

SECTORAL ACTIVITIES PROGRAMME

Working Paper

Industrial relations in the oil industry in South Africa

Shirley Miller and Tanya van Meelis

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to stimulate discussion and obtain comments

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Preface

Oil and gas are essential components of modern, industrialized civilization, and as societies and economies grow, so does their oil and gas industry. The oil and gas industry has revolutionized human lives, improving our standard of living. Its products constitute building blocks at every level of production and consumption in such key sectors of economic life as petrochemicals, chemicals, agriculture, construction, manufacturing, and service industries. A stable supply of oil and gas is needed to sustain continued development of our economies. The oil and gas industry is a highly capitalized industry. Much of the manual work has been replaced by automation, but significant parts of the operation still rely on human input. Sound employer-employee relations are therefore crucial to the stable production and supply of oil and gas.

The aim of this study is to explore in depth some good practices in industrial relations and social dialogue in South Africa's oil sector. The paper outlines essential elements for good industrial relations in the industry, including the ways in which social dialogue can contribute to healthy employer-employee relations.

In 2005, the Sectoral Activities Programme of the ILO commissioned four national studies in the series of industrial relations in the oil industry. The research aims to provide overviews on industrial relations in the oil industry. This paper is the third in the series. It was prepared by researcher Shirley Miller and economist Tanya van Meelis, both residing in South Africa. They are to be congratulated for their work and contribution to the improvement of industrial relations in the oil and gas industry in South Africa. The ILO hopes that this paper will provide an opportunity to consider how industrial relations in the industry can be improved in the interests of both decent work and greater productivity.

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List of abbreviations and acronyms

| | |
|----------|---|
| AMEF | African Mineral and Energy Forum |
| BCEA | Basic Conditions of Employment Act |
| CCMA | Commission for Conciliation, Mediation and Arbitration |
| CEPPWAWU | Chemical Energy, Paper, Printing Wood and Allied Workers' Union |
| CHIETA | Chemical Industries Education and Training Authority |
| COIDA | Compensation for Occupational Injuries and Diseases Act |
| COSATU | Congress of South African Trade Unions |
| CWIU | Chemical Workers' Industrial Union |
| DOL | Department of Labour |
| DEAT | Department of Environmental Affairs and Tourism |
| DME | Department of Minerals and Energy |
| EMCA | Environmental Management Co-operation Agreement |
| GDS | Growth and Development Summit |
| HDSA | Historically Disadvantaged South Africans |
| HSRC | Human Sciences Research Council |
| ICEM | International Chemical Energy and Mining Federation |
| ILO | International Labour Organization/Office |
| LFS | Labour Force Survey |
| LRA | Labour Relations Act |
| LRS | Labour Research Service |
| NACTU | National Council of Trade Unions |
| NBCCI | National Bargaining Council for the Chemical Industry |
| NEDLAC | National Economic Development and Labour Council |
| NEMA | National Environmental Management Act |
| NPEA | National Petroleum Employers' Association |
| NQF | National Qualifications Framework |
| OHS | Occupational Health and Safety |
| OHSA | Occupational Health and Safety Act |
| PPWAWU | Paper, Printing, Wood and Allied Workers' Union |
| SACWU | South African Chemical Workers' Union |
| SAPIA | South African Petroleum Industries Association |
| SAQA | South African Qualifications Authority |
| SASOM | South African Society of Occupational Medicine |
| SETA | Sector Education and Training Authority |
| SIC | Standard Industrial Classification |
| SMME | Small, Medium and Micro-Enterprises |
| STEE | Survey of Total Employment and Earnings |
| TIPS | Trade and Industrial Policy Strategies |
| TURP | Trade Union Research Project |
| WOESA | Women in Oil and Energy South Africa |

1. Background

The Tripartite Meeting on the Promotion of Good Industrial Relations in Oil and Gas Production and Oil Refining (Geneva, 2002) adopted a set of conclusions which state, *inter alia*, that:

in co-operation with the social partners concerned, the ILO should collect and disseminate examples of good industrial relations practices and outcomes, particularly in relation to corporate restructuring, and information on good safety and health practices.

The aims of the study are to identify good industrial relations in the oil production sector and describe their essential characteristics. The study addresses how social dialogue can promote mutual respect, trust and confidence between social partners in the oil industry.

A strong legal framework is fundamental to good industrial relations. Similarly, social dialogue requires a sound legal basis in order to sustain sound industrial relations and continued social dialogue. This working paper will also show that some ILO instruments significant to industrial relations in the oil sector have been incorporated into South African legislation. These include the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and the ILO Declaration on Fundamental Principles and Rights at Work and the Resolution concerning tripartism and social dialogue, adopted in 2002.

2. Scope of the research

The purpose of this paper is to provide an overview of good practices in industrial relations and social dialogue in the oil production sector in South Africa. In order to accomplish this challenging task, the development of the sector¹ is outlined and some background information on current operations provided. The study is performed of a general nature and should therefore not be considered as an exhaustive analysis.

Given the diversity of activities that make up the value chain of oil production in South Africa, this study focuses on the production of oil and includes some aspects of the transportation and storage but excludes the retailing sector of the industry.

The approach adopted in compiling this report is based on literature surveys, reports of relevant bodies and interviews with key stakeholders. In addition, some company and union representatives were interviewed. It should be noted that statistical information provided in this paper is restrained by the availability of relevant information. Furthermore, in many instances the analytical comparison of the information has been rendered difficult by a number of factors, including the lack of publicly available statistics. An accurate picture of employment statistics and trends in recent years is limited by the following:

- to availability of statistics;
- detail of statistics (for example, gender is not consistently reflected);
- changes in methodology of collection of statistics;
- difficulties in comparing official statistics;
- inconsistent statistics; and
- the fact that the latest manufacturing statistics, published in 1999, reflect statistics only up until 1996 and are not comparable with currently issued statistical series.

Considerable statistical information is sourced from the Chemical Industries Education and Training Authority (CHIETA) study into skills needs in the oil sector, undertaken under the auspices of the Human Sciences Research Council Employment and Economic Policy Research (EEPR). The study cautioned that the results should be viewed “with circumspection and [regarded] as qualitative rather than quantitative although they are given in figures”.²

¹ The sector is described in this paper as either the “oil industry” or the “petroleum industry”, according to the source being used. For the purposes of the study, the meaning of the two expressions is one and the same.

² “Skills Needs in the Petroleum Sub-sector of the Chemical Industries sector in South Africa”, Research conducted for the Chemical Industries Sector Education and Training Authority and the Department of Trade and Industry by the Human Sciences Research Council Employment and Economic Policy Research (EEPR), Dec. 2003.

3. Overview of the oil industry in South Africa

3.1. Changes in the regulatory and policy environment

The post-apartheid era saw significant changes in South African legislation, which affected the oil sector directly. There is no specific labour legislation applying solely to the oil industry. The industrial relations operations of the oil industry are governed by South Africa's labour and employment legislation. The oil industry is thus subject to the country's labour legislation, and employers and employees must comply with these laws.

3.2. ILO Conventions incorporated into South African legislation

The Department of Labour (DOL) acknowledges that ILO Conventions have “contributed substantially in the formulation of our policies and labour legislation”.³ Workers and employers in the oil industry receive the protection set out by ILO Conventions through the ratification and implementation of these standards in South African legislation. (For a list of ILO Conventions ratified by South Africa, see Appendix 1.) They have been legislated and ensured through appropriate South African laws. Social partners in the oil industry are therefore bound by these laws and must adhere to them; otherwise, they will face penalties. The challenge for employers and employees is to extend provisions and rights beyond the realm of the requirements of basic laws. This is where differences in approach might emerge. Unions in the oil industry in South Africa have indicated that their companies respect the law and engage in social dialogue and negotiation as the law requires them to do. The fact that no major disputes have been recorded in recent years would indicate that industrial relations have been strengthened by the existence of social dialogue mechanisms and institutions.

