875	8
Employees Union of South Africa	1,300	11
SA Footplate Staff Association	20	0
SALSTAFF	660	6
SARHWU	3,808	35
Technical Workers Union	1,006	9
Transnet and Allied Trade Union	609	5
Maritime Industry Trade Union	390	3
Non-union	2,277	20
TOTAL	11,324	

Source : Portnet, 1997

Table 15 demonstrates the diversity of unions within Portnet and their memberships in 1996.²⁸³ Under this structure all recognised unions have equal input into the Transnet Bargaining Council and devolved Bargaining Chambers, regardless of the size of the membership (Portnet, 1991: 17). SARHWU therefore required consensus to implement decisions within Transnet's collective bargaining structures.²⁸⁴ SARHWU's organisational strategy also emphasised the solidarity of their members across Transnet's Business Units.

SARHWU and TGWU had different approaches to organising within their respective state and private sectors, and the issue of representing casual workers. Although SARHWU acknowledged the crisis of the casual labour market for TGWU and its growing impact upon its own quay side membership, as will be demonstrated below, it failed to coherently represent casual workers through effective coordination with TGWU and therefore lacked

²⁸² The workforce was constituted of the following racial groups: whites 56,525 (45.5 per cent); Indian 2,029 (1.6 per cent); coloured 9,278 (7.5 per cent); and, African 56,287 (45.3 per cent) (Mokate and Baskin, 1993). Although SARHWU membership was open to all racial groups, it was by far the largest black trade union in Transnet and had only made limited inroads in recruiting within other racial groups (Daniels, 1991; Zikalala, 1993).

²⁸³ The Technical Workers Union, the Footplate Staff Association and Salstaff are examples of mainly white, skilled, artisan trade unions. Similarly, the Transnet Allied Trade Union (TATU) largely represented ethnic Indian workers in Durban.

²⁸⁴ Interview with Thadiso Moshao, Assistant General Secretary, SARHWU, 14-11-1996.

any joint organising strategy. This was despite the fact that within COSATU a debate on the necessity of both affiliates to merge in order to organise both the public and private transport sectors had been ongoing (Mokate and Baskin, 1993). As Hemson (1996a: 108) suggests:

Collective bargaining in itself ...does not aim to resolve the deeper, structural problems of industry. A narrow focus on the employed, indeed, can sharpen the division between workers.

As will be discussed below, these divisions between both the COSATU affiliates' collective bargaining structures and their recognition of casual workers hampered efforts to seek agreement on the implementation of a solution to the casualisation of the dock labour market.

6.1.2 Structural casualisation

With the organising strategies that prevailed at the beginning of the 1990s within both SARHWU and TGWU, the proportion of casual employees in the dock labour market intensified. This was contributed to by Portnet when it took the decision in 1992 to guarantee existing employees permanent positions whilst placing a moratorium on permanent employment for newly hired general workers.²⁸⁵ Portnet subsequently became the largest user of casual workers across South Africa's ports.²⁸⁶

The use of casuals by both the larger and smaller private sector stevedoring firms was also exacerbated by the increased competition promoted by Portnet, with twenty-three licensed stevedoring companies operating in Durban by 1994. According to Hemson, Portnet also exacerbated competition within stevedoring as Portnet's wharfage charges were relatively fixed. Shipping line agents would therefore attempt to cut costs by pressuring stevedoring companies.²⁸⁷ Small operators increasingly sought to secure stevedoring contracts from shipping lines through under-cutting the wages and conditions of employment of the larger

²⁸⁵ Interview with Mike Elson, op. cit.

²⁸⁶ Portnet's 1995 annual average requirement for casual workers in Durban was around 300 per day. However, in peak season as December, almost 650 casuals workers were employed (Portnet, 1995).

²⁸⁷ Over time this led to stevedoring firms' acquiescence to the shipping lines as rates are generally negotiated on a yearly basis. This would occur, as shipping agents would seek concessions from stevedoring companies for them to win particular contracts. The agent would then ask another stevedore to match it; further pressuring stevedores profits (Hemson, 2001: 2).

stevedoring companies. To do so many of the smaller firms used labour brokers to source casual labour. According to Hemson, the brokers themselves were in a perpetual state of flux, numbering around ten at any point in time (1996a: 103).

The benefit of reduced wage costs through utilising casual workers was immediate for stevedoring employers.²⁸⁸ Labour brokers enabled employers to default on the costs of pensions, housing, health insurance, redundancies and any work guarantees (*ibid*: 102). Employers also used casual employment to undermine collective bargaining - labour brokers also sought preferably submissive employees. The use of labour brokers and use of casual employees was also assisted through existing labour laws.²⁸⁹

Together, these factors contributed to the attrition of permanent employment status from the dock labour market, although many of the casual dock workers were employed on a regular basis. This led to structural changes in the dock labour market as the use of casual workers provided a basis for the profitability of small stevedores and labour brokers, who in turn became central to the supply of dock workers.

6.1.3 TGWU's proposed NDLS

It was the above situation in relation to the stevedoring industry's structure and employment practices that led TGWU to equate it as "the most exploitative and inefficient niche outside of agriculture and domestic labour" (Harvey, 1995: 3). The increased use of casual workers, increasingly supplied through labour brokers, was also seen as a threat to TGWU's collective membership and organisational strength to bargain. TGWU therefore sought to develop a joint organising strategy to overcome the divisions between permanent and regular casual workers (Rees, 1997: 12). TGWU resolved in August 1993, at its second National Bi-Annual Congress, to campaign for a National Dock Labour Scheme "as a means to guarantee permanent employment and income to employees in an industry whose nature dictated fluctuating manning requirements" (Harvey, 1995: 2).

²⁸⁸ In 1996 wages for permanent stevedores were estimated at R120 per day, including benefits, whilst casual wages through a labour broker varied from R70 downward per day, minus the labour brokers cut estimated at around 40 per cent.

²⁸⁹ As the last Wage Order for stevedoring was issued on 11 May 1984, there were no basic minimum conditions of work. Employers by not maintaining records of employment led to employees' inability to accumulate annual and sick leave (Rycroft and Jordaan, 1992: 302, 330, cited in Hemson, 1996a: 102).

The TGWU proposal for a NDLS in 1994 was initially made up of three initiatives. These were similar to the measures endorsed in the 1973 ILO Dock Labour Convention 137 and Recommendation 145.

Firstly, the establishment of a Maritime Industrial Council to administer the NDLS that would also enable the harmonisation of bargaining structures nationally across the private sector. Related to this was the introduction of national training standards.

Secondly, the Maritime Industrial Council would determine the scope of registration for casual dock workers within a single labour pool in each port. The pool would be established to provide a guaranteed minimum of day's work per week. Central to this process was the maximisation by employers of permanent employment within the pool in each port only servicing variable demand. A system of registration of current casual dock workers would consolidate the number of workers available for inclusion into the pooling arrangement. Labour brokers would then be banned from supplying additional labour to the port.

TGWU also envisaged the labour pools be funded by a levy on users in order to provide a minimum wage guarantee for pool workers. The decasualisation of the dock labour market would, where necessary, be assisted through the state controlled port authority and operator, Portnet, regulating stevedoring employers to ensure they drew their variable labour requirements from the pool.

Thirdly, the provision of training and skills in the labour pool would be a mechanism to both increase task flexibility and increase labour productivity and efficiency. The existing Maritime Industry Training Board (MITB) was seen as a mechanism to achieve this (Harvey, 1994).

Together, this structure aimed to provide the institutional basis for extending organisation and improvement of conditions and training (Rees, 1997: 9). The stabilisation of the supply of casual dock workers would contribute to the security of employment for the permanent dock workforce.

6.1.4 The Dock Casual Workers Organisation

The increase in trade volumes from 1994 led to an unprecedented demand for dock labour in Durban. The increase in trade precipitated a demand for labour, which in turn presented an

opportunity for casual workers to demand the NDLS and their bargaining power being leveraged through their engagement in strike action (Hemson, 1996: 19).²⁹⁰ Although casual workers represented only a proportion of the workforce involved in the sequential movement of containerised cargo, they constituted the majority of the workforce involved in moving break-bulk cargoes within private sector stevedoring. As such casual dock workers remained strategically placed within the labour process, especially when they began coordinating demands and industrial actions with permanent workers organised by TGWU.

The issue of the incorporation of casual workers into TGWU was initially problematic, given the contrasting status of casual and permanent dock workers under labour legislation (Rees, 1997). However, an arbitration award in Cape Town on 20 December 1993 found that SAS was “unfairly preventing 'registered casuals' from working more than three shifts in a week which would establish them as permanent workers” (Hemson, 1996a: 104). Consequently, SAS were directed to enter into a permanent contract of employment with these workers. A similar breakthrough followed with an agreement with Keeley Stevedores in Cape Town to employ 72 casual workers on permanent contracts (1996a: 104).

According to Willie Cirah, a former National Stevedores employee and TGWU member, before the 1994 election the first strike actions undertaken by casual dock workers were in demand of a registration process. However, due to the lack of casual employment records maintained by employers, informal pools of semi-permanent workers within each company were established by the casual workers themselves in order to identify how many and which workers were required at each operation each month. Casual workers then began to organise through establishing a registrar of ‘permanent’ casuals. Cirah undertook this with the support of University of Durban-Westville academic, Dave Hemson.²⁹¹ Cirah then discussed organising casual workers with TGWU and the use of their offices in Eaton Road, Congella, adjacent to Maydon Wharf. TGWU agreed recognising the plight of casual workers and their effect upon their permanent members.²⁹²

²⁹⁰ Post-apartheid South Africa experienced an unanticipated growth in container volume of 14 per cent in 1993/1994, 20 per cent in 1994/95 and by 17 per cent in 1995/96 (Hemson, 1996a: 8).

²⁹¹ Hemson was a former trade union organiser before his banning in 1974. Hemson returned to South Africa in 1990 and restarted work within Durban’s docks in July that year.

²⁹² Interview with Willie Cirah, TGWU docks organiser, 18-3-1997.

The first demands for the NDLS were then made to the Department of Labour (NDoL) and employers preceding the 1994 election. However, the NDoL acted only on health and safety issues, whilst employers' offered a compromise to employ the maximum number of permanent workers they thought feasible. A process of negotiations to seek improvements on this situation followed in order to identify the number of jobs available. However, the issue of inadequate records of employees remained as employers' continued to use labour brokers. Cirah, now a TGWU docks organiser, argued at the time:

The problem is the labour brokers are still employing workers. The inflow of more casual workers to break strikes in the docks is making a problem. These labour brokers are now drawing up lists and forward names to companies for employment. How can we organise a labour pool like this? (Hemson, 1995: 40)

With the election of an ANC government in April 1994, TGWU demanded a Commission of Inquiry to examine the prospect for more permanent employment and better working conditions for casual workers. TGWU proposed reviewing the present operations of stevedoring companies within the framework of the ANC's election manifesto, the RDP, in order to “propose a solution to the problem of casual labour” (Hemson, 1996a: 102).

Table 16 Employment status in the dock labour market - port of Durban 1996

Permanent workers	Weekly paid; full labour rights; pensions, retrenchment pay
Dock casual workers	Daily paid when work is available; skilled and experienced dockers; conditions not governed by the then Labour Relations Act
Casual workers	Inexperienced dock workers often introduced by labour brokers; compete with dock casuals for available work.

Source : *Hemson, 1996a: 103*

A strike by SAS workers on 22 July 1994 in response to the proposed retrenchment of 170 workers then resulted in a joint action by permanent and casual workers (Hemson, 1994a: 54). This led to the formation of the Dock Casual Workers Organisation (DCWO) in September 1994. The TGWU proposal for the NDLS formalised the organisational structures between permanent membership and casual workers with the establishment of a

dock council (Rees, 1997: 12-13). The DCWO organising strategy was to register all the authentic dock casual workers and demand their permanent employment. With the formation of the DCWO, the stevedoring labour market now encompassed three forms of labour (see Table 16).

The differences within the labour market were wider however than the issue of employment status. According to Cirah problems between workers stemmed from new migrants being housed in hostels, who often, as their unemployed fathers had previously, came to the docks to find work.²⁹³ This often led to their competition with the more permanent casual workers over work and accommodation, sometimes leading to incidents of violence. This combined with an ageing permanent workforce, a proliferation of small stevedores that offered no accommodation, and an influx of urban unemployed, a large number of which were vagrant around the dock area.²⁹⁴

The DCWO and TGWU also together worked towards overcoming division between workers based on allegiance to either the ANC or Inkatha. Mass meetings to determine the registration process held at the TGWU offices in Congella or the Albert Park stadium for the first time involved united action between UWUSA and TGWU with the support of the local ANC branch. This occurred through the efforts of the TGWU's docks organiser Lereko Thamae, who emphasised the necessity for a united approach post-election to end casualisation and labour broking (Hemson, 1994: 54).

²⁹³ In 1996 in Durban and, to a lesser extent, Cape Town, a number of dock workers continued to be housed in single-sex hostels. Dock workers accommodated at the Point in Durban enabled their access to more regular work.

²⁹⁴ In 1996 Hemson conducted a survey of 183 stevedores which revealed a demographic that consisted of a low-wage older migrant workforce with stubborn links to the land. About 40 per cent have had less than the four years schooling regarded as a minimum for functional literacy, and just over half of these have never seen the inside of a school. Their family living conditions, considered by world standards are very poor. Only 30 per cent of the workers' families live in 'formal' (brick or concrete block) houses, a small minority in wood or tin shacks, but most of the others live in daub (mud and wattle) huts or houses. Most lead a migratory existence; the majority has their wives and children in the rural areas, and sees them only intermittently during the year. Their access to land is significant but it does not provide for any sense of self-sufficiency or 'peasant' production. Of the 74 per cent who have fields to plough; 60 per cent have access to fields of between 1 to 5 acres in extent, and very few have larger land holdings. Yet some 70 per cent of the workers own enough cattle to make a team to plough, although the majority of these have less than 10. The workforce is ageing; just fewer than 60 per cent of the workers are over 40 years old, and about the same proportion have worked in the docks for more than 10 years. Some 93 per cent of the workers fear being retrenched and with good reason: 95 (50.8 per cent) of the respondents had already experienced retrenchment, and 164 (89.6 per cent) have had a close friend or relative retrenched in the docks.

6.1.5 Industrial action post-election

The frustration the DCWO and TGWU were experiencing with the registration strategy to address employers utilisation of labour brokers coincided with the post-election strike wave. Sitas (1995: 20) noted “a mood spreading through black communities that swift, radical action, whatever the consequences, not only demonstrates grievances but also achieves results”. With rising expectations for change a wave of strikes in 1995 demonstrated workers “acted without, and despite their trade unions, in a culture that could only be described as 'ad hoc' democracy” (*ibid*: 20).

A strike by dock casuals across a number small stevedoring firms on 7 February 1995 was followed by another on 26 February at Keeley’s, when around 300 dock casuals demanded permanent employment for workers on a long service list. The strike began when this list was rejected and employers proposed an alternative list (Hemson, 1996a: 105). As Hemson (*ibid*: 105) notes, “[w]ithout the recourse to legal representation they looked towards direct action”. Sympathy action from other dock casuals included pickets and marches down the wharves to chase off scabs drawn from whites sheltered in the Ark welfare hostel on The Point (Hemson, 1995: 39).

Strikes at Imperial Chemical Industries (ICI), South African Container Depots (SACD), and other small stevedores followed. These strikes often involved violence against strikers by police and clashes with scabs brought in by the labour brokers (*ibid*: 39). Eventually this strike campaign was temporarily defeated when armed strikebreakers from KwaMashu hostels were introduced (Hemson, 1996a: 105).

According to one report, the “spontaneous strikes in the Durban docks by non-unionised casuals and unionised workers in 1995 ...caught worker leadership unaware and ill-prepared” (Lesufi, Mantzaris and Pillay, 1995: 32). The strikes however were successful in that they led to an agreement that permanent dock workers would not work during strikes. Also, negotiations between the ANC government, TGWU and stevedoring companies led Portnet into discussions on the proposed NDLS (Hemson, 1995: 39).

6.1.6 Reactions to the proposed NDLS

The TGWU first met with stevedores in Durban on 4 May 1995 to begin negotiations to develop a NDLS for their casual dock worker membership (Harvey, 1995). Private sector employers, many holding membership of the South African Stevedore Employers

Association, were divided on the establishment of the NDLS. Larger stevedoring firms such as SAS, Rennies, National Stevedores and Grindrod, saw the prospect of the introduction of the NDLS as a way to level the playing field of wage variation and conditions and were supportive 'in principle' of the NDLS.

Generally they felt a Maritime Industrial Council consisting 'only' of private sector companies would be feasible in the short term.²⁹⁵ Others considered that statutory minimum standards encompassed within the *Basic Conditions of Employment Bill* would come into effect before the establishment of the NDLS and prove adequate to address the issue of structural casualisation.²⁹⁶ However, a number of these employers questioned the value of conceding to the NDLS as many such schemes in ports elsewhere around the world had since been abolished under the auspices of deregulation and privatisation (Hemson, 1996b: 22). Smaller stevedoring firms only viable through undercutting on labour-costs were threatened by the prospect of the NDLS (Hemson, 1995: 40).

The prospect of establishing the Scheme however improved when the National Department of Transport's (NDoT) 'White Paper' on South African Transport Policy referred to the proposal to establish the NDLS.²⁹⁷ However, the 1996 White Paper also had major implications for the future division of Portnet into a National Port Authority (NPA) and port operations Business Unit. According to the White Paper, Portnet had responsibility to assist in establishing the NDLS whilst also undergoing restructuring. This raised the possibility of a contradiction in timing between the implementation of the two directives, as Portnet was integral to the functioning of its parent state corporation, Transnet. It soon became apparent that the reasons for the delay in the commencement of serious negotiations for the NDLS were therefore related to issues between the larger and smaller private sector stevedores over the need for the NDLS, but more importantly over the issue of Portnet's restructuring.

²⁹⁵ Interview with Chris Magagula, Divisional Industrial Relations Manager, Grindrod, 14-4-97.

²⁹⁶ Interview with John Gaister, Managing Director, SAS, 8-4-97.

²⁹⁷ The White Paper stated under its objective in relation to employment policy: The re-structuring of employment to ensure that the variable labour requirement of port service providers are sourced from a common pool at equal unit cost in order to reverse the casualisation of port employment and to improve working conditions and efficiency of service (NDoT, 1996: 51). This inclusion of the NDLS was largely influenced by TGWU's submission on the NDoT's earlier 'Green paper', with the TGWU submission including as an annexure the NDLS proposal (TGWU, 1996). However, TGWU were later concerned that the NDoT's 1996 Business Plan which directly followed the 'White Paper' did not mention the NDLS initiative (Harvey, 1997: 43).

6.2 PORTNET'S RESTRUCTURING

Uncertainty over the direction of Portnet itself post-1994 was based largely on Transnet's policy of cross-subsidisation between Business Units. Portnet was of critical importance to the cross-subsidisation process as the most profitable Business Unit in the Transnet group with a return on assets of 32 per cent in 1995 (NALEDI, 1996: 37) (see Table 17).

Table 17 Transnet - Net operation profit/(loss) after finance cost R million

	1995	1996	1997	1998
Spoortnet	734	98	712	573
SA Airways	217	324	-	244
Metrorail*				41
Portnet	1,111	1,397	1,709	1,653
Petronet	144	180	273	321
Autonet	20	23	22	8
PX	-	433	-	322
Other	145	209	26	135
Transnet Group	2,074	1,798	1,930	2,165

Source : *Transnet Annual Report (various years)*

Cross-subsidisation

The purpose of cross-subsidisation was not only for servicing the financial viability of other Business Units within the Transnet stable, but also related to the Transnet pension fund deficit. At the formation of Transnet in 1990 the company's pension fund deficit inherited from SATS was under-funded by R17 billion (NALEDI, 1996: 57).²⁹⁸ Transnet also contributed to a medical aid fund for pensioners, where the provision increased annually at a predetermined rate. This amounted to R3,1 billion for the year ending March 1996 (NALEDI, 1996: 59). While the unfunded deficit had been reduced in 1996 to R4,2 billion, the interest cost on bonds issued to cover the deficit was R1,4 billion per annum (NALEDI, 1996: 31). The pension fund liability, issued as a T11 bond was estimated at R8.4 billion in 2000 (Radebe, 2001).

The solution to Transnet's pension fund deficit was only introduced in November 2000 with the passing of the *Transnet Pension Fund Amendment Act*. This Act effectively split the

²⁹⁸ SATS' pensions also have a disproportionate impact on white and black employee groups. As of 31 March 1990, 72 per cent of the pensioners were white, and 28 per cent were black (NALEDI, 1996: 57-58).

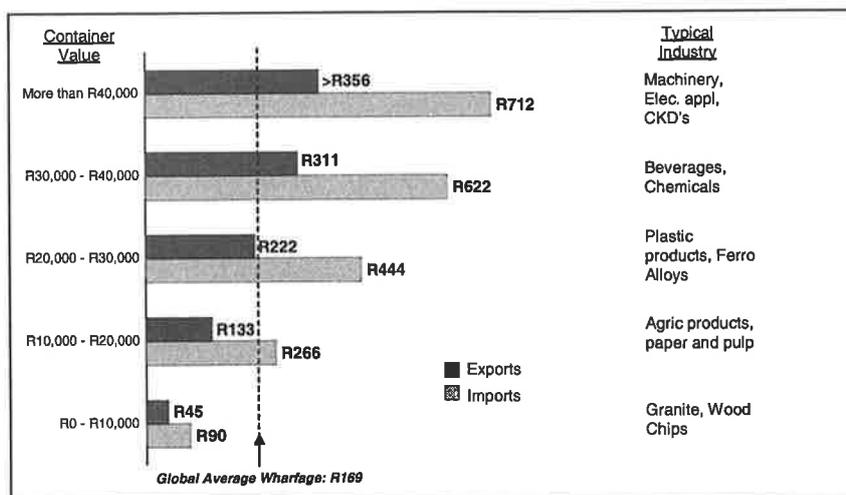
debt into three funds and reduced Transnet's liability to R7 billion.²⁹⁹ In the interim, Portnet's profits were channelled into the cross-subsidisation of its sister Business Units and the pension fund within Transnet. Portnet's basis for its profitability was based upon wharfage charges and its monopoly on container cargo terminal operations.

Wharfage

Transnet's pension fund deficit presented difficulties for the ANC government in how it could change Portnet's charges and relinquish its monopoly over container terminal operations (NALEDI, 1996, viii). Portnet's profitability was almost entirely based upon its *ad valorem* wharfage tax, which in 1997 generated 62 per cent of Transnet's profits (Lawrance, 1998: 9; *Moving South Africa*, 1998: 123). This tax is based on the value of cargo, set at two per cent for imports and one per cent for exports (NALEDI, 1996: 15). The extent to which wharfage charges increase with the value of a good is indicated in Figure 10. Portnet applied a R9,000 ceiling per freight tonne to wharfage in 1999, with the maximum wharfage charge estimated to be R80.10 per export tonne and R160 per import tonne (Crichton, 1991: 49). Although port service charges are comparatively low, the *ad valorem* charge constituted a disproportionate component in total waterfront charges (see Figure 11).

²⁹⁹ The Transnet Pension Fund was restructured through an act of Parliament into: a defined benefit fund for current employees (closed fund), a second defined benefit fund for existing pensioners (this is a closed fund for pensioners only); and, a defined contribution fund for current employees. The Trustees of the second defined benefit fund for pensioners, agreed to the outright cancellation of R4.3 billion of the T11 debentures held by that fund. At the same time the Trustees of the defined benefit fund and defined contribution fund for continuing employees, agreed to the redemption of R3.0 billion in T11 debentures held by these funds. This resulted in the net restructuring costs of R513 million. Given that the total interest cost of the pension fund debentures accounted for 44,8 per cent (R1.4 billion) of the total interest cost of R3.1 billion (relating to the total interest bearing debt of R27.3 billion) for the Group during the previous financial year, reforming the pension fund was crucial to ensuring Transnet's ultimate success in restructuring (Transnet, 2002).

Figure 10 Typical Port Wharfage Charges



Source: Portnet Industry Interviews, International Benchmarking - Waterfront 1995.

Source : *Moving South Africa*

Under apartheid, charges were levied *ad valorem* rather than on a cost basis to reinforce the effect of high tariff barriers to discourage imports in general, and higher value imports in particular. This was in order to reduce the country's requirement for foreign currency and promote import substitution (*Moving South Africa*, 1998: 31-2).

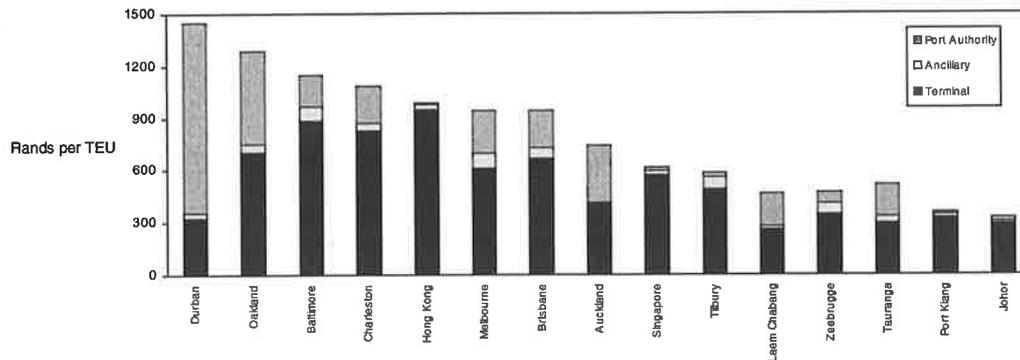
Although Portnet managed to both cross-subsidise Transnet's Business Units and service the pension fund deficit through its wharfage tax, the practice of the *ad valorem* tax for cross-subsidisation had far reaching consequences on the South African economy, particularly on the competitiveness of containerised exports of high value.³⁰⁰ Exporters already had to contend with a long 'land leg' which disadvantaged them against competitors, with freight costs accounting for 68 per cent of the cost of transport for containerised imports and 60 per cent of transport cost for containerised exports (Lawrance, 1998: 6-7). The export cost of wharfage was estimated to be a higher charge per tonne than road transport from Johannesburg to Durban or shipping costs from Durban to the Far East.³⁰¹ Ironically, Transnet's continued reliance on Portnet wharfage impeded the export of value-added

³⁰⁰ South Africa containerised traffic transport costs are estimated to represent between 3.5 to 7 per cent of total costs (Barrett, 2001).

³⁰¹ Interview with Nolene Lossau, South African Shippers Council, Johannesburg, 13-10-1999.

manufactures, which was a key economic and trade policy of the ANC government as outlined in GEAR (ANC, 1996).³⁰²

Figure 11 Total Waterfront Charges



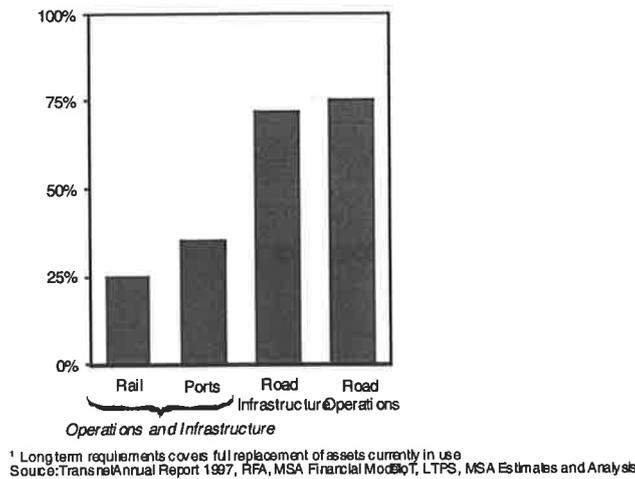
Note: Breakdown of waterfront charges may vary due to different financial structures which affect pricing

Source : *Moving South Africa*

The NDoT's 1998 *Moving South Africa 2020* report also alleged Portnet's cross-subsidisation of other non-profitable Business Units as Spoornet and PX was to the significant detriment of infrastructure investment in ports. The cross-subsidisation practice therefore also created a port infrastructure expenditure shortfall, estimated in the MSA report as 65 per cent under funded (see Figure 12) or R12.5 billion over ten years (*Business Day*, 9 Sept 1998). Although current expenditure levels were around R1.5 billion annually, the ability for Portnet's returns to be reinvested in infrastructure was severely limited.

³⁰² The South African Shippers' Council (1997) were also concerned about port income being directed towards the Transnet Pension fund deficit and suggested "that Government should deal with the pension fund deficit as a problem in a different dimension".

Figure 12 Current capital spending as a percentage of long term capital requirements



Source : *Moving South Africa*

Under-investment in infrastructure in turn affected Portnet’s capacity to handle current and projected cargo movements, especially in the port of Durban. A cycle was therefore created as Portnet’s cross-subsidisation led to infrastructure under-investment and the perceived need to derive necessary funding from private sector investment through privatisation (*Business Day*, 17 May 2000).

The phasing out of wharfage fees was to occur in 2002 and estimated to cost Transnet up to R500m for the financial year 2001-02 due to the lag in the introduction of other unit based charges (*Business Day*, 16 October 2001). Twelve charges were to be replaced by three in May 2002, which included cargo dues (increased by 30 per cent), marine charges to shipping lines (increased by 25 per cent), and container terminal charges (increased by 22 per cent).³⁰³

The above issues in relation to Portnet’s restructuring can be summarised as the cross-subsidisation of sister Transnet Business Units and the pension fund deficit through wharfage charges, and the consequent under-investment in port infrastructure which in turn promoted the necessity of privatising port operations.

³⁰³ The former two charges are levied by the NPA, whilst SAPO raised the latter. The fixed charge for importers was R1,480 per TEU and for exporters R735 per TEU. Although these charges were to be passed directly onto lines, they have subsequently indicated a rise in shipper charges (*Containerisation International*, April 2002: 28).

The contradictions that emerged through the White Paper's simultaneous focus on both the restructuring of Portnet and the need to reform the casualisation of the dock labour market in turn split the emphasis of both COSATU affiliates, particularly SARHWU, over the proposed NDLS. This also resulted in a paralysis of the ANC government's agencies commitment to the proposal. However, whilst solutions to the restructuring of Portnet within Transnet were being developed, the more immediate issue for Portnet and the existing private sector stevedores was the ongoing industrial campaign by the TGWU to establish the NDLS.

6.2.1 Conceding negotiations

The continuation of industrial actions from dock casual workers was a result of their frustration over the pace of the proposed NDLS's implementation. On 19 June 1995 police confronted a DCWO picket at Maydon Wharf, which was part of a COSATU half-day strike. Another strike on 3 August against labour brokers led to violent clashes with police who attempted to secure the movement of scab workers. Although labour brokers continued to operate in the wake of these strike actions, they led to some stevedoring employers re-opening negotiations with TGWU.

On 14 February 1996 a mass meeting of the dock casuals decided to join TGWU, implicitly winding up the DCWO (Hemson, 1997: 1). Dock casual workers at this time were estimated at about 2,000, although payment of stop orders were limited to members achieving a minimum number of days worked, and estimated at 1,000 members.³⁰⁴

On 2 July 1996 a mobilisation of dock casuals demanded employers' establish an interim arrangement to establish the NDLS. A strike in support of this demand was coordinated to support COSATU's campaign against privatisation. However, dock casuals decided not to work the following day until Portnet conceded to negotiate. Portnet in response agreed to end their utilisation of labour brokers and conceded to negotiate in NEDLAC a Maritime Industrial Council and direct involvement in the NDLS (*ibid*: 2).

³⁰⁴ About four distinct unions were organising the private sector stevedores in Durban by late 1996. KwaZulu princes as Chief Gatsha Buthelezi's brother and King Goodwill Zwelithini's brother remained in the Durban docks. The shop steward at SAS Wilson Ngema represented permanent workers. However, an agreement in SAS to multi-skill grades downward lost TGWU membership amongst permanent workers (Hemson, 1997: 8). About 19 clerks then joined the South African Freight and Dock Workers Union. TGWU estimated it would lose about 100 to 200 workers from freight forwarding companies nationally as a result of this (*ibid*: 11).

With Portnet under pressure from private sector stevedores facing industrial action from TGWU's casual membership, in July 1996 Portnet released a draft paper entitled 'Casual employment strategy (dock worker labour pool)'. This paper outlined the scope of a labour pool similar to that proposed by TGWU. The focus of both papers was to prevent labour broking, with Portnet itself utilising a pool and compelling the private sector to draw from the pool (Portnet, 1996). However, private sector employers argued Portnet were in a contradictory position to enforce this proposal, as it was both a port 'authority' and 'operator'.

Negotiations between the two COSATU affiliates proceeded on 13 August 1996, when TGWU's Assistant General Secretary, Harald Harvey, met to negotiate in Johannesburg with his SARHWU counterpart, Thadiso Moshao (Hemson, 1997: 5). By 10 October it was revealed that Portnet unions, including SARHWU, were still divided on the NDLS as management had cited this as the reason for the postponed scheduled meetings (*ibid*: 6). However, on 27 October there was a joint general meeting at Portnet with unions to propose establishing the labour pool (*ibid*: 7). A strike by TGWU casual members on 23 November then occurred over the issue of registration for the labour pool (*ibid*: 9).

By late 1996 SARHWU's leadership requested an exemption from negotiations for two weeks, which instead, ran into two months. In Cirah's opinion SARHWU was reluctant to talk and cooperate with TGWU over the issue of the Transnet Bargaining Council's possible restructuring (*ibid*: 10). Whilst agreeing in principle to the NDLS, SARHWU was committed to organising only permanent employees of Transnet.³⁰⁵ This was despite the fact that Portnet had increased their use of casual workers.³⁰⁶

With the restructuring of Portnet, SARHWU were not supportive of an agreement with TGWU over the Maritime Industrial Council. SARHWU argued the establishment of a Maritime Industrial Council was premature and would lead to the restructuring of the

³⁰⁵ SARHWU's Cape Town branch took a different approach to unofficially organising casual workers and bargaining for their terms and conditions within Portnet's Bargaining Chamber and to include them in consultative forums. This was despite the fact that Portnet rejected demands by SARHWU made on behalf of the casual workers as they were not officially organised (Interview with Mike Andrew, SARHWU, Cape Town, 6-2-1997). The ensuing onset of casualisation in Cape Town was aided by Portnet operations being leased to private stevedoring companies, subsequently increasing the use of casual labour. For example International Harbour Services established a site in Cape Town to handle fruit, formerly handled by Portnet (*ibid*).

³⁰⁶ Interview with Bomgami Nogaga, SARHWU Regional Secretary, 26-11-1996.

Transnet Bargaining Council. As SARHWU organised within Transnet as a whole, the devolution of Portnet's Bargaining Chamber away from the Transnet Bargaining Council's central structure was problematic.

SARHWU officials saw the issue of restructuring across Transnet required them to remain within the Transnet Bargaining Council in order for the possible redeployment of its members' across the various Business Units.³⁰⁷ Consequently, SARHWU organisers and officials argued that retrenched members be allowed to be incorporated into a 'labour pool' established by Portnet.

The issue of eligibility for inclusion into the NDLS therefore remained contentious between SARHWU and TGWU. SARHWU, as a result, failed to coherently represent casual workers and coordinate with TGWU through a combined organising strategy to redress the crisis situation in the Durban docks. When TGWU dock casual workers embarked upon another strike on 28 November 1996 it was agreed that Portnet's internal consultation would be concluded upon. A steering committee was then established to co-ordinate negotiations between all stakeholders in Durban (Hemson, 1997: 9-10).

6.2.2 Estimating the costs of industrial action in the port of Durban

The industrial actions had serious repercussions not only for the efficiency, productivity and competitiveness of the port industry, but for the wider South African economy as well. Although productivity by dock workers can be seen to have increased in the post-apartheid era (if the capital:labour ratio and volumes of containers are measures), there is little clear recording of statistics of productivity in terms of tonnes shifted per dock worker (possibly because of the effects of this on collective bargaining). The matter is further complicated as no single authority collects and retains statistics on the number of workers employed because of divisions between Portnet, stevedores, and the widely fluctuating employment of casual workers (Hemson, 1996a: footnote no .35; 29). Efficiencies in labour and capital productivity (for example, container rates) as indicators do not necessarily lead to benefits in the transport chain as a whole. This is especially so given the division between Portnet and private sectors in stevedoring in the overall process of moving containerised cargo.³⁰⁸

³⁰⁷ *Ibid.*

³⁰⁸ For example the private sector provides ancillary services as lashing (the securing of containers on board vessels). Although this constitutes less than 5 per cent of stevedoring revenue generated from container vessels, it has a disproportionate effect on costs through the unreliability of this service (Jones, 1996).

Therefore the measurement of actual productivity is largely anecdotal. Even the measure of strike days lost in this sector is inaccurate as Statistics South Africa reports no disaggregated data for the port sector.

However, the issue of the cost of industrial action in the industry can be contrasted with Jones' (1996) examination of the multiplier effect on employment and income estimated for container traffic through Durban.³⁰⁹ Another measure of the scale of continued industrial unrest that contributed to the problems of unreliability in container and break-bulk terminal operations was that average port delay in 1997 increasing to almost 20 hours. Over 61 per cent of vessels calling at South African ports were delayed for some period of time during that year (*Moving South Africa*, 1998).³¹⁰

Industrial stoppages in this sector have therefore had a far ranging impact on the wider economy. It has been estimated that the combined effect of high ports costs, port delays and long intermodal transit times impose costs on the South African economy amounting to more than R300 million per annum (Lawrance, 1998: 6).

6.3 NEGOTIATIONS

With Portnet's unions divided on this issue, its management was forced to postpone scheduled meetings with TGWU to initiate a labour pooling arrangement. However, whilst solutions to the restructuring of Portnet within Transnet were being developed, the more immediate issue for Portnet and the existing private sector stevedores was the ongoing industrial campaign by the TGWU to establish the NDLS.

By March 1997 the industrial campaign by TGWU dock casuals led to high level negotiations by representatives of both private and public sector employers and unions, agreeing 'in principle' to the establishment of a dock labour pool in the port of Durban. A strike by TGWU was staged on 26 March 1997 in support of COSATU's campaign around provisions within the *Basic Conditions of Employment Bill* being debated in NEDLAC which pre-empted the beginning of negotiations in Durban (*The Mercury*, 27 March 1997).

³⁰⁹ Taking Jones' (1996) account above into consideration, the effect of unreliability by private sector stevedores can be measured as the loss of one job for every 80 containers on vessels forced to by-pass Durban to either load/unload. Jones' account however only calculates the impact on the Greater Durban Metropolitan Area and not on the wider South African, and indeed, southern African economies.

Negotiations on introducing the NDLS were to follow two phases. The NDLS was to be established firstly through the registration of existing casual dock workers in a labour pool and secondly the provision of a guaranteed minimum wage to workers on the register. The first phase was anticipated to last six months and provided detailed information on demand for casual labour. From this would be developed the basis for the guaranteed minimum wage. The second phase also envisaged state support to assist redundancies in order to right size the pool (Hemson, 2000: 10).

Portnet management and Portnet Labour (consisting of SARHWU and other public sector unions) negotiated a draft document 'The National Dock Labour Pool Principles', which was introduced at negotiations in April in Durban (Portnet, 1997). The substantive issues outlined in the paper included: pool objectives; parties to the pool; structure, management and control; funding; statutory control; scope and size; and, conditions of employment. The negotiations around each substantive issue were also outlined in a paper by TGWU (Harvey, 1997). This is discussed below with the various responses by the parties to each of the proposals.

The pool objectives

The objective of the labour pool was to introduce decasualisation. TGWU envisaged the following fundamentals needed to be in place:

- Each employer must employ permanent full-time staff to an optimum level;
- Any vacancy in permanent employment for jobs within the scope of the Scheme would have also to be sourced from the pool;
- Only a single labour pool in each port;
- Employers would have to be restricted in law or regulation from sourcing casual labour from any source other than the pool;
- The unit cost of labour would have to be equal to all users of the pool (linked to the job-grade of the skill being hired-in);
- Employees of the pool would have to be permanent with benefits and an acceptable wage guarantee;
- The conditions of employment would have to be negotiated (ideally through a bargaining council) and in line with those earned by permanent employees in the industry; and,
- Financing arrangements for the pool would have to be sustainable in the long term, preferably on a 'user pays' basis. (Harvey, 1997)

³¹⁰ Delays in vessel turn-around include penalties that can be imposed on ports in the form of demurrage charges (Hemson, 1996: 19).

6.3.1 Parties to the pool

According to TGWU, the scope of the pool was to focus on those port services which were the most casually intensive, namely private terminal stevedoring operations and Portnet's quay-side cargo-handling operations (Harvey, 1997: 16).³¹¹ Consensus was reached on the unions, employers and government being party to the pool's implementation. Emphasis was also placed on the need for an initial outlay from government to fund the establishment of the labour pool, potentially sourced from RDP funds.

Structure, management and control

Although there was general agreement on the principle of a tripartite form of control, concerns over representation included whether the departments of Transport and Labour represented government or whether Portnet would represent government. Portnet had a potential conflict of interest as both a commercial entity and Port Authority. As such, TGWU preferred the NDLS be established as a legal entity in its own right, although under the ambit of the separate National Port Authority once established. Private sector employers had problems however with the proposed role of Portnet to enforce their utilisation of the pool. A further option was for the pool to be established as a stand alone legal entity with operational management put to tender.

In the interim, TGWU proposed the labour pool be established under Portnet pending the formation of a future National Port Authority, but subject to a Board of Control comprised of government, employers and unions. Eventually, with the NDLS covering all ports (including Johannesburg's City Deep container terminal), a Board of Control in Durban would be incorporated under a national structure.

The issue of labour discipline was also of concern at the negotiations as a potential conflict of interest for unions existed in their being a party to the employment relationship, whilst representing individual members in disputes. It remained unclear whether issues of discipline were under the control of individual employers or a tripartite structure. TGWU

³¹¹ TGWU stated: "the industrial definition should primarily be, in addition to stevedoring and activities directly related to the loading and unloading of vessels, one which focuses on the receiving and handling of cargo from, or the handling of and dispatch of cargo to a ship, including the storage of cargo on the quay, or the packing of cargo for shipment, or unpacking of cargo received from a vessel" (Harvey, 1997: 16).

stated this issue be resolved if Portnet be determined (as the interim Port Authority) the legal employer, but subject to the policy and regulatory control of a tripartite board (Harvey, 1997: 27).

Funding

Funding at the negotiations was considered under three categories: port operators; levies; and, government. TGWU's proposals for financing the labour pool focused primarily on two sources of revenue, labour supply and levies, whilst the government could be required to provide an initial start up source of funding (*ibid*: 32). With more than five levies already in place an additional levy on port users was problematic for employers. Funding was therefore a primary issue, as sourcing from the labour pool was envisaged to be more costly.³¹²

The labour pool was also aimed to charge out labour supply at equal unit cost to prevent any company using the lower wage costs of casuals as a competitive advantage.³¹³ These concerns raised issues as to whether the labour pool was to cater for the maximum or minimum manning levels, and at what level were guaranteed hours of work per month and shift length for pool employees to be set? These questions were left unresolved at the negotiations.

Statutory control

Negotiations over the issue of statutory control concluded that the labour pool should be compulsory for all employers to draw on only registered dock workers and that labour brokers be outlawed. Concerns were raised over a 'closed shop' agreement that would undermine the role of external unions to the agreement. Questions of what would occur in

³¹² TGWU (Harvey, 1997: 28) acknowledge that many operators were only been able to survive because of the competitive advantage obtained through 'starvation wage rates'. TGWU's position was, however, that 'labour costs in the port are not the biggest cost factor influencing the competitiveness or afford ability of exports and imports, and as such equal unit cost for labour supply through the pool must be maintained' (*ibid*: 28). TGWU viewed South Africa's export competitiveness crisis as the result of the cost of transport to ports (eg. the cost of local land transport and the *ad valorem* charge on vessels), as opposed to the cost of handling in ports (*ibid*: 30).

³¹³ TGWU also emphasised the possible benefits to be gained from the application of equal unit cost through employers drawing from the labour pool. For TGWU 'it is conceivable that these rates could decline ...because of the economies of scale obtained by the formation of the Scheme' (Harvey, 1997: 30). Consequently, the more 'efficient utilisation of labour across the port would limit the total idle time factor significantly, and that the total cost of idle time [as] that cost would now be shared across all port employers' (*ibid*: 30). However, TGWU maintained that these 'cost savings should in principle be used to fund improved benefits for workers' (*ibid*: 31).

an industrial action or where operational demands required additional non-pool labour were to be addressed through the Maritime Industrial Council. However, within the Portnet Chamber within the Transnet Bargaining Council this was problematic 'until finality is achieved from Transnet on the future of its bargaining council' (*ibid*: 18). Nonetheless, TGWU suggested an interim arrangement was necessary.

TGWU representatives criticised SARHWU and Portnet's lack of commitment to the creation of a Maritime Industrial Council as envisaged under the NDLS. SARHWU conceded that 'timing' remained the problem as the NDLS coincided with the wider restructuring of Portnet and its parent state corporation, Transnet (Stratton, 1997b). SARHWU were therefore not prepared to devolve Portnet's Bargaining Chamber to establish a Maritime Industrial Council. SARHWU's position was to restructure the transport industry's collective bargaining relationship as a whole once Transnet's restructuring was complete.³¹⁴

Scope and size of the pool

As mentioned, the negotiations over the scope of the labour pool suggested both stevedoring and quayside cargo handling operations be covered. However, when employers in this sector operate within seasonal niche markets where casual utilisation is very high, it would also be important to ensure that container packing and unpacking (ie. warehousing) be incorporated into the labour pool irrespective of geography. The scope would then apply to all operations within the limits of South Africa's commercial ports (including City Deep) (Harvey, 1997: 16).

Grading was a key issue in the negotiations on scope as Portnet unions argued that, in the interim, only casual general workers from Portnet and the private sector companies be eligible for inclusion in the labour pool. This position however resolved the possibility of retrenched employees within Portnet's sister Business Units in Transnet being redeployed into the labour pool, as Portnet unions restated their commitment to redeploy retrenched workers only into permanent vacancies in Transnet.

³¹⁴ Interview with Bomgami Nogaga and interview with Thadiso Moshao, 5-3-97.

A choice also had to be made between maximising the number of days as the minimum guarantee or maximising access to employment within the pool (Harvey, 1997: 21). TGWU sought a pool size level between the two positions, which maximises employment conditions and minimises negative side effects (*ibid*: 22). TGWU subsequently recommended selection criteria on the basis of length of service in docks (5 years minimum), retirement age and previous retrenchments as bases for inclusion into the pool (*ibid*: 36). TGWU argued this 'choice will have to go hand in hand with adequate support measures for those employees who lose out. ...[T]he nature of the support could vary from re-training, assistance with finding new employment to some form of pension arrangement. ...[through] RDP funding' (*ibid*: 22).

A 'pilot' labour pool

At the Portnet negotiations in April a 'national forum' for the establishment of a pilot dock labour Scheme in Durban was proposed. The forum envisaged continuing the high-level negotiations between stakeholders and operate as an interim measure until the establishment of a Maritime Industrial Council could be resolved. This proposal sought to solve the impasse between the two COSATU affiliates, TGWU and SARHWU.

With an 'in principle' agreement between all parties, a process of 'technical committees' was agreed to move forward on the labour pool negotiations. This was to be organised through both labour and business' caucuses to workshop issues and report back their findings to each caucus. In the case of labour, any reforms suggested by the technical committees required a mandate to be implemented.

The 'in principle' agreement to establish a 'pilot' Scheme acted as a measure to end the casual dock workers industrial campaign. However, by September 1997 a split within TGWU emerged that was to have major ramifications on the actual implementation of the in principal agreement to the pilot Scheme.

6.4 THE SPLIT IN THE TGWU

In September 1997 TGWU called an 'International Day of Action' in support of both the sacked Liverpool dockers campaign and a campaign against Western Australian industrial relations law. However, it was primarily undertaken in demand for negotiations to implement the NDLS. Although the Johannesburg leadership called the strike off at the last

minute the leader of TGWU's casual dock workers in Durban, Willie Cirah, proceeded after using the union offices the previous night to house assembled dock workers. This action prompted the TGWU leadership in Johannesburg to suspend Cirah for alleged indiscipline. This however led to a split in the TGWU in Durban as workers in many of the stevedoring companies demanded Cirah's reinstatement. When TGWU's head office refused, dock workers supporting Cirah demanded the formation of an independent union under the control of the workers.

TGWU argued the dismissal of Cirah was just because he failed in his duties to the vast majority of workers for whom he was the allocated organiser. They also argued that the groundswell of support for him was from a minority of workers (albeit the majority of casual dockers). Harald Harvey, former Assistant Secretary of TGWU, reflected: "This goes to the heart of the problem when one is organising a group of workers with quite discrete short-term interest differences into a Union dominated by a majority of workers with permanent employment".³¹⁵

A related dynamic was when in 1996 the TGWU leadership in Johannesburg uncovered massive corruption in the Durban branch. Over a period of some six months some R200,000 had been embezzled by means of depositing union stop order cheques from employers into a fraudulent account. The then Branch secretary Simon Mdluli was prosecuted for this, but TGWU held suspicions of involvement by other officials.

Whatever the merits of the Johannesburg leadership's decision, the ramifications in Durban were dramatic. As the majority of casual dock workers identified Cirah as the principle architect of the NDLS, they chose to shift their allegiance from TGWU to Cirah, who now sought to form his own union. A mass meeting of casual workers on 27 October 1997 was also attended by an estimated 300 permanent workers, as many issues in these meetings - as the campaign for an Industrial Council and centralised bargaining - were relevant to permanent workers (Hemson, 1997: 8).

The subsequent launch of the 'Democratic' TGWU (DTGWU) followed on 16 November 1997 with an estimated membership of some 3,000 dockers, both casual and permanent, in Durban. The break-away union eventually achieved an agreement to form a 'pilot' Scheme, but as this agreement was created out of the crisis in the TGWU split, it was fraught with a

number of complications. The following expands on the events and issues involved in the establishment of the pilot Scheme in Durban.

The National Framework Agreement for the pilot Scheme

Negotiations between stevedore employers, Portnet, and the various unions, resumed after the TGWU split with a National Framework Agreement to establish a pilot 'Scheme' signed in January 1998 (Hemson, 2001: 3). A Durban Board of Control was established as part of a wider envisaged National Board of Control (*ibid*: 4). The state's Departments of Labour and Transport were present at the pilot's inception, although were not signatories of the final agreement (*ibid*: 5). The Scheme was therefore established through a collective agreement between 'Users' and 'Unions' (*ibid*: 5).³¹⁶

The negotiations decided, after some animosity, for the pooling system to be controlled by an independent operational 'Manager'. A compromise to allow the labour broker Mech-Elect Pty. Ltd. - which was new to Durban - as the preferred bidder with union leadership to have a measure of management control (Hemson, 1998a).³¹⁷ Mech-Elect was then appointed by the tripartite Board of Control from February 1998 on a six-month trial basis to manage the dock labour pool. The task of the labour broker was to maintain the dock labour register, provide employers with labour, and pay workers a weekly wage (Hemson, 2000: 10).

Mech-Elect was appointed under Section 198 of the *Labour Relations Act 1995* as a Temporary Employment Service. With this financial backing of Mech-Elect's parent company Privest, its bid of R10.70 per hour per worker total cost for Scheme Users (that incorporated leave, annual bonus, sick leave and unemployment insurance costs) was reported to be under half that of the nearest tender. This was an important consideration for employers' utilising pool employees (Mech-Elect, 1998).³¹⁸ The low User costs was clearly a disadvantage for Mech-Elect, with later estimates of losses through the set up costs and operations in the first years of the pilot Scheme at R300,000.³¹⁹ Mech-Elect argued at the

³¹⁵ Personal email correspondence Harald Harvey, 14-12-1998.

³¹⁶ Employers' insisted on the term 'User' which indicated they were not the direct employers of labour (Hemson, 2001: 2).

³¹⁷ Mech Elect was a subsidiary of the Johannesburg Stock Exchange listed labour outsourcing company Privest.

³¹⁸ Interview, Tony Kruger, Human Resources Manager, Rennies, Durban, 19-10-1999.

³¹⁹ Interview with Maurice Koppel, Mech-Elect Personnel Manager, Durban, 22-10-1999.

time that their losses from managing the pilot in Durban was a cost it was willing to absorb on the basis of the NDLS being established pools in each port.³²⁰

Registration

The agreement made provisions for a technical committee to determine the genuine number of variable employees required by stevedores for inclusion in the pool, but only after permanent positions had been consolidated. After receiving assistance from some employers by their providing lists of regularly employed dock workers, Cirah, with the assistance of Hemson, compiled a database of eligible pool members.³²¹

Membership was based on a process of casual dock workers cross-referencing with each other their work history. Workers signed affidavits as evidence of the length of their employment service. Employees between the years 1992-1997 were deemed eligible for engagement in the labour pool. The task to register casual workers was completed after several all-day meetings of dock workers at Albert Park on Sundays, where eventually some 1,500 workers were registered (Hemson, 2000: 10).

After the completion of a database fellow organisers then alleged that Cirah ignored the selection criteria which the technical committee had established in the agreement for entry into the pool. Instead, Cirah allegedly unilaterally determined membership to the pool.³²² Some employers alleged this process led to wide spread corruption with Cirah taking bribes from people to be included in the pool. Whatever the truth of this accusation, the subsequent pool numbers, largely seen by employers as sustainable at around 900-1200, blew out to over 2,500 in February 1998. In response, however, Cirah's new organisation the Services Employees' Industrial union (SEIU) claimed that the inflated membership of the pool was attributable to their incorporating all dock workers, including those employed by labour brokers over a number of years.³²³ The NDoT also made claims and employers that the number of people in the pool with no dock work experience could be seen in the

³²⁰ Interview with James Fulton, Mech-Elect Pty Ltd, Manager, Durban, 20-10-1999.

³²¹ The NFA was to include the labour pool workers traditionally regarded as stevedores. They included the categories of stevedoring 'hands', winchmen, gangwaymen, and *indunas* (Hemson, 2001: 4).

³²² Interview with Dave Hemson, University of Durban-Westville, Durban, 25-10-1999.

³²³ Interview with Willie Cirah, SEIU organiser, Durban, 21-10-1999.

inflated number of accidents and fatalities that occurred after the initial commencement of the pool. But the SEIU made the counter-claim that the reasons for the accident and fatality rate rise were attributable to some employers not sourcing from the pool and instead drawing on workers from off the street.³²⁴

The NDoT were asked to investigate the accident and fatality issue when the South African Maritime Safety Authority (SAMSA) reported that the casualty ratio amongst stevedores rocketed by 500 per cent after the pilot Scheme commenced. In its first week of operation there were seven reported serious injuries which, following investigation, were the result of untrained and inexperienced workers.

This over-supply of inexperienced workers within the pool consequently led key employers in Durban to pull out of the agreement to use NDLS labour. TGWU argued they attempted to intervene but were essentially locked out by Cirah. The attempt to establish another pilot in Cape Town at this time by TGWU was also dismissed by employers given their experience in Durban. The NDoL was then asked to examine the Scheme by TGWU.³²⁵

Legality of the Scheme

Directly after the establishment of the Scheme, a number of private sector stevedores objected to the validity of the agreement. Two fundamental issues were raised regarding the agreement's legality. Firstly, whether Portnet could constitutionally force employers to source labour from the pool by withdrawing stevedoring licences. A number of stevedores were non-signatories to the agreement and claimed Portnet's revoking their license as unconstitutional. Secondly, not all employers were aware that Cirah had broken away from TGWU to form his own union and believed he had signed the agreement on behalf of TGWU.³²⁶ The question was then raised as to the validity of the agreement given that the Cirah was a signatory on behalf of the TGWU, although he no longer represented this union. Also, both Portnet and private sector stevedores argued the 'in principle' agreement was

³²⁴ Interview with Fally Veeran, SEIU organiser, Durban, 26-10-1999.

³²⁵ Interview with Sam Ntombela, TGWU organiser, Durban, 18-10-1999.

³²⁶ Although Cirah had attempted to register the DTGWU with the NDoL, this was rejected due to the similarity in names with TGWU. However, this situation was addressed when Cirah from mid 1998 became an organiser with the SEIU. Interview with Willie Cirah, 1999 op. cit.

signed under duress as Cirah's union agitated for the pilot Schemes immediate implementation.³²⁷

As the legal opinions provided to stevedores varied in their judgements, Portnet was forced to seek its own legal opinion. Although Portnet's initial legal opinion maintained that their ability to revoke stevedoring licenses was constitutional, a further opinion found the pilot Scheme agreement was a fundamentally flawed document in its general wording and intention of the various provisions (Portnet, 1998).³²⁸ In the interim the pilot Scheme continued to operate due to the ongoing pressure from the casual dock workers through industrial action which in turn compelled employers to draw from the pool.

In theory questions over the legality of the pilot Scheme now enabled employers to again source casual labour from labour brokers. However, in effect, given the hostility of the SEIU members to other casual workers, this practice was not initially widespread. The SEIU therefore maintained *de jure* control over casual labour supply to the Durban stevedoring employers.

6.4.1 Pool operations

After a year's operation, problems with the Scheme's administration emerged. Although the NFA and its institutions provided a formal framework to the labour pool, it had yet to address a number of key issues. Wage issues included the tax regime (including income tax and the Value Added Tax (VAT)), the Users' rates, sick pay, annual bonuses, and holiday pay. There was also little progress on 'right-sizing' the pool and the provision of pensions (Hemson, 2001: 4-5). However, a fundamental problem was the supervision of Mech-Elect's payment of benefits to workers and how they could be accumulated, consolidated, and implemented (2001: 6).

Despite these concerns a significant improvement in wages and conditions for casual dock workers had occurred with wages increasing from an estimated R5 per hour in 1996 to R8.85 per hour in 1999. With benefits the wage rate totalled R12.05 per hour. According to the Mech-Elect, this increase then placed dock workers amongst the highest hourly paid

³²⁷ Interview with Willie Cirah, SEIU organiser, Durban, 21-10-1999.

³²⁸ Interview with Mark Olmesdahl, Human Resources Manager, Portnet, Durban, 21-10-1999. Interview, Tony Kruger, op. cit.

general workers in South Africa.³²⁹ However, given the limited hours of work available due to the total number of workers being rotated within the pooling system, the average wage for stevedoring general workers was only R800 a month (Hemson, 2000b: 7 and 2001: 13). In some weeks, workers received R35 (the earnings for four hours), whilst exceptional weeks wages increased to around R300. Rarely did workers make over R1000 a month, which was considerably lower than a municipal street sweeper or the lowest paid industrial worker. Dock worker's average incomes were therefore far below the average industrial wage of about R2 500 (Hemson, 2000b: 8). The ability for the SEIU to increase the wages for its members were increasingly difficult as Mech Elect had raised its hourly charge rate to Users from an initial 50c to R1.50. Users were therefore reluctant to see any further increase in their charge rates (Hemson, 2001: 7).³³⁰

The wage issue was therefore compounded by the lack of a wage guarantee. Although most dock workers were utilised only one to two days a week, the SEIU sought a guaranteed level of work at twelve days a month. However, employers remained adamant that given the pool's size the prospects of effectively implementing a guarantee were remote.³³¹

A number of other serious issues then soon emerged in the function of the pool. These included:

- Firstly, seeking funds for redundancies to right size the operational requirements of the pool.
- Secondly, workers with a variety of skills and qualifications only receiving one set wage.
- Thirdly, overtime payments and a Disciplinary Code.³³²
- Fourthly, expansion of the Scheme to Second Phase Users in October 1999 to include warehouse workers within a 5km radius of the port of Durban.

³²⁹ Interview with Maurice Koppel, op. cit.

³³⁰ Labour brokers who had competed against Mech Elect in the tendering process regarded the initial bid of 50c an hour as a gross understatement of actual costs of renting a warehouse, maintaining an administration, and employing officials.

³³¹ Interview with Jon Thurlow, National Stevedores, Durban, 26-10-1999.

³³² Users, of the pool complained workers were undisciplined as they often did not arrive on time and left before completing their shift. Whilst workers complained of not being paid by Mech-Elect for overtime. These difficulties were in turn blamed by Mech-Elect on employers not submitting the schedules of workers employed daily to the Scheme (Hemson, 2000: 11).

The first issue, seeking funds for redundancies, was included in the agreement to right size the operational requirements of the pool. Various formulas existed for calculating redundancy payments based on length of service, but there remained a disagreement as to the overall costs of redundancies. The SEIU sought redundancy payments for workers aged 55 years and above at R7,000 and for workers below 55 years of age R5,000, plus two weeks pay per year of service.³³³ Employers and the SEIU's total redundancy estimates ranged between R2 to R10 million, although both requested the ANC government to provide for a one-off social upliftment payment or for Portnet to establish a levy for funding the redundancies. Both proposals however were rejected. According to Portnet's Human Resources Director, Patrick Dada, it would have been unprecedented in South Africa for casual employees to be paid severance pay.³³⁴

A secondly major issue was that although the pool contained workers with a variety of skills and qualifications, there was only one set wage. Skilled workers became increasingly dissatisfied with this arrangement. For example as the overwhelming majority of workers claimed skills such as driving certificates, the ability to prove their competence and certification was at issue (Hemson, 2001: 4). The training and skills recognition issue was exacerbated by the fact that after more than a years operations, the Maritime Industry Training Board had no involvement in training or skill recognition – although an original objective of the NDLS proposal.³³⁵

Thirdly, overtime payments were also an issue in the pool's operations. The National Framework Agreement (NFA) included a clause for dock workers to be transferred between any workplace of an employer during the course of the shift (NDLS, 1998a: 6.2.5).³³⁶ Users of the pool complained that workers were often undisciplined as they did not arrive on time and left before completing their shift, whilst workers complained of not being paid by Mech-Elect for overtime. These difficulties were in turn blamed by Mech-Elect on employers for their not submitting the schedules of workers employed daily to the Scheme (Hemson, 2000: 11). The dispute led to a ban on overtime by the SEIU, whilst employers

³³³ Interview with Willie Cirah, *op.cit.*

³³⁴ Interview with Patrick Dada, Portnet Human Resources Direct, Johannesburg, 3-11-1999.

³³⁵ Interview with James Fulton, Manager, Mech-Elect Pty Ltd, Durban, 20-10-1999.

³³⁶ This was a major concession by the unions as it impinged on the relative freedom of complete casualisation were workers could leave after one job had been completed. However, this clause was not regularly activated (Hemson, 2001: 4).

insisted on a Disciplinary Code. The issue was only resolved when a colour coded identification system later was established to denote grades within a rotational rostering system to assist monitoring shift attendance.³³⁷

Fourthly, the expansion of the Scheme to Second Phase Users occurred in October 1999, as it was in the interests of Mech-Elect to widen the ambit of the Scheme to include more workers. Doing so would bring in greater revenue to Mech-Elect through an increased scale of operation and application of the charge rate levied on Users. The NFA was amended to include forklift and other drivers, as well as cargo controllers and warehouse workers within a 5km radius of the port of Durban (NDLSb, 1999: 2.5; 3.2, cited in Hemson, 2001: 4). A problem emerged with this agreement with the existing casual workforce within warehousing not being incorporated into the pool. This excluded existing semi-skilled casual warehouse workers and replaced them with the existing pool workforce.³³⁸ This agreement also envisaged the pool being extended to the dry docks.

6.4.2 Review of the pilot Scheme

These and other issues prompted SAMSA to alert the South African parliament's Standing Committee on Maritime Affairs. This issue of the pilot Dock Labour Scheme was then raised as a special item of business at a Committee meeting in July 1999. The meeting resolved to draw the issue of the pilot Scheme to the attention of the Minister of Transport, Dullah Omar, recommending that a task team be established to investigate the various problems being experienced and that public hearings also be held. In August 1999 the Minister replied to the chair of the Committee stating that a task team was to be established consisting of representatives of the Departments of Transport, Labour and of Public Enterprises. All three government agencies were urged by Portnet, TGWU and stevedores to become directly involved in the review of the Scheme. Concurrent with this initiative was an internal review of the NDLS agreement by the Board of Control.³³⁹

The Minister for Transport, Dullah Omar, felt strongly that the NDLS pilot was a labour issue that should be addressed by the Minister of Labour, Mr Mdladlana. The review was

³³⁷ Interview with Maurice Koppel, op. cit.

³³⁸ Interview with Willie Cirah, op. cit.

³³⁹ Interview with Mark Olmesdahl, op. cit.

subsequently referred to the Department of Labour (NDoL) for intervention. However, the Department of Transport received no response from its counterpart. The Standing Committee on Maritime Affairs at its meetings in February and June 2000 noted with disappointment this lack of progress and called on individual maritime companies involved to write to Mr Mdladlana to express their concerns.³⁴⁰ The task team to review the implementation of the NDLS however never sat, despite the appeals of the Standing Committee (DGWU, 26 October 2001).

6.4.3 New entrants

Ultimately, with the legal questions surrounding Portnet's ability to compel employers to source variable labour from the pilot pool and consequent re-emergence of labour brokers, the utility of the dock labour pool depended on employers' choosing to source labour from it. The industrial actions of the SEIU had proved significant to pressure employers into utilising the pool for a limited period. But this scenario changed with the emergence of P&O Ports South Africa in October 1998, its acquisition of a number of stevedoring firms, and its decision to maintain its own 'permanent' workforce. This became critical to the continued viability of the pilot pool based on its then configuration.³⁴¹

P&O Ports South Africa was established by P&O Ports Australia's international port management division which had progressively acquired a number of private sector stevedoring companies from mid 1998.³⁴² These included Macrae Marine Services, Maq Marine, Seawind, Grindrod (Terminals) Pty. Ltd., and in October 1999 National Stevedores and Natal Lashing.³⁴³ P&O Ports South Africa also later acquired businesses in Cape Town, Port Elizabeth and Richard's Bay.³⁴⁴ P&O's acquisition of the stevedoring firms, arguably,

³⁴⁰ Email correspondence with NDoT, 8 June 2000.

³⁴¹ Interview with Colin MacRae, P&O Ports Stevedoring, Durban, 26-10-1999.

³⁴² P&O were positioning themselves for any future privatisation of Portnet's operations. However, it remained unclear what price either P&O or other contenders would have to pay in securing a stake in Portnet until the pension fund deficit issue was addressed. Any outright sale or equity investment partnership in port infrastructure could have attracted a proportionate share of pension fund debt. This in turn would have had implications on the future sale price of Portnet's assets. For example, in 1999 the ANC government sold 30 per cent in SAA to an equity partner, Swiss Air. The sale was based on the Transnet decision to share responsibility of the pension fund amongst Business Units. Accordingly, SAA is to now service approximately R 1 billion of the pension fund debt (*Business Day*, 25 February 1999). Swiss Air subsequently sold back its stake in SAA post the 2001 international airline crisis.

³⁴³ SAS were also restructured and their parent company Bidvest assembled TMS labour pool.

³⁴⁴ P&O Ports Australia also manages the container terminal in Maputo, Mozambique. In 1996 P&O Ports formed a joint venture in association with Mozambique Ports and Railways (CFM) and Rennies (a South

was part of a broader strategy to position itself for the prospective privatisation of Portnet's container terminals.³⁴⁵

When P&O indicated its intention to utilise existing staff from the acquired stevedores and incorporate them into the one operation, its employees numbered some 400 across South Africa by 2000 (P&O Ports, 2001). As P&O's acquisitions had previously drawn upon around 11 per cent of the pool's workforce its entry into the stevedoring industry had serious consequences for the continued viability of the pilot labour pool – let alone any prospect for securing a wage guarantee for the existing pool workforce.³⁴⁶

6.5 THE SEIU'S IMPLOSION

During the latter half of 1999 SEIU organiser Willie Cirah was alleged to have taken unilateral control of the SEIU's finances and the business relationship with Mech-Elect (Hemson, 2001). A number of events point to the gross mal-administration of the Scheme and corruption within the SEIU leadership.

For example, income tax was deducted from manual workers who did not reach the tax threshold of R18,000 annually, as these workers were not provided their annual income statements to claim back their tax deductions.³⁴⁷ It was later found that R176 820 was paid over to Cirah, although this sum was only a portion of the total tax deducted. However, other sums periodically paid by Mech-Elect to Cirah included union dues not deposited in the SEIU account. An audit the SEIU's finances in May 2000 found a total of R450,000 in

African stevedoring company) to manage and operate the container terminal in Maputo, Mozambique. P&O estimate a throughput of 23,000 TEUs for 1998. The facility expects to handle around 100,000 TEUs by the end of the 1990s.

³⁴⁵ P&O Ports in 2000 appointed two Australian port management experts, Eric Bubeer and Alan Miles, to become the container terminal managers in Durban for a period of 12 months. Durban's Port Manager Ronnie Kingwill argued the appointments were to improve productivity and provide for an empowerment process where a skills transfer program for current trainees will develop future container terminal managers (FTW, 7 April 2000 and 20 April 2000).

³⁴⁶ This figure is based on monthly averages for a two shift / seven day week total pool utilisation figures from between January to September 1999. The monthly average was 12,286, with the P&O Groups monthly average being 1,380. Based on these figures, the average number of workers on a three day minimum utilised per shift per month would be 1,024 (Association of Durban Stevedores, 1999).

³⁴⁷ Mech Elect management argued that their employment records had been lost in a computer crash and that they had repaid the tax deductions to Cirah (Hemson, 2000b: 8).

union dues unaccounted for (*ibid*: 6). The SEIU then alleged Cirah had been defrauding the union in his role as organiser and colluding with the Mech-Elect management.