Table 1. Legislative framework regulating industrial relations in South Africa's oil industry

| Legislation | Regulatory authority | Regulated sector | Key aspects relating to social dialogue |
|---|---|--|--|
| National Economic, Development and Labour Council Act 35 (1994)1995 | Department of Labour (DOL) coordinates regulatory authorities | Affects all government departments that promulgate legislation having a socio-economic impact. | Sets up key social dialogue institution, which involves business, labour, government, and community in development of key policies affecting working conditions and socio-economic conditions. |
| Labour Relations Act 66 (1995) | DOL | Oil industry | Incorporates ILO Conventions (e.g. on freedom of association), provides for sectoral negotiations such as in the oil sector and dispute resolution. |
| Basic Conditions of Employment Act 75 (1997) | DOL | Oil industry | Establishes minimum working conditions throughout South Africa. |

³ E-mail from Stephen Rathai, DOL, 2005.

| Legislation | Regulatory authority | Regulated sector | Key aspects relating to social dialogue |
|--|----------------------|------------------|--|
| Employment Equity Act (1998) | DOL | Oil industry | Aims to correct past discriminatory employment practices and achieve fair representation in the overall employment. Employers must adopt policies and practices which do not unfairly discriminate on the basis of race, sex, sexual orientation, disability, marital status, ethnic or social origin, opinion, culture, language, religion or belief. Protects rights of HIV/AIDS infected workers by non-discrimination under any circumstances. |
| Skill Development Act 97 (1998) and Skills Development Levies Act 9 (1999) | DOL | Oil industry | Aims to address the problems of skills shortages in South Africa by setting up an institutional and financial framework. Sector Education and Training Authorities have been established. The oil sector is covered by CHIETA. |
| Unemployment Insurance Act 63 (2002) | DOL | Oil industry | Provides limited benefits for employees when they become unemployed; also provides for maternity benefits. |
| Occupational Health and Safety Act 85 (1993) | DOL | Oil industry | Provides framework to protect health and safety of workers through tripartite structures at national levels, representation at the workplace and places duty of care on employers. |
| Compensation for Occupational Injuries and Diseases Act 130 (1993) | DOL | Oil industry | Provides compensation for partial or total disablement, disease or death. This is a no-fault system of compensation covering workers in South Africa. However, it precludes workers from suing their employers in the event of negligence on the part of the direct employer. |
| Compensation for Occupational Injuries and Diseases Act 130 (1993) | DOL | Oil industry | Provides compensation for partial or total disablement, disease or death. This is a no-fault system of compensation covering workers in South Africa. However, it precludes workers from suing their employers in the event of negligence on the part of the direct employer. |

| Legislation | Regulatory authority | Regulated sector | Key aspects relating to social dialogue |
|--|--|--|--|
| Competitions Act 89 (1998) | Department of Trade and Industry | All industrial and commercial operations, and oil industry | Aims to control excessive concentrations of ownership and control within the national economy, anti-competitive trade practices and unjust restrictions on full and free participation in the economy by all South Africans. Provides that proposed mergers must be examined in terms of public interest, and employment aspect is a key factor. Merging parties provide information to representative trade unions. |
| Petroleum Products Amendment Act 58 (2003) | Department of Minerals and Energy (DME) | Oil industry | Aims to promote greater efficiency across the entire petroleum value chain through licensing all players including oil refiners, thereby increasing regulatory control and standards in the sector. Legalizes the provisions of the Liquid Fuels Charter; also aims to safeguard employment within the sector, promotes sustainable new investment in the industry and thus encourages the creation of sustainable jobs. |
| National Environmental Management Act 106 (1998) | Department of Environmental Affairs and Tourism (DEAT) | All industrial and commercial operations, and oil industry | This is the overarching environmental legislation. It contains the principles of promoting sustainable development. Provides a significant right for all workers to refuse work that endangers the environment. The recent addition to the Act, which provides for air quality, will have significant impact on the operation and products of oil refineries. In turn, this could affect restructuring and jobs. |

Source: Relevant South African statutes.

3.3. Description of the South African oil industry

The oil industry in South Africa has been largely shaped by the country's history. While the development of the oil industry originates in production requirements of the mining and agricultural sectors, its subsequent development was largely shaped and aided by the State's import substitution industrialization policy. The Apartheid State's need for self-sufficiency with respect to liquid fuels, as well as its military imperatives also profoundly influenced the direction followed by the oil industry.

The election of the apartheid nationalist party into power in 1948 further accelerated the policy of import substitution. Sasol was established in 1950 and in 1955 began producing petrol from coal using the Fischer Tropsch technology that Anglovaal had obtained from Germany.

Events in the 1970s, such as the fall of the Shah of Iran, higher oil prices and the United Nations Security Council's imposition of a mandatory arms embargo against South Africa in 1977, as well as the disinvestments campaigns of the 1980s had profound effects on the direction of the South African liquid fuels industry and the development of its downstream chemical industry. The Islamic Republic of Iran had been the major supplier of South African oil requirements. Whereas earlier decisions had derived from self-sufficiency imperatives, they were now increasingly dictated also by military/strategic needs – especially from the 1980s on, when the apartheid Government's militarization accelerated. The Government proceeded with the building of further synthetic fuel installations. Products of Sasol's synfuels production also contributed to the development of its now extensive chemical operations.

In 1987, the Government of South Africa initiated another synthetic fuel scheme, Moss gas, to produce petrol from offshore natural gas. A steady supply of diesel was needed to fuel the country's military operations outside its borders during that period. Sasol's synfuels process had experienced problems in producing diesel and Moss gas was expected to fulfil this requirement.

The oil industry in the apartheid era was characterized by its secrecy and a high degree of state regulation. Installations such as oil refineries were designated National Key Points under the National Key Points Act of 1980 and access to them was strictly controlled. This hampered trade unions from accessing and unionizing workers during that period.

Shortly after the turn of the century, the Government directed investment in the oil sector with the formation of PetroSA. The company was formed by consolidating state-owned assets in the oil sector, thus bringing exploration, extraction and processing of gas sources into one company.

However, the oil sector in South Africa remains highly concentrated, with ownership of upstream facilities being dominated by multinational companies and the Government.

The oil sector remains a strategic and important player in South Africa's economy. President Thabo Mbeki has stressed the importance of the sector for the country, which led the Government to reform the ownership of the oil companies.

South Africa has no significant crude oil deposits. The country's major supply sources in 1995 and 2003 are described in table 2: in 1995, 68 per cent of crude oil was imported from the Islamic Republic of Iran; in 2003, this share had dropped to 33 per cent. The largest current supplier is Saudi Arabia, providing 45 per cent of South Africa's crude oil requirements.

Table 2. Sources of South African crude oil, 1995-2003

| Country/area of origin | Thousands of metric tonnes | |
|---------------------------|----------------------------|--------------------------|
| | 1995 | 2003 |
| Angola | 122 (0.74%) | 116 (0.54%) |
| Cameroon | – | 271 (1.268%) |
| Egypt | 1 024 (6.23%) | 135 (0.63%) |
| Iran, Islamic Republic of | 11 014 (67%) | 7 012 (32.82%) |
| Kuwait | 577 (3.51%) | – |
| Nigeria | – | 3 450 (16.15%) |
| North Sea (BP) | 1 394 (8.481%) | – |
| Oman | 120 (0.73%) | – |
| Saudi Arabia | 1 114 (6.778%) | 9 521 (44.573%) |
| South Africa | – | 570 (2.66%) ¹ |
| United Arab Emirates | 520 (3.16%) | 106 (0.496%) |
| Yemen | 353 (2.147%) | 179 (0.838%) |
| Other | 197 (1.198%) | – |
| Total | 16 435 | 21 360 |

Note: ¹ SA production of crude oil (from Oribi, Oryx and Sabie fields).

Source: SAPIA Annual Report 2004; Crude Oil for SAPIA members: 1995-2003.)

3.4. Major oil companies

The private sector of the oil industry in South Africa has been dominated by major multinational companies such as Petronas, Shell, BP, Total and Caltex. In 1997, SAPIA reported that its members' assets were "by far the biggest foreign investment in this country". It is estimated that the local oil refiners save about R5 billion a year in foreign exchange while the synfuel producers save about R30 billion per annum. SAPIA members directly provide about 9,000 full-time jobs and many more in other sectors.⁴ In addition, Sasol and PetroSA are vital producers of important chemical feedstocks, building blocks for the chemical, plastics, fertilizer and explosives sectors.

3.5. Crude production

Although lacking local crude oil, South Africa has a large oil refining capacity on the African continent. This results in considerable savings for the country in terms of foreign exchange and earnings.⁵ In South Africa's imports, only 6 per cent of domestic demand accounts for coke and refined petroleum product (it meets the rest of domestic demand

⁴ SAPIA Annual Report 2004.

⁵ *ibid.*

itself).⁶ It exports 13.6 per cent of what it produces (in terms of coke and refined petroleum product), nearly half of it to the African region.⁷

3.6. Synthetic fuels production

PetroSA sources its feedstocks of natural gas and condensate from gas fields in Mossel Bay through two pipelines to its Mossel Bay on-shore facilities. South Africa's first conventional oil production began in 1997 in the Oribi oil field from a floating production, storage and off-loading vessel; the Oryx oil fields began production in May 2000. Excluding its synthetic fuel plants, South Africa has the second-largest refining capacity in Africa, after Egypt.⁸

The sector has undergone several mergers, consolidations and privatization of the majority of the State's interest. In 1979, Sasol began a partial privatization. The selling of shares has accelerated, culminating with the public listing of Sasol first on the Johannesburg Stock Exchange (JSE), then the NASDAQ and finally the New York Stock Exchange. However, the State remains the biggest single shareholder.⁹ In 2002, the Government consolidated the separate state enterprises involved with exploration and refining of natural gas into one company, PetroSA.