Another issue was that although the pool was ostensibly organised on the basis of a closed shop by the SEIU as the majority union, some TGWU members also worked within the pool. They raised the issue of the calculation of the annual bonus and demanded tax receipt (IRP5) forms to take to the tax office to claim tax deductions (*ibid*: 6). TGWU claimed over thirty of their members were threatened when they made this demand, and by February 1999 were subsequently forced to leave the pool. A TGWU shop steward, Cedric Shabane, was then murdered under suspicious circumstances in May 1999.³⁴⁸ SEIU members also beat Sam Ntombela, TGWU organiser in Durban, when he attempted to address them at one of their rallies.³⁴⁹ These events culminated in a raid on 23 February 2000 by the Commercial Fraud Squad of Mech Elect's offices.³⁵⁰

6.5.1 New SEIU leadership and TMS

Following the raid a new leadership within the SEIU emerged from March 2000 which sought to re-establish the labour pool under the *Labour Relations Act's* Bargaining Council provision and as a non-profit organisation under Section 21 of the *Companies Act*. The Bargaining Council would enable a fifty-fifty representation allowing the union to either appoint or itself become a management company. The SEIU aimed to base the labour pool on the model of the San Francisco local of the International Longshore Workers' Union.³⁵¹ Users soon reported major problems with the discipline of pool workers and were not prepared to extend the contract of Mech Elect for a further period beyond the end of March 2000. Employers now proposed splitting the pool under two or three different managements.

The new SEIU leadership's first National Congress on 6 May 2000 set the priority to right-size the pool by funding pensions through the Department of Transport. Discussions in relation to this issue took place with members of the Select Committee of the Transport

³⁴⁸ The murder case remains unsolved with no progress reported from the Murder Squad although the prime suspects were identified and sworn statements gathered by the SEIU (Hemson, 2000b: 9).

³⁴⁹ Interview with Sam Ntombela, TGWU organiser, Durban, 18-10-1999.

³⁵⁰ The raid was prompted by suspicions of fictitious invoices allegedly delivered to Portnet - totalling a sum of R5m - that led Portnet to delay all payments to Mech Elect (Hemson, 2001: 7).

³⁵¹ Telephone conversation with Dave Hemson 16 May 2000.

Industry (Hemson, 2001: 8). State officials however insisted dock workers did not warrant any special attention and that the state was not prepared to finance pensions. One official was reported to have said: “There are hundred of thousands of workers being retrenched, why should the dock workers be privileged?” (Hemson, 2000b: 7).³⁵²

On 9 March 2000 an SEIU shop steward and Umlazi ANC official, Vusi Mbeje, was shot dead whilst sitting in the labour pool truck outside the labour pool gates in Maydon Wharf. Mbeje had been a vocal opponent of Cirah and had been a signatory of a letter to Mech-Elect management insisting that union dues be deposited into a bank account. The SEIU alleged Mech-Elect orchestrated a hit squad to undertake the murder (SEIU, May 2000). The police subsequently investigated Mbeje’s murder whilst Cirah went missing from May 2000.³⁵³ The SEIU then initiated two cases against Privest for defrauding the SEIU by making cash cheques to Cirah and for the theft of workers’ tax instalments. With the SEIU bankrupted, they subsequently launched a ‘Dockers Defence Campaign’ to gain financial support for its legal campaign to prosecute the murder investigation and fraud cases.

With the internal restructuring of the SEIU occurring a Board of Control meeting in May 2000 agreed to continue the Scheme on the basis of a single pool with a new management. The pool was extended for six months on existing conditions with a new labour broker undertaking the role of scheme manager, Total Manpower Solutions (TMS), a subsidiary of the Bidvest company. The new labour pool premises were in Sydney Road (Hemson, 2001: 8).

Also during this time SARHWU had merged with other Transnet unions TATU and BLATU, and in 1999 was renamed the South African Transport and Allied Workers’ Union (SATAWU). TGWU then finally merged with SATAWU in 2000.³⁵⁴ The new union traversing both state and private sectors now posed a significant challenger to the SEIU’s organisation.

³⁵² The statement of a senior official of the Department of Labour reported by employers who visited Pretoria in 1999.

³⁵³ Telephone conversation with Dave Hemson 16 May 2000.

³⁵⁴ The merger between SARHWU and TGWU was delayed because of issues surrounding the amalgamation of their investment companies (*Business Day*, 18 May 2000). SARHWU Investments was established in 1997 with ten companies and investments totaling almost R400 million (Wadula, 1997). The issue of retrenchment was also significant with SARHWU investments role seen as providing supplementary financial support for retraining retrenched members (*Financial Mail*, 1998).

Two issues then emerged from both workers and employers for the SEIU. Firstly at issue for workers was the lack of any wage increase or wage guarantees.³⁵⁵ Secondly, the Users refused any wage increase and demanded guarantees of discipline by pool workers. Employers insisted that the prospect for wage guarantees and pensions was not their direct responsibility, whilst they sought the SEIU to take responsibility for disciplining workers. In response the SEIU argued discipline was the responsibility of the Scheme Manager and that it would continue to follow the appropriate procedures in relation to its membership. The key issue in relation to discipline appeared to be the practice of dock workers refusing to provide their NDLS numbers when disputes took place.³⁵⁶ However, TMS and Users struggled to define a set of disciplinary procedures to address these issues.

6.5.2 November 2000 strike

Despite the interim measure to renew the pool's operations for a further six months, Users' continued to insist that any future wage guarantees were dependent on the pool's productivity and discipline. Negotiations at the Durban offices of the Commission for Conciliation, Mediation and Arbitration (CCMA) occurred when the SEIU demanded a wage guarantee. When the negotiations proved inconclusive the Commissioner issued a certificate that the dispute was unresolved. This in turn led to the prospect of a legal strike action (Hemson, 2001: 13).³⁵⁷

³⁵⁵ This led to skilled workers (drivers and cargo controllers) refusing to report for work and reporting instead to labour brokers. The skilled workers then joined the newly constituted SATAWU and signed on with other labour brokers which offered a wage 'increase' through consolidating all the hourly benefits (sick, holiday and annual bonus) into the weekly wage. When skilled workers stopped reporting to the NDLS the divisions were seen as orchestrated by Portnet to develop two or more pools, as Portnet provided facilities for the new brokers. This development led to the general stevedoring workers also demanding the same rates as those of the skilled workers. In an attempt to re-incorporate skilled pool workers, the SEIU demanded an increase of R16 an hour under the renewed contract with TMS. Skilled workers then eventually returned to the pool although the relationship between skilled workers and labourers remained strained (Hemson, 2001: 8-9).

³⁵⁶ The issue of discipline raised the question of formal regulation and substantive control of the work processes. Although the TMS was the employer under the Agreement, this was essentially an abstract notion as the operational employer was the User who would deploy and command workers on the ships. This was based on competition between stevedoring companies (Users), with each having their own methods of managing workers on the ships. Ironically, in practice employers resisted establishing operational norms, which were the issues that were most contested by the workers and led to question of disciplinary procedures (ie. manning levels etc.) (Hemson, 2001: 9-10).

³⁵⁷ Certificate of Outcome of Dispute referred for Conciliation, KN57284, 17-11-2000.

A mass meeting on 26 November 2000 to report back on the negotiations led to the continued demand for an R16 an hour wage increase, a three-day guarantee and pensions. However, a proposal to set a strike date to maintain a legal strategy and give the employers two days' notice was rejected. Instead, the strike date was set for the next day (*ibid*: 13).

The strike, unlike any previous strikes by dock casual workers, paralysed the harbour including the container terminal. Although strike leaders branded copies of the CCMA certificate of an unresolved dispute and claimed a legal strike was in-force, and that all work cease, the strike was illegal. This was because there had been no written notice to employers two days prior to the commencement of the action, as required under the LRA (*ibid*: 13). Employers then called on the SEIU and other parties to the Board of Control to attend a meeting in the afternoon, where they warned if there was no return to work they would initiate legal action (*ibid*: 14).³⁵⁸

6.5.3 The Ultimatum

Negotiations eventually led employers' into offering to establish a joint restructuring committee to recommend changes to the pool, the continuation of the TMS contract, and a night shift allowance (*ibid*: 15). By January 2001 employers agreed to increase wages by three per cent, but argued that any further wage increase was dependent upon workers agreeing to transfer from one ship to another on a shift and that identification cards be provided to the responsible foreman (*ibid*: 16).³⁵⁹ A single pool would then be agreed to for a month if stability were maintained and this would then be extended for six months during which time pensions and other benefits could become available.³⁶⁰ At the end of this period the NDLS would be incorporated into the National Bargaining Council (MATIBCO) by July 2001.

³⁵⁸ The SATAWU representative argued that members had been forced to join in the strike although the anger of the workers was understandable. The SALSTAF official (representative of many skilled and white workers) said that his members had been affected but that they had started with the pool and wanted to continue with it. The employers should declare that they were for one pool. Other small unions said the procedures be followed, but that they sympathised with the casual workers wage claim (Hemson, 2001: 14).

³⁵⁹ No discussion however took place on providing pensions, 'right-sizing' the pool, or training (Hemson, 2001: 16).

³⁶⁰ This agreement was reached on 27 December 2000 (NDLSb, 2000). A new Stakeholders Forum was also to be established to determine the Scheme's policy, review and decide on tenders, and was given the responsibility for raising pensions, rightsizing the pool and developing the wage guarantee. Associated with this agreement were the promises by the SATAWU leadership that funds would be raised from a variety of official sources to provide pensions for the workers above 55 years of age.

The Users therefore provided an ultimatum for the SEIU and its members that January 2001 be the month to determine whether the post-dispute agreement could be successfully implemented. However, at a report back meeting on 7 January 2001, attended for the first time by SATAWU leaders, led dock workers to vote against the clause transferring workers during a shift from ship to ship (*ibid*: 17-18).³⁶¹ When the SEIU leaders expressed the opposition of the workers to the Users on this issue, Users conceded the 3 per cent wage increase, but they warned any further incident would have critical ramifications.

6.5.4 The return of Cirah

At a meeting between the Users and Unions on 28 February 2001, both the SEIU and SATAWU insisted Users agree to extend the pool as a single entity. The Users however argued that a challenge to the existing SEIU leadership from Cirah, who had now reappeared in Durban, should be settled through an election (*ibid*: 19-20). Cirah on his return and his supporters now alleged that they represented the majority of pool members, insisting union' funds, offices and documents be handed over. A period of uneasy confrontation ensued at the premises of the pool culminating in a stoppage on 13 March 2001 as a number of workers insisted Cirah be recognised by employers. With threats and violence the existing SEIU leadership resigned. The pool manager TMS ordered striking workers to return to work but this resulted in violent clashes between workers and police.

On 15 March 2001 the Association of Durban Stevedores and Portnet announced that they were withdrawing support for the pool, although the Association was in support of TMS creating a provisional pool with SATAWU supplying labour (*ibid*: 21). Those workers supporting Cirah were consequently faced with the alternative of working for one or two small employers or joining the TMS pool, now associated with SATAWU (*ibid*: 21). The former SEIU leadership later re-emerged as the Dock and General Workers Union (DGWU) in the ports of Cape Town, Richard's Bay and Durban. By May 2001 there were three separate labour pools being operated by labour brokers in the port of Durban.³⁶²

³⁶¹ Individuals also raised the issue of why wages were not at R12.80 and hour, which was the TMS charge rate to Users (Hemson, 2001: 17-18).

³⁶² Telephone conversation with Dave Hemson 16 May 2000.

6.5.5 The failures of the pilot Scheme

The above describes the litany of miscalculations and corruption that dogged the pilot labour pool from its conception. The issue of 'timing' was cited by a number of stakeholders, particularly in SARHWU and Portnet, as a contributing factor in the delay to a commitment by all parties to any serious attempt at implementing the proposed NDLS.³⁶³ This was due to the fact, as discussed above, that the 1996 White Paper's focus on both the NDLS reform and Portnet's restructuring did not prioritise either although they were, as has been demonstrated, interconnected. This contradiction soon emerged in the both the lack of coordination between the COSATU affiliates and their interaction with the responsible ANC government agencies.

The delays in implementation brought about through this competing set of priorities for both the COSATU affiliates and the ANC government did not resolve the fact that casual workers' actions, especially when supported by the permanent membership within TGWU, were costly to both Portnet and the private sector stevedores. Following the collapse of apartheid, these operators' profitability was still based upon the structural casualisation of the labour market, although employers could apparently no longer rely on labour being coerced by the state. The raising expectations of the COSATU affiliated workforce for the prospect for reform was coupled with their stronger bargaining position given the rising levels of trade post-election, increasing levels of organisation, and relative freedom to act industrially in pursuit of their interests. As a result, although arguably under duress, a dock labour pool arrangement appeared in the immediate post-transition period to be in the interests of most stakeholders in the port of Durban in order to stabilise industrial relations.

Despite this push for a favourable arrangement to implement the NDLS, the extensive delays from the commencement of initial negotiations due to the intransigence on the part of both SARHWU and Portnet - given their complications concerning their own future direction - led to increasing frustration for dock workers in Durban. The local casual leader, Willie Cirah, then seized upon this dissatisfaction when the TGWU's central leadership in Johannesburg dismissed him in September 1997. What manifested as the 'pilot' dock labour scheme in Durban from January 1998 was then flawed as a base agreement from which to develop an effective bargaining arrangement for a number of organisational, legal and operational reasons.

The pilot Scheme was neither a legally binding agreement nor practicable in many operational aspects. The pool's operations were then exacerbated through the corrupt registration process and Cirah working outside the framework unilaterally with Mech-Elect management. The prospects of the pool to then right-size, provide a wage guarantee and training became even more remote. The eventual revelations surrounding the corruption, intimidation and violence that occurred throughout the duration of pilot scheme's operation were all symptomatic of:

- the ineffective agreement;
- the inadequacies of the parties to undertake its implementation; and,
- the actions of individuals - both union and employer – that could exploit to their own advantage deficiencies in checks and balances.

Given that the pilot was seen as flawed – in the sense of the agreement but also the parties to it – over a number of years, the role of the ANC government in the process comes into question. Although the Minister of Transport ordered a review in August 1999, the absence of any subsequent action begs the question why? What in fact was the ANC government's position on the necessity to successfully implement the pilot? The failure to provide any redundancy payments to right-size the pool is only one aspect of the government's position. As has been suggested above with the release of its transport policy in 1996 the ANC government set in train what appeared in hindsight to be two arguably contradictory policy positions – regulating the dock labour market and privatising port operations. The two policies can arguably be viewed as mutually exclusive of each other from the view of the private sector.

The emergence of P&O Ports into the private sector stevedoring industry from October 1998 was significant in its confirmation of the position of both the wider global port investment community and, indeed, the ANC government in relation to the implementation of the pilot scheme. The question soon emerged as to the relevance of a regulated dock labour market, based not only upon the flawed agreement that established the pilot but in relation to the changes to the stevedoring industry's market structure with P&O's acquisitions and utilisation of predominantly its own workforce.

³⁶³ Interview with Arthur Mzimela, Human Resources Manager, Portnet Durban, 24-3-1997; Thadiso Moshao, SARHWU op. cit.

As was demonstrated in Chapter Two, the ANC government's embrace of neo-liberal policy through GEAR in 1996 was centred on the privatisation of state assets, encouraging foreign direct investment, and providing labour market flexibility. This introduces the notion of a 'market solution' to address Durban's casual dock labour market. Such an approach however has implications for the role of trade union organisation and the type of industrial relations system that has emerged under the ANC government. What follows provides an outline of how the ANC government's port privatisation policy emerged in the context of the pilot scheme. This provides a basis from which to analyse from a wider national policy setting the attempted implementation of the pilot scheme and its relevance as an example of the emerging industrial relations system in South Africa.

6.6 PORTNET'S PRIVATISATION

The above argues the main factor that inhibited a more comprehensive implementation of the pilot dock labour scheme and more broadly the initial NDLS proposal was the issue of Portnet's restructuring and proposed privatisation. The latter proposal was based upon the formation of a Ports Policy to determine the extent to which port operations were to be privatised. This in turn would inevitably affect the viability of any pooling arrangement.³⁶⁴

As has been demonstrated above, the ANC government faced difficult decisions in relation to what it inherited from the National Party regime in the financial position Portnet played in Transnet, with its earnings being allocated for the cross-subsidisation of sister Business Units and the pension fund deficit. Ironically, what emerged as the ANC policy to divide Portnet into a National Port Authority (NPA) and separate operations with the view to ultimately privatise the latter can be seen to have followed the policy of the previous National Party government.

³⁶⁴ As Harvey (1997: 42-3) has stated: "[T]he direction that Government takes on Portnet is a central factor to be taken into account when planning the implementation of the NDLS. This is so because Portnet is a huge organisation that has been able to some extent to maximise permanent full-time employment because it is able to move staff around as operational demands shift. The remains of a radically re-structured Portnet cannot have such advantages, and clearly the implications for employment by the new or re-structured operator/s and the NDLS will be huge.

Similarly, the very nature of the future Portnet (or its remains) has very direct implications on the future viability of private operators, which in itself has implications for employment by such operators and/or the NDLS. It is of critical importance therefore that Government and Labour through the National Framework Agreement actively engage to resolve some of these issues. Similarly, the National Department of Transport must ensure that the development of a comprehensive Ports Policy is fast-tracked".

Needless to say, the ANC's position on port privatisation has subsequently been opposed by COSATU. The development of this division between the alliance partners over the issue of port privatisation is discussed below, with an emphasis placed on the effect of this policy upon dock labour market restructuring. The conclusion then briefly examines the grounds on which COSATU may contest this policy decision.

6.6.1 National Party and ANC port privatisation policy

The National Party articulated a ports policy with the formation of Transnet corporation in 1990. In 1989 the *Legal Succession to the South African Transport Services Act* provided a basis for the financial separation of the various SATS services to be encompassed by Transnet (Barrett, 1992: 55). In 1990 Marius de Waal, Chair of Transnet, stated "the ultimate goal for Transnet is for it to be privatised" (Barrett, 1992: 56). This was to be undertaken in three stages: deregulation, commercialisation, and privatisation. However, the National Party's basis for privatisation, it as been argued elsewhere, was not only driven by financial considerations. At the time there was suspicion in the transport industry internationally that:

the change, spearheaded by the government itself, is a political ploy with a public relations coating to ensure that a government elected under a new constitution will find it more difficult to implement a 'nationalisation' policy (Crichton, 1991).

As Hentz (2000: 212) notes: "In the case of the National Party, privatisation was meant to prevent [the ANC] ...from inheriting the vast resources controlled by ...state enterprises".

The SATS Chief Executive Officer (CEO) for harbours, Duke Davidson, stated in 1989 that SATS would retain ownership of infrastructure within a port authority, but superstructure would be either privatised or retained by Portnet, or a combination of the two. SATS at the time also emphasised the movement from the centralised administration of ports under SAR&H to decentralised individual port authorities (Barrett, 1992: 57). The emphasis on the decentralisation of ports was later altered in 1993 when the National Party government initiated an *Inquiry into a National Maritime Policy for the Republic of South Africa*. Its recommendation was for Portnet to be replaced by a national autonomous port authority as both landlord and regulatory authority, with port services to be provided by the private sector (Kent and Hochstein, 1998: 314; footnote no. 6; 331-2).

In 1995, in the absence of any clear ports policy from the new ANC government, Portnet's CEO Neil Oosthuisen foreshadowed the imminent split between port authority and operations (Crichton, 1995: 85). Portnet were to retain the role of port authority but open to competition the creation of new port terminals under private sector control along with the select privatisation of Portnet's terminals (*ibid*: 85).

When the ANC government's *White Paper* on National Transport Policy was released in 1996, it endorsed the split of Portnet into two separate organisations:

A port authority ...will be established ...independent of any port operating entity (NDoT 1996: 18). The port authority will have the function of administering the port infrastructure [and] ...regulating the operations in the ports by controlling tariffs and service standards (NDoT, 1996: 39).

The NDoT's 1997 Business Plan then stated that the division between Portnet's managerial and operational roles was necessary.³⁶⁵ The separation of Portnet operations and the possibility of their privatisation were therefore a clear policy position before the pilot dock labour scheme commenced in February 1998.

The prevailing Transnet management also quickly quashed any dissenting views to port privatisation. For example, Transnet's outgoing Chief Executive, Anton Moolman, suspended Siphon Nyawa, former Portnet Chief Executive Director from late 1996, for alleged credit card abuse. Nyawa was found guilty and subsequently dismissed by the Minister for Public Enterprises, Stella Sigcau.³⁶⁶ SARHWU however argued Nyawa was set-up by reactionary Portnet management due to Nyawa's support for SARHWU's call to

³⁶⁵ The NDoT Business Plan (1997: 7) states: "6.4.9 The activity is performed to alleviate the present fragmentation on ports policy in order to introduce fair competition and user choice. It is meant to achieve economic liberalisation to meet the needs of the shipping industry in the ports, by appointing an independent ports authority that will have the function of administering the port infrastructure, ensuring the long-term development thereof to meet the needs of the economy and regulating the operation in the ports by controlling tariffs and service standards".

³⁶⁶ Eveleth, Ann (1997) "Portnet head in witch hunt", *Weekly Mail & Guardian*, February 21 to 27.

maintain national ownership of Portnet and expose corruption and crime syndicates within the parastatal.³⁶⁷

Also in September 1998 with the NDoT's release of a working document titled '*Moving South Africa: A Transport Strategy for 2020*', the consolidation of cargo through key hub ports was proposed to create economies of scale to maximise investment returns and efficiencies in the transport and logistics chain. However, Portnet's Childs' criticised the *Moving South Africa* recommendation by arguing that an integrated port strategy would need to support the participation of all of South Africa's ports in economic development. Childs' said: "The selective development of certain ports to the detriment or even closure of other ports would not seem to hold net economic benefits for the country". In October 1998, Childs' outlined Portnet's management strategy in relation to privatisation - although in doing so emphasised the strategy was 'not official policy'. Portnet's key proposal was consistent with establishing a national port authority as landlord and concessioning private firms to undertake operations in a 'competitive environment' (*Business Day*, 15 October 1998).

In May 1999 the then Minister for Transport, Mac Maharaj, announced an *Action Agenda* to implement the *Moving South Africa* initiatives. One initiative was for the formation of a joint steering committee between Portnet and the NDoT to work on developing a basic framework for the implementation of a ports policy. The report was similar to the previous position on splitting into two Portnet's functions. The *Moving South Africa* framework argued for "The ports system [to] ... be managed by a single landlord-type National Ports Authority, with independent and privatised port operations' (NDoT, 1999). The 'hub port' proposal was however now rejected following the announcement in 2000 of the development of Coega port near Port Elizabeth in the Eastern Cape, with P&O-Nedlloyd committed in principle to build Coega as part of a R1.5 billion consortium (*Fairplay*, 4 May 2000).

³⁶⁷ A SARHWU document directed to both the Minister of Public Enterprise, Stella Sigcau, and Managing Director of Transnet, Saki Macozoma, stated: "SARHWU is appalled at the events taking place in this inquiry. ...Transnet has violated its own disciplinary rules and regulations in its selective and racially biased prosecution of Mr Nyawo. Rather than pointing the finger to the 'old guard', Transnet continues to prosecute Mr Nyawo. The process here has become a full blown disciplinary investigation of Mr Nyawo - a political witch hunt - with the objectives of burning him at the stake of anti-transformation. This exercise ...allows further division and destabilisation of Transnet's transformation" (SARHWU, 1996: 7).

Former TGWU Assistant Secretary and later NDoT deputy director-general, Harald Harvey, had been a key author of both the NDLS proposal and MSA hub policy. Harvey however now argued the role of government had changed from one of service provision to a focus on policy, strategy and regulation. The private sector was now seen to be a key player in service delivery, with specific roles in infrastructure finance and provision. Harvey said the ANC government's policy was that port operations would be privatised through equity sales and concessions with the state retaining ownership of the port infrastructure through a national landlord-type port authority or authorities (*Business Day*, 17 May 2000).

Subsequently, in May 2000 Portnet was divided into a National Port Authority (NPA) and port operation Business Unit, South African Port Operations (SAPO). The latter had already concessioned port operational management in Durban to P&O Ports for a period of one year (see above).

6.6.2 The ANC government's Ports Policy

The NDoT released the formal National Commercial Ports Policy as a draft in October 2001. The Ports Policy was to establish legislation to steer the future of South Africa's port privatisation and was therefore critical to the port industry's industrial relations. However, the draft policy did not address the issue of the NDLS and made no mention of the earlier 1996 White Paper's objective to 'reverse' casualisation through establishing a labour pooling arrangement.³⁶⁸

A proposed Port Regulator Body within the NDoT was to oversee the NPA whilst it remained under Transnet's ownership (*Business Day*, 12 October 2001). However, the role for the Port Regulator remained unclear in relation to its scope to regulate the dock labour market. Such a role was complicated by the basic principle that "Regulation should be kept to a minimum, but without compromising national aspirations, safety and efficiency" (NDoT, 2001a: 10). In accordance with this direction the role of the NPA was to provide controls over "licensing/concessioning of terminal operations and/or related services" and port utility functions as 'stevedoring' (*ibid*: 14). This was to occur as "Government reduces direct involvement in operations [to] allow for a more competitive environment" (*ibid*: 23).

³⁶⁸ There was however reference to the fact that the "majority of workers in ... port operations are unskilled with a high level of illiteracy" (NDoT, 2001a: 20). A role for the Sector Education Training Authorities (SETA) was identified to address this situation through assisting in developing "a culture in which labour is seen as a resource and not merely a production cost" (*ibid*: 21), although there is no mention of a correlation between permanent employment and training.

Representations were made on the draft Ports Policy from both SATAWU and the DGWU. Both were critical of the lack of consultation on the draft policy and asked for an extension of time beyond the end of October deadline.³⁶⁹ The draft policy mentions that the Department of Public Enterprises (DPE) will consult with labour over restructuring issues in accordance with the National Framework Agreement on the Restructuring of State Assets (NFA).³⁷⁰ However, SATAWU and the DGWU were concerned at how the NFA had proven a shallow negotiating forum and acted merely as a mechanism to mitigate the consequences of privatisation. For example, von Holdt (2001) argued SATAWU's experience of the Spoornet restructuring proposal was that the DPE "is designed to focus on making deals ... [and its] officials generally have little or no understanding of the economics or social economic role of the sector".³⁷¹

SATAWU's submission made direct reference to the necessity to include a commitment to the NDLS and relevant ILO Conventions (SATAWU/COSATU, 2001: 9). SATAWU also called for the policy development process to be put on hold and a study to be undertaken that included "the effect [concessioning] could have on the workforce" (FTW, 23 November 2001).

The DGWU provided evidence to the drafting team of the Parliamentary Transport Committee in Durban on 25 October. Hemson at the submission argued the pilot Scheme in Durban failed because of the lack of state support. The DGWU's written submission called for a *National Dock Labour Act* to provide a solid basis on which the NDLS reforms could be enacted and made permanent. The DGWU also demanded a commission of inquiry into conditions in the docks (DGWU, 26 October 2001).

³⁶⁹ Dave Hemson email correspondence, 'Notes from NDoT drafting Committee meeting, Durban, 25 October 2001', 28 October 2001.

³⁷⁰ The NFA principles include employment retention and redeployment within or between state enterprises (NFA, 1996: 4).

³⁷¹ For example in September 1999 the DPE announced that some 27,000 of Spoornet's 41,000 rail employees could face retrenchment as part of a fundamental restructuring of rail operations developed by the international consultant Rothschild (*Business Day*, 22 September 1999). This plan was announced without any labour consultation. SATAWU then lobbied Parliament and the press to force the ANC government to reconsider its proposal. The DPE and NDoT then established a joint government-labour task team, which included Salstaff and UTATU. A revised proposal was based on maintaining the general freight business division with the line haul coal operations which would lead to a much lower number of retrenchments (von Holdt, 2001).

6.6.3 The November 2001 strikes

Two disputes followed the release of the draft Ports Policy. Following the demise of the NDLS in March 2001 most employers made use of a number of labour brokers, such as TMS, Strikeforce and the Work Force Group. Ongoing discussions between Cirah's SEIU and employers in the wake of the pilot schemes demise ultimately broke down. Consequently, in September the SEIU declared a dispute and referred the matter of re-establishing the labour pool to the CCMA. On 16 November the SEIU, acting unilaterally notified SAPO of its intention to strike.³⁷²

More than 1,000 casual dock workers, members of Cirah's SEIU, then went on strike on 19 November 2001. The strike was fuelled by SAPO's decision to employ workers through alternative labour brokers. Several hundred members of the SEIU picketed Maydon Wharf and New Pier in an attempt to prevent labour brokers recruiting casual labour. Striking workers in groups of around one hundred targeted people looking for casual work and prevented them from entering the harbour area. In the ensuing industrial action the strikers' confronted permanent workers who refused to join the action. Armed police were then introduced to escort more than 600 casual dock workers out of the port, injuring six workers in the process (*Business Day*, 30 November 2001).

A number of ships remained idle in the harbour waiting to be loaded or off loaded. Lunga Ngcobo, a spokesperson for SAPO, said its activities were not affected, as there were no vessels at the Maydon Wharf harbour where the strikers were most active. However, Tony Kruger, the chairman of the Association of Durban Stevedores, said the work of other companies involved in stevedoring, wharfside operations and warehousing were severely affected (*Business Report*, 22 November 2001). The Association also made an urgent appeal to the NPA to seek an interdict to prevent any further disruption by members of the SEIU. Kruger stated that employers' refused to bow to the behaviour of the strikers and would not concede to the methods and tactics being employed (FTW, 30 November 2001). SATAWU also supported the interdict from the labour court to prevent its members being intimidated, assaulted or kidnapped.

³⁷² Cirah said: "Some of the workers have not been employed since March. We have taken this issue to the CCMA but it was not resolved" (*Business Report*, 22 November 2001). Cirah also said the strike would continue indefinitely until the withdrawal of the labour brokers and the NDLS restructuring demands were met. "We will see to it that this port is closed and that nothing is loaded onto or taken off any ship which comes into Durban harbour" (FTW, 30 November 2001).

On 22 November, the NPA, the Association of Durban Stevedores and a labour broker obtained an interim order in the Labour Court that restrained SEIU members from intimidating or preventing other employees from working or providing a service to port users (FTW, 30 November 2001). Rob Gardener, chair of the Association of Shipping Agents, said the strike had cost ships about R70,000 a day with at least ten ships affected at Maydon Wharf (*Daily News*, 20 November 2001).

The following week on 29 November members of SATAWU, Salstaff and UTATU initiated a national dock strike over demands for a performance bonus of between R1500 to R3000.³⁷³ The dispute over performance bonuses arose as the existing performance agreement had ended in March 2001, whilst productivity related bonuses negotiated for the beginning of the financial year had, according to SAPO, already been paid (*Business Report*, 29 November 2001).³⁷⁴ Around 9,500 workers in total were to be paid the bonus (*Business Day*, 5 December 2001). Job grading was also an issue with the separation of Portnet into the NPA and SAPO allegedly delaying this process (*Business Day*, 3 December 2001). The pending port privatisation outlined in the draft Ports Policy was also clearly a further prominent issue.

Around 4,000 SATAWU members participated in the strike nationally, including crane drivers, cargo coordinators, and operational and technical staff. Other operations affected included Richard's Bay drybulk and breakbulk terminals, Port Elizabeth's container terminal and Saldanha's iron ore and breakbulk terminals. Steve Matlou, SAPO Human Resources manager, argued only 1,200 or 60 per cent of SATAWU's members participated in the strike in Durban. SATAWU's Western Cape Secretary Nicholas Maziya claimed 100 per cent of SATAWU members joined the strike in Cape Town (*Business Day*, 30 November 2001).³⁷⁵

³⁷³ Membership across South Africa's ports for the respective unions is estimated at 15,000 for SATAWU, 2000 for Salstaff, and 2000 for UTATU (*Business Report*, 4 December 2001).

³⁷⁴ This strike was similar to that of 17 April 1998, when first a go-slow was followed by a two-day strike in Cape Town. The strike was orchestrated by the white skilled unions, Salstaff, the Technical Workers' Union and the Employees' Union of South Africa, which represent only around 20 per cent of Portnet's dock labour market (*Business Day*, 17 April 1998). The strike was aimed at Portnet's refusal to renew a monthly R500 bonus system. The strike spread to Durban and Richard's Bay on 26 May and was estimated to have cost the shipping industry R600 million (*Business Day*, 1 June 1998).

³⁷⁵ According to SAPO, 85 per cent of workers in Durban heeded the strike on the first day, while less than half observed the strike in Richards Bay, Port Elizabeth, and Cape Town, while only 20 per cent at East London and 15 per cent at Saldhana Bay.

After the first day of the strike five vessels remained idle at Durban's quayside with the port gates closed. By 30 November 2001 sixteen vessels were offshore waiting to berth. However, on the second day of the strike SATAWU agreed to accept the R1,000 bonus on condition of further agreement on grading issues.³⁷⁶ Although not all SATAWU members returned to work over the weekend, Salstaff and UTATU members continued their demand for a R3,000 bonus (*Business Report*, 1 December 2001).³⁷⁷ By Monday the backlog of vessels waiting to berth in Durban was twenty-four with only three of Durban's thirteen container cranes were operational (*Business Report*, 4 December 2001 and 5 December 2001).

The NPA subsequently gave notice on 4 December 2001 that it planned to lock out striking Salstaff and UTATU members. SAPO's Matlou argued the bonus could not be raised over R1,000 as this would be inconsistent with the SATAWU agreement. It was also alleged that individual members of Salstaff and UTATU had already signed agreements with SAPO to secure a R1,000 bonus (*Business Day*, 5 December 2001). The strike subsequently ended on 6 December when Salstaff and UTATU accepted the R1,000 bonus whilst SAPO, in return, withdrew its lockout notice (*Business Day*, 7 December 2001).

One report claimed the strike had cost shipping companies, importers, exporters and SAPO collectively US\$2 billion (*Financial Mail*, 25 January 2002). Exporters were allegedly forced to discount their product as a result of the strikes, whilst the South African Federated Chamber of Commerce (SAFCOC) warned of long-term negative repercussions as perceptions formed that South Africa was an unreliable trading partner (*Business Report*, 30 November 2001; 4 December 2001). Shipping lines represented by the Container Line Operators Forum (CLOF) sought a damages claim from Portnet of R600 million (US\$52 million) for vessel delays from July 2001 (*Containerisation International*, March 2002). When CLOF then threatened to impose a surcharge of US\$75 per TEU, Portnet offered R7 million (US\$0.6 million) to CLOF in compensation, leading to a moratorium being placed on the threatened surcharge (*Containerisation International*, April 2002: 81; *Fairplay*, 25 February 2002: 29).

³⁷⁶ Agreements were reached with SATAWU to remove the cargo controller grade and increase pay for employees operating lifting equipment (*Business Day*, 3 December 2001).

³⁷⁷ Alex Steyn, the Salstaff vice-president, claimed SATAWU members in Cape Town, dissatisfied with the R1000 agreement, participated illegally in the strike (*Business Report*, 4 December 2001).

The November 2001 strikes, firstly by casual dock workers and later by Portnet, now SAPO, employees, despite their economic impact, represented a divided response to both the issues at hand and the wider issue of port privatisation. SAPO and employers supported by SATAWU, had effectively used legal sanctions to restrain the now marginalised SEIU in their attempted actions. Similarly, SAPO used the racial and skill divisions between its unions to ultimately defeat the later strike on the basis of offering SATAWU an incentive to redress grading issues. The implications of these strikes and the wider issue of union fragmentation around the issue of port privatisation are discussed below.

6.6.4 Revised Ports Policy

The revised Ports Policy was released in December 2001 and followed by a second round of consultations with stakeholders by the Parliamentary Transport Committee drafting team. The timeline for the completion of the policy was then stated as February 2002.³⁷⁸ Soon after its release industry associations such as CLOF and the South African Shippers Council (SASC) (FTW, 11 January 2002) supported the revised Ports Policy. The revision now referred to government assuming “some responsibility” for improving human resources and a commitment to “consideration” of relevant ILO conventions and recommendations. Specifically, it referred to the ILO Port Development Programme, which had already been in operation for some years for Portnet’s permanent employees (NDoT, 2001b: 27).

The DGWU (2002: 1) submission on the revised policy noted that “the recommendations we made at the previous meeting on 26 October 2001 have not been accepted”. The DGWU again proposed the NDLS be established through a *National Dock Labour Act* along with training and welfare provisions. The DGWU also noted “Unfortunately the White Paper doesn’t commit government to implementing ILO conventions and recommendations which are the relevant international standards”. The DGWU submission therefore made specific reference to ILO Convention 137 and Recommendation 145. The DGWU submission (2002: 2) remarked: “It is a scandal that the new democratic government has not adopted these measures and carried them into law to benefit those who have suffered under apartheid and still endure cheap labour conditions”.

³⁷⁸ Dave Hemson email correspondence 18 January 2002.

After the revised Port Policy release no public information was made available on its progress until 16 May 2002 when the Minister of Public Enterprises, Jeff Radebe, announced the government's intention to fast track the concessioning of Durban's Portnet container terminal to the private sector. In this process Radebe (2002) stated:

Labour will be given job security by new concessionaires for a minimum period of 3 years that respect current conditions, pension funds and other social security benefits. The whole process will take place within the framework of the National Commercial Ports Policy adopted in January this year. ...The implementation details will themselves be subject to a consultation process with all stakeholders, including labour.

In response, SATAWU (17 May 2002) stated in a Press Release:

the official statement makes a mockery of all consultative processes, and undermines the understanding reached between the ANC and COSATU at the latest Alliance Summit. ...The Ports Policy to which Minister Radebe refers ...was secretly passed by Cabinet before completing the public participation process. In November 2001 ...SATAWU [was] ...assured ...a further round of public consultation. No such consultation took place before the policy was submitted to Cabinet. ... Riding roughshod over labour in the manner the government is currently doing will only alienate workers. ... SATAWU demands the government retracts its public statements on port concessioning.

SATAWU's Jane Barrett again argued for a study to be undertaken into the role of concessioning. She said: "To impose the medicine, in the form of private sector operations, before getting a proper diagnosis of the problem is a serious mistake on the part of government" (*Business Day*, 17 May 2002).

Despite these criticisms, it appears the ANC government is committed to port privatisation. It therefore remains to be seen how resilient organised labour is in maintaining a stake in negotiations over the future privatisation of Durban's container terminal and the extent to which the NFA features in these deliberations.³⁷⁹

³⁷⁹ In June 2000 COSATU had demanded a moratorium on further public sector restructuring arguing labour had not been sufficiently involved in negotiations as encompassed within the NFA. A sit-in at Transnet head office in Johannesburg by 150 SATAWU shop stewards coincided with this demand (*Business Day*, 23 June 2000).

6.6.5 Market solution?

As demonstrated above, the benefits from private ownership and competition remain questionable from the point of view of organised labour in South Africa. The following assesses arguments for and against the ANC port privatisation policy.

Potentially, with the privatisation of Durban's container terminal operations the issue of the division between operational control over stevedoring and wharf based labour in the movement of containers would be addressed through their merger. However, SATAWU negate this point by arguing that the private sector is already widely involved in the majority of port functions, and indeed, already undertakes the ship based stevedoring of containers (SATAWU/COSATU, 2001). The privatisation of quayside operations may not therefore necessarily introduce any immediate savings other than through the rationalisation of the existing workforce, given private sector management expertise has already been trialed in Portnet.

The concessions to private operators should also arguably assist in addressing under-investment in infrastructure due to the historical redirection of Portnet's revenue away from its ports. Ironically, despite the apparent need for private investment, Portnet is to commit R1,343 billion of state funded investment in port superstructure and infrastructure through the Port of Durban Development Plan 2005. The first stage of this introduced three new quayside cranes and twenty new straddle carriers worth R507 million (*Business Day*, 16 March 2001). Arguably, with this state investment infrastructure needs will be addressed in the short to medium term, whilst any additional financing induced from the privatisation of port operations could lead to excess capacity.

The extent that 'competition' becomes a feature of the market structure and not just the transfer of a state monopoly to the private sector is arguably critical to any efficiency gained through the privatisation process. However, excessive competition would lead to the duplication of investment in infrastructure and an over-capacity to service limited volumes of trade. According to Quiggin (1996: 68) competition policy needs to consider the barriers to entry and exit within the market by satisfying conditions of perfect contestability, and not the issue of whether this role is served by a single or state owned firm.³⁸⁰ For example, the existence of a state owned and operated port monopoly in South Africa needs to be placed

³⁸⁰ Another factor to consider in contestability is forgone sunk costs (Quiggin, 1996: 68).

within the context of regional competition from neighbouring countries ports, such as Maputo and/or Walvis Bay.

Portnet will also presumably forgo the revenue it generates from operations. This, coupled with the restructuring of its *ad valorem* wharfage tax to a unit-based charge would be expected to introduce substantial cost savings to shippers. However, the NPA has been criticised for the increase in port charges to compensate for this loss of revenue (FTW, 7 March 2002). Shippers may therefore face an increase in port service charges from both the private sector and NPA, as the former operates as a private monopoly or faces excessive competition, whilst the latter seeks to maintain its revenue base.

Under the ANC government port development and concessioning is also seen as a positive for black empowerment ventures. The issue of the role of union investment companies in black empowerment deals has however led to a number of contradictions for the union movement. As McKinley (1999: 86) argues in relation to union investments, workers are being told that unions must “get a piece of the action now, or potentially lose out on the gap open to politically correct, aspirant blacks”. Ironically, the business sectors’ adherence to affirmative action principles has also led to COSATU officials being poached into management positions.³⁸¹ In turn the transfer of key COSATU personnel to business or government has had an impact on its organisational capacities.³⁸² Black empowerment deals can also be seen as limiting the distribution of benefits to either a black elite or labour aristocracy through union investment funds, as opposed to a wider ongoing redistribution through public ownership.

Whilst the ANC government remains transfixed on privatisation and mega-port developments as Coega, Durban will remain the pre-eminent port for container and break-bulk trade in southern Africa. In the interim based upon the experience of the post-1994 period and the disagreement between the alliance partners over the policy of port privatisation, both casual and permanent dock workers’ strike actions may continue: the

³⁸¹ For example, former National Union Mineworkers (NUM) Cyril Ramaphosa and Marcel Golding after entering business had each accumulated personal wealth estimated at R40 million (Bond, 2000: 266).

³⁸² For example, Thadiso Moshau, former SARHWU Assistant General Secretary, later took a position in SARHWU Investment’s private sector road transport investments. Steve Matlou, former organiser for SARHWU Cape Town, became SAPO’s human resource manager. Harald Harvey, former TGWU Assistant General Secretary and principle architect of the NDLS moved to the NDoT and later became a consultant.

costs of which to date can be estimated in the millions of Rand.³⁸³ The restructuring of the dock labour market and industrial relations in the port of Durban therefore remains paramount to this port's efficiency and the costs of trading to and from South Africa.

6.7 CONCLUSION

The above account illustrates the extent to which the restructuring and privatisation of stevedoring operations in the port of Durban affected the implementation of the proposed NDLS. Fundamentally, the pilot scheme did not sufficiently address industry wide restructuring issues surrounding the future of Portnet itself. Despite the ANC government's apparent concession to its labour alliance partners in the earlier White Paper and later Portnet's involvement in supporting the Scheme, both proved inadequate as demonstrated by the failure to establish appropriate regulatory arrangements. The ANC government's preference towards market principles rather than state regulation over the dock labour market is therefore consistent with more recent international trends to disassociate the state from direct intervention in this sector's labour market.

The lack of state regulatory support was initially based on the reluctance of Portnet's permanent workforce, organised in part by SARHWU, to endorse the NDLS. This demonstrated contradictions in the COSATU affiliates organising workers separated by both their statuses in the labour market. Ironically, SARHWU's concerns were based on the issue of Portnet's restructuring, pending privatisation and mass retrenchments. The COSATU affiliates' disagreement over their respective memberships' role in the scope of the pool led to delays in its implementation, which in turn led to a piecemeal and flawed implementation process principally driven by the breakaway independent union the SEIU.

³⁸³ In fact, the amendments to the LRA in 2002 provide for the right to strike against retrenchment. Previously, under S. 197 of the LRA, mergers of ongoing concerns oblige the purchasing company to maintain the seller's existing employees. However, this does not prevent the merged entity to then retrench employees for 'operational' reasons as per S.189 of the LRA. Although 'consultation' of with surplus employees is required under this provision, this can constitute merely notification that they are superfluous to the enterprise (*Mail & Guardian*, 1999). The amendment to S.189 of the LRA in March 2002 however enabled workers to strike over retrenchment issues. Workers in companies employing more than 50 workers (or 10 per cent of the workforce, whichever is lower) have the right to strike against retrenchments. The amendment gives workers the right to go to court for breaches of procedural fairness, and either to go on strike or to have the substantive fairness of the dismissals tested in court. Employers will have to prove that any information they refuse to disclose is irrelevant and will have to give 30 days notice of retrenchment to workers with more than a year's service, after exhausting the time for meaningful engagement. This amendment could therefore seriously raise the level of legal industrial action over the transfer of SAPO's workforce to the private sector (*Business Report*, 6 March 2002).

A window of opportunity may have been missed by the COSATU affiliates. Their divergent organising strategies to casual workers led to an inability to expedite effective bargaining arrangements in order to address the issue of the casual dock labour market. The COSATU affiliates, TGWU and SARHWU, did however achieve their long promised merger in 2000, whilst the establishment of the Maritime Industry Bargaining Council (MATIBCO) in 2001. The vision for MATIBCO was also part of the reform process demanded with the NDLS as proposed in 1994. The failure to establish an effective bargaining arrangement prior to this also contributed to the failure. Given this lack of direct state involvement, Hemson (2000b: 7) described the pilot scheme during its continued operation as “a working example of an alternative industrial initiative based on joint union-employer cooperation not linked in any way to the general initiatives of NEDLAC and government”.

The initial breakaway from the TGWU may arguably never have occurred had the scheme been effectively regulated. Portnet subsequently licensed the labour pool Scheme to the labour broker Mech-Elect, which in turn co-opted the SEIU leadership in the management of the pool. This led to mismanagement and corruption and the eventual operation of the pool in competition to labour brokers. The attempt to review the Scheme by the Standing Committee on Maritime Affairs also subsequently proved ineffective through lack of state agency involvement. This in turn was overtaken by the events of P&O Port’s entry into the private sector which brought about structural changes enabling P&O Ports to simply circumvent utilising the labour pool Scheme. This was followed by the SEIU’s implosion.

Hemson (2001: 22), reflecting on the demise of the pilot Scheme, states:

the experience of the pilot appears to be that long-lasting co-determination seems exceptionally difficult to craft as the protagonists are caught between the mutual antagonisms of international competition and basic needs.

The experience of the failure of the pilot Scheme therefore illustrates contradictions between the ANC government’s industrial relations and privatisation policies and brings into question the effectiveness of the ANC-COSATU alliance. The NFA and organised labours’ participation in the restructuring process has arguably been sidelined by agencies such as the DPE, which have taken an aggressive approach to the privatising of state assets more generally. The reaction of SATAWU to the proposed concessioning of the Durban container terminal is evidence of this.

The subordination of industrial relations reform policy such as the proposed NDLS to privatisation policy has precluded any 'stalemate' occurring, a prerequisite identified by Webster and Adler (1999; 2000), in order to achieve compromise and effective collective bargaining. Similarly, the market solution once implemented does not provide any guarantee that it can deliver a more efficient and effective dock labour market or industrial relations regime.

Whatever the merits of a private port operations, the ANC government policy to 'fast track' the concessioning of Durban may be on the wrong foundations after the missed opportunity to stabilise industrial relations through the implementation of the pilot Scheme. Casual workers will be further marginalised if SAPO's privatisation and ensuing mass retrenchments take place. The prospect of potential investors inheriting industrial turmoil by both private sector and Portnet employees will no doubt affect the price the government receives from any future concessions.³⁸⁴ The market solution therefore remains to be seen and in the short to medium term may further escalate industrial disputation in South Africa's ports, which will continue to impact on the wider economy.

³⁸⁴ Also, any one-off payment for concessioning of the existing operations and capital equipment in the current economic climate will be affected by exchange rates, with the Rand being devalued by half to the United States dollar since September 2001 (*Containerisation International*, April 2002).

7 CONCLUSION

In assessing emerging trends in industrial relations in the new South Africa, the case study of the implementation of the pilot dock labour Scheme in the port of Durban reveals a number of elements that are both common and distinctive in relation to wider trends and influences post-apartheid. This research therefore has wider implications for COSATU's organising strategy in relation to state and private sectors, and permanent and casual workers.

Essentially, the contradiction that emerges between labour market reform and privatisation policies in the case study is also evident in other sectors. The initial hypothesis that dock workers are strategically located to affect reform in comparison to other workers requires qualification in light of the failed implementation of the NDLS. The following provides a brief summary of the argument around the issue of the strategic location and power exercised by dock workers in the port of Durban.

Chapter Two's assessment of the theory of double transition – political and economic - in South Africa established the concern that neo-Fordism is consolidating as a feature of the labour market, partly as a result of the ANC government's policy of 'regulated flexibility'. Flexibility, in this negative connotation, includes the casualisation of employment through the implementation of neo-liberal policies within the existing apartheid labour market structures. The decline of formal employment and rise in the level of casualisation is a significant threat to the prevalence and relevance of trade union organisation. Despite these concerns, Webster and Adler's theory of 'bargained liberalisation' argues for the possibility of a corporatist alliance between the ANC and COSATU to temper the worst impacts of economic transition under neo-liberalism. Webster and Adler, however, make the caveat that for bargained liberalisation to be meaningful, it needs to occur on the basis of encompassing national (macro), industry (meso) and workplace (micro) levels of negotiated engagement with organised labour. They also argue that, given the limited timeframes and literature in support of this argument, detailed case studies are appropriate to assess its robustness. The case study subsequently developed is aimed at providing one such assessment.

Chapter Three then identified the case study of the proposed NDLS and the port of Durban's dock labour market as strategically significant to the emerging industrial relations system

given Durban is Africa's largest container port. It then outlined the research methods that are utilised in the remaining chapters.

Chapter Four undertook an international comparison to assess the basis for the NDLS proposal and, more generally, to analyse the recent industrial relations trend in the dock labour market. The potentially strategic position of trade unions in this sector, for both permanent and casualised workers, conventional and containerised cargoes, was also assessed. This was undertaken with reference to Kelly's use of mobilization theory as a framework from which to assess union power. Importantly, the success of counter-mobilisations from either employers and/or the state often signifies the absence of union power. For example, a number of states in the post World War Two period sought to introduce decasualisation processes in order to address what was widely seen as a dock worker culture that was strike prone. In the 1970s states again intervened in the dock labour market to facilitate mass redundancies with the introduction of containerisation. But a number of case studies demonstrate that employers were also subject to a spate of mergers and acquisitions in order to provide the necessary economies of scale to support the level of capital investment needed to fund such technological changes.

More recently a trend has emerged where states have facilitated deregulation and privatisation processes in ports in order to attract global port companies. This in turn has posed a threat to the role of organised labour with the return of casual employment in a number of dock labour markets. However, the comparative history of dock labour schemes also demonstrates that it is necessary to establish the historical context of each case at the national, industry and local levels in order to examine the relative strengths and weaknesses of relevant actors.

Following from the research method established in the international comparison, Chapter Five examined the historical context of trade unions in the port of Durban, focussing on the union movements that have been aligned to the ANC. The origins of the dock labour market's structural casualisation under the apartheid regime and the proposal by COSATU affiliate, the TGWU, to address such casualisation post-apartheid were developed within this context.

Chapter Six discussed the implementation of the NDLS proposal. The introduction of a pilot Scheme in the port of Durban in February 1998 was largely a practical response to the

continued agitation by casual dock workers, who from 1994 were increasingly frustrated at the lack of progress in reducing structural casualisation. This led to a breakaway independent union in Durban, the SEIU, forcing Portnet and employers into an agreement to establish a pilot of the NDLS. The National Framework Agreement to establish the pilot Scheme proved both insufficient and ineffective. The split within the TGWU undermined the legality of the pilot Scheme, as some employers believed the union party to the agreement was TGWU, and not the splinter union which was not registered at the time of the signing of the agreement. The issue of the parties to the agreement, and the broader legality of Portnet's ability to revoke stevedoring licenses if employers refused to draw their casual labour requirements from the labour pool, was never addressed by Portnet. This consequently enabled employers to circumvent using pool labour given Portnet's reluctance to enforce compliance. The industry structure also changed in this period, with new entrants acquiring and merging existing stevedore operations, making the Scheme unviable based on its existing high level of dock worker registrations.

Although, arguably, a window of opportunity was provided by the ANC government for organised labour with the introduction of the pilot dock labour Scheme in 1998, the reasons for the failure of the pilot were influenced by the ANC's policy towards Portnet's restructuring. The apartheid government's establishment of Transnet, and Portnet's role in its financial operations through the cross-subsidisation of sister Business Units, and the pension fund deficit, were difficulties central to the ANC government's restructuring dilemma. The lack of state regulatory support was also initially exacerbated by the reluctance of Portnet's permanent workforce, organised in part by SARHWU, to endorse the NDLS. Their approach was inappropriate, given the impact the casualisation of employment was having, not only on the permanent membership of TGWU, but also on SARHWU's own membership with Portnet's increasing use of casual employees. The pre-occupation of both SARHWU and the ANC government with the restructuring of Portnet therefore contributed to the split in the TGWU in Durban.

This demonstrated the weaknesses in the organising strategy by the COSATU affiliates in the port industry. The affiliates were divided by their members' status in the dock labour market, between either permanent or casual and between the state or private sector. The lack of progress on labour reforms then led to a division between COSATU's leadership and base. Divisions first emerged between the leadership of the COSATU affiliates over the necessity to implement the NDLS. Subsequently, a division emerged between the rank and

file membership from the union leadership of TGWU. This demonstrated the limited capacity of the COSATU affiliates, SARHWU and TGWU, to develop a workable position and communicate it effectively.

However, the emergent independent union, the SEIU, was even less well resourced to deal with the issues surrounding the implementation of the pilot Scheme. This partly contributed towards the corruption of at least one key union official given the lack of accountability and disciplinary structure within either the union or the operation of the Scheme itself. Indeed, the problem of the splinter independent union may have led to political pressures upon Portnet and the state bureaucracies from COSATU. Without control over the Scheme, it was not necessarily in COSATU's interests to see it develop under the aegis of a newly independent union, whatever the underlying reasons for the formation of the splinter union.

The failure of the pilot Scheme also demonstrated a major failing of COSATU's organising strategy in relation to casual workers, given the increasing manifestation of 'flexible' employment practices in South Africa and proliferation of 'regular casual' work. The case study is therefore illustrative of the essential divisions between permanent and casual workers, state and private sectors, and the weaknesses they engender in unions. Secondly, the case study reveals significant problems for breakaway independent unions as to their organisational capacity, accountability, and relationship to the wider union movement and formal industrial relations system. This second set of issues is illustrated through the isolation of the SEIU by state agencies and indeed, the lack of effective relationships with other unions, despite their ability to inflict disruption and economic costs through industrial actions.

In the case of the SEIU, its independence and self-organisational capacity followed a number of historical precedents and traditions within the port of Durban. Examples that were outlined in Chapter Five included both the organisation of *togt* dock workers under Zulu Phungula in the 1940s and 1950s and the impetus from dock workers' industrial actions to the re-emergence of black independent trade unions in the early 1970s. The emergence of Willie Cirah as the leader of the dock casual workers in the mid 1990s, with the initial support of activist and academic Dave Hemson, provided a focus within this tradition of independence. However, as events transpired, the ability of the independent union to effectively organise and implement the pilot dock labour Scheme in Durban was seriously compromised without the effective support of either the COSATU affiliates or

state agencies as Portnet. This eventually led to the Scheme's operations degenerating into corrupt unilateralism, which in turn further splintered the SEIU.

As explored in Chapter Four dock labour schemes run against the current international trend of the liberalisation and deregulation of ports and their labour markets around the globe. Their implementation also arguably complicates the task of port privatisation. In South Africa a number of employers held this view. Indeed, elements within the state were concerned that facilitating regulation and/or the consolidation of trade union power structures within the dock labour market would negatively impact upon the potential price of concessioning operations to future private sector investors. This may have been a contributing factor to the failure, or 'paralysis', of the state to effectively intervene to facilitate an effective basis for collective bargaining or establish a statutory regulatory environment from which to implement the pilot dock labour Scheme in Durban.

Despite these counter-forces an ANC government policy to stabilise the dock labour market could still be seen as warranted. As discussed in Chapter Four, according to the recent review of the ILO's Convention 137 and Recommendation 145, South Africa can be seen as a transition economy undergoing both deregulation and privatisation (broadly interpreted as the liberalisation of state owned monopolies through the introduction of competition to the market).³⁸⁵ The ILO also stresses the need to consider state involvement where ineffective collective bargaining exists. This was clearly the case in South Africa's ports sector as privatisation exacerbated the division between private and state sectors, which in turn complicated the various divisions between unions, based on mode of employment, race and skill segmentation. Ineffective collective bargaining structures therefore existed in the port of Durban's industrial relations structure and processes. Based on the international experience of the ITF, union division has long been viewed negatively. As Marges (1997) says:

One of the most serious obstacles to a successful port reform, from the workers' point of view, is the lack of unity, in some countries, amongst unions representing dock workers. Trade union structures should be adopted to enable union officials to exchange information within the union and to organise the necessary debate required by a democratic decision making process. The union structure should also enable the trade union officials and other representatives to represent all port workers, despite their function.

³⁸⁵ Note that the South African government did not provide a submission to the ILO survey.

The difficulties COSATU affiliates faced in developing a joint organising strategy should have therefore signalled the need for a more direct involvement from state agencies. The ANC government's ratification and implementation of ILO Convention 137 and Recommendation 145 might have served as a mechanism to register casual dockers and provide a three-day minimum employment guarantee. Together these measures could have provided a basis to 'right-size' employment to suit demand with redundancy payments being distributed to excess pool employees. The redundancy process could have been funded through either the state or a levy on port users. An effective registration process for dock workers would also have overcome concerns about providing 'casual' workers with these benefits, as a *bona fide* registration process would have limited the number of workers eligible for such payments. Ideally, this process would have occurred before any policy to pursue terminal concessioning took place.

This raises the issue of the use of casual labour in South Africa's ports, as elsewhere around the world, to both cut labour costs and increase labour control, as well as the specific structural constraints of South Africa's transport system inherited from the apartheid era. Chapter Five notes the restructuring of the stevedoring industry premised on the retrenchment of casual workers as a historical trend in South Africa.³⁸⁶ If the privatisation of South Africa's ports proceeds without addressing the demands of casual dock workers in the form of the NDLS, then there would be a strong parallel for workers between the ANC government and that of the apartheid state with their experience in the transition to containerisation. Both the transitions to containerisation and privatisation have demonstrated a limited state approach relying instead on market mechanisms – whose profitability was largely based on casualisation. With the containerisation process the persistence of casual employment assisted in consolidating the market restructure through merger and acquisition and the reduction of labour cost through the rationalisation of the dock labour market. The same would apply to the privatisation process if the state's intervention were either limited or ineffective.

Although the privatisation process is contested and not yet complete, the privatisation process to date has had limited effective union involvement – another parallel with the

³⁸⁶ The apartheid government's involvement in first the DSLSC and secondly containerisation, signalled retrenchment, lowering labour costs and raising labour productivity. However, the costs of this have been borne directly by dock workers.

containerisation transition process of the 1980s. The lack of government support for the pilot Scheme in Durban therefore demonstrates that the casual workforce has been marginalised in the context of wider restructuring and privatisation reforms. This is especially so given the expectation of the wholesale dismissal of these workers under the port privatisation process.

One of the proposed benefits from the transfer of operations to the private sector is therefore the introduction of efficiencies through the rationalisation of the workforce and restoration of management control through their access to flexible labour markets and establishing flexible work practices. However, as illustrated in Chapters Five and Six, the experience within Durban's dock labour market was that management controls were already exercised through structural casualisation through an over-supply of 'outsiders' sourced from the external labour market. This, in turn, led to ongoing strike actions once these workers became conscious of their conditions and articulated demands for which they organised and mobilised. Although this had been effectively countered under apartheid, the ability of employer's to utilise old style apartheid methods of labour control has diminished under the ANC government. Alternatively, the rationalisation of the dock labour market under privatisation to create a core workforce, or 'insiders', will not diminish these workers' strategic position. The case study in Chapter Six demonstrates that both skilled and unskilled dock workers, permanent and casual, if effectively organised, are in a position to bargain strongly through the threat of industrial action. As seen in the November 2001 disputes, the costs of strike actions in relation to the wider economy is significant. The transfer of operations to the private sector will therefore not totally diminish the strategic position of these workers, as the cost of both casual and permanent dock workers engagement in industrial actions - whether legally sanctioned or not - are significant.

This brings into question the potential costs of the market solution adopted by the ANC government as a mechanism to address the issues the port industry has inherited from the apartheid government.³⁸⁷ From this perspective the costs of industrial action to date need to be compared with those of establishing an operational dock labour Scheme and redundancies. The approach employed to date by the ANC government in pursuing privatisation and not addressing the structural casualisation of the dock labour market has

³⁸⁷ A Canadian consultancy, CPS-Transcom, is undertaking for the ANC government an assessment of strategies for concessioning. However the Minister for public enterprises, Jeff Radebe, had already announced that the Durban container terminal will be 'fast tracked' for concessioning. This is expected to occur in 2004.

proven economically costly. In turn, privatisation in itself provides no guarantees that it can deliver an effective and efficient dock labour market.³⁸⁸

There remain significant strategic differences between the dock labour market and other industry sectors undergoing state restructuring. Durban's status as South Africa's, and the wider SADC region's, pre-eminent container and break-bulk port will remain for many years to come. Potential competition through the re-development of rail to the port of Maputo in Mozambique and the proposed development of the Coega port in the Eastern Cape, are both years and billions of Rands away. Indeed, there is a perceived reluctance on the part of industry to embrace the latter's development (*Business Day*: 1 February 2002). This all supports the ongoing strategic location of the port of Durban to the wider economy and the strategic position of its dock workers, whether permanent or casually employed.

This case study, however, has similar dynamics to the relationship between COSATU affiliates in a number of other parastatals, given the ANC government's implementation of privatisation. In many of these the attempt to address apartheid's labour market structures through trade union proposals has been overtaken by neo-liberal policy. Such market driven solutions are on top of the existing legacies of apartheid's industry structures and, as a result, the inequalities remain.

This raises issues of the future direction of the ANC-COSATU alliance. Although it is beyond the scope of this study to suggest any clear scenario, Webster and Adler (1999) have identified the notion of 'bargained liberalisation' to describe the ANC-COSATU alliance, the aim of which was to establish an institutional setting for compromise and bargained agreements at national, industry and workplace levels. Given the standing of these authors within South African industrial relations theory, the following explores the six conditions for compromise that were set out in Chapter Two against the relevant areas of the case study findings. This is in order to explore, as outlined by Kittay and Callus (1998: 107) and

³⁸⁸ An efficiency and productivity dividend should be considered as part of the return to industrial stability. A re-skilling of the dock labour workforce will not occur without a prerequisite of permanency. Although employers to date, and to a greater extent in the future, will be able to draw on skilled former permanent dock workers, comparative research demonstrates this 'double dipping' is resented in dock labour markets. The commercial contract solution demonstrated internationally (ie. UK, New Zealand and Australia) appears to be an inadequate mechanism for ensuring industrial stability (Turnbull and Weston, 1993). As demonstrated in Chapter Four, although functional and numerical labour market flexibility provides productive and allocative efficiencies, the establishment of industry wide dock labour pooling arrangements, with an employment guarantee and training, assists in maintaining industrial stability.

Plowman (1991: 24) in Chapter Three, how case study findings can contribute to the development of wider theory.

- Firstly, the ANC government has continued to unilaterally pursue port privatisation policy against the objections of its alliance partner COSATU and at the expense of other reform policies in the sector, such as the NDLS.
- Secondly, the costs to the state of industrial actions on the part of the COSATU affiliates and independent unions have to date been insufficient to force the state to reconsider its position on port privatisation and/or the NDLS.
- Thirdly, the institutional arrangements to bargain effectively on either the NDLS and/or the issue of port privatisation have been inadequate - especially in relation to the former.
- Fourth, COSATU's organisation has been ineffective in representing all workers that were to be affected by the NDLS. They were also not in a position to ensure that their members (or ex-members following the split in TGWU) exercise restraint.
- Fifth, unions were unable to overcome their various divisions in relation to the NDLS, especially SARHWU; this prevented the COSATU affiliates from establishing an effective joint working position.
- Finally, the international context appeared to work against the regulation of the Durban dock labour market and in favour of increasing port privatisation.

It therefore appears that, in the context of the 'double transition', economic liberalisation is dominating democratic processes. The latter was promoted in the pre and immediate post-apartheid transition political context through the establishment of effective industrial relations systems that extended from national bargaining to industry and firm level negotiation. The predominance of economic objectives against the extension of an effective industrial relations system and process therefore goes against how the alliance between the ANC and COSATU was envisaged to operate in the immediate post-apartheid transition to democracy in South Africa.

Webster and Adler (2001: 142) have described COSATU's future direction as an 'exodus without a map'. This entails either COSATU's marginalisation within the alliance, given its limited ability to influence policy or if it chooses to move into opposition, the risk of confrontation with the state through its characterisation as a labour elite. Such a scenario would follow the labour movements of some other African countries in their post-colonial transitions. These examples generically entailed:

- under-investment in the state from the colonial government before its demise (or overthrow);
- an aspirant black bourgeoisie divided between supporting state led development or upward mobility and self-enrichment through their private acquisition of elements of the state; and,

- growing criminalisation with the corruption of state activity, including through trade unions (von Holdt, 2002: 19-20).

Together von Holdt (*ibid*: 20) argues: “these forces all play a role in the contestation of structuring ...state institutions”. However, according to Akwetey (2001: 27) a number of African transitions to democracy have been characterised by their ideological and practical fusion of the triangular spheres of the state, market and civil society. Where the South African scenario may differentiate itself under the ANC government from other African examples is through the withdrawal of the state from the market, given the ANC government’s focus on the privatisation. Such a scenario is in marked contrast to the apartheid government’s intervention in the economy through state institutions and industrial arms – albeit with redistribution targeted on the basis of race.

The ANC government’s policy position on privatisation has been a key issue to the inability of COSATU to act decisively on issues of industrial relations and labour market reform in the port industry. The subordination of the NDLS to privatisation policy precluded any ‘stalemate’ that would lead to the negotiation of a compromise position, as suggested by Webster and Adler’s theory of ‘bargained liberalisation’. Given the experience of the NDLS, and costs to ports users and consumers of the attempt to reach a compromise position, a question remains as to what circumstances can achieve a stalemate in this sector. With both the ‘insider’ COSATU affiliates and the independent union ‘outsiders’ marginalised, the focus on privatisation has not addressed the fundamental issues of reforming the dock labour market in order to ensure ongoing industrial stability. However, the ability for COSATU and its affiliate SATAWU to exercise industrial action through greater solidarity with sister union organisations, should it attempt to do so, needs to be seen as a potential source of union power to influence ANC government policy. This solidarity could be both within South Africa through actions with unions as the DGWU, Salfstaff and UTATU in the sector, on a national basis with sister COSATU affiliates, and/or through international solidarity with the ITF.

In conclusion, the hypothesis that dock labour holds a strategic position in the port of Durban has been proved, despite the failings of the pilot Scheme. In fact, the underlying issues remain. The affect of further dock labour disputes, which appear inevitable in response to the introduction of a market solution, may lead to decisive state intervention in the form of regulating dock labour market supply. Importantly, the opportunity for the state to intervene effectively will diminish after the privatisation of the state’s operational and

direct employment components. This future scenario poses a defeat of COSATU's objectives within the alliance structure.

The case study of the failed NDLS implementation not only signals a crisis in COSATU's 'radical reform' strategy, but - more importantly - brings into question the relevance of the notion of 'bargained liberalisation'. This is the case given the attempt by the ANC government to marginalise the unions to which it has been historically and, in recent history, theoretically allied.³⁸⁹ It is from within this context that trade union organisation amongst Durban's dock workers in the post-transition period must be understood.

³⁸⁹ This was again confirmed in a SATAWU press release on 5 November 2002 that essentially argued "the port policy on which the concessioning proposition is based has not been through any democratic process". This followed a national strike against privatisation between 1-2 October 2002.

APPENDIX A THE HISTORICAL DEVELOPMENT OF THE BLACK TRADE UNION MOVEMENT

In the twentieth century in South Africa the black trade union movement has its origins in 1919 when the Cape dock workers formed an African and coloured trade union, the Industrial and Commercial Workers Union (ICU) (Ncube, 1990: 28). The ICU was developed with the assistance of a number of white unionists in the Industrial Workers Union based in the Admiralty dockyard in Simonstown (Wickins, 1978: 23). Clements Kadalie became the ICU's first Secretary and led the December 1919 strike for increased wages to compensate the post-World War One rise in the cost of living (Ncube, 1990: 29). The strike saw the state begin to emphasise differences between white and black workers. This was to be the guiding principle of the wider state strategy of incorporating the white labour movement into a racially discriminatory industrial relations system to placate working class radicalisation (Davies, O'Meara and Dlamini, 1988b: 245). However, the move by the state to placate the white labour movement was not immediate with appeasement being achieved only after an economic and industrial relations crisis of the early 1920s.