3.7. Exploration and extraction

The major oil companies in South Africa do not undertake oil exploration and extraction. These operations are limited to PetroSA, which explores off shore gas and oil deposits, and Sasol, which sources some of its raw material through coal mining at Secunda.

3.8. Oil refining and petroleum products

South Africa has six oil refining facilities, two of which are jointly owned by various petroleum companies. Table 3 identifies the ownership and location of these facilities, as well as specifying which ones have expanded their capacity in the last few years.

⁶ The figures on the propensity to import and export were obtained for SIC classification – coke and refined petroleum products. This was the highest level of disaggregation obtainable in the sector.

⁷ Tips EasyData, downloaded May 2005.

⁸ <http://www.eia.doe.gov/emeu/cabs/safrica.html>, downloaded 8 Nov. 2004.

⁹ Major shareholders (over 5 per cent) as at June 2003 were: Public Investment Commissioner (13.4 per cent), Sasol Investment Company (Pty) Ltd. (8.9 per cent) and the Industrial Development Corporation of South Africa Limited (IDC) (8 per cent), Sasol Facts 2004.

Table 3. Location and ownership of oil refining facilities in South Africa, 2003

| Oil refinery | Location | Raw material | Owner | Capacity (barrels/day) | | |
|---------------------|-----------------------|--------------|--|------------------------|----------------|----------------|
| | | | | 1992 | 1997 | 2003 |
| PetroSA * | Coastal Mossel Bay | Gas | Central Energy Fund (CEF) | 45 000 | 45 000 | 45 000 |
| Calref | Coastal Cape Town | Crude oil | Caltex | 50 000 | 100 000 | 100 000 |
| SAPREF | Coastal Durban | Crude oil | Jointly BP and Shell, managed by Shell | 120 000 | 165 000 | 180 000 |
| Enref | Coastal Durban | Crude oil | Engen (Petronas) | 70 000 | 105 000 | 125 000 |
| Sasol Synfuels * | Inland Secunda | Coal | Sasol | 150 000 | 150 000 | 150 000 |
| Natref | Inland Sasolburg | Crude oil | Sasol (64%) and Total (36%), managed by Sasol | 78 000 | 86 000 | 108 000 |
| Total | | | | 513 000 | 651 000 | 708 000 |

* Expressed as crude equivalent

Source: SAPIA Annual Report 2004.

South Africa produces both high-value and low-value petrol: white fuels (which are considered high-value products) such as petrol, diesel, illuminating paraffin (IP), jet fuel and liquefied petroleum gas, and black fuels (considered low-value products) such as bitumen and fuel oil products.

While the crude oil and synthetic fuel refineries use different raw materials and different technologies, they produce the same final products. All South African refineries produce both white fuels and black fuels. Thus, synthetic fuel facilities tend to produce a higher proportion of petrol relative to other products, whereas traditional refineries produce a lower relative proportion. Coastal refineries have tended to produce both high- and low-value products based on the need for bunker oil. Inland refineries produce more high-value products.

These are determined by the type of crude, the equipment used and efficiency of the operations. Crudes that contain more high-value product are more expensive, and more sophisticated equipment provides a greater high-value yield but requires high capital investment. SAPIA suggests that the key difference in the profitability of the refiners therefore lies in the efficiency of operations and the extent to which management and labour maximize the operation of available equipment.¹⁰ A good relationship between workers and employers is thus of critical importance.

3.9. Transportation and storage

In respect of industrial relations, the production, distribution and storage network are dealt with collectively by organized labour and organized business.

Fuel is transported by three mechanisms:

¹⁰ SAPIA Annual Report 1997.

-
1. Pipelines:
 - (a) crude oil is transported from the port of Durban to the inland Natref refinery through the Crude Oil Pipeline;
 - (b) a state-owned pipeline between Durban, Johannesburg and Pretoria transports white products between the regions; and
 - (c) the Durban Witwatersrand Pipeline is used by Sasol to transport gas from the coast.
 2. Rail is used for transporting the refined product inland.
 3. Long-haul road transportation is considered the least cost-effective method. However, it is the most common form of transporting the refined product. Oil companies have outsourced considerable parts of this service, though some still retain fleets.

Fuel is stored at depots owned by oil companies. These depots tend to be shared among oil producers and are governed through agreements by the parties. Earlier studies estimated that in 1998-99 there were about 200 depots.¹¹ Recent figures suggest that there are now just over 100 depots owned by the oil companies. Petronet owns three depots, and two other independent depots operate at Durban and Richards Bay.¹²

¹¹ Draft CEPPWAWU Petroleum Industrial Restructuring Audit, 1999 (unpublished).

¹² The exact number of solely owned and shared depots is not available and forms part of the confidential documentation presented by Sasol and Engen to the Competitions Commission.

4. Structure of social partners and the role of government in the oil industry

The oil industry is highly organized with respect to both workers and employers. This has facilitated social dialogue and formal negotiations at workplace and sectoral levels alike.

4.1. Organized labour

There are three major unions in the oil sector: the Chemical, Energy, Paper, Printing, Wood and Allied Workers' Union (CEPPWAWU), the South African Chemical Workers' Union (SACWU), and SOLIDARITY.

Negotiations with respect to wages and working conditions are undertaken through centralized bargaining (see Chapter 8). Unions as parties to the agreement negotiate together and their activities are coordinated by a labour coordinator. This task is currently performed by the majority union, CEPPWAWU.

Negotiations around major policy issues which may affect the oil sector¹³ are conducted through NEDLAC's respective chambers, and the three federations are represented according to their respective membership. Congress of South African Trade Unions (COSATU) coordinates among the affiliated federations in negotiations. Engagements relating to the oil industry take place either in NEDLAC's labour market chamber or in the trade and industry chamber (dealing with industrial and sector strategy issues).

4.1.1. Chemical, Energy, Paper, Printing, Wood and Allied Workers' Union (CEPPWAWU)

CEPPWAWU¹⁴ is the largest trade union organization in the oil sector, where it has about 5,600 members. The union has traditionally dominated most petroleum refineries and distribution processes, the Sasol synthetic fuels operations and the PetroSA coastal gas to petrol operations. Its origins with respect to the petroleum sector lie in the Chemical Workers' Industrial Union, which merged with the Paper, Printing, Wood and Allied Workers' Union in 1999. These unions were part of the resistance by black workers in the resurgence of the union movement in the 1970s. CEPPWAWU is a non-racial union. Its membership is predominantly in the skilled, semi- and unskilled workers, but it does have many members who fall outside the bargaining union in more skilled occupations. CEPPWAWU is affiliated to COSATU, through which it plays an important role in representing the interests of oil and petroleum workers at institutions such as NEDLAC, ministerial advisory councils, the presidential working group, the Millennium Labour Council (a forum of social dialogue with business and labour), the Tripartite Alliance Structures and the African National Congress.

¹³ For example, amendments to Labour Legislation, Energy Policy.

¹⁴ CEPPWAWU was formed through the merger of the Chemical Workers' Industrial Union (CWIU) and the Paper, Printing, Wood and Allied Workers' Union (PPWAWU) in 1999.

4.1.2. South African Chemical Workers' Union (SACWU)

SACWU has historically dominated Sasol's operations at Sasolburg and thus has majority membership at the Natref oil refinery. SACWU's membership is similar to that of CEPPWAWU. It represents about 1,300 oil refining workers and is a non-racial union. It is affiliated to the National Council of Trade Unions (NACTU) and participates in NEDLAC and other institutions of social dialogue, including the Presidential Working Group and the Millennium Labour Council.

4.1.3. SOLIDARITY

SOLIDARITY was formed in 2001. Its roots lie in the old mineworkers' union, and its members include workers in the mining and engineering sector. Traditionally its membership base was in the more artisanal and more skilled ranks of the workforce and among white workers, but now it includes black workers as well. Its presence in the oil sector is largely concentrated at the Sasol operations. SOLIDARITY has about 5,200 members in the oil sector. It has chosen to exercise its right of freedom of association and has remained an independent union unaffiliated to any of the existing federations in South Africa.

4.2. Organized business

Industrial relations matters in the oil sector industry are organized through two different bodies. National Petroleum Employers' Association (NPEA) focuses on industrial relations issues, while SAPIA focuses on industrial development and broader coordination of socio-economic issues affecting major oil companies.