Two industrial relations disputes in the early 1920s between the state and white unions were fundamental to the establishment of the industrial relations regime in South Africa, and in particular, South African Rail and Harbours (SAR&H). Smuts, who succeeded Botha as Prime Minister after his death in 1919, now led the South African Party government. The first was when the 1921 white rail workers had their 'cost of living' allowance as a component of wages reduced to compensate for the rising deficits in SAR&H's rail operations. This led to SAR&H's refusal to recognise the white National Union of Railway and Harbour Staffs.³⁹⁰

The second event was the Rand Rebellion of 1922, arguably the most significant single event in early twentieth-century South African industrial relations history. The Rebellion was significant in that it characterised the emergence of a state strategy that deliberately sought to establish an industrial relations system to incorporate the interests of the white labour movement at the expense of the interests of mining capital. The Rand Rebellion strike by an estimated 25,000 white mine workers on the Witwatersrand broke out when the Chamber of Mines reneged on a job colour bar agreement and sought to use black labour as a means to reduce white wages. The Smut's government declared martial law and despatched 7,000 troops, artillery and bomber planes, to the region. The strike escalated to an armed struggle that ensued for five days and resulted in 153 deaths, an estimated 500 wounded and five thousand arrests. Four of the arrested were later hanged for treason (Bendix, 1996: 79).³⁹¹ An undisclosed number of black workers were also attacked by white strikers, prompting the ICU's Kadalie to condemn the strike and support the Smuts government's restoration of law and order. This decision by the ICU was to have negative

³⁹⁰ The SAR&H deficit had increased from £10,000 in 1916-17 to £1,049,000 in 1920-21 (Davies, 1979: 150). The deficit essentially reflected the collapse of the world gold price, which had a profound effect on the South African economy (Bendix, 1996: 79). However, after negotiations between the Minister of Railways, J. W. Jagger and the NURAHS in an attempt to address the dispute over allowances, the latter accused SAR&H of mismanagement. This dispute led to SAR&H's withdrawal of NURAHS official recognition in November 1921, followed by a number of small strikes and work-to rules (Davies, 1979: 153-5).

³⁹¹ During the strike both Afrikaans and English speakers jointly organised, infamously waving a banner with the distorted Marxist slogan 'Workers of the world unite and fight for a white South Africa!' (Ncube, 1990: 33).

ramifications for future cooperation between black and white trade unions (Ncube, 1990: 34).³⁹²

The railway dispute of 1921 and Rand Rebellion of 1922 had a profound effect on South African industrial relations and politics. The defeat of the Rand Rebellion was a significant blow to the militant wing of the white labour movement. This occurred through the persecution of the militant element by the state, but also through the change in attitude from mining capital, which now saw even greater necessity to further incorporate white labour into an institutionalised industrial relations system (Davies, O'Meara and Dlamini, 1988b: 245).

The institutionalisation of industrial relations by the state to placate the white labour movement began when the Smut's government introduced the *Industrial Conciliation Bill* in 1923. The Bill was based upon 'compulsory conciliation' that suspended the right to strike until a conciliation procedure had been undertaken. However, the Bill was also significant as it defined an employee by excluding 'pass bearing' Africans (Davies, 1979: 164).³⁹³ The *Industrial Conciliation Bill* was to work in unison with the *Wages Bill* proposed in 1921 to establish a Wages Board consisting of white labour and employer representatives to negotiate *minimum* wage rates for white employees not already covered by an agreement (*ibid*: 154).³⁹⁴ These actions by the South African Party, with the support of mining capital, can therefore be seen as an extensive attempt to bureaucratize the industrial relations system for white trade unions that now comprised a significant number of employees in the public sector (Davies, O'Meara and Dlamini, 1988b: 246).

Both Bills followed closely the 'Stallard Commission's' recommendations which stated blacks should only be in urban areas 'to minister the needs of the white man and should depart therefrom when he ceases to minister'. As enacted under the *Natives (Urban Areas) Act* of 1923, a system of influx control was established as blacks over sixteen years of age were required to carry a pass (reference book) detailing permission to live and work in white areas (Lipton, 1986: 16).³⁹⁵

Despite the proposal by the South African Party for an extensive realignment of the industrial relations system in favour of the white labour movement, the Rand Rebellion led to the emergence of a political alternative. A consequence of the Rebellion was the coalition of Hertzog's Nationalist Party with the South African Labour Party, the latter of which was established by white unions in 1909 (Ncube, 1990: 34; Lipton, 1986: 188).³⁹⁶

³⁹² The strikes defeat led to the dissolution of the South African Industrial Federation (SAIF) which had been sympathetic to the plight of black unions (Davies, O'Meara and Dlamini, 1988b: 246)

³⁹³ An irony of this legislation was that as black females were not then required to carry a 'pass' they were hypothetically incorporated into the 'white' industrial relations system (Bendix, 1996: 81). This was redressed after 1952 when black females were required to carry a pass (Lipton, 1977: 19).

³⁹⁴ By August 1922 the number of whites employed in the unskilled 'relief works' category had risen to 7,919 compared to the 2,460 at the beginning of the year (1979: 161).

³⁹⁵ However, as the ability to enforce the pass law system was at the discretion of local authorities, the system could be applied flexibly. This was to appease both capitals demand for reserve labour within urban areas and the interests of white labour in restricting competition from black labour (Davies, O'Meara and Dlamini, 1988a: 200).

³⁹⁶ This political alliance was between elements of the emerging Afrikaner *bourgeoisie* and agricultural capital with the white artisan and working class who were opposed to the interests of large mining capital (Davies, 1979: 180).

The 'Pact' coalition subsequently defeated the South African Party government and assumed office in June 1924.

The Pact government subsequently passed the *Industrial Conciliation Act* in 1924, which precluded strikes by white workers before compulsory conciliation and established Industrial Councils.³⁹⁷ The Act also allowed for an intensification of the job colour bar through the so-called 'civilised labour' policy issued in October 1924. This policy sought to expand permanent employment for whites in state sectors whilst replacing black employees, although with white workers employed on higher wages met by state subsidies. Consequently, this package "provided white labour with the institutionalised, legal means of securing a monopoly of skilled jobs and preferential employment at higher wages in other jobs" (Lipton, 1986: 188).

The 1925 *Wage Act* established a minimum wage for work categories consistent with the 'civilised labour' policy for non-unionised workers (Ncube, 1990: 37). Although the Wage Act allowed for the Wage Board to make determinations for all employees, including 'pass bearing' blacks, in effect a let-out clause existed, where employer protests went to the Minister who had discretionary powers to over-rule any decision (Davies, 1979: 210). Determinations by the Wage Board on behalf of black workers were therefore limited (*ibid*: 213).

As Davies (1979: 198-99) argues, this raft of legislation had significant industrial and political consequences for both black and white workers:

What the Pact regime had achieved through its largely successful institutionalisation of the 'white labour movement' was thus also the elimination of any possible reinforcement (whether intentional or unintentional) of the struggles of the African dominated classes by those of white wage earners.

Ironically, for the ICU's Kadalie who had supported the election of Hertzog's Pact government, the immediate establishment of this new industrial relations system to appease the white labour movement was disastrous. This proved to be so as events unfolded in the ICU's attempts to organise the docks in the 1920s. Kadalie's approach to developing a national dock workers union led to the break away of the Natal and Orange Free State branches from the national leadership, effectively leading to the disintegration of a national ICU (Ncube, 1990: 41). Kadalie was later arrested and charged with inciting public violence after calling a general strike of rail and dock workers in East London (*ibid*: 44).

Industrial Relations under the Pact and United Party governments

The Pact government's 'civilised labour' policy obliged state departments to replace black employees with whites (Davies, O'Meara and Dlamini, 1988a: 98). Racially based employment programmes were now greatly accelerated between 1924-33.³⁹⁸ The state also moved to facilitate the cooptation of the white labour movement through the Department of Labour, which formed a new federation in 1925, the South African Association of Employees' Organisations. Later reconstituted in 1931 as the South African Trades and Labour Council (SATLC), it was to remain the most important coordinating body of white

³⁹⁷ Mediation and arbitration were compulsory in essential services as SAR&H. Industrial Councils could be voluntary established by white unions and employer associations. Agreements within these were legally enforceable once registered under the Act (Bendix, 1996: 81).

³⁹⁸ In 1924 some 4,102 unskilled whites remained within the employment of the state as 'relief workers' (Davies, 1979: 161).

trade unions until 1954 (Davies, O'Meara and Dlamini, 1988b: 247).³⁹⁹ Liberal elements within the SATLC called for the abolition of racist labour legislation. Although no official attempt was made to include black unions, many SATLC affiliated unions sought to act on behalf of all workers, especially women in the textile and food processing industries, who were at this stage recognised still as workers under the 1924 *Industrial Conciliation Act* (Bendix, 1996: 83). Ironically, the Pact government made limited concessions to black employees through the *Industrial Conciliation Amendment Act* of 1930, which extended Industrial Council agreements to all workers (*ibid*: 85).

Despite the intensification of racial segregationist labour market policy by the Pact government, there were also divisions emerging between white labour. One issue that led to this division was the Pact government's indecisiveness on the issue of abandoning the gold standard to the South African Rand (Davies, 1979: 245). This issue became increasingly pressing in an attempt to address the economic crisis in South Africa in 1933, which was partly an effect of the Great Depression. With the Labour Party losing support of Afrikaners, Hertzog abandoned the Pact government to form a coalition between his Nationalist Party and Smut's South African Party, to form the 'Fusion' government, later known as the United Party (Freund, 1984: 262; Davenport, 1989: 309).⁴⁰⁰ The establishment of the United Party government led to Dr. D. F. Malan's break away from Hertzog's Nationalist Party in June 1934 to form the *Gesuiwerde* (Purified) Nationalist Party (Davenport, 1989: 308-9).⁴⁰¹

With the growth of black employment in unskilled positions, black trade unions formed after receiving limited concessions from the United Party government. For instance, in 1937 the *Industrial Conciliation Act* and *Wages Act* amendments widened the powers of Industrial Councils by allowing the representations from black employees through representatives of the Department of Labour (Bendix, 1996: 85). The Industrial Councils also now came to play a role in determining the racial allocation of work and the Wage Board regulated black wage levels (Davies, 1979: 260, 264). Although many whites opposed these concessions, they reflected an emerging detente of sorts between the state and black labour preceding World War Two. Indeed, according to Baskin (1991: 10) the outbreak of war "opened enormous opportunities for the [black] union movement to grow".

Unions under the War economy and the CNETU

The question of whether and on whose side South Africa was to participate in World War Two was a vexed question for the United Party.⁴⁰² However, the eventual decision to

³⁹⁹ SATLC replaced the disbanded South African Industrial Federation.

⁴⁰⁰ The formation of the United Party government signalled the devaluation of the Rand, as was the trend with competitor country's currencies, thus enabling the South African economy to begin a turn-around.

⁴⁰¹ The Purified Nationalist Party represented Afrikaner farmers and small finance capital in the Cape, and petty *bourgeoisie* and small farmers in the northern provinces. The Afrikaner political organisation established in 1918, the *Broederbond* (brotherhood) also supported Malan. The *Broederbond* sought to take over key white unions in a class alliance against both black and English speaking South Africans. This, according to Davies et. al. (1988b: 268) was part of an attempt to "generate a class of Afrikaner financial, industrial and commercial capitalists ...built on the surplus profits of Afrikaner capitalist farmers and the savings of Afrikaner workers and petty bourgeoisie".

⁴⁰² Hertzog, along with Malan's Purified Nationalist Party, sought to establish South Africa as a neutral country. Pro-Nazi elements also existed within the Nationalist Party. For example, Future President B. J. Vorster was interned during the war for supporting the Nazi regime (Denoon, 1972: 125).

support the allies at the insistence of the Governor-General, Sir Patrick Duncan, and Smuts, led Hertzog to resign as Prime Minister and Smut's succession as leader of the United Party. As a consequence of South Africa's entry into the war black workers and their nascent trade unions emerged in a strong position. The large number of white soldiers who left for North Africa and Europe were replaced by black workers in increasing numbers of both unskilled and skilled positions.⁴⁰³ Influx control effectively collapsed and the urban black population increased by an estimated 47 per cent (Marx, 1998: 102).

Unity talks between the various black trade unions led in November 1941 to the formation of the Council of Non-European Trade Unions (CNETU). The expelled Communist Gana Makabeni was president and the ANC's Dan Tloome vice-president (Baskin, 1991: 10). The CNETU began a strike wave around Johannesburg in September 1942 that led to the Smut's government introducing War Measure 145 to outlaw strikes (*ibid*: 10-1). The CNETU's largely Communist leadership then decided, once the Soviet Union had joined the war, not to engage in a sustained industrial campaign against the state. The CNETU subsequently supported the war effort and accepted limited concessions in the process. However, over the next two years black workers engaged in a further sixty strikes often followed by wage increases and concessions, as the relaxing of pass laws and access to arbitration for black unions (Bendix, 1996: 84; Friedman, 1987: 22-3). With these successes by 1945 the CNETU claimed membership of 158,000 workers in 119 affiliates representing almost 40 per cent of black industrial workers (Baskin, 1991: 11). The collapse of the existing labour market, militant actions and strikes led to an estimated increase of real earnings for black workers by almost 50 per cent between 1939-48 (Davies, et. al., 1988a: 17).

However, with the end of the war the CNETU's decision to re-engage in industrial action was met with state repression. The brutal state sponsored defeat of a strike in 1946 by the CNETU's largest affiliate, the African Mine Workers Union, led to the arrest of its leadership. This was followed by a post-war economic slump that expedited the CNETU's decline, with less than 2,000 members by 1950 (Friedman, 1987: 23).

The advent of apartheid

The immediate post-war period led to a number of contradictions in South Africa with the United Party government presiding over a slowing economy, which in turn led to a number of political problems. Two prominent areas were in relation to the reconstitution of influx control and industrial relations. The war years saw an increase in the number of blacks in urban areas with demand for black labour and the degeneration of the rural economy through the appropriation of land by white farmers, the establishment of reserves and an increase in the number of landless workers within them. In response to the increase in the number of black workers seeking employment in urban areas, the authorities sought a more rigid implementation of influx control over migrant labour movements from the reserve areas (Hemson, 1977: 104-6). However, influx control was to have limited success under the United Party regime.

Similarly, the institutionalised industrial relations system sought to introduce limited accommodations for black workers. In 1945 the Executive Committee of the South African Trades and Labour Council (SATLC) recommended that black trade unions without political affiliation be allowed to register and elect representatives on Industrial Councils. However, this led to a split between affiliates within the SATLC, with a number

⁴⁰³ Black South Africans were of more value to capital working for the war effort, as they were restricted from carrying weapons in the South African army (Baskin, 1991: 10).

of white associations choosing to leave the Council (Bendix, 1996: 83-4).⁴⁰⁴ In 1947 the United Party proposed an *Industrial Conciliation (Natives) Bill* for the recognition of black employee representatives in bodies separate from Industrial Councils (*ibid*: 85). This further alienated the break-away white, mainly Afrikaner, unions from the United Party's industrial relations policies.

With the end of the war white workers' returned to claim jobs by demanding more comprehensive restrictions upon black employment. Under the *Soldiers and War Workers Act* of 1944, between 1946-8 some 9,900 whites were placed in a number of work Schemes. However, in 1947 the National Party claimed 18,000 were unable to access training programmes under the Act (Davies, 1979: 310-1). As a consequence challenges were mounting to United Party rule, in particular, from the reactionary white labour movement. For white labour the United Party proved indecisive in its response to the increasing mobilisation and organisation of black workers, 'wavering between increasing repression and attempting a co-optive strategy towards certain classes within the black population' (Davies, O'Meara and Dlamini, 1988a: 158). The demands by white workers for further restrictions on black employment were met by the National Party's racially segregationist '*apartheid*' policy. Hertzog's resignation from the United Party led to the consequent reunification of his supporters with the Purified National Party under the leadership of Dr D. F. Malan. The *Herenigde* (re-united) National Party consequently gained the majority support of the white electorate in the 26 May 1948 general election, with 79 seats to the United Party's 71 (Davenport, 1989: 353; O'Meara, 1996: xxx).

Subsequently the National Party intensified racial segregation in the industrial relations system through a litany of new legislation aimed at increasing state controls over trade union organisation and representation, the labour market and movement of people, and the repression of political opposition.⁴⁰⁵ The intensification of apartheid policy occurred after

⁴⁰⁴ This split included white workers within SAR&H. During the war railway policy provided Spoorbond's members with further grievances. The litany of grievances included: graded posts were largely English speaking; Afrikaner's were treated suspiciously by authorities for their anti-war sympathies; and, black workers filled positions formerly held by whites (some 3,111 by 1946) (Davies, 1979: 299). The Afrikaner Nationalists sought to exploit the divisions emerging within the state sector. According to Davies, they did so through targeting: the flat career structures with the state sector; the bureaucratic nature of registered trade unions under Industrial Councils; the liberal application of the 'civilised labour policy' under the United Party; and, rivalries between artisan unions and operative workers (*ibid*: 284-5). The organisation of Afrikaner 'Christian National' unions as Spoorbond mobilised against the Smuts government led to the break away of five right wing SATLC affiliates in 1947. Together these two groupings formed a new federation, the Coordinating Council of South African Trade Unions (CCSATU), which gave explicit support to the National Party (Davies, O'Meara and Dlamini, 1988b: 248).

⁴⁰⁵ Davies et. al. (1988a: 201) argues that apartheid was not implemented in a 'Grand Vision' but rather was a 'series of programmatic adjustments to shifts in the class struggle'. For example, before the 1948 general election the National Party initiated a Native Question Commission, known as the Sauer Report, in contrast to the United Party's Native Laws Commission, known as the Fagan Report. Both reports dealt with the question of black urbanisation. The Fagan Report recommended black workers and families be allowed to settle in urban areas to stabilise the labour force, while the Sauer Report favoured the eventual reversal of black urbanisation in an attempt to encompass the interests of Afrikaner agriculturalists access to labour in rural areas. In this way the Sauer Report represented the 'first programmatic elaboration of apartheid policy by the National Party' (*ibid*: 201).

the appointment in 1950 of Dr H. F. Verwoerd as Minister of Native Affairs.⁴⁰⁶ The 1950 *Suppression of Communism Act* not only targeted members of the Communist Party, but affected many trade union leaders who were ‘banned from attending meetings and entering union factory premises’ (Ncube, 1990: 82). Within three years 33 trade unionists were removed from office under this Act (Davies, O’Meara and Dlamini, 1988b: 249).

During the 1950s the National Party government amended legislation to encourage efficiencies in the migrant labour system. Influx control was enforced through the 1952 *Native Laws Amendment Act* and 1955 *Natives (Urban Areas) Amendment Act* that created labour bureaux to direct the supply of labour and enable tribal governments to control reserve labour. The *Bantu Authorities Act* of 1951 provided the mechanism in which tribal chiefs were controlled by the government bureaucracy (Stadler, 1987: 131). Under these Acts blacks could only reside permanently in urban areas if they had been born there or lived continuously there for 15 years or worked continuously for the same employer for ten years. The 1952 *Natives (Abolition of Passes and Coordination of Documents) Act* served to enforce a national system of pass laws through the introduction of a single standard ‘reference book’ which all blacks were required to carry all the time. The application of this Act abolished the ability of local authorities to discern how stringently the pass system would be enforced (Davies, O’Meara and Dlamini, 1988a: 171, 203).

These changes in the provision of pass laws and influx controls differentiated the black working class between the settled urban and temporary migrant sections of the labour market (Hindson, 1987: xi). As capital depended on the maintenance of the cheap labour system, intensified state repression was necessary to compensate for the erosion of the pre-capitalist production and distribution from the rural areas. With the decline in subsistence on pre-capitalist production and a growing reliance on wages, the stabilisation of black workers in urban areas also reflected the different interests emerging within capitalist sectors in the pass law and influx control system (*ibid*: 9). Accordingly, the system of influx control created under apartheid provided for both a growing supply of temporary migrant labour and a permanent urban workforce (*ibid*: 10).

The issue of industrial relations was addressed initially by the National Party government’s establishment of the Commission of Inquiry into Industrial Legislation (what became known as the ‘Botha Commission’, named after the Chair of the investigation, Dr J. H. Botha) (Duncan, 1995: 173). The Botha Commission’s report in 1951 recommended the recognition of black unions within separate collective bargaining institutions, however, under strict control with the outlawing of strikes (Bendix, 1996: 86). The recommendations were aimed at ‘containing and controlling’ black unions (Ncube, 1990: 79). Although only limited concessions were advocated, by the time the Botha Commission made its recommendations a number of events had taken place which hardened the perspective of the National Party on industrial relations.

Blacks union membership and influence within the CNETU had already begun to decline due to the down turn in the economy. In 1951 the SATLC ruptured with the break away of sixteen white right wing unions forming the South African Federation of Trade Unions (SAFTU) (Ncube, 1990: 80). The Youth League of the ANC had also begun its Defiance

⁴⁰⁶ Verwoerd’s aim was to consolidate the reserves, extend tribally based political structures, and toughen influx control measures (Davies, O’Meara and Dlamini, 1988a: 202). The legislative basis to achieve these aims included: the 1950 *Population Registration Act*, which classified the population on the basis of race; the 1951 *Bantu Authorities Act*, which developed the separate political systems of the *Bantustans* (homelands); the 1950 *Group Areas Act*, which restricted the residential and trading rights of blacks from white areas, including for the first time Cape ‘coloureds’; and, the 1950 *Suppression of Communism Act* (Lipton, 1985: 23).

Campaign in 1952 through acts of passive resistance, such as strikes and civil disobedience (*ibid*: 81-3). Consequently, the Botha Commission's recommendation for a limited form of recognition for black unions was rejected. Instead, the National Party government introduced the 1953 *Bantu Labour Settlement of Disputes Act*, which prohibited the recognition of African trade unions.⁴⁰⁷

Following from the legal restrictions on black unions, in October 1954 the SATLC merged with the Western Province Federation of Trade Unions and formed the South African Trade Union Council (SATUC). The merger led to the affiliation of registered unions only, thus expelling a number of black affiliated unions in the process (Bendix, 1996: 87). This decision was based on the fear that the prohibition of mixed unions might lead to the undermining of existing closed shop agreements to the detriment of white workers (Davies, O'Meara and Dlamini, 1988b: 251). This led to the rejection of black union affiliates from the SATLC. Fourteen disaffiliated unions and the remaining CNETU unions then formed the South African Congress of Trade Unions (SACTU) in 1955 (*ibid*: 323).

Racial divisions were further constructed through the amendment of the *Industrial Conciliation Act* of 1956. The amendment excluded all pass-bearing workers, including black women, from belonging to registered unions. It also prohibited the registration of new mixed race unions, and allowed the existing recognition of mixed raced unions on the proviso that they not have mixed executives (Bendix, 1996: 87). Section 77 of the Act allowed for the establishment of an industrial tribunal to legally enforce 'work reservation', with racial quotas or reservation of specific tasks (Davies, 1979: 346-7).

By 1957, in accordance with the intensification of racial segregation within industrial relations and the labour market, the Department of Labour encouraged all three white federations to form the South African Confederation of Labour Associations (SACLA). This consisted of SAFTU with twelve unions and an estimated 60,000 members, the CCSATU with thirteen unions and an estimated 18,000 members, and the SATUC with thirty-four unions and an estimated 144,000 members.⁴⁰⁸ However, the overt National Party support of the Confederation's leadership led to the withdrawal of SATUC in 1958 (Davies, O'Meara and Dlamini, 1988b: 249; Bendix, 1996: 90).

In 1959 blacks unions that had continued their relationship with SATUC established the Federation of Free African Trade Unions of South Africa (FOFATUSA). Due to the increasing politicisation of SACTU within the ANC led Congress Alliance, five conservative unions left SACTU in 1959 to also join FOFATUSA (Friedman, 1987: 27). By 1961 FOFATUSA had an estimated 18,000 members. As black unregistered unions, FOFATUSA affiliates relied on SATUC unions to make representations to Industrial Councils and Wage Boards on their behalf (Davies, O'Meara and Dlamini, 1988b: 330). SATUC again renamed itself in 1962 to the Trade Union Council of South Africa (TUCSA) and allowed black unions to affiliate. TUCSA openly opposed SACTU by arguing it aimed to oppose Communism and any links between political activity and

⁴⁰⁷ This Act allowed for the establishment of workers' committees for blacks that were to be represented through regional committees or Bantu Labour Officers. These were to be headed by appointees of the Minister of Labour, who were to make representations to employers and the Wage Board (Bendix, 1996: 86; Friedman, 1987: 28). Similarly, the *Wages Act* amendments of 1955 gave the Minister of Labour the sole right to order Wage Board inquiries (Friedman, 1987: 28).

⁴⁰⁸ These three bodies of exclusively white union affiliates then joined with the Federal Consultative Committee of the South African Railways and Harbours Staff Associations.

unionism (Davies, O'Meara and Dlamini, 1988b: 251-3). FOFATUSA consequently disbanded with its unions re-affiliating to TUCSA (Bendix, 1996: 87, 91).⁴⁰⁹

The splintering of union organisation through influx control and industrial relations legislation that promoted racial segregation was an effective mechanism for the National Party government to control the potential of black workers to organise. However, SACTU began a number of political campaigns with the emerging Congress Alliance that established a number of organising principles in an effort to overcome the intensified repression of black unions.

SACTU and the Congress Alliance

The ANC Youth League's Defiance Campaign in 1952 against the pass law system was significant as it signalled the transition of the ANC from an African petty bourgeoisie pressure group into a mass political organisation.⁴¹⁰ Launched in March 1955, SACTU formed part of the Congress Alliance and by 1956 had an estimated membership of 20,000 workers in 19 affiliates (Luckhardt and Wall, 1980: 99).⁴¹¹

In June 1955 at Kliptown over 3,000 delegates representing the Congress Alliance formulated a 'Freedom Charter' that listed demands calling for a 'democratic state, in which the land and wealth of the country is controlled by the people' (Davies, O'Meara and Dlamini, 1988b: 284).⁴¹² After the Kliptown meeting the National Party government charged 156 Congress leaders with treason. A number of SACTU officials were amongst those charged with treason. This began a trial that lasted over four years and ended with the acquittal of all the accused. However, in the interim, the trial served to undermine the leadership of the Congress Alliance.

SACTU's attempt to organise workers was within the context of the wider political struggle, labelled 'political unionism', with SACTU part of the Congress Alliance (Lambert, 1989). To follow on from the successes of the Defiance Campaign, SACTU and the ANC launched a national stay-at-home campaign demanding £1 as the national minimum daily wage. The Congress Alliance considered the first national strike on 26 June 1957 a success. However, the Second national stay-at-home campaign announced to coincide with the whites only national election for April 14, 15 and 16, 1958 had mixed success (Luckhardt and Wall, 1980: 347-351). The ANC leaderships call for the strike to end after one day led to tension within SACTU (Baskin, 1991: 14).

⁴⁰⁹ However, by 1965 the membership of FOFATUSA's former eight affiliates numbered only 2,000.

⁴¹⁰ Formed in 1912 as the South African Native National Congress, and known as the ANC from 1923, the initial organisation consisted of tribal chiefs and small African petty bourgeoisie who rejected tribally based political organisation and instead aimed at African nationalism. The ANC changed its methods of acting as a pressure group upon white governments only after Dr A. P. Xuma ascended to its leadership from 1943. Under Xuma a Congress Youth League was formed which by 1949 had itself ascended to a leadership position with its 'Programme of Action'. Essentially, the programme set out a policy of passive resistance through boycotts, strikes and civil disobedience (Davies, O'Meara and Dlamini, 1988b: 285-6).

⁴¹¹ As part of the Congress Alliance SACTU rejected a non-political and economic form of unionism. SACTU's first annual conference in 1955 stated: "SACTU is conscious of the fact that the organising of the mass of workers for higher wages, better conditions of life and labour is inextricably bound up with a determined struggle for political rights and the liberation from all oppressive laws and practices" (quoted in Davies, O'Meara and Dlamini, 1988b: 330).

⁴¹² The Congress Alliance ironically mirrored the racial categories of apartheid as it was based on four distinct traditional groups. These were the ANC, the South African Indian Congress, the Coloured People's Congress, and the Congress of Democrats (an organisation of democratic whites) (McKinley, 1997: 19).

There has been much conjecture over the value the ANC held on its relationship to SACTU. Friedman (1987: 31) argues the ANC did not value the labour movement as 'an end in itself', whilst Lambert (1989: 472) argues that since SACTU's membership was closely aligned to the ANC, its 'engagement in the alliance actually strengthened workplace organisation'. Similarly, SACTU was the first union federation in which working class interests 'came to exert an increasingly powerful influence on the content of national politics' (Lambert, 1987: 236).

In 1959 tensions developed within the ANC over the inclusion of 'white communists' within the African nationalist organisation. In April 1959 this disagreement led Robert Sobukwe and P. K. Leballo to form the Pan-Africanist Congress (PAC). On 21 March 1960 the PAC organised a nation-wide anti-pass law campaign which demonstrated through orderly marches on police stations. During the campaign police shot dead 69 protestors in the township of Sharpeville outside of Johannesburg and 17 protestors in the township of Langa outside of Cape Town. The National Party government reacted by declaring a state of emergency and on 8 April 1960 banned both the ANC and PAC (Marais, 1998: 25).

The banning of ANC and PAC forced the organisations to operate underground. Although both initially continued to organise non-violent actions, by 1961 the ANC had formed with the South African Communist Party a military wing, *Umkhonto we Sizwe* (MK) or 'Spear of the Nation', with Nelson Mandela as its Commander in Chief. The PAC similarly formed Poqo as its military wing to engage in armed struggle. After initial acts of sabotage a number of leaders were arrested at a farm at Rivonia, including the ANC's Mandela and Walter Sisulu. This led to the eventual exile of the ANC's leadership and engagement in armed struggle from the 'frontline' states.

By 1961 SACTU had 46 affiliated unions with a total membership of 53,323 (of whom 38,791 were Africans, 1,650 Indians, 12,384 coloureds and 498 whites) (Davies, O'Meara and Dlamini, 1988b: 330). However, SACTU was overtaken by a wave of repression between 1962-4 after the post-Sharpeville massacre crackdown on political opposition where some 160 of SACTU's organisers were arrested (Marais, 1998: 24-25). Although SACTU was never formally proscribed, by 1965 it had effectively ceased to function industrially. This led many SACTU officials into exile to concentrate on international solidarity work or armed struggle forming the majority of cadres in *Umkhonto we Sizwe* (Lambert, 1989). In 1973 SACTU reconstituted itself as an underground organisation working within South Africa (Davies, O'Meara and Dlamini, 1988b: 331).⁴¹³

Despite the collapse of SACTU under the state repression of the 1960s, it established a number of organising principles that were influential in the organisation of black unions in the 1970s. SACTU stressed a factory base separate from the legalism of the apartheid industrial relations system. Leadership was to be sourced from this base due to the targeting of individual leaders by state repression. Democratic shop floor representation provided the foundation for this leadership structure. The organisation of key industries was also essential to maximise limited union resources. Together, these organising principles were to prove important as a basis for the future formation of black unions (Friedman, 1987: 28-9).

⁴¹³ In 1964 SACTU succeeded in forcing the withdrawal of South Africa's nominee to the International Labour Organization (ILO) and the withdrawal in 1973 of TUCSA as the representative body.

The re-emergence of black trade unions and the 1973 Durban strikes

In 1969 two TUCSA officials, Eric Tyacke and Loet Douwes-Dekker, were dismissed after TUCSA disbanded its African Affairs Department and expelled its associated African unions (Davies *et. al.*, 1988b: 345). In 1971 Tyacke and Douwes-Dekker launched the Urban Training Project (UTP) in an attempt to assist African workers to organise.⁴¹⁴ In Durban, Harriet Bolton of the TUCSA registered Textile Workers' Industrial Union (TWIU) attempted to also organise black workers. Without any assistance forthcoming from TUCSA, Bolton became involved with the National Union of South African Students (NUSAS) at the University of Natal. NUSAS consisted largely of white English speaking students. With the assistance of political scientist, Richard Turner, students at the University of Natal formed a Wages and Economics Commission in 1971 and attempted to persuade NUSAS to set up similar bodies across campuses nationally. The students within the Wages Commission researched African wages and gave evidence to the Wage Board. Bolton and Turner then organised students to work in registered unions. However, to circumvent the authorities the students organised a General Workers' Benefit Fund (GFWBF) that sought to provide both a death benefit fund and workplace grievance mechanism (Friedman, 1987: 40-3). In Cape Town in 1972 a similar union-student alliance formed the Western Province Workers' Advice Bureau, with former SACTU unionist Zora Mehlomakulu as director (Friedman, 1987: 43).

The development of both organisations coincided with a rise in the number of black workers engaged in strikes. Two strikes were of particular significance in 1972. The first in June was at the PUTCO bus company Johannesburg depot.⁴¹⁵ The second strike of significance was the October when both Durban and Cape Town dock workers engaged in activities around a Wage Board investigation (Friedman, 1987: 44-5). In 1972 over 9,000 black workers went out on strike, more than double the previous five years. However, this was a precursor to the growing frustration of African workers in the face of an economic upturn (Friedman, 1987: 44-5; Baskin, 1991: 18).

On 9 January 1973 some 2,000 workers at Coronation Brick and Tile works on the outskirts of Durban went on strike demanding a pay rise. The strike lasted two days after workers were requested by King Goodwill Zwelithini to return to work.⁴¹⁶ Then on 25 January some 6,000 black and Indian workers struck across a number of textile mills. By the end of January some 29 firms had been hit by stoppages. On 5 February some 3,000 Durban Corporation workers struck, spreading to some 30,000 within two days. By the end of 1973 there had been over 90,000 black workers involved in strike actions; this contrasted with the 23,000 black workers involved in strikes between 1965 to 1971 (Friedman, 1987: 37-40).

Significantly, Barney Dladla, the KwaZulu government's Community Affairs Councillor, became prominent in a number of disputes during the Durban strike wave and immediately after. The KwaZulu government had only established 'self-governance' in 1972 under the *Bantu Homelands Citizenship Act* of 1970 and *Bantu Homelands Constitution Act* of 1971

⁴¹⁴ Baskin (1991: 19) notes that other initiatives stemmed from Johannesburg also. These were the Black Allied Workers Union in 1971, Wages Commission students formed the Industrial Aid Society in 1974, and the UTP established a Consultative Committee on Black Trade Unions in 1977.

⁴¹⁵ Striking workers demanded a week wage of R60. This strike was unsuccessful as it was broken by the arrest of some 300 drivers.

⁴¹⁶ Hemson argues that contacts between stevedores and other migrant workers in similar workplaces (e.g. the Coronation Brick and Tile workers) helped spark off contingents of workers into strike action in 1973.

(Mare and Hamilton, 1987: 42-3).⁴¹⁷ As the position of KwaZulu remained ambiguous over black unions, Dladla's participated in the strike wave as a negotiator on behalf of workers (Friedman, 1987: 430).

The Durban strike wave forced the state and white unions to re-examine the industrial relations institutional framework.⁴¹⁸ The National Party government reacted by establishing a new minimum wage of R13, rising to R15 within three years. It also amended the 1953 *Settlement of Disputes Act*, with the *Black Labour Relations Regulation Act* of 1973.⁴¹⁹

The UTP in Johannesburg and the WPWAB in Cape Town saw, in contrast to liaison committees under the new Act, the workers' committees of the 1953 *Settlement of Disputes Act* enabled a tactical opening for black union organisation. This was due to workers' committees being legal and therefore forcing employers to negotiate with workers (Friedman, 1987: 57). The GFWBF in Durban was initially sceptical of workers' committees as they had an estimated 40,000 members and had established a basis through registered unions as the TWIU (1987: 58-9). However, from April 1973 a number of unregistered black unions were launched that included the Metal and Allied Workers Union (MAWU), National Union of Textile Workers (NUTW), and later the Transport and General Workers Union (TGWU) and the Chemical Workers Industrial Union (CWIU). Together these unions formed in October 1973 the umbrella body the Trade Union Advisory and Coordinating Council (TUACC) and the Institute for Industrial Education (IIE) (Baskin, 1991: 18; Mare and Hamilton, 1987: 120-21). By June 1974 it was estimated that the GFWBF had 22,000 members, whilst the new unions had some 10,000 members (Friedman, 1987: 87).

Friedman (1987: 60) alleges two TUACC organisers, Halton Cheadle and Dave Hemson differed in how best to consolidate the growth of union organisation in Durban. Cheadle favoured abandoning mass recruitment and consolidating the most organised firms, whilst Hemson sought a more encompassing strategy. However, shortly after a further strike at the Frame textile plant outside of Durban in January 1974 the government banned three Wages Commission graduates, Halton Cheadle, David Davis and Dave Hemson.

⁴¹⁷ This was part of the aim under the Bantu Authorities Act of 1951 to establish the native reserves as independent states. The Ciskei, Transkei Venda and Bophutswana were ceded as independent states, whilst KwaNgwane, KwaNdebele, Lebowa, Gazankulu, and Qwaqwa, had with KwaZulu remained 'self-governing' (McKinley, 1997: 53).

⁴¹⁸ TUCSA has attempted to develop contingency plans at its 1972 Annual Conference by recommending that its individual affiliates 'examine practical ways to establish parallel union organisation for African workers' (SRR, 1973: 269). However, these 'parallel' unions were only then allowed to affiliate to TUCSA after 1974, largely in recognition of the developments in African union organisation stemming from the Durban strike wave (Davies et. al., 1988b: 253; Baskin, 1991: 17).

⁴¹⁹ The amendments were to allow a limited right to strike for African workers. Strike action could only be undertaken once disputes were passed via a Black Labour Officer representing the industry concerned, then the regional Labour Committee, then a Division Inspector and finally the Black Labour Board (Bendix, 1996: 93-4). The Act also established provisions that sought to improve communication through 'liaison committees' that consisted of representatives of employers and employees on a parity basis, and whose members would be allowed to attend Industrial Council meetings. However, the liaison committees were designed to offer less power to workers than the existing works committees, and where a liaison committee was in place a workers' committee could not be formed (Friedman, 1987: 50-3; Bendix, 1996: 93). Within a year over 1,200 liaison committees were established, but this figure waned to only 240 by mid-1975. One explanation for the failure of liaison committees is the estimate that some 91 per cent were initiated by employers and within these only 18 per cent of employers had consulted African workers to establish them (Friedman, 1987: 54-6).

Dladla was also forced out of involvement with the newly established unions after clashing with Chief Mangosuthu Buthelezi. Dladla was seen by some as an alternative leader in the KwaZulu government. Buthelezi was also influenced by the Natal (and Federated) Chamber of Industries request to the central state for homeland governments to halt any interference in industrial relations (Mare and Hamilton, 1987: 121). Buthelezi now also accused TUACC officials of attempting to undermine his authority (Friedman, 1987: 431).

After continued harassment by the authorities Harriet Bolton emigrated to Britain. With the banning of key organisers and the loss of Dladla and Bolton's support the TUACC effectively collapsed as membership waned to an estimated 2,000 (Friedman, 1987: 60). The union activists that were left now had no choice but to try to rebuild factory by factory' (Friedman, 1987: 88). According to Friedman (1987: 91) the rebuilding of union organisation was to be centred on lessons learnt from both SACTU's experience and that of the student Wages Commissions. TUACC argued that industrial unions should be formed based around elected shop stewards and democratically directed through the union coordinating council so wider objectives could be addressed across industries. To achieve this TUACC sought to organise on the basis of carefully choosing companies that were subsidiaries of multi-national corporations (Maree, 1987: 6). This was largely based on the success of the NUTW and TWIU establishing a recognition agreement with the British-owned textile company, Stephen & Nephew, in 1974. The recognition of independent unions was then seen to influence these companies' dealings with the state, and in turn companies applying pressure for the registration of African unions (Davies et. al., 1988b: 334).

The political and economic crisis of the 1970s

Saul and Gelb (1986) used the Gramscian concept 'organic' crisis to argue that apartheid stabilised economic growth from the 1940s, but then lapsed into an organic crisis in the 1970s (Nattrass, 1989: 66). 'Organic crisis' refers to the linkages between the economic, social and political dimensions whereby capital pressures the state to adjustments in social and economic spheres whilst "deferring formative reforms in the political dimension" (Maraï, 1998: 37). The crisis was also 'organic' in the sense that its "outcome is *not* predetermined" (Saul and Gelb, 1986: 16).

Saul and Gelb's (1986: 12) term 'racial capitalism' attempted to recognise that the "linkage between racial domination and capitalist exploitation is as potentially contradictory as ...it has been mutually reinforcing". The crises of South Africa's racial capitalism revealed strains between these two aspects. According to the theory, crisis must be resolved in one of two ways: "either by revolution from below or by 'formative action' taken by the dominant classes, the better to renovate and reconsolidate their rule" (Saul and Gelb, 1986: 12):

The term crisis meant a situation in which the normal functioning of the economic system cannot correct intrinsic problems, and instead required a resolution beyond the logic of the system (Bond, 2000: 20-21). Structural problems of increased urbanisation of the African population, the declining reserve system, limits on the size of the consumer market, a high rate of black unemployment, and a shortage of skilled labour, adversely impacted upon capital accumulation (Saul and Gelb, 1986: 71).

The resurgence in worker militancy in 1973, the 1974 oil shock, a trade downturn and the onset of a balance of payments blow out initiated an economic crisis. After the June 1976 Soweto uprising and massacre of 136 people over a six day period, a political crisis also emerged. The strategic shifts of the National Party government stemmed from the

emerging political and economic crisis after the Soweto riots and threat of disinvestment from multinational companies.⁴²⁰ An economic 'crisis' surfaced during the 1970s and became acute during the late 1980s.⁴²¹

The state then intensified its repression of the newly independent unions. From November 1976 the state placed banning orders on twenty-two activists associated with the independent unions (Maree, 1987: 5). However, by the late 1970s events driven within the apartheid-state had overtaken the organisational dilemmas faced by the nascent unions on the ground. In reaction to this the state sought to appease and redirect the political and economic systems by encompassing elements of the black working class, collaborators within the Homeland government administrations and the black petty bourgeoisie. In terms of the black working class, the struggles of black unions for the right to organise had led to a number of concessions from the National Party government in order to counter 'polarisation' (Davies et. al., 1988a: 38; Baskin, 1991: 26). As the *Black Labour Relations Regulation Act* of 1973 had failed to address black worker militancy through the provision for liaison committees, a relative absence of state control existed in relation to the organisational structure and operation of non-registered unions.⁴²² This led to National Party' concerns that black unions would become vehicles for organised political opposition. The inclusion of black unions within the existing industrial relations system was therefore premised as a means to both prohibit political activity and maintain industrial peace in the national interest (Davies et. al., 1988b: 326).

The Wiehahn Commission

Two commissions of inquiry were central to this internal reform. Firstly, the Riekert commission on Manpower Utilisation recommended changes to aspects of the urban labour market, job reservation and pass laws (Hindson, 1987: 83-7). Secondly, the Commission of Inquiry into Labour Legislation, commonly known as the Wiehahn Commission after its chair Professor Nicholas Wiehahn, attempted to incorporate black unions into the established industrial relations framework (Bendix, 1996: 94).

Appointed in 1977 the Wiehahn Commission findings were reported in 1979 in six parts. The *Black Labour Relations Regulation Act* was repealed and replaced by the *Industrial Conciliation (Amendment) Act* of 1979, later renamed and amended as the *Labour Relations Act* of 1981. Legislation pertaining to training and manpower development was

⁴²⁰ As a consequence of the Soweto riots was the loss of 25 per cent of foreign exchange reserves in the first quarter of 1976. This forced the National Party government to the IMF for an emergency loan (Friedman, 1986: 77). With the advent of political and economic turmoil from the mid-1970s, the economic trend became a "drop in fixed company investments and a rise in financial market flows - particularly in speculative activity, hostile takeovers and capital flight to foreign markets" (Kraak, 1996: 58).

⁴²¹ Average annual GDP growth between 1950 and 1960 was 4.5 per cent. This increased to 5.5 per cent between 1960 and 1970. Large inflows of foreign capital in the manufacturing sector, growing almost 12 per cent annually by the mid-1960s (Marais, 1998: 30). However, after the oil shock of 1973 the growth rate of annual GDP dropped to 1.9 per cent (*ibid*: 30). Between 1970 and 1980 annual GDP growth was 2.3 per cent (COSATU, 1992: 9). Particularly in manufacturing, average profitability rates (earnings in relation to capital stock) fell steadily from 40 per cent during the 1950s to less than 15 per cent during the 1980s and reinvestment dropped by 2 per cent each year during the 1980s. From the 1960s, 'unusually' high levels of machinery compared to workers led to chronic overproduction, relative to the size of the local market" (Bond, 2000: 20-21).

⁴²² For example, the WPWAB in Cape Town sought to organise through workers' committees that would then be united by regional committees. From April 1977 the WPWAB established a Controlling Committee of elected factory representatives, and subsequently launched the Western Province General Workers Union in 1978 to focus on the wider Cape Town region (Maree, 1987: 5-6).

consolidated into the *Manpower Training Act*, whilst a *Basic Conditions of Employment Act* and *Occupational Health & Safety Act* were also introduced. The main provisions of the Wiehahn legislation included freedom of association, registration for all unions, prohibitions on political activity, and liaison committees were renamed as works councils. Works councils and workers' committees were granted full collective bargaining rights where no Industrial Council had jurisdiction. Statutory job reservation was also to be phased out. The Industrial Tribunal was replaced by the Industrial Court and a tripartite National Manpower Commission established (Bendix, 1996: 95).

The provisions within this legislation aimed to co-opt black unions into the industrial relations system in order to negate the system of plant-level recognition agreements between employers and workers' committees that had been gaining prevalence in the previous three years. To do so multi-racial plant-level works councils with full bargaining rights were on offer. However, there were constrictions on the extent to which this new dispensation applied as the 1979 *Industrial Conciliation (Amendment) Act* under Section 10(1) defined 'employees' as those with permanent residence in urban areas. A further proposal to enforce this provision was the imposition of fines upon unions of R500 for each member that was a migrant or homeland commuter. Protests against these amendments led to the R500 fine being dropped (*ibid*: 96). The subsequent *Labour Relations Act* of 1981 amended the existing legislation to recognise migrants and commuters within the definition of 'employee'. However, the amendment also applied the restrictions governing registered unions to non-registered unions (Wood, 1998: 35). The conceit of the National Party by applying industrial relations legislation to both registered and unregistered unions was to restrict black unions' political activity and cut unions off from their factory power base. The reforms therefore aimed to allow black unions to operate but deny them real power (Friedman, 1986: 181).

The black independent unions that emerged from the 1973 Durban strike wave relied on the formation of democratic shop steward' committees, characterised by direct action and anti-apartheid campaigns. Webster (1993) and Friedman (1986) identified two components of this strategy. Firstly, democratic processes to win the voluntary consent from members for action and restraint when necessary (Webster, 1993: 7). Democratic unity was also necessary to this procedure as the independent unions that emerged concentrated upon gains in individual factories. With no legal rights, the unions' only resource was the unity and commitment of members, advancing only through collective efforts to resist employers (Friedman, 1986: 179). The second component, tactical flexibility, included a capacity to distinguish principles from tactics and to choose those tactics most likely to succeed, including "negotiation and compromise" (Webster, 1993: 7). Union strategy now found its basis in 'tactical flexibility', manoeuvring between legal and illegal processes to strengthen organisation. Such measures included accepting small gains with larger goals always in mind and using committees established by employers "to organise without the threat of employer reprisals" (Friedman, 1986: 180). Webster argues the introduction of shop steward committees and recognition agreements in factories were central to building shop floor power (Webster, 1993: 6-7).

Black unions subsequently rejected the legal constrictions placed upon them and pursued their previous strategy of plant-level bargaining through strong shop floor representation and the recognition of workers' committees by individual employers. With increasing skill shortages and international union solidarity, various foreign industries began to bargain with unions and provide them with a permanent base (Friedman, 1986: 180). With a strong factory-based leadership closely tied to members, concessions from management were secured (Webster, 1993: 7). As a result plant-level bargaining soon became an entrenched part of the industrial relations system. But the reforms opened up to black unions by the

Wiehahn Commission in 1979 were not immediately or comprehensively discounted. The prospect of registration before the *Labour Relations Act* of 1981 and inclusion into the official industrial relations bargaining system posed both an opportunity and threat for the independent black unions.

The formation of COSATU

The dilemma posed by the Wiehahn Commission's recommendations led to a split in the approach of the independent unions to participating in the new industrial relations dispensation. The Wiehahn reform process had coincided with meetings from March 1977 to discuss the establishment of a new trade union federation to incorporate the newly independent black trade unions. Both TUACC and the WPWAB were represented. However, the latter decided not to affiliate as it felt unions needed more time to develop at a grassroots level before becoming part of a federation. Some two years after this first meeting the Federation of South African Trade Unions (FOSATU) was established in April 1979. The paid up membership of FOSATU was some 20,000 workers in twelve unions. Most affiliated unions were unregistered and included the four TUACC unions, three from the Black Consultative Council of Trade Unions (BCC) and two former TUCSA affiliates (Baskin, 1991: 25-26). Total FOSATU union membership rose from 50,000 in 1980 to 94,000 during 1981 (Davies et. al., 1988b: 333).

FOSATU based itself on the principles of worker control, non-racialism, shopfloor organisation, and workers' independence from political organisations. FOSATU also supported a strongly centralised, industry-directed structure and a binding policy on all affiliate unions. Contrary to the initial provisions of the Wiehahn reforms, FOSATU decided that registration upon the tactical grounds of 'non-racialism' would be useful to test the system of Industrial Councils. However, when the amended *Labour Relations Act* of 1981 was introduced, enabling the Industrial Councils to intervene in both registered and non-registered unions, the issue of registration was largely superseded (*ibid*: 328).⁴²³

The independent unions in the early 1980s came to appreciate the necessity of the formation of a strong national and industrial based union federation. This realisation in part reflected both the growth of the black trade union movement and the emerging political and economic crisis in South Africa. Between 1980-83 black trade union membership rose from 220,000 to 670,000 (Callinicos, 1988: 90). The key issue for the black union movement with the rising political mobilisation, was how to direct its newly found strength in relation to the wider national liberation struggle and the question of political alliances (Lambert and Webster, 1988: 29).

A significant development throughout this process was the formation of shop steward councils in the townships and personal or organisational alliances with community and political organisations (Pretorius, 1996: 261). From around 1979 many township based community organisations began organising cross-over working class constituencies whose formation coincided with a shift within most organisations from the black consciousness ideology towards a non-racial, democratic ideology (Hindson, 1987: 209-10). The community organisations that emerged based themselves on mass recruitment drives in the

⁴²³ In the intervening period FOSATU's chief opponent to the position of registration was the WPWAB. The WPWAB contrasted itself to FOSATU by acting as a coordinating body for independent workers' committees. However, the WPWAB soon found that organising workers in greatly divergent occupations and industries, with sporadic recognition, provided an insufficient power base. By 1981 the WPWAB had transformed itself into the General Workers Union (GWU) in an attempt to gain recognition as the representative organisation of stevedores nationally (Bendix, 1996: 203).

townships and large-scale campaigning around political issues (Baskin, 1991: 28-9). They worked with the new more overtly political unions that favoured general unionism and focussed on problems affecting all Africans as township residents (Hindson, 1987: 209). The union and community organisations merged as independent organisations by forging plans of joint action with specific objectives, in order to minimise the risks to unions (Hindson, 1987: 217). Adler and Webster (1995: 89) termed this relationship as social movement unionism, as the formal organisational features of unions “fused with the mobilisational capacity and looser structure of social movements”.

With the rising political mobilisation, unions' reconsidered the question of political alliances (Lambert and Webster, 1988: 29). The question of political affiliation became characterised by a debate between unionists that identified themselves as either 'workerist' or 'populist'. To qualify the debate, either the 'workerist' or 'populist' position was necessarily held in 'pure' forms (Baskin, 1991: 97; 113-5).⁴²⁴ The 'workerist' tendency argued the working class on an anti-racist and socialist platform held out the means to effect real change. By contrast, the 'populists' argued that race was the central contradiction in South African society and that the immediate political task was the overthrow of white minority rule by a broad alliance of anti-apartheid democratic forces.⁴²⁵ The focus on national liberation by the ANC has also been influenced by the SACP's distinction of South Africa's 'Colonialism of a Special Type' (CST). This thesis argues South Africa combines the characteristics of both an imperialist state and a colony. In order to overcome this combination a 'two-stage theory' of revolution was proposed which distinguishes between a national-democratic phase and a socialist phase of class struggle (Marais, 1998: 215). The CST thesis was influential to both the SACP and ANC 'nationalists', as it has contributed to the ideological basis “to domesticate or subdue class struggle by subordinating trade unions to the imperatives of the national liberation project ...administered ...by the ANC government” (*ibid*: 216).

During the early 1980s tensions developed between community and union organisation, with 'workerism' being reaffirmed by FOSATU at its 1982 conference (van der Walt, 1996: 12). The independent unions that formed FOSATU aimed initially to avoid political affiliation because of the experience of SACTU, whilst many black political organisations remained associated with the 'homeland' governments (van der Walt, 1996: 6; Friedman, 1987: 430). FOSATU also argued that its affiliation to a political movement would alienate workers aligned to different factions (van der Walt, 1996: 6). At FOSATU's 1982 conference the then General Secretary, Joe Foster, reaffirmed the argument that the black elite had different interests to workers (*ibid*: 12-3). However, the political resolution at the FOSATU conference stated that unions could co-operate in community campaigns provided they were controlled by a workers' mandate (Friedman, 1987: 438, 460).⁴²⁶

External events then overtook the debate between 'workerist' and 'populist' tendencies within the union movement. When P. W. Botha announced that he sought to co-opt

⁴²⁴ The 'workerists' saw a causative relationship between capitalism and racism, seeing the latter as a mechanism for enhancing the division and exploitation of the working class. Beyond this the workerists were divided between focussing on the workplace ('economism'), the creation of a revolutionary (Marxist) party, and 'syndicalists'.

⁴²⁵ In the tradition of the ANC the populists played down class differences in favour of the maximum unity of all oppressed classes and strata, although a variant of populism did declare itself in favour of a second stage of struggle for socialism after apartheid was eliminated (van der Walt, 1996: 2-3).

⁴²⁶ In direct contrast to FOSATU's position was that of SAAWU's who were prepared to advise and support any group of workers. SAAWU's membership was based mainly in the Eastern Cape and its strong community orientation was manifest in its attempts to organise unemployed workers (Bendix, 1996: 204).

coloured and Asian communities into a racially based tri-cameral parliament, two multi-class national organisations emerged in opposition. These organisations were the black consciousness National Forum Committee (NFC) and non-racial United Democratic Front (UDF) (Hindson: 1987: 215). The UDF aimed to unite a broad opposition against the limited reforms, signalling a political formation based upon the inclusive ideology of the ANC's non-racialism. The UDF was a broad coalition of civic associations, student groups, youth congresses, women's organisations, church societies and some trade unions. The UDF grew from initial 85 affiliates when launched to 565 at its peak. However, only 18 affiliates were trade unions (Marais, 1998: 52). The UDF during this period created independent civic associations in townships, culminating in the formation of the South African National Civic Organisation (SANCO) (Bond, 1991: 74).⁴²⁷ The UDF subsequently led the internal protest against the adoption of a new constitution and elections in 1984 for the tri-cameral parliament (Davis, 1987: 87).⁴²⁸

In 1983 FOSATU established a feasibility committee to prepare the groundwork for a new federation. The black consciousness Council of Unions of South Africa (CUSA), formed in 1980 with an estimated 30,000 members, expressed opposition to the principle of non-racialism and was not initially in favour of forming a federation (Baskin, 1991: 30). However, by May 1983 CUSA decided to join in the committee's deliberations (Davies et al., 1988b: 329).⁴²⁹ With the rise of the 'populist' tendency, after two years of negotiation with other unions, FOSATU consequently re-affiliated with other independent industrial unions, the wider community unions and CUSA's central affiliate the National Union of Mineworkers (NUM). The aim was now to take on a more overtly political role in the compact for national liberation with the UDF without necessarily seeking worker mandates before endorsing political campaigns (Friedman, 1986: 186-87).

COSATU was launched in Durban at the University of Natal, November 1985. The new federation represented some 33 unions with a combined membership of around 460,000 workers (Baskin, 1991: 53). However, when COSATU was formed it abstained from deciding upon a political policy and instead referred the issue to its newly formed Central

⁴²⁷ Lodge and Nasson (1991) divide the UDF's development into five phases. The first lasting until mid 1984 was similar to the ANC's populist campaigns of the 1950s with large gatherings addressed by individual leaders but with no systematically structured organisation or ideological program. The second phase coincided with the September 1984 Vaal uprising where by 1985 the UDF endorsed the ANC's January call for South Africa to be rendered 'ungovernable'. The third phase followed the declaration of a state of emergency in July 1985. The fourth phase culminated in the UDF's banning in early 1988 from which emerged the fifth phase, regrouping with church and union organisations as part of the Mass Democratic Movement (MDM) to campaign for mass civil disobedience (Marais, 1998: 52-3). The UDF was later disbanded in March 1991 (*ibid*: 72).

⁴²⁸ A number of industrial unions advocated affiliation to the UDF (Baskin, 1991: 102-3). This position argued firstly, that unions were incapable of defending workers and engaging by themselves in political struggle and that the working class should not be conflated only with unions. Secondly, they argued that the broadest political alliance was necessary to overcoming the apartheid regime (van der Walt, 1996: 15). The long-term interests of the groups associated with UDF were not identical in their vision of a post-Apartheid South Africa (Lodge, 1991: 211). For instance, the ANC like the UDF, denied its aims included socialism (Callinicos, 1988: 64-5, 133-6; Saul and Gelb 1986: 16-22; van der Walt, 1996: 26). Despite the differences in the long term vision of the UDF groups, the 1980s were characterised by the rise of this 'populist' tendency.

⁴²⁹ For the other 'multi-racial' federation, TUCSA, the fact that a number of its affiliates had mainly coloured and, later, black members spurred its decline. Not only did TUCSA compete with FOSATU for membership but also, ideologically and historically, TUCSA's alleged non-political position was difficult to reconcile across its coloured, black and white memberships. From 1984 individual unions found their position increasingly untenable and began to withdraw from TUCSA, which was officially disbanded in 1986 (Bendix, 1996: 99-100).

Executive Committee (CEC) (Baskin, 1991: 47, 57, 91). The CEC was made up of four delegates from each large affiliate, and two from each smaller affiliate. The CEC consequently left the final decision on political affiliation to COSATU's second national conference in July 1987 (Baskin, 1991: 212-223).

APPENDIX B COMPARATIVE DOCK LABOUR POOLS

Netherlands

Northern European port dock labour Schemes are generally regarded as positive examples of as they feature strong cooperative employers' associations which established standardised pay and conditions across the entire port labour force in order to take labour 'out of competition'. In some cases, most notably in Rotterdam, Antwerp and Hamburg, dock workers enjoyed considerable employment and income security, regardless of whether work was available (Turnbull, 1999: 7). Employment arrangements were facilitated as the process of containerisation in North European ports saw shipping companies prepared to finance investment and assume direct responsibility for the management of container terminals. This allowed operators to employ only a 'core' of regular workers (typically crane and straddle carrier drivers) supplemented on a daily basis by a regulated labour 'pool' as demand dictated (Saundry and Turnbull, 1996: 279).

For example, the Port of Rotterdam, Europe's largest, is administered by the local government which is responsible for investment in all port infrastructure, whilst investment in superstructures and all services are provided by private operators.⁴³⁰ The employer association *Scheepvaart Vereeniging Zuid* (SVZ) established a labour pooling company *Samenwerkeene Havenbedrijven* (SHB) post-war. Participating companies nominated a guaranteed number of pool workers to be employed by them at any one time. Unused employees were utilised by other companies requiring pool workers above their guarantee. Casual workers are employed by the SHB with the same wages and conditions as permanent dock workers. Approximately 85 per cent of the stevedoring workforce are engaged permanently by stevedoring companies. The remaining 15 per cent are employed by a port labour pool organisation designed to cope with fluctuating work loads. Quotas in the pool were adjusted every three months. Pool workers drew a full-time wage paid by the stevedore employing them when in work, or when idle funded through 60 per cent company contributions and 40 per cent State unemployment benefits (Baudelaire, 1986: 375).

However, a program of structural reform of the Port of Rotterdam has been underway since 1979 in which the dock labour force has been reduced from 12,000 to 1,400 by 1992. The voluntary redundancies occurred through a consultative, planned approach involving the Dutch Government, the City of Rotterdam Administration and stevedoring employers and unions. The Dutch government provided the bulk of the redundancy funds (Baudelaire, 1986: 379).⁴³¹

United States

In the United States longshore worker employment arrangements differ between the West and East Coast (and Gulf) ports. A month long strike in New York from October 1951 led to a Board of Inquiry being established by the State of New York into the conditions of the

⁴³⁰ The dominant container terminal operator in the port is Europe Combined Terminals (ECT) which was established by the major incumbent stevedores and Sea-Land in 1965 (Saundry and Turnbull, 1999: 275).

⁴³¹ A 'Masterplan' developed in 1989 led to the division of tasks in the labour pool between skilled casual labour and unskilled casual labour being provided on an ad hoc basis. The government also withdrew from the unemployment fund in 1993 (ILO, 1996: 53). Under the new system the pool is organised like an employment agency and operates as an independent commercial enterprise. In order to limit idle time of participating workers, a number of pool employees were offered redundancies.

dock labour market. The Board concluded unregulated employment would lead to chronic over-supply, unequal distribution of income and further labour disputes. The states of New York and New Jersey later established a Waterfront Commission for New York Harbour with three major powers: to license all employers and dock workers; to stabilise employment; and, to reduce the number of casual workers to no regular attachment to the industry. The latter was established through setting minimum hours of 12 days per month to dedicated piers and/or employers. Consequently, around 85 per cent of dock workers fell into this category with the remaining 15 per cent hired casually to fill vacancies as they arose across employers or in order to meet peaks. Registration was only maintained if dock workers completed at least 2 days per week over a six monthly period. The allocation of labour was later formalised from 1958 with a seniority classification based on a longshore worker's attachment to a pier and length of service (Morewedge, 1970: 35-8).

On the US West Coast a different situation emerged. The International Longshoremen's and Warehousemen's Union (ILWU) were dismissed from the Congress of Industrial Organization in 1947 when officials refused to adhere to the anti-communist provisions under the Taft-Hartley Labor Act. However, a 95 day strike in 1948 led to their recognition from West Coast stevedore employers (Finlay, 1988: 10-1). The ILWU later signed with employers represented by the Pacific Maritime Association (PMA) a 'Mechanisation and Modernisation' (M&M) agreement in October 1960 (Morewedge, 1970: 45). According to Finlay (1988: 30), the M&M was an opportunity for employers to reduce labour costs substantially through the exit of employees rather than as a way to increase their control over work and workers. This secured an initial US\$29m towards redundancies and an agreement for the ILWU's exclusive jurisdiction over cargo handling in ports and inland container un/pack warehouse facilities. The PMA and ILWU jointly register the work force, supervise dispatch halls, and administer welfare, pension and other funds. Work is allocated on the basis of an equalisation system on the basis of two categories, fully registered and probationary (Baudelaire, 1986: 383). In 1971 the Pay Guarantee Plan (PGP) financed by a combination of a levy on cargo and stevedoring operations provided guaranteed earnings on the basis of 36 hours a week for fully registered workers and 24 to 30 hours on a tonnage basis for probationary workers. The United States East Coast and Gulf ports organised by the International Longshore Association (ILA) also later obtained a guaranteed annual income financed by a levy on cargo (*ibid*: 385-6).

Britain

In Britain the Essential Work (Dock Labour) Order of 1941 established the National Dock Labour Corporation Ltd to administer a Dock Labour Scheme for eighty four principal ports. Local Dock Labour Boards controlled registers of employers and dock workers. Under this arrangement dock work was restricted to registered dock workers who were placed into a reserve pool and entitled to an attendance payment paid by the Board. If by the end of the week dock workers' total regular earnings or attendance money fell below a certain minimum, the Board would provide a guaranteed payment financed by a levy on all employers as a percentage of the wage bill. However, the guaranteed payment was rarely binding as few dock workers remained without employment for the course of a week as job rotation was a customary practice (Gavosto, 1997: 228). The Boards were also charged with the provision of training and welfare facilities, and was also responsible for recruitment, discipline and discharge (Turnbull et. al., 1992: 14).

This war-time Scheme was replaced with the Dock Workers (Regulation of Employment) Act 1946 and subsequent Order in 1947 which developed the National Dock Labour Board. Under these arrangements there existed three categories of dock worker. The

majority were 'permanent workers' employed by a single registered employer. The second category were 'supplementary workers' employed for a limited period only. The final category were 'temporarily unmatched workers' who were generally registered seeking re-allocation to another employer and intended to be a purely 'frictional' element of the work force. However, these combinations coupled with a piece-work rates system led to wide discrepancies between weekly earnings between both the categories of dock workers and ports (Baudelaire, 1986: 366). A further problem was that 'unattached' dock workers were placed on the Temporarily Unattached Register (TUR) and was increasingly abused by employers to dismiss surplus labour.

The Lord Devlin Committee of 1965 sought to address this scenario by introducing both decasualisation and modernisation. The former would be through the introduction of permanent employment in which dock workers became employed by individual firms, whilst the latter would occur through the restructuring of work practices, especially those associated with the casual system.⁴³² A National Modernisation Committee was established in 1965 to implement the recommendations (Baudelaire, 1986: 368-9).⁴³³

The subsequent Dock Workers (Regulation of Employment) (Amendment) Order of 1967 sought the allocation by the Dock Labour Board of all registered dock workers to permanent employment. An Interim Report of the Aldington-Jones Committee in July 1972 then sought to abandon the TUR by entrenching the job-for-life principle of no compulsory redundancies (Turnbull et. al., 1992: 24-5). However, as Saundry and Turnbull (1999: 279) argue the introduction of decasualisation in 1967 led to the reduction in employer numbers from over 1,400 in 1966 to 450 in 1968 as small stevedoring could not afford the costs of permanent employment. This was later exacerbated with the extension of non-compulsory redundancies after the 1972 Aldington-Jones agreement.

Following the Aldington-Jones recommendation, voluntary redundancies ensued. However, with the collapse of many smaller private sector stevedores the employment of registered dock workers was transferred to the port authorities, inadvertently leading them to be seen as full service ports (Saundry and Turnbull, 1999: 279). Between 1969 and 1984 £240 million was provided for redundancies, of which only £11.4 million was provided from government, with the remainder from the employers. However, as the majority of employers were port authorities required government financial assistance, in total it was estimated that the British government provided £130 million pounds in redundancy payments for registered dock workers existing in the industry.⁴³⁴

The Scheme ports in Britain were overtaken in the 1970s by new cargo handling methods and the restrictive legal definition of dock work. The limited definition of 'dock work' in Britain allowed 'inland' container operations at 'dry ports' to employ non-registered men to 'stuff and strip' containers. Although the Dockwork Regulation Act of 1976 sought to widen the definition of dock work to encompass changes through containerisation, by 1978 the amendment was ineffective (Turnbull et. al., 1992: 29).

⁴³² The Lord Devlin Commission argued that the 1947 Scheme introduced only a *measure* of decasualisation. In effect, the Board was still the 'contractual' or 'holding employer' of all registered dockers, while port authorities, dock and stevedoring companies were simply the 'operational employers' who actually utilised labour (Turnbull et. al., 1992: 18).

⁴³³ This involved the abolition of piecework and all restrictive practices associated with casualism. For example, the principle of one-shift-one ship was removed with decasualisation in 1967 (Baudelaire, 1986: 343).

⁴³⁴ For example in 1983 the Port of London Authority received £150 million from the government (Baudelaire, 1986: 371).

Consequently, the non-Scheme ports as Felixstowe and Dover grew their volumes with the advent of containerisation (Turnbull et. al., 1992: 27). Non-Scheme ports captured an increasing proportion of Britain's trade, from 8 per cent in 1965, to 20 per cent by the mid-1970s, and over 30 per cent by the late 1980s (*ibid*: 68-9). Shifts in the flow of trade and competition from non-Scheme ports affected the financial viability of the NDLS. This was contributed to by the costs of surplus labour idle time was effectively cross-subsidised by the larger ports as attendance money and guaranteed wages which were financed via a percentage levy on the employer's total wage bill" (Turnbull et. al., 1996: 713).

Similarly, an important impact on the Scheme ports' competitiveness was that 'third party' employers controlled 25 per cent of all non-Scheme dock workers (75 per cent of all casuals) and pay and condition varied. Some were below the nationally agreed rates and enjoyed a cost advantage over the Scheme ports (Turnbull et. al., 1992: 68).

The costs of the Scheme (in particular redundancies in addition to the usual administrative costs and guaranteed payments), the underlying changes in the areas of new cargo handling techniques, the organisation of work, and competition from non-Scheme and European ports, led port employers to support the Thatcher government's proposal to abolish the Scheme in 1989 (*ibid*: 31).

By the late 1980s the port employers had determined that they could win a national dock strike' (Turnbull: 1992: 310).⁴³⁵ In 1989 the Thatcher government introduced a Ports Bill to abolish the National Dock Labour Scheme. The Thatcher government's tabled the Dock Work Bill through Parliament and provided employers with the legal and financial (in terms of severance pay) mechanisms to defeat the dockers. This led to a national dock strike. Two unofficial strikes, without official union support, failed to spread beyond the 'core' of the more militant ports. The strikes illustrated that without the support of the Scheme the dock workers were unable to mount any effective resistance to the attack on their terms and conditions of employment initiated by the employers and supported by the state (*ibid*: 294). This occurred as dock workers had now lost their previous legal protection under the Scheme that prevented non-registered workers performing 'dock work' (*ibid*: 312).

The growth of non-Scheme ports undermined the registered dockers' bargaining power (*ibid*: 309). The registered work force numerically depleted and commercially less significant in terms of both tonnage handled and the employers' dependence on the 'hands on' skill or experience of the docker (*ibid*: 311-12).

After the abolition of the NDLS in 1989 the Ports Act (1991) also enabled the privatisation of Trust Ports (established under individual Acts of parliament as self-governing statutory bodies). Reform of the port industry in Britain then followed three processes. The decentralisation of port authority operations into small business units; the detachment of port authorities from stevedoring, but their continued control through licensing; and, the disintegration of union organisation with labour only sub-contracting (Turnbull and Weston, 1991a: 111).