4.2.1. National Petroleum Employers' Association (NPEA)

NPEA deals with all activities relating to negotiations in the oil industry at the centralized bargaining forum. The organization was formed as a result of the creation of the National Bargaining Council for Chemical Industries and the petroleum sub-sector within its framework. The organization is registered with DOL in accordance with the Labour Relations Act. All the major oil companies are members of the Association. The Association has 12 members, namely BP, Blendcor, Caltex, Cera Oil, Easi gas, Engen, FFS refiners, Natref, PetroSA, Sapref, Sasol Oil, Synfuels and Total.

4.2.2. South African Petroleum Industries Association (SAPIA)

SAPIA was founded by six major oil companies in 1994 to "encourage transparency, increase understanding of the industry's operations and objectives, and to further its efforts in environmental conservation. The petroleum industry suffered more distortion than most under apartheid, [and] SAPIA was founded to assist in fostering a successful transformation".¹⁵ At present, SAPIA has seven members, namely the all the major oil companies operating in the country: BP Southern Africa (Pty) Ltd., Caltex (SA) (Pty),

¹⁵ Colin McClelland, Director of SAPIA, SAPIA Annual General Report, 1997.

Engen Petroleum Ltd., Petrosa (Pty) Ltd., Sasol Ltd., Shell SA (Pty) Ltd., and Total South Africa (Pty) Ltd. Its amended membership rules allow associate membership in order to facilitate the participation of smaller oil companies.¹⁶ SAPIA has signed a cooperation agreement with the African Mineral and Energy Forum (AMEF) to help unify the “voice of petroleum industry” in dealing with outside stakeholders. It has also formalized its relationship with the Women in Oil and Energy (WOESA) through a Memorandum of Understanding to promote and sustain empowerment of women in the oil industry.¹⁷ SAPIA is a member of the Business Unity of South Africa, which represents it at NEDLAC.

4.2.3. African Mineral and Energy Forum (AMEF)

AMEF was set up in 1998 to represent the interests of black people in the key sectors of mining, gas, petroleum and electricity. Its mission is to create an environment where black entrepreneurs can compete on an equal footing in a globally competitive sector.¹⁸ AMEF serves the interests of its members in a field larger than that of the oil sector.

4.2.4. Women in Oil and Energy South Africa (WOESA)

WOESA was launched in March 2002 with support from the Minister of Minerals and Energy. It aims to ensure “meaningful participation of women in business ventures in the oil, gas and other energy sectors”.¹⁹ While its major focus is directed at historically disadvantaged individuals and groups, it does not exclude white women.²⁰

4.3. Government

Several Government departments exercise specific regulatory functions over the oil industry. These are the Department of Labour (DOL), the Department of Minerals and Energy, the Department of Environmental Affairs and Tourism, the Department of Water Affairs and Forestry, the Department of Transport, and the Department of Trade and Industry.

DOL is the regulatory agency; as such, it deals with all aspects of industrial relations. However, other agencies promote key aspects of social dialogue with respect to other socio-economic issues. For example, the Department of Minerals and Energy oversaw the development of the White Paper on Energy which directs the future of the oil industry; the Department of Environmental Affairs and Tourism strengthens environmental legislation which may require technological changes and thus restructuring at the workplace; and the Department of Trade and Industry’s Competitions Act deals with mergers and acquisitions that could affect employment security and conditions of work.

¹⁶ Colin McClelland, Director of SAPIA, interview, Feb. 2005.

¹⁷ WOESA and SAPIA Press statement, 3 Feb. 2005.

¹⁸ <http://www.engineeringnews.co.za/eng/features/oilrefiner/?show=26837>.

¹⁹ <http://www.woesa.com/company.htm>, Annual Report 2003-04.

²⁰ *ibid.*

Key aspects of the regulatory functions are described in table 1. In terms of negotiations and dialogue, NEDLAC is the overarching body facilitating social dialogue in respect of the oil sector. Governmental departments are represented at NEDLAC by designated coordinators at all levels of the institution. A single Government position reflecting an agreed position of relevant Government departments will be articulated by the Government representative. The leading department in NEDLAC as a whole is DOL, but it draws in other departments to articulate sector-specific or specialized information within a single Government position.

5. Statistical information concerning the oil industry

5.1. Oil industry

The SIC classification of coke and petroleum includes coke oven products and petroleum refineries and synthesizers. However, production of refineries and petroleum products constitutes 96 per cent of the coke and petroleum sector.²¹ Coke oven enterprises make up 40 per cent of the firms in the sector.

The coke and refined petroleum products sector is highly capital intensive, and employs nearly 20,000 people. The share of their employment against overall employment is less than 0.5 per cent, and its contribution to manufacturing employment is 2 per cent. Employment dropped from some 19,000 in 1995 to around 14,000 in 2001, but between 2001 and 2004 it recorded a substantial rise (see table 4).

Table 4. Employment in the coke and refined petroleum products sector in South Africa, 1995-2004

| Year | 1995 | 1998 | 2001 | 2004 | Year | 1995-98 | 1998-2001 | 2001-04 |
|------------|--------|--------|--------|--------|----------------------|---------|-----------|---------|
| Employment | 19 674 | 16 899 | 14 026 | 19 802 | Change in employment | -14% | -17% | -41% |

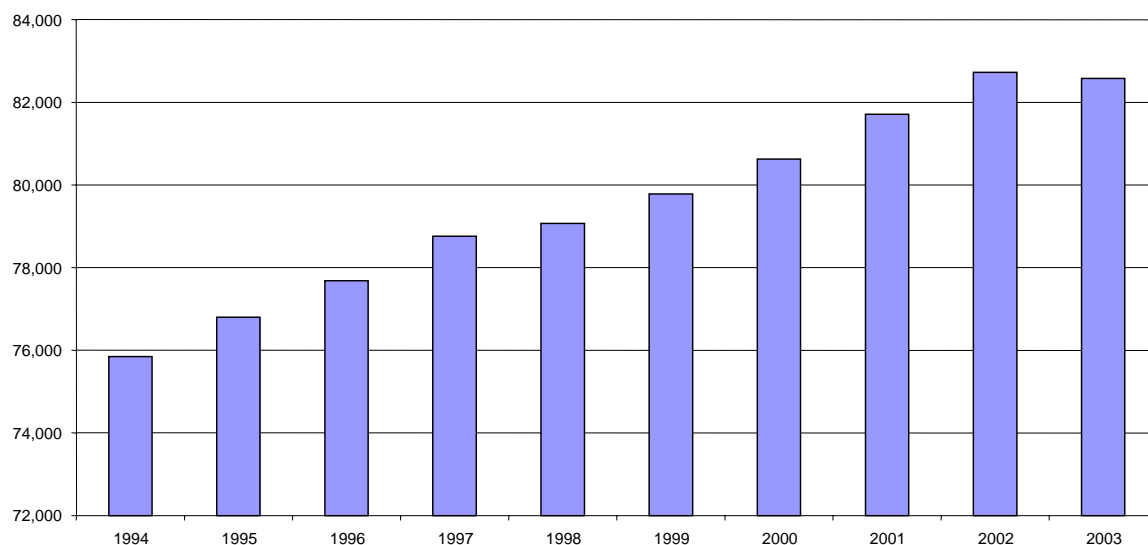
Source: Tips EasyData.

The drop in employment could be associated with the concentration of the oil sector and companies' drive to increase productivity. Once these goals were achieved in 2001, employment increased.

As shown in figure 1, fixed capital stock in the sector has risen steadily since 1994, except for a dip in 2003. The average annual increase in fixed capital stock during 1994-2003 is as low as 1 per cent.

²¹ May et al. (2002).

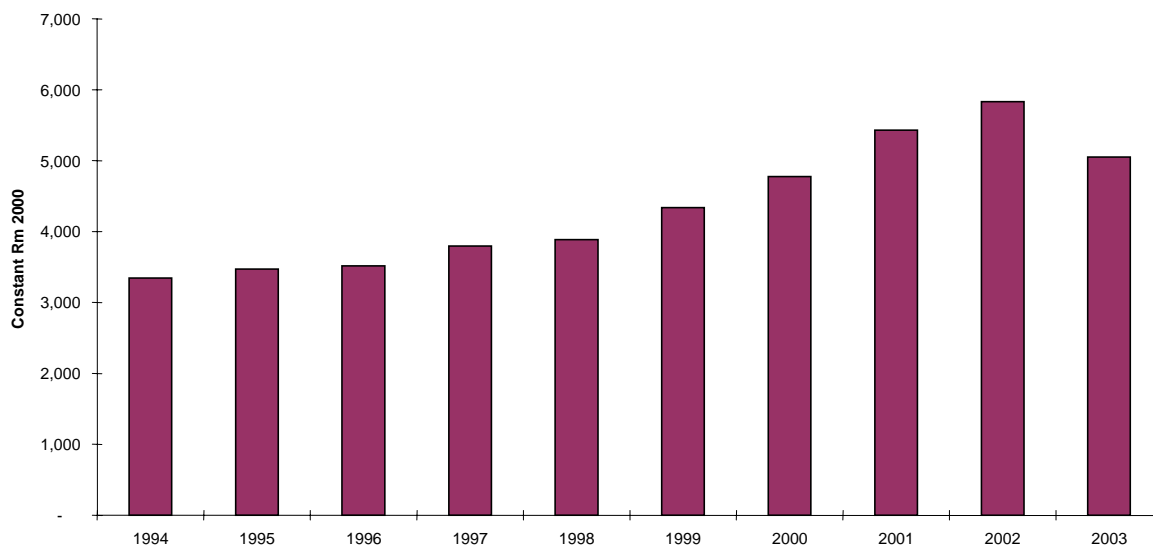
Figure 1. Fixed capital stock in Rm 2000 prices in South Africa, 1994-2003



Source: Estimated from Tips EasyData.

Figure 2 shows that for the 1994-2003 period the gross domestic fixed investment rate was 5 per cent per year on average.

Figure 2. Gross domestic fixed investment in coke and refined petroleum products in South Africa, 1994-2003



Source: Tips EasyData.

The sector has massive investment and contributes 11 per cent of South Africa's manufacturing output, which makes it a critical and strategic sector. Imports have increased in order to meet domestic demand, and exports of output have also risen significantly (see table 5).

Table 5. Coke and refined petroleum products: Share of imports meeting domestic demand and share of output exported, South Africa, 1995-2004

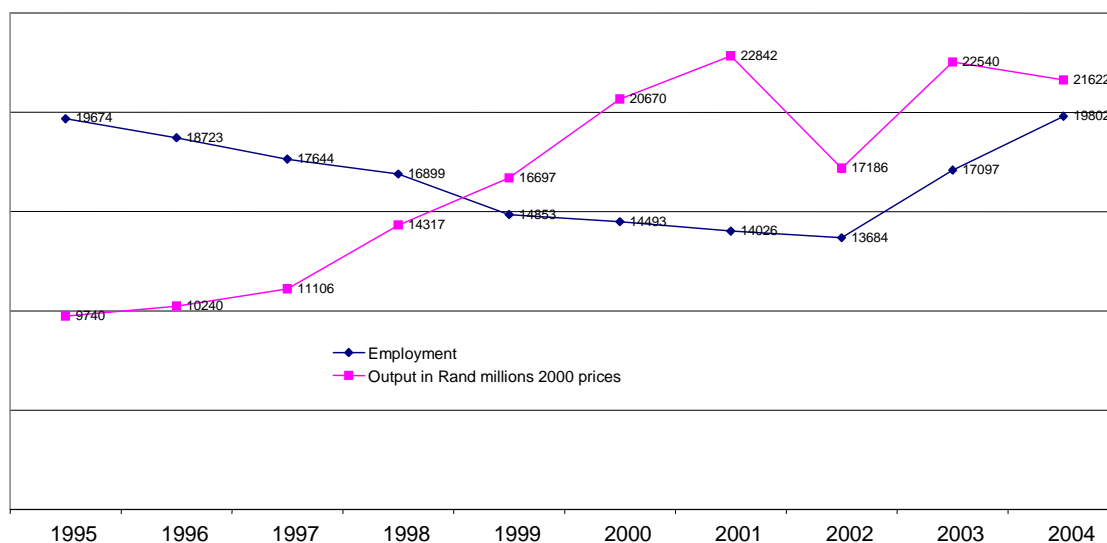
| | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|-------------------------------------|------|------|------|------|------|------|------|------|------|------|
| Imports meeting domestic demand (%) | 11 | 16 | 20 | 11 | 10 | 15 | 15 | 22 | 4 | 6 |
| Export output (%) | 12 | 18 | 24 | 16 | 16 | 24 | 25 | 27 | 17 | 14 |

Source: Tips EasyData.

The sector meets nearly all of South Africa’s demand for coke and refined petroleum products (imports meet 6 per cent of domestic demand). In contrast, South Africa’s coke and refined petroleum products sector exports 14 per cent of its output. Most of these exports (43 per cent) go to the Southern African Development Community (SADC). The sector’s trade balance is positive.

Figure 3 shows that over the past ten years there has been no correlation between employment and output in coke and refined petroleum products, except during 2002-03, when both employment and output had risen.

Figure 3. Employment and output in coke and refined petroleum products in South Africa, 1995-2004



Source: Tips Easy Data.

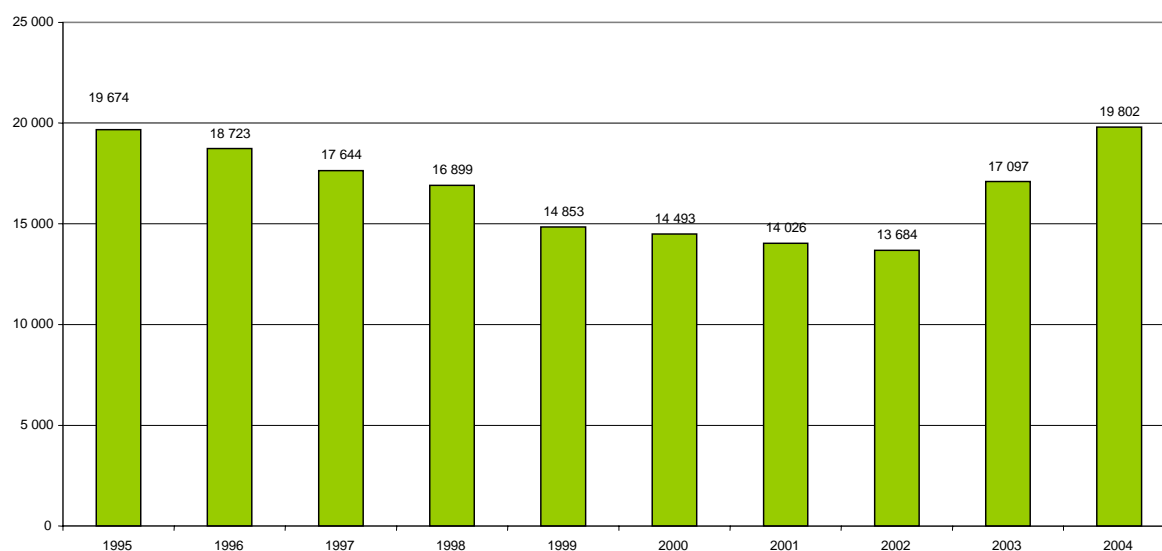
5.2. Workforce in the oil industry

This section provides information on the evolution of employment in the oil and oil refining sectors in South Africa.²²

The data is collected from the following sources:

- the Survey of Total Employment and Earnings (STEE) – an official measure of employment by government;
- the Labour Force Survey (LFS) – a households survey;
- research conducted by the Human Sciences Research Council (HSRC); and
- data and statistics from the Chemical Industries Education and Training Authority (CHIETA).

Figure 4. Evolution of employment in coke and refined petroleum products in South Africa, 1995-2004



Source: Tips EasyData.

The relatively low level of employment is due to the capital-intensive nature of the sector and high levels of concentration in ownership and production (in other words, production is dominated by a small number of companies). The highly capital-intensive nature of the industry, requiring over R6 million to create one job, has also led to limited

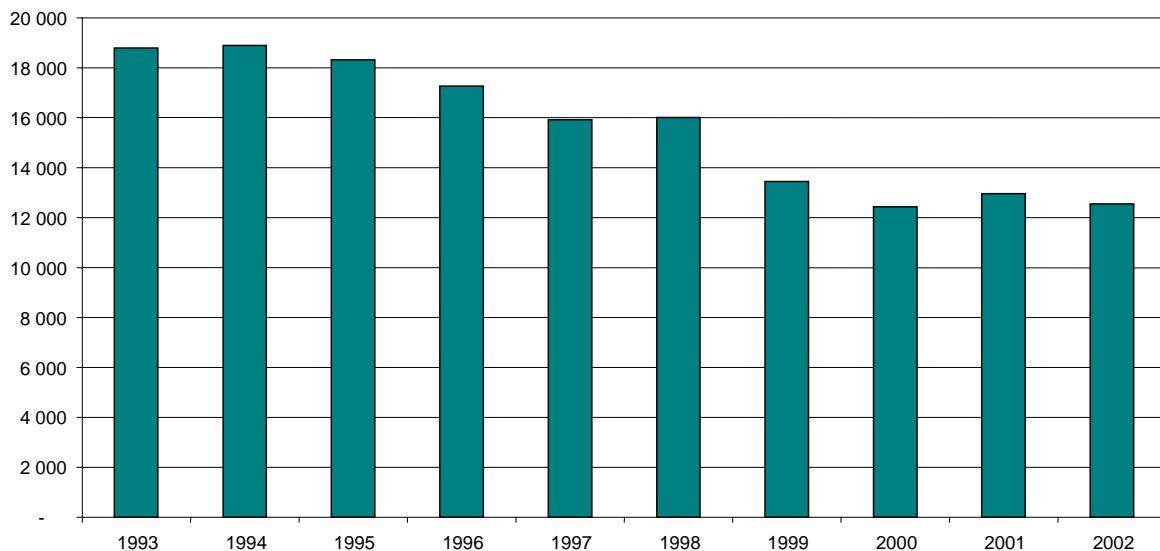
²² It should be noted that the figures given are the latest available. There are no comparable statistics for previous years as the methods for collection and allocation have changed and would thus make attempts to relate present statistics to earlier statistics invalid. Since figures obtained from different sources define the sector in slightly different ways, CHIETA, SIC Codes and Labour Force Surveys are not strictly comparable.