The abolition of the NDLS led to the fragmentation and competition from a proliferation of small stevedores as strong incentives existed for port authorities to minimise their risk by

⁴³⁵ In 1981 the National Ports Council which had sought to regulate port investment was abolished. This was followed by the privatisation of the ports of the Associated British Ports (formerly the British Transport Docks Boards) between 1983 and 1984.

subcontracting cargo handling as all the costs of employing dock labour were 'externalised'. As such the use of casual and contract labour increased under the pressure of competition as labour cost competition forced down the price of cargo handling rates (Turnbull and Weston, 1991a: 111- 2; Saundry and Turnbull, 1996: 282-83).

Competition however reduced margins, limited investments and where investment did occur it duplicated existing capacity (Turnbull and Weston, 1991a: 112, 115). This resulted in 'zero sum' competition driven by customers' demands for lower charges (*ibid*: 118). A significant intensification of labour cost competition however did not redress the historical structural problems of over-capacity and duplication of investment' (Saundry and Turnbull, 1996: 277). Ironically, Saundry and Turnbull argue deregulation has "recreated the very conditions which led to external forms of regulation in the labour market" (*ibid*: 277).

Deregulation led port authority employees to be grouped as the 'core' workforce, supplemented by 'casuals' (Turnbull and Weston, 1991b: 184). However, the 'non-core' casual workforce was largely constituted from ex-registered dock workers. The advantages of employing ex-registered dock workers casually included their variable cost and subsequent lower wage rate, whilst most were already trained and required minimal supervision (*ibid*: 185).⁴³⁶

Another management trend in Britain emerged to allow cooperatives to operate purely as subcontractors of labour to the relevant port authority as mass dismissal was only feasible amongst stevedoring operations that utilised unskilled labour (Turnbull and Weston, 1993: 130). Consequently, inadequate labour control was replaced by a system of commercial control, in which skilled dock labour was controlled through their being contracted as cooperatives or labour supply sub-contractors (*ibid*: 116).

With negotiations over pay and conditions either now at firm level or through individual contracts, combined with the effect of retrenchments upon union activities, organised industrial action was limited, as unions were neutralised (Turnbull and Weston, 1991b: 186).⁴³⁷ A survey of 140 employers following the abolition of the NDLS in 1995 revealed that over 60 per cent no longer recognised trade unions for collective bargaining and over half hired casual and/or contract labour (Saundry and Turnbull, 1999: 286-7).

However, these short-term efficiency gains have led to a longer-term detrimental affect on performance (Turnbull and Weston, 1991b: 182). Productivity based on reduced labour costs and increased labour utilisation created a cost-cutting spiral (*ibid*: 193). Casual dock workers were seen to be less productive, less quality conscious and generally less reliable than permanent workers (Saundry and Turnbull, 1996: 284). Aggregate productivity improvements in tonnage and employment ratios were also inaccurate given the re-employment of ex-registered dockers on a casual basis (Turnbull and Weston, 1991b: 193).

⁴³⁶ The drive to cut labour costs led to consistent re-evaluation of work organisation and the employment relationship. Changes to working arrangements a combination of: numerical flexibility - adjusting workforce size to suit market demand; temporal flexibility - service hours flexibility; functional flexibility - operating across and within grades as demand arises; and, financial flexibility - remuneration based on congruence between skills, effort and reward (Turnbull and Weston, 1991b: 187-188). Financial flexibility followed the abolition of the fixed hourly rate and abolition of 'additional payments' replaced with variable incentive/bonus payments became widespread (*ibid*: 190). In Britain the financial combination varied in each port but its overall effect was to reduce costs and improved labour utilisation (*ibid*: 190).

⁴³⁷ In Britain the National Association of Port Employers dissolved prior to deregulation in 1989, leading to a situation where national collective bargaining effectively ceased (Turnbull and Weston, 1991b: 184).

Although labour costs and utilisation are the source of competitive advantage for operators, this has resulted in the degeneration of management-labour relations and instability (Turnbull and Weston, 1991b: 193). Compliance by coercion threatens labour productivity and in turn the ability of port operators to compete effectively in the product market (Saundry and Turnbull, 1996: 286). Saundry and Turnbull argue in the case of contemporary Britain:

In the absence of external regulation, it seems unlikely that many port employers, of their own volition, will be able either to break free of the structural constraints imposed by over-capacity and excessive fragmentation, or to reverse the vicious spiral of cost-competition and ever decreasing margins which is undermining port performance and debasing labour relations (1996: 287).

New Zealand

In New Zealand the introduction of registration or the 'bureau' system regulated dock worker employment for almost fifty years. After 1953 the bureau system was administered by the Waterfront Industry Commission operating labour engagement bureaux in each port. The system of registration was based on compulsory unionism and formal joint control, allowing unions to determine the size of the workforce in each port. The bureau system shared work and provided a guaranteed payment to registered workers. Employers could use casual labour as supplementary workers when there were labour shortages, but not as a substitute for registered workers (Reveley, 1997: 372). The system was funded by a national levy proportionate to employers' wage bill. This led to larger firms and ports cross-subsiding small firms (*ibid*: 373).

With the introduction of containerisation the Port Employers Association sought to change the terms and conditions of employment through the specifically constituted conciliation forum the Waterfront Industry Conference. However, unlike their British and Australian counterparts, by 1967 the New Zealand employers had failed to change indirect employment (with direct permanent employment) and the bureau system prevailed under the Container Terminals Agreement (*ibid*: 374). With the decline in registered dockers as a result of voluntary redundancies, by the 1980 casual labour had been eradicated through the Waterside Workers Federation (WWF) entering into establishing with employers' temporary transfers between ports to deal with fluctuations in demand. Although funded by employers, this was on a cost-plus basis passed onto shippers through higher prices for services (*ibid*: 374-5). The benefit for employers and unions however diminished as after the introduction of containerisation (*ibid*: 371). Employers control over the bureau system diminished due to external economic and labour market conditions and institutional arrangements, all of which empowered unions.

In the case of New Zealand, Reveley (*ibid*: 369) argues the waterfront reform process was driven by the rising costs, inefficiencies, overmanning and a lack of labour flexibility, all of which were the result of the way in which labour had historically been regulated. The process of waterfront reform in New Zealand mirrors that of Britain. According to Reveley (*ibid*: 371), the deregulation of the dock labour market "allowed opportunistic small firms back in the industry, casualised waterfront employment, intensified work and fuelled the process of labour cost cutting".

With the election of the New Zealand Labour government in 1984 it sought to reform the waterfront.⁴³⁸ The government introduced the *Waterfront Industry Reform Act* in 1989 to abolish the bureau system (*ibid*: 379). Coupled with the *Labour Relations Act* of 1987 an objective was to introduce decentralised bargaining and allow a return of casual labour.

Until September 1989, the Government's Waterfront Industry Commission (WIC) employed all waterfront labour, engaged in work for the various stevedoring companies or container terminal operators in New Zealand. The Waterfront Industry Restructuring Act came into operation at this time to assist the transition to company employment. The Act established the Waterfront Industry Restructuring Authority, whose primary function was to determine the level of assistance to be provided to employers making redundancy payments to waterside workers and other employees and to levy port companies and regional authorities to raise funds to finance redundancies. The New Zealand Government contributed \$NZ30 million or 75 per cent of the total redundancy package.

At the same time as the WIC was abolished, the industrial award covering stevedoring employees expired. All employees were invited to take either a redundancy payment or nominate a stevedore to employ them. By November 1989 1,381 men, or 44 per cent of the total stevedoring workforce, had accepted redundancy at a total cost of \$NZ45 million. However, a defacto national agreement remained through standard clauses being inserted into thirteen port codes of employment. This included compulsory unionism and a work coverage clause where previously registered workers retained the exclusive right to continue to perform their duties. In a number of ports casual labour was restricted to 25 per cent of the permanent workforce (*ibid*: 380).

These developments however were soon overtaken by the introduction of the *Employment Contracts Act 1991*.⁴³⁹ This development led to the re-emergence of small stevedoring firms. Although relatively insignificant in terms of market share, they served to erode union coverage together with wages and conditions within the ports they operated.

The conventional cargo wharves were where stevedoring companies first sought to achieve a competitive advantage through the extensive use of casual workers as a source of numerical flexibility and reduced labour costs as within these trades labour typically constitutes the greatest proportion of total costs (Reveley, 1999: 48). . However, casuals were also used for unskilled work in the containerised cargo labour process, as (un)lashing containers (*ibid*: 48). Small stevedoring firms emergence into container stevedoring placed pressure on established stevedores who also now attempted to reduce their permanent workforce and pressure unions into allowing more casual employment (Reveley, 1997: 382-3).

The number of permanent dock workers across New Zealand fell to less than two thousand by 1997. However, the number of casual workers' grew, as did the number of companies employing them, to the extent that as much as 50 per cent of daily labour requirements are

⁴³⁸ In October 1988 the *Ports Reform Act* came into operation, under which control and ownership of the commercial port facilities was transferred to port companies. The prime objective of these port companies was to operate the ports on a fully commercial basis. The *Ports Reform Act* also removed the cross subsidisation of inter-port labour costs and the monopoly control by harbour boards over the provision of mobile cargo handling equipment, enabling private stevedoring companies to purchase their own equipment.

⁴³⁹ According to Reveley (1997: 381), the Act provided a basis for employers to seek a competitive advantage through cutting labour costs. This occurred through a combination of "confrontational bargaining, union evasion maneuvers, making ...union members redundant, individual employment contracts, and increasing casualisation of employment".

now casual employees. As a result, casual workers have moved into skilled work positions and new contracts have been secured through firms using largely casual workers.

This trend had an averse affect on the Waterside Workers' Union (WWU) strategy which emphasised the centrality of permanent employment with skilled work (Reveley, 1999: 48-50). Similarly, the emergence of new stevedores securing contracts with casual labour impacted on both union and employers. The loss of contracts to non-union workers led to a decline in work for WWU members, but also led to established employers with union workforces seeking to employ their own casuals workforces. This pressure led to a number of unionised firms initiating redundancies for permanent workers and then re-employing these same workers as casuals (*ibid*: 50-1).

However, the high turn-over of casuals, and their increasing encroachment on skilled work, led ironically to situations where there was a shortfall in skilled labour and an erosion of service standards (*ibid*: 51-2). This trend went against what Saundry and Turnbull (1996: 276) argue is the prerequisite to efficient stevedoring operations, maintaining a stable and skilled workforce. As in Britain a consequence was to affect the service standards of established container terminals (Reveley, 1997: 384; Saundry and Turnbull, 1996: 283-6). By the late 1990s casual employees could constitute between entire operational workforces to less than 25 per cent.⁴⁴⁰

Australia

In Australia the Stevedoring Industry Conference in 1942 sought to address the casual employment relationship that was referred to as the 'bull' or 'pick-up' system, where men would congregate at the wharf gate to work a ship and be selected by foremen. The Conference introduced the rotary gangs system to ensure a more equal distribution of work, which was later enacted under the Stevedoring Industry Act of 1947 (Beasley, 1996: 115, 130). The Australian Stevedoring Industry Authority (ASIA) was later established by the Stevedoring Industry Act of 1956 to register and employ dock workers. Similar, to Britain, four categories of workers existed: permanent (weekly hired), regulars, irregulars; and, additionals (Baudelaire, 1986: 390-1). Under ASIA employees were allocated to various stevedoring companies to meet demand, and could be transferred to other companies and ports to cope with fluctuations in trade. Permanency for registered dock workers was later introduced on an industry basis following the 1967-69 National Industry Stevedoring Conference (Woodward Commission). The Liberal government in 1977 abolished ASIA, although registrations and levies were maintained (Baudelaire, 1986: 391). The system of industry employment prevailed however whereby registered dock workers were permanently employed although each port was allocated a number of employees based on quotas. The port quota was adjusted quarterly with daily inter-hire transfers between employers undertaken by the Association of Employers of Waterside Labour. Additional registered supplementary workers could also be introduced to meet shortfalls (PC, 1998: 37).

The Waterfront Industry Reform Authority (WIRA) was developed upon the recommendations of the Federal Labor government's Inter-State Commission in 1988. When WIRA was established in July 1989 it sought to end industry wide pool employment, which was supported through levies, and instead introduce enterprise employment and rationalise the workforce through a redundancy program (Morris, 2000:

⁴⁴⁰ It was estimated in 1997 that casual employees at Fergusson Terminal in Auckland, New Zealand, received NZ \$12.50 per hour, whilst permanent employees received NZ\$21.70 per hour (Productivity Commission, 1998: 58).

110; Beasley, 1996: 272-3). Both objectives were achieved with a reduction in the workforce in 1989 from 8,701 to 3,800 in 1993 (or 57 per cent) at a cost of A\$165 million from the Federal government and A\$254 million from industry (BTCE, 1995). However, the Waterside Workers Federation, later the Maritime Union of Australia (MUA) after its merger with the Seaman's Union of Australia, maintained its closed shop monopoly over the dock labour market (Morris, 2000: 110).

In 1997 the container stevedoring workforce in Australia was constituted as 56 per cent permanent, 7 per cent guaranteed wage employees, and 36 per cent casual (Productivity Commission, 1998: 21). It has been argued that the obligations for generous redundancy provision for permanent employees in Australia has led to a reluctance within the stevedoring industry to recruit more permanent employees (*ibid*: 96).

The MUA's closed shop led to its dispute with Patrick stevedores, supported by the Federal Coalition government and MUA, that began from mid 1997.⁴⁴¹ The Federal Coalition government which came to office in 1996 reinstated Sections 45 D & E of the *Trade Practices Act* (TPA) in January 1997 to impose heavy fines on unions for boycotts that hinder international trade and commerce (Pocock and Wright, 1997). The anti-boycott provisions allowed shipowners to take immediate legal action against the MUA for holding up ships in port and enabled them to sue for damages due to any alleged loss caused by boycott action (Reynolds, 1997: 38). In addition the Workplace Relations Act (WRA) of 1996 provision on secondary boycotts made it illegal for union members to strike in support of other members in unrelated industrial disputes. This legislation worked to promote non-union labour through it's the option for employers to circumvent closed shops was established by the coalition as a "loaded weapon in relation to the MUA in particular" (Pocock and Wright, 1997: 128-9).

Despite the potential of this legislation to financially cripple unions if they become involved in industrial action, attempts by employers to use non-union dock labour were either by-passed, as the disputes in Cairns⁴⁴² in September 1997 and later Dubai⁴⁴³ in December 1997, or led to political stalemate, as the Patrick-MUA dispute of 1998.

⁴⁴¹ Patrick stevedores emerged in 1992 after Chris Corrigan and Peter Scanlon purchased Strang-Patrick stevedores. In 1994 they acquired then the government owned ANL stevedores (Trinca, 2000).

⁴⁴² In the case of Cairns, the stevedore International Purveyor's attempt at installing non-union labour failed due to international pressure from the ITF. On 18 September the ITF co-ordinator, Trevor Charles, contacted Central Gulf Shipping in the US which owned the vessel *Java Sea* which was ready to dock and persuaded it to drop anchor. Consequently, International Purveyors agreed to rehire sacked MUA members (MUA, 1997). With the WRA legislation restricting the MUA's access to industrial action, the ITF were called into the dispute to effectively internationally isolate International Purveyors, who realistically now had no option but to reinstate the MUA members (Way and Meade, 1997).

⁴⁴³ The Dubai incident began when Fynwest began to recruit non-union labour as part of a A\$10 million three year Scheme to train recruits in cargo handling operations to break the MUA's labour supply monopoly. The MUA revealed that 70 Australian soldiers (41 ex-servicemen and 29 soldiers currently serving with the Australian Defence Force) had been recruited by Fynwest. Consequently, the International Confederation of Free Trade Unions (ICFTU) warned on December 5th that it would launch a 'massive campaign' in support of the MUA, similar to the action which stopped the use of non-union labour at Cairns. On December 11th, the MUA National Secretary John Coombs met delegates from the ICFTU and ITF in London, who approved international solidarity action against the United Arab Emirates (UAE) government until it expelled the 'industrial mercenaries'. As a result of the threat of an international boycott of shipping using the port of Dubai, the UAE withdrew the visas for the 'industrial mercenaries' on December 13th. The MUA followed the international schedule of the movement of shipping around the globe and was able to convince the UAE authorities that the ITF would instruct its members to boycott all ships travelling through Dubai (ICFTU, 1997).

In relation to the infamous 1998 dispute, in January the National Farmers Federation (NFF) aligned Producers and Consumers Stevedores (PCS) secured from Patrick stevedores a berth at Webb Dock in Port Melbourne to train non-union stevedores for deployment around Australia as part of a plan to deregister the MUA and rehire Patrick's workforce as non-union (O'leary, 1998).

The Patrick-MUA workforce at Webb dock in Melbourne went on strike in reaction to the PCS operation.⁴⁴⁴ These actions were followed by rolling stoppages of MUA members that were legal within the WRA's provisions as Patrick and the MUA no longer had a registered agreement. As such the necessary 72 hours declaration of industrial action was declared before each action (Davis, 1998). Eventually, this situation led to the 7 April sacking by Patrick of 1400 hundred permanent and 500 casual MUA members across Australia. The sackings were orchestrated by Patrick's restructuring from September 1997 of the dock workers employment contracts being devolved into newly created labour hire divisions. These were then asset stripped and declared bankrupt on 7 April, allegedly due to the continued industrial action triggered by the Webb dock sub-lease to PCS.

However, on 21 April the Federal Court issued orders against Patrick to reinstate the MUA dock workers as there was a reasonable argument that an alleged conspiracy had occurred in breach of the WRA's freedom of association laws between Patrick, and ironically, the Federal government. Ultimately, this dispute saw an unstable truce emerge between the parties as a trade off occurred whereby the MUA dropped its conspiracy case in order to have its workforce reinstated. It was the conspiracy case that acted as a mechanism to again secure the MUA's retention of a closed shop arrangement on the Australian waterfront.

This resolution to the dispute however only provided a short-term slowing of the effects of the re-casualisation of the workforce. The waterfront reform process in Australia during 1998-99 has led to less union restrictions on the sub-contracted employment of casuals in ship based work as lashing. It was estimated that casual employees constituted around 27 per cent of the Australian workforce and 50 per cent of Patrick stevedores workforce in 2001 (MUA, 2001: 10). Despite this trend, Morris (2000: 118) argues "'convergence' with the New Zealand and UK competitive models of waterfront industrial relations, with their now substantial non-union sectors and numerous lowly capitalised employers, was not an outcome of the 1998 dispute".

⁴⁴⁴ The dispute escalated on 29 January when the remaining two berths at Webb dock came to a standstill. The 470 MUA members' mass meeting at Patrick's Webb dock on 16 February 16 voted for a return-to-work. However, 250 MUA members at Patrick's East Swanson dock in Port Melbourne decided to stop work and engage in a 48 hour 'political protest' against Patrick's Corrigan and the Coalition's industrial relations legislation. This action was followed by a further 48 hour wild cat strike from the 19 February. A further 48 hour strike by the MUA at Patrick's Port Botany container terminal in Sydney occurred from 11 March.

Table 18 Selected dock labour Schemes and privatisations internationally*

Country	Control of Labour Supply	Availability and Mobility of Labour	Maintenance/ Guaranteed Income	Impact of reforms during 1990s
Belgium	'Dock Work', as legally defined, is restricted to 'dock workers' in the 'port zone', under the joint control of employers and the unions.	All dockers are 'casuals', but around 25 per cent work on a regular basis for the same employer. Extensive training to ensure flexibility.	Not less than 65 per cent of basic salary (usually 70-80 per cent) paid from state benefits (75 per cent) and employer contributions (25 per cent) financed via a levy on gross wages.	In Antwerp private operators have challenged dockers' statutory monopoly over 'dock work' in the 'port area' (also legally defined) by relocating 'value added activities to cargo in the port area. Unions have made concessions in the form of lower wages and recruitment of outsiders (Turnbull, 1999: 14).
Netherlands	All dockers are registered and permanently employed. Legislation provides a national framework for the industry, with extensive joint regulatory bodies at the port level.	Dockers are either employed directly by port operators or by the labour pool (SHB), which is used to accommodate fluctuations in demand. Extensive training to ensure flexibility.	Full pay at all times was financed by state benefits (55 per cent) and employer contributions (45 per cent) until 1995 when the Dutch government withdrew state support.	From 1995 the dock labour pool was effectively privatised and is now funded on the basis of charges levied on participating firms. The labour pool in Amsterdam was declared bankrupt in 1997 which led to a return to casual labour being supplied by local manpower agencies at much lower rates of pay. The SHB dockers in Rotterdam reluctantly accepted a new flexible shift-pattern in 1998 to ensure viability of the pool (Turnbull, 1999: 14).
Germany	Dockers have no special legal or other status, but are covered by similar terms and conditions as other port workers. Joint supervisory boards at the local level.	Most dockers (84 per cent) are permanently employed, while the rest are employed by the port labour pool (GHB) on similar pay and conditions. The pool is financed by the employers, with the allocation of men on a numerical (rota) basis. Extensive training to ensure flexibility.	Guaranteed monthly income, based on guaranteed payment for the first shift of any day, financed by employers and port users.	N/A
France	'Dock work' was legally defined and restricted to registered dockers. <i>De jure</i> control of labour supply by the Bureau Central de la Main d'Oeuvre (BCMO), <i>de facto</i> control by the union.	All dockers were casuals with preference given to 'professionnel' over 'occasional'. Labour was allocated through the BCMO (state labour office) in each port. Some ports used a rota, others a 'free call' system of hiring.	Professional dockers were guaranteed 300 half day shift (4 hours) per annum, financed by a levy on the employers' wage bill.	The 1947 Act which established the French dock labour Scheme was abolished in 1992, allowing employers to enter direct contracted arrangements (permanent employment) with dockers. Some dockers retained their casual status. Public control has been further relaxed and private operators have purchased existing equipment from port authorities (Turnbull, 1999: 13).
Italy	Dock work is restricted to workers on the registers of the port companies. These companies are associations of workers (co-operatives), which are set up, merged or liquidated by the port authority.	Labour is provided by the worker co-operatives who either provide labour to port undertakings or carry out un/loading operations directly.	Dockers receive a daily guarantee of up to 80 per cent of their pay, which is financed via a levy added to port charges.	Following a ruling in the European Court on competition and monopoly in Italian ports, dockers can be employed directly by the operating companies, rather than worker co-operatives. Under the new law (Disposizioni in Materia di Ordinamento Portuale, 1993) port authorities are compelled to lease terminals to the private sector (Turnbull and Wass, 1997). Private capital has been invested in the Voltri container terminal

* The following table has been adapted from Turnbull (1994 and 1999) and Turnbull and Wass (1997) unless where otherwise indicated.

Country	Control of Labour Supply	Availability and Mobility of Labour	Maintenance/ Guaranteed Income	Impact of reforms during 1990s
				(VTE) (including participation by PSA since 1997). With operational employees recruited from outside the established workforce, at VTE and other terminals, the dockers' control over labour supply has finally been broken (Turnbull, 1999: 13).
Spain	Dockers are registered with the Port Workers' Organisation (an autonomous state agency working under the Ministry of Labour).	Private companies can employ dockers on either a permanent or casual basis. Dockers are allocated on a rota basis by the PWO.	Casual dockers receive a guaranteed wage.	Whereas dock labour was previously allocated to employers on the basis of strict rotation from the state controlled labour pool, employers are now able to hire permanent dockers for key operations and the labour pool has been transformed into a commercial (although non-profit making) operation (the <i>Estiba</i>) under joint public (51 per cent) and private (49 per cent) ownership. The commercialisation of Spanish port authorities is under the direction of the <i>Puertos del Estado</i> (Turnbull, 1999: 14).
Portugal	Dock work is restricted to port workers who hold a 'carteria professional' and are registered with either the port work co-ordinating centre, a port-based joint management organisation, or the port authority.	Dockers are either employed directly by port companies or a labour pool (the size of which is determined by the Minister).	Pool workers have a guaranteed salary of 75 per cent of the basic monthly salary financed by the employers and, in the case of any shortfall of funds, the state.	N/A
Britain	The NDLS provided a legal definition of dock work, and dockers were registered with the NDLB. The National and Local Boards were jointly controlled by the employers and the unions. The NDLS was abolished in 1989 and these regulations no longer apply. Employers now use direct employment and casual labour.	Prior to 1967, dockers were casuals. Most were allocated by the Port-Labour Office, but London retained a 'free' call. From 1967 to 1989 all registered dockers were permanently employed by operating companies.	Attendance payments and a guaranteed weekly wage (set nationally) applied until 1980 (replaced by port or company guarantees to 1989). Payments were financed by a levy on employers' wage bills during the NDLS.	The abolition of the NDLS in 1989 led to the redundancy of more than 80 per cent of the former registered dockers, estimated at a total cost of £372m. The British National Docks Board was privatised in 1983 and the new owner, Associated British Ports (ABP) was floated in 1984. The Ports Act 1991 has led to the privatisation of a number of Trust Ports.
USA – West Coast	The Pacific Maritime Associations (PMA) represents stevedoring employers and shipping lines. The PMA negotiates every three years with the International Longshore and Warehouse Union (ILWU). Only ILWU members, some 14,500 in 1999, can perform dock work. Class A (fully registered) men are given preference over Class B (registered casuals).	Labour is allocated through the union hiring hall on the basis of 'low man out' hiring (the man with the lowest accumulated number of hours has first choice of work), except in the ports of San Francisco and Los Angeles where 'steady' men are employed by most operators.	Pay Guarantee Plan provides 36 hours pay per week, financed via an assessment on hours (paid by the operational employers) and tonnage (paid by the shipping companies).	The 1999-2002 Employer-Union contract between the PMA and ILWU agreed to establish uniform coastwide criteria and procedures for the selection of casual longshore workers. A seven day dispatch of labour for smaller ports was also agreed (Davison, 1999).

Country	Control of Labour Supply	Availability and Mobility of Labour	Maintenance/ Guaranteed Income	Impact of reforms during 1990s
USA – New York	Dockers are registered with the Waterfront Commission, and only registered dockers can perform dock work. The New York Shipping Association (NYSA) negotiates with the International Longshore Association (ILA) that represents registered dockers.	Most dockers are employed as 'list' (regular) workers with a particular company. The rest are allocated from a hiring hall, which is regulated by the Waterfront Commission. Allocation is based on seniority.	A Guaranteed Annual Income (GAI) Scheme provides up to 1,900 hours per annum guaranteed pay (at the straight time rate), financed via a levy on cargo.	N/A
Brazil	Santos, Brazil's largest container port, labour is organised by the Union of Santos Port Operators (Sopesp).	The OGMO (Orgao Gestor da Mao-de-Obra) were set up in 1993 and is responsible in a number of ports for the casual labour pool. The OGMOs are funded by port users. They are comprised of representatives of private port operators, the government and union representatives. Over ten unions in the port of Santos, coordinated through the Intersindicados). Union control over composition and size of gangs of registered dockers.	In 1999 a Reaus 80 (US\$47.73) million fund was to be used to cut the Santos labour pool to around 4,500 dock workers from 11,500/ The fund was to retrain OGMO employees.	The state ports body (Portobras) was abolished in 1990, and the Port Modernisation Law introduced in 1993 aimed to move ports toward a 'landlord' model of port operations. The Grupo Executivo para o Modernizacao dos Portos (GEMPO) is a national body created to coordinate the modernisations and privatisations of the ports. Grupo Libra Terminais in Santos was the first state run terminal to be privatised, followed by the Tecon terminal in 1997. (Ward, 1999; 2001)
Australia	Dock work is restricted to members of the Waterside Workers' Federation (WWF) (a pre entry closed shop). Employment is jointly regulated by the union and the employers. This was the situation prior to the implementation of extensive reforms between 1989-92. Wharfies are now covered by Enterprise Based Agreements.	All dockers were permanently employees of the companies with provisions for inter-company transfers in the event of surpluses/shortages.	Idle time payments was financed by a levy on all employers.	In Australia the Waterfront Industry Reform Authority redundancy program was estimated to cost \$419 million between 1989 and 1992, whilst the 1998-99 Maritime Industry Finance Company redundancies and associated reforms are to cost between \$250 and \$350 million (BTCE, 1995: 1). The waterfront reform process in Australia during 1998-99 has led to less union restriction on the sub-contracted employment of casuals in ship based work as lashing. It is estimated that casual employees now constitutes around 27 per cent of the Australian workforce, and 50 per cent of Patrick stevedores workforce (MUA, 2001: 10)
New Zealand	Dock work was defined by statute and was under the control of the Waterfront Industry Commission (WIC). The size of the register was determined by joint agreement between employers and the union. These arrangements were terminated in 1989 in favour of direct employment by the operative companies.	Labour was allocated by the WIC on a casual basis, with 'low man out' hiring to equalise hours. Dockers on container terminals could be allocated for up to 5 months.	Idle time payments were paid from a National Administration Fund, financed by a levy on the employers' wage bill and a supplementary charge on container traffic. Guaranteed weekly wage equal to 40hrs (time rate).	In October 1988 the Port Companies Act abolished the NZ Port Authority. In 1989 the Harbour Boards and the WIC were abolished. The Waterfront Restructuring Act of led to 1,381 redundancies, or 44 per cent of the total stevedoring workforce, at a total cost of \$NZ 45m.1989. This was followed in 1991 by the Employment Contracts Act that led to further redundancies, casualisation and deunionisation (see Reveley 1997; 1999)

Country	Control of Labour Supply	Availability and Mobility of Labour	Maintenance/ Guaranteed Income	Impact of reforms during 1990s
India (Thomas, 1995).	Port Trust supply managerial, supervisory, clerical and shore labour to undertake and oversee cargo handling operations on the quayside and in the transit sheds and warehouses. Cargo handling on board vessels is performed by stevedoring companies who engage dock workers registered with local Dock Labour Boards (DLBs). Approximately 102,000 in 1991. Financed by levy based on percentage of either time wage rate or tonnage rate. Casuals are also supplied by private labour contractors to cargo out cargo operations on bulk and container operations in some ports. Approximately 25,000 in 1991.	In most ports where dock labour Schemes are in force, registered dock workers are also engaged to pack and unpack containers with the dock estate Gangs rotated between container, bulk, general cargo and other trades on a shift or daily basis.	The major unions representing dock workers include the All-India Port and Dock Workers' Federation, to the Confederation of Indian Trade Unions, the Hindu Mazdoor Sabha, and the Centre for Indian Trade Unions. They are generally based on political affiliation. Minimum guaranteed payment within set time period, usually day or month.	Development of private container terminals in Gujarat Pipavav Port Limited, operated by PSA Corporation, at Tuticorin in South India and the Nhava Sheva International Container Terminal, operated by P&O Ports Australia at the Jawaharlal Nehru port (JNP). The new ports employ labour directly, although also utilise dock workers contracted from the DLBs. The government is seeking more private sector involvement under BOT (Build, Operate, Transfer Schemes).
South Africa	The state owned and operated Portnet has both permanent quayside dock workers and along with private sector ship based stevedores, especially Durban, relied on labour brokers to supply casual labour. In 1998 a pilot dock labour pool was introduced in Durban. Registered casuals belong to the pool that was administered by a private labour supply company but under the control of a joint union and employer board.	The pilot labour pool in Durban aimed to rotate dockers on a low man out basis based on skill level. A central hiring hall was established from which to centralise registered casuals. Although there was agreement for all supplementary labour to be sourced from the pool, there were employers that reneged on this agreement which was not legally binding.	A minimum wage guarantee has never been established under the pilot labour pool. A one day weekly minimum for work was established. The labour pool had some 2,000 registered dockers to meet a daily operational requirement averaging an estimated 700.	The NDLS industrial relations and labour market reforms have become restricted to a piece-meal implementation of a pilot pool in Durban, largely due to the issue of privatisation. The Transport and General Workers Union (TGWU), which initially sought to develop the Scheme, was split between permanent and casual dockers at the time of the introduction of the pilot Scheme in Durban. The Service Employees Industrial Union (SEIU) became the central union organising casuals engaged in the pool. The TGWU were incorporated into the South African Transport Workers Union (SATAWU) which organises Portnet's permanent workforce. Union rivalry and the informal nature of the pool agreement has plagued the pilot Scheme since its introduction (see Stratton, 2000b).
Malaysia	In 1986, 51 per cent of Kelang Container Terminal was sold to P&O Ports and Kontena Nasional. Other Malaysian ports, such as Johor and Penang, were corporatised under the Companies Act (Turnbull and Wass, 1997: 149).	N/A	N/A	Labour cooperation was assured during the initial privatisation process by guaranteeing pay, benefits and other conditions for 5 years. However, the Union of Employees of Port Ancillary Services Suppliers (UNEPASS) found themselves outside this agreement by working on a casual basis for as many as sixteen different companies involved in general labouring, lashing and cleaning (Turnbull, 1999: 15).

APPENDIX C DESTABILISATION, TRANSPORT DEPENDENCY AND CONTAINERISATION IN THE PORT OF DURBAN

Total Strategy and 'Transport Diplomacy'

During the 1970s South Africa consolidated its dominant position in shipping, rail and ports within the southern African region. This domination of the regions transport system not only supported the cost of renewing technological and infrastructure investments, but also developed the trade dependence of neighbouring countries on South Africa. In turn, the large surplus in terms of trade between South Africa and its neighbours was reinforced through the investments in South Africa's transport system.

In January 1960 the British Prime Minister, Harold Macmillan argued in Cape Town that 'winds of change' through decolonisation and the emergence of national independence movements were descending across Africa. Decolonisation took place in Tanzania and Northern Rhodesia (Zambia) in 1964 and later Bechuanaland (Botswana), Nysaland (Malawi) and Basutoland (Lesotho) in 1966. In contrast, the so-called 'buffer' states of the Portuguese colonies of Angola and Mozambique, South African occupied South West Africa (Namibia) and Rhodesia were all linked and subordinated to the South African economy. These buffer states, as well as the independent territories of Botswana, Lesotho, and Swaziland, acted as 'suppliers of labour power, raw materials and/or services (eg. transport), as well as being markets for South African commodities' (Davies *et. al.*, 1988a: 32). However, in 1966 when Ian Smith's white governed Southern Rhodesia defied demands for African independence with the 'unilateral declaration of independence' (UDI) from Britain, the nature of the relationship with the buffer states was to change.⁴⁴⁵ The onset of guerilla armies and independent leftist regimes in southern Africa led South Africa to view these states as its 'frontline' against communist insurgency. The push for a democratic South Africa was also now largely driven through the exiled ANC, who until this time were denied any operational base in the region. This situation changed by the mid-1970s following two significant events, the decolonisation of southern African states and the Soweto uprising.

The liberation struggle in Portuguese Angola began in 1961 and by 1974 Portugal was maintaining an army in Angola estimated to consist of 25,000 white and 38,000 locally enlisted troops (Cook, 1989: 259). Mozambique's anti-colonial rebellion began in 1964 and again by 1974 Portugal was forced to maintain an army of an estimated 24,000 white and 20,000 locally enlisted troops (*ibid*: 260). The extent of the Portuguese military's involvement in maintaining its colonial empire led to a bloodless coup in Lisbon on 25 April 1974. The military leadership then aimed to withdraw its forces from Africa and subsequent negotiations led to Angola's independence in November 1975 and

⁴⁴⁵ A reaction to UDI was the formation of Joshua Nkomo's Zimbabwean People's Revolutionary Army (ZIPRA), based in Zambia, and Robert Mugabe's Zimbabwean African National Liberation Army (ZANLA), based in Mozambique. Both later formed the Patriotic Front in October 1976 (Cook, 1989: 261).