numbers of workers being employed in the sector. In comparison, the highly labour-intensive chemicals sector, for example, requires less than R100,000 to create a job.²³

The majority of workers in the oil sector (92 per cent) are concentrated in the 14 large companies (i.e. those employing over 150 people each) which account for 19 per cent of all companies in the sector (see table 7). This can be contrasted with the chemical sector as a whole where only 8 per cent of companies employ more than 150 workers each, and 66 per cent of the workforce is concentrated in these larger companies.

May et al. (2002) suggest that while the labour force declined dramatically in this sector during the 1991-2001 period and the drop was manifest over all categories, a larger decline was seen in skilled, semi- and unskilled labour than in highly skilled labour. As a result, the sum of skilled and highly skilled workers as a percentage of total employment rose slightly in the latter half of the 1990s. This correlates with union experience where unskilled and semi-skilled workers are more easily replaced and are thus usually more vulnerable to retrenchment.

Figure 5. Evolution of employment in oil refining in South Africa, 1993-2002



Source: Survey of Total Employment and Earnings (STEE), 2003, Statistics South Africa.

The majority of oil workers are found in large enterprises. As shown in table 6, in 2003 nearly 15,000 oil workers were employed by large 14 oil companies with more than 150 employees. These large oil companies are Sasol and foreign multinational oil companies. By contrast, small- and medium-sized oil companies with less than 150 employees employed only 12,000 workers.²⁴

²³ Tips EasyData, downloaded Feb. 2005.

²⁴ Skills needs in the petroleum sub-sector of the chemical industries sector in South Africa: Research conducted for the Chemical Industries Sector Education and Training Authority and the Department of Trade and Industry by the Human Sciences Research Council Employment and Economic Policy Research (EPR), Dec. 2003.

Table 6. Number of employees by size of enterprise in the oil industry in South Africa, 2003

| | Size categories of enterprises | | | Total |
|-----------------------|--------------------------------|-----------------|-------------|--------|
| | Large (>150) | Medium (49-150) | Small (<50) | |
| Number of enterprises | 14 (19%) | 9 | 51 | 74 |
| Number of employees | 14 867 (92%) | 586 | 670 | 16 123 |

Source: CHIETA, Draft Sector Skills Plan 1 July 2004-30 June 2008 (unpublished).

Employment is concentrated in four of the country's provinces – primarily the coastal provinces of the Western Cape and KwaZulu Natal. The majority of the workforce is found in Mapumalanga, where the synthetic fuels production of Sasol is based, followed by KwaZulu Natal, where the two large coastal refineries are situated (see table 7).

Table 7. Distribution of employment by region in the oil industry in South Africa, 2002

| Province | Percentage |
|---------------|------------|
| Mapumalanga | 35 |
| KwaZulu Natal | 21 |
| Western Cape | 19 |
| Gauteng | 14 |
| Free State | 5 |
| Eastern Cape | 3 |
| North West | 1 |
| Total | 100 |

Source: Labour Force Survey 2003.

5.3. Employment by race and gender

The distribution of workers in the petroleum sector according to occupation, detailing also the workers' race and gender, is shown in table 8. This confirms the low participation of women in the sector and their concentration in clerical and administrative functions. Unlike the chemical industry, the oil industry employed 8 per cent fewer women than any other economic sector. African workers are a large group of workers in the oil industry (45 per cent), but they are still concentrated in the lower skilled categories of work.

Table 8. Distribution of employment by occupation in the oil sector in South Africa, 2003

| Broad occupation | NQF entry level | Outside CHIEFTA | Population group | | | | Total | Gender | | Occupation (% of total) |
|----------------------------|-----------------|-----------------|------------------|----------|-------|-------|--------|--------|--------|-------------------------|
| | | | African | Coloured | Asian | White | | Male | Female | |
| Managers | 6-7 | 580 | 108 | 21 | 81 | 661 | 1 451 | 1 393 | 58 | 9 |
| Professionals | 5-6 | 600 | 221 | 20 | 113 | 545 | 1 499 | 1 439 | 60 | 9 |
| Technicians and associates | 4-5 | 954 | 456 | 209 | 737 | 820 | 3 176 | 2 757 | 419 | 20 |
| Clerical and sales workers | 4-5 | 896 | 369 | 66 | 143 | 767 | 2 241 | 1 177 | 1 064 | 14 |
| Artisans | 4 | 0 | 548 | 26 | 34 | 1 004 | 1 612 | 1 528 | 85 | 10 |
| Operators | 2-4 | 0 | 3 694 | 240 | 224 | 1 179 | 5 337 | 5 049 | 288 | 33 |
| Elementary | 2 | 242 | 492 | 24 | 30 | 18 | 806 | 645 | 161 | 5 |
| Total | | 3 272 | 5 888 | 606 | 1 362 | 4 994 | 16 123 | 13 988 | 2 135 | 100 |
| Percentage of total | | 20 | 45 | 5 | 11 | 39 | 100 | 87 | 13 | |

Source: CHIETA, Draft Sector Skills Plan 1 July 2004-30 June 2008 (unpublished).

The above source does not provide gender breakdowns of data along racial lines, which would allow an analysis of the current status of historically disadvantaged groups in accessing employment in the petroleum sector. An alternative data source provided by Statistics South Africa²⁵ indicates that men still occupy the majority of jobs in the sector and that more white women are employed in the sector than African and Coloured/Asian women (see table 9).

Table 9. Employment by race and gender in South Africa's oil sector¹

| | Men (%) | Women (%) | Total (%) |
|----------------|---------|-----------|-----------|
| African | 29 | 4 | 33 |
| Coloured/Asian | 24 | 6 | 30 |
| White | 21 | 16 | 37 |
| Total | 74 | 26 | 100 |

¹ Petroleum contribution of the coke sector is small in terms of employment numbers.

Source: Labour Force Survey 2003.

There is little information available from individual petroleum companies, unions, or the bargaining council on the exact gender breakdown of employees in the subsectors of the oil industry: and exploration, production, and distribution. Information provided by one

²⁵ The figures do not match the statistics used by the CHIETA study because of differences in the definition of the sector and the fact that the Labour Force Survey is drawn from more recent figures. In terms of the trend, however, they reflect a very similar pattern as regards gender and racial distribution within the sector.

crude oil refinery reveals that in 2005 there were approximately 60 female employees out of the total of 553, i.e. only 11 per cent.²⁶

Unions have set up a policy requiring that at least 25 per cent of leadership and union positions should be held by women.²⁷ Unions state that while women may perform similar jobs to men's in oil refineries, they are usually concentrated in laboratory and human resources development. In the distribution sector, women are often found in administrative and middle management positions. However, unions also give the example of a woman truck driver working with men.²⁸

5.4. Workforce distribution by age

Research by the Human Sciences Research Council (HSRC) suggests that employees in the oil sector at all occupational levels (except professional, artisans and operators) were older than their counterparts in the manufacturing sector. Managers, technicians and associated professionals were generally older, indicating that higher entry level qualifications were required (see table 10).

Table 10. Age distribution by occupation in the oil industry, compared to the manufacturing industry in South Africa, 2001

| Occupation | HSRC Survey respondents (%) | | | | Manufacturing industry (%) | | | |
|-------------------------|-----------------------------|-------|------|-------|----------------------------|-------|------|-------|
| | < 30 | 31-50 | 50+ | Total | < 30 | 31-50 | 50+ | Total |
| Managers | 0.0 | 89.7 | 10.3 | 100.0 | 13.7 | 59.6 | 26.6 | 100.0 |
| Professionals | 16.5 | 68.9 | 14.6 | 100.0 | 20.3 | 68.6 | 11.0 | 100.0 |
| Technicians/ associates | 7.3 | 71.8 | 20.8 | 100.0 | 30.8 | 58.3 | 10.9 | 100.0 |
| Clerical/sales | 17.1 | 72.9 | 10.0 | 100.0 | 32.9 | 58.4 | 8.8 | 100.0 |
| Artisans | 27.6 | 66.7 | 5.7 | 100.0 | 24.2 | 61.8 | 14.0 | 100.0 |
| Operators | 32.9 | 46.6 | 20.6 | 100.0 | 24.9 | 65.4 | 9.7 | 100.0 |
| Elementary workers | 5.0 | 92.5 | 2.5 | 100.0 | 37.3 | 52.7 | 10.0 | 100.0 |

Source: Skills Needs in the Petroleum sub-sector of the Chemical Industries Sector in South Africa, HSRC; Stats SA, 2001.