Mozambique's independence in June 1975.⁴⁴⁶ The South African Prime Minister B. J. Vorster initially sought appeasement with Mozambique, consequently pressuring through economic pressure and withdrawal of official military support a hostile Smith regime in Rhodesia into an agreement to cease hostilities. However, by 1976 Rhodesia had fostered a guerrilla campaign through the Mozambique National Resistance Movement (Renamo) against the FRELIMO (*Frente da Libertacao de Mocambique*) government and dissidents in Mozambique harbouring Robert Mugabe's ZANLA.

Within South Africa itself riots began in Soweto on 16 June 1976 against the *Bantu Education Act's* imposition of Afrikaans as a medium for education (Stadler, 1989: 179). The three days of riots led to the massacre of 236 blacks killed by police and two whites killed by rioters. Although the National Party government had withdrawn its proposal by 6 July, protests organised by the Black Consciousness Movement and the ANC Youth League lasted over four months and spread beyond Soweto to at least 160 black communities and all the Bantustans (Davis, 1987: 26-7). After Soweto thousands of youth fled South Africa to join the ANC's armed wing *Umkhonto we Sizwe* to engage in an intensified phase of armed struggle from the previous buffer states now considered the 'frontline states' (Davies et. al., 1988a: 34).

The prospect of ANC bases operating directly from bordering states presented the prospect of a 'total onslaught' of Marxist governments upon South Africa. This was framed by the National Party government in the 'Cold-War' rhetoric of free-market democracies led by the United States against the Soviet influenced bloc. However, the prospect of Soviet influence amongst the emerging independent African regimes saw the beginnings of 'hot' wars across the continent as governments of various ilk acted as Cold War proxies for the super-powers, including apartheid South Africa (Saul, 1993). The National Party government therefore sought to prevent the newly independent states from providing effective support to the liberation struggles in both Rhodesia and that emerging in South Africa through the ANC. The 1977 Defence 'White Paper' first publicly laid out the aims of the 'Total Strategy' to protect 'free enterprise' in South Africa from the 'Marxist threat' and 'total onslaught'.

The strategic shifts embodied in the Total Strategy were at both the internal and regional levels. Internally, the implementation of the Total Strategy from 1978 led to the re-organisation of the state with a shift away from the Cabinet and whites only elected legislature towards the State Security Council appointed by the Prime Minister (Davies et. al., 1988a: 40). This process was assisted by the 'Muldergate' debacle where the Minister

⁴⁴⁶ Rival liberation movements in Angola led to a war between the Marxist Popular Movement for the Liberation of Angola (MPLA), aided by the Soviet Union and Cuban troops, and both the National Front for the Liberation of Angola (FNLA) and the National Union for the Total Independence of Angola (UNITA). The United States, Zaire and South Africa supported these two armies. During July 1975 the MPLA gained control of Luanda, whilst the FNLA/UNITA alignment on November 11, 1975, established a rival government in Huambo. The MPLA drove FNLA forces into Zaire and captured Huambo on February 8, 1976. The US had halted its aid to FNLA/UNITA on January 27, 1976, and South Africa announced the withdrawal of forces on March 25, 1976. UNITA continued to wage a guerrilla campaign in Angola with aid from South Africa to counter support for the South West Africa People's Organisation (SWAPO) guerrillas fighting for the independence of Namibia (Cook, 1989: 263). However, with the collapse of the Soviet Union both US support for UNITA and Soviet support for the MPLA ceased (Pereira, 1992: 14). The 1991 Bicesse accords in Portugal sought to end the war and implement an elected government in 1992. The election of October 1992 led to the MPLA winning 54 per cent of the national assembly seats to UNITA 34 per cent. As for the Presidency, the MPLA's candidate dos Santos won 49.6 per cent of the votes compared to 40.1 per cent for UNITA's Savimbi. A second round of elections was therefore required, but by the end of the month intense fighting again broke out between UNITA and the MPLA in Luanda and other cities. By January 1993 full-scale war had been resumed fuelled by the MPLA government's control over oil fields and UNITA's control over diamond fields (Pereira, 1992: 16-7, 28).

for Information and Transvaal National Party leader, Dr Connie Mulder, was sacked after redirecting state funds into purchasing the content of newspapers in South Africa and abroad for propaganda purposes (Greenberg, 1987: 317; O'Meara, 1996: 233). Ultimately, the scandal contributed to Vorster's resignation as Prime Minister in September 1978 and his succession by the Defence Minister, P. W. Botha (Davies, et. al., 1988a: 38).⁴⁴⁷

Regionally the aims of the Total Strategy were to maintain South Africa's military and economic over southern Africa. . The immediate objective however was to reduce support for the ANC among political forces in the region (Davies et. al., 1988a: 40-41). The National Party's Total Strategy made sure that the ANC could not count on the frontline states for significant help as they remained 'securely tied to South Africa's economy, and no change of governments would alter that fact without investments in massive new infrastructure projects' (Davis, 1987: 38). In the interim refuge for the ANC was only granted by the more northerly states of Angola, Zambia, and Tanzania (*ibid*: 74-5). The particular coordinating mechanism was the State Security Council, which aimed to build-up both military forces and the mobilisation of non-military state Departments and private corporations to act in various ways in support of regional policy objectives.

A further aim of the Total Strategy was to reinforce its dominance in transport in southern Africa, as its ports and railways then handled most imports and exports for Lesotho and Botswana, half for Zambia, Zimbabwe and Swaziland, and increasingly Malawi. A key to the Total Strategy explicitly identified in the 1977 Defence White Paper was 'action in relation to transport services, distribution and telecommunications' to promote 'political and economic collaboration among the states of Southern Africa' (quoted in Davies et. al., 1988a: 44-5). To address these issues J. G. H. Loubser, General Manager of SAR&H from 1970 to 1983, developed what he called 'Transport Diplomacy' (Berridge, 1987: 198). According to Loubser the three main objectives of 'Transport Diplomacy' were, firstly, to promote stability in neighbouring states in order to reduce their hostility towards South Africa. Secondly, to create a sense of common interest between South Africa and its neighbours. And, thirdly, maintain transport dependence on South Africa so as to provide a source of pressure if the first two objectives fail (*ibid*: 199). The following provides an explanation as to how 'Transport Diplomacy' worked in the region during the 1970s and 1980s.

Transport infrastructure and markets

Theoretically, there were five 'natural routes' open to southern African countries to transport their trades in imports and exports.⁴⁴⁸ Despite the apparent alternatives, the structural transformation of the region's transport sector during the 1970s and 1980s, including containerisation and the development of multi-modalism (or integrated door-to-door delivery of sea-borne cargo) in freight transport increased transport dependence on South Africa. This led to the concentration of cargo flows to a few principal hub ports, specifically Durban (Iheduru, 1996: 6). South African ports, in particularly Durban, were complemented by extensive transport infrastructure and superior economies of scale with

⁴⁴⁷ After serving as president of South Africa, a ceremonial post, Vorster resigned in 1979 after implication in Muldergate.

⁴⁴⁸ The natural routes include: (i) the Benguela railway that runs through Angola and which is still closed as a result of war; (ii) the Tanzam railway from Dar es Salaam to Lusaka which reportedly operates at well below capacity; (iii) the so-called 'Beira Corridor' (including the ports of Maputo, Beira, Nacala, and Quelimane in Mozambique) which was badly damaged by Renamo during the Mozambican civil war; as was (iv) the 'Limpopo Corridor' for the Chicualacuala railway in Mozambique; and (v) the longer, more expensive but relatively efficient transport network in South Africa (Iheduru, 1996: 4).

access to international markets through extensive shipping services (Ngwenya, 1993: 72). By the 1990s it was estimated South Africa possessed 65 per cent of rail track in the southern African region; 58 per cent of the southern African road network; and, 60 per cent of southern African international harbours. By 1991 South Africa's rail network handled some 172 million tonnes annually compared to southern African combined railway traffic of 25 million tonnes (Saasa, 1993: 136). During the 1980s it was estimated southern African states also depended upon SAR&H for the utilisation of over 5000 wagons and more than 50 locomotives (Hanlon, 1986: 70). Also, South African companies as Renfreight and Manica Freight, subsidiaries of Safmarine, controlled most of the forwarding of imports and exports (*ibid*: 2). Manica also controlled most of the region's containers. Freight forwarding concerns included achieving loaded runs in both directions, transit times, cargo losses, pilferage, damage and the security of transit routes (Ngwenya, 1993: 8).⁴⁴⁹

Shipping in particular remained the most effective means of transport between countries in the sub-region (Iheduru, 1996: 2). The National Party government's regulated Conferences to which Safmarine was a part by allowing Safmarine the right to carry 87.5 per cent of South African imports on southern African routes. Safmarine also carried an estimated 38 per cent of all trade to and from South Africa and provided most container ships that called at South African and Mozambique's ports as the major partner in South African-Europe Container Service (SAECS) (Hanlon, 1986: 70, 194).⁴⁵⁰ South Africa's shipping lines, ports, and other maritime-related enterprises were subsidised and protected from foreign competition by the National Party government. As a 'sanctions busting' mechanism, South African exports were provided with a rebate to induce consignees to defy trade embargos (Young, 1991: 77). South African owned vessels also flew under flags of convenience and to avoid any prejudice in foreign ports of call (*ibid*: 66, 77).

South Africa's ports had access to 'on demand' availability of rail and road transport, which enabled it to dominate competition with other southern African ports despite the considerably longer land haul necessary for imports and exports and related costs (Iheduru, 1996: 20).⁴⁵¹ The decline of the importance of other ports within the southern African region provided an opportunity for Durban to maximise its competitive position and increase the terms of trade between South Africa and its neighbours. No other port demonstrates this as dramatically as the position of Durban relative to that of Maputo.

Regional destabilisation and the competitive position of the port of Durban

The port of Maputo (previously Lourenco Marques) is physically closer to Johannesburg's mining and industrial hinterlands than Durban and during the 1960s was seen as been more efficient than Durban with quicker turn-around times. Before independence Mozambique

⁴⁴⁹ Renfreight, and prior to 1985 Manica, were able to refuse 'through Bills of lading' and insurance for clients cargo passing through Mozambique ports, whilst maintaining them for South African ports. This was a significant cost on SADCC states as Conference ships were also significantly more expensive than the non-Conference outsider lines to utilise (Hanlon, 1986: 194).

⁴⁵⁰ Hanlon (1986: 314) notes that during the 1980's "Nacala and Dar es Salaam [were] served by the east African conferences, while Maputo and Beira [were] treated as part of South Africa by most international shipping lines". Notable exceptions to this were the Indian and then Soviet Union shipping lines, which did not call at South African ports.

⁴⁵¹ By mid-1984, SAECS and SATS began also to undercut on price for goods transported through South Africa. This was achieved by placing a surcharge of 20 per cent on goods transported through Beira and giving discounts to contract consignments (Hanlon, 1986: 196). By 1991 it was estimated port handling charges in Beira were 35 to 50 per cent cheaper than Durban's (Ngwenya, 1993: 28-9).

was the only country in the region to have had a net balance of payments *surplus* with South Africa (Hanlon, 1986: 131). With pre-independence Mozambique's trade patterns orientated towards Europe the rail network from the wider southern African region was extensive and well established. The railway from Lourenco Marques to South Africa opened in 1895 carried half the Transvaal's imports and exports. The line from the central Mozambique port of Beira to Rhodesia opened in 1897 and a line from Beira to Malawi opened in 1922. Later expansions only took place after World War Two, with the Rhodesia to Lourenco Marques in 1955, Swaziland to Lourenco Marques in 1964 and Malawi to the northern Mozambican port of Nacala in 1970. Mozambique handled one-fifth of South African imports and exports, two-thirds of Rhodesia's, half of Swaziland's, and all of Malawi's (*ibid*: 131).⁴⁵² By 1973 Lourenco Marques was the largest port in southern Africa, handling more cargo than any port in South Africa. However, this was all to change with Mozambique's independence (see Table 19).

Table 19 Mozambique's port traffic (million tonnes) – select years

	1973	1975	1979	1981	1982
Total	18.3	14.9	10.9	9.1	9.0
Transit for					
South Africa	6.2	4.4	4.0	3.0	2.2
Swaziland	3.0	2.8	0.7	0.7	0.7
Zimbabwe	3.3	2.2	-	0.9	1.1
Malawi	0.7	0.6	1.0	0.9	0.7

Source : Hanlon, 1986: 132

After Portugal's withdrawal from Mozambique and the emergence of a FRELIMO government became imminent, Lourenco Marques closed periodically in 1974 and South Africa began to move cargo away the port. South African traffic fell from 6.2 million tonnes in 1973 to 4.4 million tonnes in 1975 (*SRR*, 1975: 308). Consequently, as South Africa's ports facing severe congestion SAR&H sought to guarantee an adequate service to the renamed Maputo despite a decline of 40 per cent in port capacity from 1976 (Berridge, 1987: 201-02). The decline in port capacity and productivity was a further consequence of the withdrawal, as in the late colonial period the Portuguese invested virtually nothing in Mozambique's ports.

Mozambique's independence also posed problems for both the South African government and the Europe-South Africa Conference as Soviet aligned shipping, the most prominent of which was Baltestafrica or 'Besta Line', began two sailings a month from North Europe to East Africa/Mozambique in September 1975 (*ibid*: 195). This was seen by the Europe-South Africa Conference as part of a political and strategic move on the part of the Soviets who were shipping supplies, including military, to the Marxist aligned FRELIMO government in Mozambique (*ibid*: 195). Shipping companies then began to avoid using Mozambique's ports and subsequently introduced a 30 per cent congestion surcharge because of berthing delays. The surcharge increased the cost of exports from the Transvaal using Mozambique's ports and increased the volume of traffic through South Africa's port. Ironically, this fuelled the congestion in South Africa's ports prior to the introduction of containerisation. Consequently, delayed cargo in South Africa's ports also attracted a surcharge from shipping lines (*ibid*: 197-98).

After March 1976 when Mozambique imposed sanctions on Rhodesia the trend began to

⁴⁵² By 1974 the ports of Maputo and Beira accounted for 80 per cent of total import and export traffic for Rhodesia (Ngwenya, 1993: 29).

be established whereby 1979 most of the regions traffic passed through South Africa's ports (Hanlon, 1986: 132). For the National Party government there were initial reservations about severing its ties with the FRELIMO government given the traditional dependence of Transvaal exporters on Mozambique's ports, particularly Maputo (Berridge, 1987: 197). As the development of the bulk port of Richard's Bay, 160km north east of Durban, was only envisaged to be operational from 1976, a considerable volume of South Africa's trade continued to be transported through Mozambique's ports (Berridge, 1987: 198). The port of Maputo was now a technical generation behind South Africa's ports after the completion of Richard's Bay as the primary bulk port and the implementation of containerisation, which offered faster turnarounds and computer and communications facilities (Hanlon, 1986: 193-4).

The ultimate objective of Botha's Total Strategy regional policy was the creation of a 'constellation' of anti-Marxist states politically allied and economically tied to South Africa (Davies et. al., 1988a: 40-41). The South African 'Constellation of Southern African States' (CONSAS) was established in 1980 and included states within both southern Africa and the internal independent 'homelands' (Department of Foreign Affairs and Information, 1981). CONSAS offered economic incentives aimed at areas of trade, infrastructure, transport, and finance for 'development' projects. Alternatively, recalcitrant frontline states faced South Africa continuing position of control over existing economic linkages (Davies, et. al., 1988a: 45). At the same time, however, in direct opposition to CONSAS was the formation of the Southern African Development Coordination Council (SADCC) in April 1980. The SADCC was specifically aimed at reducing the dependency of southern African states on South Africa. From its formation the SADCC aimed to coordinate projects to reduce member states' economic dependence upon South Africa, and as a consequence, focussed on the transport and communications sectors (Ngwenya, 1993). At the first SADCC annual conference in Maputo in 1982, donors were asked for US\$880million to rehabilitate and upgrade regional ports and railways; US\$645 million of that was for Mozambique (Hanlon, 1986: 132). These two sectors were consequently to receive the greatest percentage of SADCC project funding, the majority of which being donor aid, estimated at US\$3,238 million (Strover, 1995: 43). Despite this attempt, however, South Africa maintained its dominant stake in regional trade due to the transport infrastructures cost-competitiveness and market monopolisation (Saasa, 1993). And after the formation of SADCC, an aim of the apartheid regime was a campaign of destabilisation to prevent SADCC states using Mozambique as an alternative transport route to South Africa.

South Africa's 'Transport Diplomacy' targeted states linkages with South Africa's transport chain. It did so through either market pressure that subjected states to embargoes, border closures, and rail and port delays or military destabilisation that targeted the destruction of rail, road and port infrastructure (Hanlon, 1986: 3). South Africa's destabilisation campaign effectively rendered states dependent upon the transit of their primary mineral and agricultural exports through South Africa's transport network. Furthermore, these countries became dependent upon importing South African manufactures.⁴⁵³ Overt military destabilisation also began to play a role in this process of the movement of regional traffic and trade towards South Africa with the capitulation of the Smith regime and Zimbabwean independence in 1980. Only Namibia now remained of

⁴⁵³ An example of this situation and continuation is the low level of intra-regional trade, excluding South Africa, estimated at 5 per cent of total exports in 1993 (Saasa, 1993: 138) and growing to only 10 per cent including South Africa in 1996 (Misa, 28 August 1996).

the original buffer states.⁴⁵⁴ South Africa now took over the former Rhodesian regime's support of Renamo as part of its destabilisation campaign. Renamo concentrated on sabotage and guerrilla raids on communications, power lines, foreign-aided development projects and the rail system linking Mozambique and Zimbabwe.⁴⁵⁵ For example Renamo guerillas, operating within Mozambique and Zimbabwe, raided the Pungeue Bridge and oil depot in 1982. This significantly damaged business confidence of shippers using Mozambique's ports at a time when shippers were beginning to reutilise Beira. Ironically, South African capital played a role in this revitalisation program as an independent Mozambique posed a threat geographically to the apartheid regime.⁴⁵⁶

Partly as a result of these attacks the FRELIMO government was forced into a non-aggression pact with Pretoria in 1984, the Nkomati Accord, signed by P.W. Botha and President Samora Machel of Mozambique, which expelled ANC military bases. But the Nkomati Accord wasn't maintained as the South Africa military continued to supply Renamo and continued to render the regions transport and trade dependent upon South Africa (Davis, 1987: 41). Subsequently, during the 1970s and 1980s Hanlon estimates that SAR&H carried one-third of the international cargo of the southern African states and nearly half for the inland states (see Table 4). The SADCC region was estimated in 1982 to have imported goods worth US\$2,400 million from South Africa and exported only US\$400 million. South Africa had a balance of payments surplus with the region of approximately US\$1,500 million per annum and generated through the transit of SADCC goods approximately 10 per cent of total export earnings. SATS earned at least US\$250 million from the neighbouring states in 1982 (Hanlon, 1986: 278). The SADCC was therefore a vital and captive market for South Africa's manufacturing industry (*ibid*: 3).

⁴⁵⁴ Namibia itself had been an extension of South African state authority since 1919 when South Africa refused to recognise SWAPO. In October 1966 SWAPO launched a guerrilla campaign which was escalated in 1978 from bases in Angola and Zambia. South Africa carried out a series of attacks on SWAPO camps in Angola. SWAPO guerrilla activity in Namibia continued, despite the non-aggression pact signed by Angola and South Africa on February 16, 1984 (Cook, 1989: 262-63). In 1990 Namibia became independent after the withdrawal of both South African troops from Namibia and Cuban troops from Angola. However, South Africa only returned the port of Walvis Bay to Namibia in March 1994.

⁴⁵⁵ South Africa's control over rail infrastructure led to their leverage over states utilising this transport machinery through its possible withdrawal of engines, and the insistence by SATS that the rail network utilise South African ports rather than Mozambique or Tanzania (Hanlon, 1986: 70). After Zimbabwe's independence in 1980 shippers were also given substantial inducements to containerise. In 1981 Zimbabwean shippers were often exempted from various South African delays and embargoes. Hanlon (1986: 194) argues these were ways of South Africa tying Zimbabwe to Durban to provide business for the expensive new 'container facilities'. Subsequently, by 1982 tobacco, coffee, tea and nickel exports from Zimbabwe were all containerised and shipped through South African ports. However, this process increased the costs of Zimbabwean exports given the larger distances and modifications necessary to utilised container transportation. The withdrawal by SATS locomotives from Zimbabwe and holding Zimbabwean goods in South African ports in 1981 demonstrated the effectiveness of Transport Diplomacy to augment the objectives of Total Strategy (Davies *et. al.*, 1988a: 100). Zimbabwean imports and exports were then also forced to go through South Africa both by the sabotage of the railways in Mozambique, and by South African shipping agencies which made it difficult to send cargo through Mozambique (Hanlon, 1986: 3).

⁴⁵⁶ SATS paid US\$20 million for the use of Maputo port and the associated railways in 1982 (Hanlon, 1986: 278). In March 1984 Renfreight also invested R10 million in Maputo port (*ibid*: 40-41). Only then in 1986 did Maputo open a container terminal after being serviced in the interim period by SAECS Ro-Ro vessels (Berridge, 1987: 217).

Table 20 **Summary of international traffic SADCC 1982 (million tonnes)**

SADCC traffic		
Through SADCC ports	7.3	64%
To or through South Africa	3.5	31%
Between SADCC states	0.6	5%
TOTAL	11.4	

Source : *Hanlon, 1986: 280*

APPENDIX D SHIPPING AND THE PORT OF DURBAN IN THE 1990s

The strategic significance of the port of Durban however, as illustrated in Chapter Five, has primarily been through the continued provision of a range and number of shipping services in comparison to any other port in the southern African region. As discussed, the objectives of the National Party government were to control the merchant fleet in order to both stagger the introduction of containerised shipping and ports and maintain a sanctions busting transport service. By the late 1980s this strategy was overtaken with Safmarine enveloped by the global impetus towards the horizontal amalgamation of conglomerates into 'mega-carriers'.

In the 1980s and 1990s Iheduru (1996: 9-21) argues six strategies facilitated South Africa's dominance and control of the region's shipping trade. These were: control through consortia and maritime conferences; co-operation agreements, including space chartering; share acquisitions, joint-ventures and take-overs; contract leasing; consultancy and maritime data banks; and, rate-cutting as a commercial strategy.

In 1992 the European Union (EU) Competition Directorate decided that EU-based shipping lines in West and Central Africa were anti-competitive (*ibid*: 9-10). This ruling forced the EU shipping lines to withdraw from Conferences who were subsequently replaced by South Africa's, Safmarine⁴⁵⁷ and Unicorn⁴⁵⁸ (*ibid*: 10). Although privately owned, both grew under the wings of the apartheid state and colluded to help circumvent sanctions (Iheduru, 1996: 10; Crichton, 1991a: 38-41; Crichton, 1993). Leadership of the two main maritime conferences that carry Southern Africa's trade is a means through which Safmarine dominates trade in the region. The only non-conference container liners that emerged in the 1990s to compete with Safmarine/Unicorn were the Mediterranean Shipping Company (MSC), headquartered in Geneva but with an operational base in Durban, and the German operated Maritime Carrier Shipping (Macs). These non-conference operators' trades were in securing both south-bound and north-bound consignments (Young, 1991: 73).⁴⁵⁹ Through leadership of the conferences and buying into CMB-Transport, SDV and SafBank Lines, South African firms secured access and

⁴⁵⁷ In 1991 Safmarine acquired a 49 per cent holding in CMB-Transport (Iheduru, 1996: 10). In 1991 the US owned Lykes Bros. Shipping Line acquired a substantial share of SafBank (a subsidiary of Safmarine and the Andrew Weir Shipping Group of the UK). In conjunction with Safmarine they created a service between the American and West/Central/ Southern Africa and Europe that 'successfully diverted most trade away from other regional ports to Abidjan' (Iheduru, 1996: 11). Most shipping lines, including CMB-Transport, 'Compagnie Generale' Maritime (CGM) of France, and members of SAECS subsequently used Abidjan as a trans-shipment port for their West African, North American, and European Cargoes, which subsequently rendered several smaller ports in the region redundant (*ibid*: 11).

⁴⁵⁸ Since 1964 Unicorn Lines operated in West and South Africa in harness with Belgium's 'Compagnie maritime belge' (CMB-Transport) under the guise of European owned 'Tropic Lines', until it flew under South African colours in 1991. Unicorn has a 60 per cent share in Grincor, the transportation and distribution group, itself a subsidiary of Grindrod Holdings South Africa. In January 1992, the Paris based SCAC-Delmas Vieljeux (SDV) the largest shipping and freight forwarding conglomerate in Africa, bought a 25 per cent stake in Grindrod (Iheduru, 1996: 11). This allowed SDV to create a new venture, based in Durban, called Unicorn-Delmas (or Unidel) (*ibid*: 11-12).

⁴⁵⁹ The Safmarine and Unicorn consortium handled forty per cent of the Southern African Europe Container Service (SAECS) trade, as the major carrier between Europe and Southern Africa. Safmarine was also strongly represented in the East African Container Service (EACS), and the Europe-East Africa service. With the entry of more than thirteen new carriers into the Southern African shipping trade since the lifting of sanctions, the Safmarine-led groups decided to create the US-Southern and Eastern Africa conference in 1993 to absorb the previously separate South Africa and East Africa conference (Iheduru, 1996: 11).

influence on every trade in Africa, becoming 'one of the new, if not the most important determiners of the parameters of the merchant marine industry in East, South, West, and Central African coasts' (*ibid*: 12). The monopoly of maritime consortia and conferences reduces both inter-conference and inter-line competition, fixed and raised freight rates and pressured shippers (through rebates and loyalty agreements) to patronise a particular shipowner even if there were more efficient and cheaper alternatives (*ibid*). Safmarine and Unicorn through pooling resources in the respective consortia created an environment un conducive for competitive shipping, and exacerbated the already high transport costs in Africa.⁴⁶⁰

The second strategy was the signing of 'cooperation agreements' with disintegrating African maritime operators, which has led to national shipping companies hiring South African shipowners as their national carriers (*ibid*: 13).⁴⁶¹

The third strategy, share acquisitions, joint-ventures, and take-overs, took place from 1990 when South African companies controlling steel and citrus fruit production in Eastern Transvaal (now Mpumalanga) and sugar in Swaziland, loaned money and expertise to Mozambique's ports and railways authorities, the *Direcao Nacional dos Portos e Caminhos de Ferro do Mozambique* (CFM), to refurbish the port of Maputo. Subsequently, Unicorn acquired a 40 per cent share in Navinter in 1994. Now most of CFM's terminals are run by those South African companies, along with European and North American mining interests in Botswana, Zambia, and Zimbabwe (*ibid*: 15).⁴⁶²

A fourth strategy, commercial 'contract leasing' was adopted by CFM in response to mounting pressures from South African firms. Under the first such agreement in 1993, Transnet, Grindrod, Portnet, and Manica formed a joint venture which leased Maputo's container terminal from the CFM for an initial period of ten years (*ibid*: 17).⁴⁶³ Similarly, a pattern can be detected in the transport relations between Namibia and South Africa. Although South Africa formerly relinquished the administration of Walvis Bay in March 1994, the port was still controlled by Portnet as part of the transfer deal with the Namibian government initially leasing the port for an annual rental of R90-100 million (*ibid*: 18).⁴⁶⁴

A fifth strategy, the monopoly of consultancy and maritime data banks, was based upon Dynamar South Africa maintaining a database of 15,000 shipping and related companies world-wide (*ibid*: 18).

Finally, rate-cutting as a commercial strategy was based upon SATS and later Transnet providing cut-rate packages that made their facilities artificially attractive during the apartheid era (*ibid*: 19). Based on costs and facilities, Durban was less economical than Maputo and Beira with their geographical advantage for Zimbabwean trade. Theoretically, Beira posed a greater threat to Durban's dominant position than Maputo and Nacala, and

⁴⁶⁰ Such anti-competition practices hastened the liquidation of indigenous merchant maritime operators in Benin, Cote D'Ivoire, Gabon, Nigeria, and Mozambique (Iheduru, 1996: 13).

⁴⁶¹ For example, in Mozambique, the inability to sustain its national carrier, Navinter, as a result of inadequate cargo and bad management subsequently 'forced the company to sell its vessels, and to operate since 1993 on a space-buying basis from SafBank' (1996: 14).

⁴⁶² (1992) "SA gears up for Maputo", *Freight World*, 16, 9, 1992; "Privatisation of Maputo Harbour?" *South African Shipping News and Fishing Industry Review*, Cape Town, 47, 1).

⁴⁶³ (1995) "Privatisation of Maputo Harbour?" and "Ports and Shipping: Mozambique", *Africa Research Bulletin: economic series*, July 13

⁴⁶⁴ Iuean Griffiths (1994) "Walvis Bay enclave no more", *Geography*, 79, 345, pp 354-7.

was aided by more than \$760 million invested since 1980 through the SADC (*ibid*: 19).⁴⁶⁵ Iheduru argues that renewed rate-cutting will maintain the regional dominance of South Africa's ports (*ibid*: 20-21).⁴⁶⁶

Durban is now a hub port for cargo to and from the Far East, serving both South Africa and East African countries, but also trades to Europe and North America. MSC is now the port's biggest user with more than half of its fleet using Durban as a home port for trades on the North West continent, South Africa, the Mediterranean, Australia, the Indian Ocean Islands and East African routes (Bremen, 2000: 4-5).

Also, AP Moller of Denmark, who control Maersk shipping line (one of the world's largest container shipping lines), purchased Safmarine (now Safmarine Container Lines (SCL) from 1997) from Safren for a net US\$200 million in February 1999 (Cohen, 1999).⁴⁶⁷ The sale of Safmarine highlighted the fact that national control of shipping was no longer directly related to the ownership or viability of ports. Indeed, the sale signalled the possible vertical integration of transport services through shipping companies engaging in port investments.

⁴⁶⁵ E. West (1991) "Can Portnet be both umpire and player", South African Transport, October; (1993) "Portnet: prime mover in developing Southern Africa", Railways, Johannesburg, January; and (1993) "Waiting for the Rush", Transport Management, April.

⁴⁶⁶ For the application of the 'wharfage' charge in South African ports and its trade effects, see John Crichton (1991) "Portnet, South African Ports: a monopoly on the move", *Containerisation International*, 25, 2, pp 45-50). For a recent study of cross-subsidisation, see Henriette Christa van Niekerk (1994) *Port charges restructuring in South Africa*, PhD dissertation, Rand Afrikaans University, Johannesburg, ch, 2; Mauritz Simon G, Oberholzer (1994) *Aspects of the development of containerisation and its subsequent introduction to the port of Durban*, BA (Hons) thesis in Economic History, University of Natal, Durban, pp 50-3.

⁴⁶⁷ Maersk continued to operate Safmarine services under the traditional name and withdrew its own ships from the route to Europe.

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GLOSSARY

SELECT ACRONYMS AND ABBREVIATIONS

AHI: Afrikaanse Handelsinstituut
ANC: African National Congress
APEC: Asia Pacific Economic Cooperation
BSA: Black Staff Association
BCEA: Basic Conditions of Employment Act
CCMA: Commission for Conciliation, Mediation and Arbitration
CNETU: Council of Non-European Trade Unions
CODESA: Convention for a Democratic South Africa
COSATU: Congress of South African Trade Unions
CUSA: Council of Trade Unions of South Africa
DCWO: Dock Casual Workers Organisation
DGWU: Dock and General Workers' Union
DTGWU: Democratic Transport and General Workers Union
DPE: Department of Public Enterprises
DSLSC: Durban Stevedoring Labour Supply Company
FEDSAL: Federation of South African Labour
FOSATU: Federation of South African Trade Unions
GDP: Gross Domestic Product
GEAR: *Growth, Employment and Redistribution* policy
GNU: Government of National Unity
GWBF: General Workers Benefit Fund
GWU: General Workers' Union
ICU: Industrial and Commercial Workers Union
IDC: Industrial Development Corporation
IEC: Independent Electoral Commission
IFIs: International Financial Institutions
IFP: Inkatha Freedom Party (Inkatha)
ILO: International Labour Organization
ILWU: International Longshoreworkers Union
IMF: International Monetary Fund
IMSSA: Independent Mediation Service of South Africa
ISP: COSATU Industrial Strategy Project
ITF: International Transport Workers Union
JSE: Johannesburg Stock Exchange
LRA: Labour Relations Act
MATIBCO: Maritime Bargaining Council
MEC: Minerals-Energy Complex
MERG: Macro-economic research group
MITB: Maritime Industry Training Board
MNP: Multi-Party Negotiating Process
NACTU: National Council of Trade unions
NADELI: National Labour and Economic Development Institute
NAFCOC: National African Federated Chambers of Commerce
NDLS: National Dock Labour Scheme
NDoL: National Department of Labour
NDoT: National Department of Transport
NEDLAC: National Economic Development and Labour Council
NEF: National Economic Forum

NEM: Normative Economic Model
 NFA: National Framework Agreement for the Restructuring of State Assets
 NMC: National Manpower Commission
 NPA: National Port Authority
 NURAHS: National Union of Railway and Harbours Staff
 PWV: Pretoria-Witswatersrand-Vereeniging
 RDA: Reconstruction and Development Accord
 RDP: *Reconstruction and Development Programme* policy
 RGCS: Rennie's Grindrod-Cotts Stevedores
 SAAWU: South African Allied Workers Union
 SACCOLA: South African Consultative Committee on Labour Affairs
 SACD: Southern African Container Depots
 SACOB: South African Chamber of Business
 SACP: South African Communist Party
 SACTU: South African Congress of Trade Unions
 SACU: Southern African Customs Union
 SADC: Southern African Development Community
 SAECS: South Africa-Europe Container Service
 SAF: South Africa Foundation
 SAMSA: South African Maritime Safety Authority
 SANCO: South African National Civic Organisation
 SAPO: South African Port Operations
 SAPs: Structural Adjustment Programmes
 SAR&H: South African Rail and Harbours
 SARHWU: South African Rail and Harbour Workers' Union
 SAS: South African Stevedores
 SASC: South African Stevedoring Council
 SASEA: South African Stevedores Employer Association
 SASSCO: South African Stevedores Servicing Company
 SATAWU: South African Transport and Allied Workers' Union
 SATS: South African Transport Service
 SEIU: Service and Industrial Workers' Union
 SME: Small to Medium Enterprises
 SRR: Survey of Race Relations
 TEC: Transitional Executive Council
 TEU: Twenty-foot equivalent units
 TGWU: Transport and General Workers' Union
 TUCSA: Trade Union Council of South Africa
 TUACC: Trade Union Advisory and Coordinating Council
 UDF: United Democratic Front
 UWUSA: United Workers Union of South Africa
 VAT: Value-Added Tax
 WPWAB: Western Province Workers Advisory Board
 WPGWU: Western Province General Workers Union