²⁶ Interview with an oil company representative. However, these figures probably reflect the tendency of women to occupy administrative and clerical jobs.

²⁷ Interview with Welile Noling, General Secretary CEPPWAWU, Feb. 2005.

²⁸ Interview with Victor Selepe, Labour co-ordinator for petroleum negotiations, Jan. 2005.

6. Corporate restructuring

6.1. Overall restructuring

The oil industry is subject to legislative provisions emanating from the Department of Minerals and Energy. Government considers that it is necessary to both meet South Africa's social challenges and remain internationally competitive. It outlines social priorities for the sector as "economic empowerment, human resource development, environmental protection, anti-HIV/AIDS efforts, development of rural areas and good governance".²⁹ Its overall ambition in the oil industry is to "redress past imbalances, combat poverty, create employment and promote meaningful and responsible growth and investment across the entire oil-products value chain".³⁰ This chapter discusses these regulations as well as referring to certain key environmental legislations affecting the oil industry.

The Minister of Minerals and Energy describes the oil industry as the force of transformation of South Africa into a free and democratic country, stating that "the oil industry is no longer a sanctions-ridden 'secret society' serving the interests of a few. Today it is a proud, world-class industry and one that leads the way in many aspects of economic and social reform".³¹

The 1998 White Paper on Energy set out the country's present approach to the oil industry and to legislation governing the industry's activities. The key elements of the White Paper can be summarized as follows:

- achievement of an efficient and internationally competitive industry;
- availability of quality products throughout the country at internationally competitive and fair prices, in line with appropriate health, safety and environmental standards;
- equitable balance between interests of the oil industry and consumers;
- creating industrial goals in line with the Government's broader social and economic goals;
- restructuring state involvement in the industry in the context of South Africa's changed political and economic circumstances;
- optimizing an efficient use of liquid fuels;
- promoting the inclusion of those who have been historically excluded;

²⁹ SAPIA 2004 Annual Report, p. 2.

³⁰ Hon. Mr. Nkosinathi Mthethwa, MP, Chairperson of the Parliamentary Portfolio Committee on Minerals and Energy, SAPIA Annual Report 2004, p. 9.

³¹ Hon. Ms. P. Mlambo-Ngcuka, Minister of Minerals and Energy, in the foreword to SAPIA Annual Report 2004, p. 2.

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- black economic empowerment in the composition of the industry at all levels of the value chain, and promoting black ownership;
 - adequate provision for national strategic considerations relating to security of supply;
 - the creation of an efficient network of pipeline and storage infrastructure;
 - the preservation and promotion of formal sector employment; and
 - balancing regulation and deregulation in the oil industry, in such a way that any labour related consequences of deregulation would be addressed.

6.2. The Liquid Fuels Charter

A key outcome of social dialogue is seen in the completion of the Liquid Fuels Charter by business (the major oil companies) and Government (Department of Minerals and Energy) in November 2000. This Charter is critical to the transformation of the liquid fuels industry since it aims to end the exclusion of historically disadvantaged communities from the strategic liquid fuels industry. The scope of the Charter is extensive and covers all aspects of the value chain from exploration to retail in the oil industry.

The Charter is intended to increase to 25 per cent the ownership and control by historically disadvantaged South Africans in the privately owned oil entities within ten years. The term “historically disadvantaged South Africans” (HDSA) is defined as a group of people who had been discriminated because of race, gender and disability. The term “ownership” is defined to include equal participation with the concomitant rights and obligations arising from ownership. The term “control” is recognized as being achieved through holding of 50 per cent + one share in order to attain an effective controlling shareholding through, for example, a majority of a board of directors and shareholders’ agreements.

The Charter also identifies a number of tools that social partners in the oil industry could take to promote HDSA, including:

- procurement policies which encourage the participation of HDSA companies in government procurement;
- implementation of employment equity, including training and mentorship and gender equality;
- increased access to facilities such as storage, depots and pipelines;
- ensuring financing, thereby assisting the goals and objectives of the Charter; and
- promoting synfuels supply to HDSA companies.

Compliance with the Liquid Fuels Charter has also led to change in the composition of ownership of the oil companies, as shown in table 11.

Table 11. Participation of Historically Disadvantaged South Africans (HDSA)

| | 2001 | 2002 | 2003 |
|---|------|------|------|
| Number of SAPIA companies in which HDSA investors held significant equity holdings each year (as of 30 June) | 1 | 4 | 5 |
| Share of industry turnover attributable to HDSA investors (%) | 13.4 | 17.7 | n.a. |
| Share of industry operating profit attributable to HDSA investors (%) | 10.7 | 17.7 | n.a. |
| Percentage of senior positions in oil companies filled by HDSA | 25 | 33 | 31 |
| Percentage of senior positions in oil companies filled by females | 7 | 16 | 11 |
| Share of goods and services bought by petroleum companies from HDSA suppliers, excluding purchase of crude oil and refined products (%) | 3 | 10.6 | 17 |

n.a. = not available.
Source: South African Petroleum Industries Association (SAPIA), Annual Report 2004.

The effect of the Liquid Fuels Charter has not yet significantly changed the pattern of ownership with respect to gender. While there has been an increase in the number of women in senior positions in the oil companies, there has been no substantial progress in ownership by women. An increase in women's ownership in the sector is found mainly at marketing and distribution levels.³²

6.3. Mergers and acquisitions

Mergers and acquisitions (M&A) are not a new phenomenon in South Africa. In 1996, Malaysia's national oil company, Petronas, acquired a 30 per cent interest in Engen. This was the largest foreign investment in South Africa in the past decade. Petronas subsequently acquired 100 per cent of Engen.

One of the major and most recent M&A events in the oil industry was the formation of PetroSA in 2002. The company is the result of merger between Mossgass (Pty) Limited, Soekor E&P (Pty) Limited and parts of the Strategic Fuel Fund (SFF). At the birth of the company, South African President Mbeki reiterated the importance of the creation of "our national petroleum company [which] would strengthen the position of our country in this important and strategic industry".³³

A major merger proposal is currently pending before the Competitions Tribunal. If the court approves the consolidation, this would radically change the balance of power in South Africa's liquid fuels industry. Sasol Oil and Engen are seeking to merge their oil interests, which could enable the new company to monopolize the market in oil production as well as distribution. All the other oil companies are opposing this proposed merger, invoking decreasing competition and a potential monopoly. They further suggest that it could have implications for workers in terms of job loss. Representatives of CEPPWAWU have been discussing with the merging parties over the last 18 months in order to protect

³² CHIETA, Draft Sector Skills Plan 1 Jly. 2004-30 June 2008.

³³ Presidential address at the launch of PetroSA, 15 Oct. 2002, downloaded 30 Sep. 2005 (<http://www.anc.org.za/ancdocs/history/Mbeki/2002/tm1015.html>).

the rights of their members in both these companies. The union looks at the potential impact on workers in the merging companies.³⁴

South African law provides some protection for workers with respect to change in ownership:

- section 197 of the Labour Relations Act provides that workers should enjoy the same conditions at the new companies as in the old ones;
- the Basic Conditions of Employment Act sets forth the minimum conditions of employment; and
- the Competitions Act requires notification of trade unions in the merger process and provides the opportunity for trade unions to submit to the Competitions Commission and Tribunal regarding the merger.

6.4. Workplace restructuring

Workers' concerns regarding the changes in work organization in oil refineries and distribution businesses have led CEPPWAWU to conduct an extensive study of workplace restructuring in the oil industry in the late 1990s.³⁵ The study's major findings suggest that the recent restructuring drive originated in 1992.

These topics are discussed below.

6.4.1. Teamwork

Some of the main consequences of plant restructuring in the oil sector are job loss and the division of work. Management in some companies had introduced teamwork in order to:

- improve workers' skills by sharing among the team;
- improve response times to resolve problems;
- improve maintenance quality;
- tighten cost control;
- introduce best practice models at work;
- lower costs and improve performance; and

³⁴ Interview with Jerry Nkosi, Labour Representative on the Bargaining Council. Feb. 2005.

³⁵ Although this study was concluded in 2000, discussions with shop stewards in 2005 elicited similar responses. For example, shop stewards felt that the union was better equipped to negotiate conditions for employees than individual employees in participative forums. They raised the issues that in terms of automation and new technology workers were required to make more input but were not compensated financially. They found that the introduction of teamwork led to job overlap. Job descriptions were no longer clear and this resulted in multitasking without financial compensation. Fewer workers were now performing tasks previously carried out by a greater number. Operators were also called upon to do more maintenance work on equipment.

-
- mitigate the impacts of absenteeism as other members of the team will step in.

The CEPPWAWU study found that employers wanted to move to a situation where “we employ fewer people with higher competencies, even if we have a higher wage bill”.³⁶

Shop stewards, however, raised a number of problems concerning teamwork. Contrary to the arguments advanced by management, they were not the “self-managed, self motivated and well rewarded” teams. Workers were not rewarded for the increased workload, for instance; shop stewards at one refinery complained that workers were not respected in the team and still worked under the command of supervisors, whom they were not allowed to contradict. The role of maintenance contractors, who were not directly employed by the companies but were included in these teams, also led to some confusion.

According to the unions, the negative aspects of teamwork are:

- increased stress for workers;
- increased workloads to perform the work of absent workers;
- adverse effect of increased workloads on working conditions and safety and health; and
- absence of an adequate reward system for workers’ ideas and input.

Unions believe that teamwork tends to:

- increased stress for workers;
- undermine the unions’ traditional role by dealing with work-related issues between workers and management at the workplace, without the presence of trade union representatives;
- undermine the solidarity of workers by encouraging competition among team members; and
- place a supervisory role of workers whereby they have to monitor other workers in the team.

However, the study found that some workers had positive experiences with teamwork. These workers pointed out benefits, in particular multiskilling, saying that they:

- enjoyed solving problems jointly with other team members;
- found that they did not have to work harder;
- found working in the team made work less boring;
- could contribute to decision-making within the team; and
- found that the introduction of teamwork in their cases did not affect their pay.

³⁶ Statement by a petroleum company managing director, *South African Labour Bulletin*, Vol. 24, No. 1, Feb. 2000.

Workers' overall assessment of teamwork was that it could increase their participation in decision-making in the areas of technology and problem solving, and could enable them to acquire additional skills. In practice, however, the management retain control of key areas in the team as they appoint team leaders who were usually senior employees. Unions and workers stress that if teamwork is to be successful it must provide genuine multiskilling, and job rotation and multitasking must be acknowledged and fairly remunerated. The teams must be constructed in such a way that workers can obtain further skills. The choice of team leaders is a contentious and sensitive issue. Unions suggest that in order to legitimize the process of teamwork, the team should elect its leader.

6.4.2. Changing workplace relations

The CEPPWAWU study found that companies wished to change their interaction with workers from the traditional negotiations to a more consensus- and participation-driven interaction. There is a conscious decision by management to change the culture of the company to participatory management.³⁷ To give effect to this type of management, employers establish informal structures other than the union-company bargaining forums. Companies wish to shift decision-making from negotiations to consensus-based decision-making through broader employee representative forums. They aimed to get worker "buy-in" to company goals and visions through "company vision and values forums". Employers interviewed during the study believed that such approaches would "lead to a win-win outcome for both employers and workers",³⁸ whereas workers perceived them as mechanisms to undermine the union. The workers' key objections were that representation at these forums was not equivalent to collective agreements since they did not lead to any contractual obligations.

6.4.3. Introduction of new technology

Automation has speeded up some processes and reduced exposure to dangerous work, but it has also reduced the number of workers previously required to carry out production. Some typical examples of the type of change resulting from the introduction of new technology are outlined in table 12.

Table 12. Introduction of new technology in the oil industry in South Africa

| Area | Process introduced |
|-----------------------------|--|
| Statistical process control | Centralizing process control in one room. |
| Blending of products | Automation of valves controlling the flow of products increases production speed and reduces accidents at work. Workers no longer have to open and close valves, which could sometimes be dangerous. |
| Self-cleaning pipes | Workers no longer have to clean pipes before change of product. |
| Materials handling | Applies to lubricants plants and depots; introducing machinery which loads containers onto lines. |
| Depot loading bays | Semi-automation of loading operations so that truck drivers can do the loading themselves. |
| Information systems | Oil refineries are introducing new computer systems that are faster and more reliable in production than earlier ones. |

Source: Trade Union Research Project (TURP).

³⁷ Trade Union Research Project (TURP) booklet, p. 22.

³⁸ *ibid.*

Workers experienced both negative and positive consequences of the introduction of the new technology.

Pros:

- some workers' skills are upgraded to enable them to operate the new technology;
- new technology dispenses with or reduces the need for workers to perform dangerous tasks;
- greater control measures reduce exposure to hazardous substances; and
- decision-making powers of some process controllers increase with centralization.

Cons:

- job loss due to introduction of new technology;
- skills could be selective, and only benefit certain workers;
- increased multiskilling tasking places additional pressure of workers.

Unions recognize that it was crucial to influence the way in which technology was introduced in order to maximize benefits. Unions must be involved from the inception of the plan. It is also asserted that while the introduction and improvement of technology were extremely important, in South Africa it is necessary that "companies adopt labour-intensive methods of production" so as to prevent more unemployment. However, access to information is sometimes difficult because management seeks to withhold information on the basis of protecting "their competitive advantage" over other companies.³⁹

6.4.4. Outsourcing

The CEPPWAWU study found that the most common form of restructuring in oil companies has been the shift of focus on core businesses, and that the main area of activity to be outsourced was maintenance work. This has been one of the most contentious areas of outsourcing, particularly in light of the high number of accidents that occur during and after maintenance. Other areas that have been outsourced are security, distribution, warehousing, laboratories, cleaning and gardening.

Outsourcing has led to job loss, which accounts for some of the fall in employment in oil companies. Often, workers who were employed in specific areas which are then outsourced, do not find employment with the newly engaged contracting firm. These contractors may employ workers on a part-time or casual basis. Benefits are inferior to those previously provided by the oil company. When companies need more workers, they rely on labour brokers to provide casual labour to work in place of regular workers. In some cases, the number of contract workers exceeds the number of permanent employees at given periods of the year. This often causes tension at some workplaces between regular workers and contract workers.

³⁹ *ibid.*, p. 25.

7. Conditions of work

7.1. Key factors that have affected wage bargaining in South Africa

Oil workers' remuneration dropped significantly in recent years, in particular between 2000 and 2001.⁴⁰ Researchers explain that workers might have compromised in accepting nominal wage increments below the inflation rate to secure their jobs, rather than seeking high wages.⁴¹ The South African Reserve Bank indicated that the unemployment rate was 31.2 per cent in 2003, an increase of 1.2 per cent from the previous year.⁴²

According to a survey of wages and working conditions in South Africa, the Consumer Price Index (CPI) fell from an average of 6 per cent in 2003 to 4.4 per cent in 2004. This is a reflection of averaged settlements falling from 8.9 per cent in December 2003 to 6.8 per cent in December 2004.⁴³ Table 13 shows the minimum average hourly and weekly wages in the major economic sectors in South Africa.

Table 13. South Africa: Minimum average wages in major economic sectors

| Average minimum weekly wage by SIC major divisions (CPI X average increase 6.8% for 2003) | | | | | |
|---|-----------------------|---------------------------|---------------------------|---------------------------|--------------------------------|
| SIC Major Divisions | Average hours of work | 2003 Average wage (rands) | 2002 Average wage (rands) | Average wage increase (%) | Average real wage increase (%) |
| Agriculture, hunting, forestry and fishing | 44.73 | 296.73 | 266.49 | 11.35 | 4.55 |
| Community, social and personal services | 44.9 | 559.52 | 493.65 | 13.34 | 6.54 |
| Financial intermediation, insurance, real estate | 41.88 | 508.48 | 466.76 | 8.94 | 2.14 |
| Manufacturing (including oil industry) | 43.25 | 532.25 | 484.75 | 9.8 | 3.00 |
| Mining and quarrying, | 44.91 | 488.12 | 433.67 | 12.56 | 5.76 |
| Transport, storage and communication | 43.5 | 526.85 | 512.33 | 2.83 | -3.97 |
| Wholesale and retail trade | 43.88 | 355.95 | 328.47 | 8.37 | 1.57 |
| Total | 43.86 | 466.84 | 426.59 | 9.60 | 2.80 |

Source: Labour Research Service Report, Vol. 9, April 2004.

⁴⁰ May et al. (2002).

⁴¹ *ibid.*

⁴² Referred to in the LRS Report, Vol. 9, 2004, p. 11.

⁴³ Andrew Levy Publications, Wage Settlement Survey, Dec. 2004.

7.2. Overview of collective bargaining in the oil industry

A key policy for industry-wide unions is to negotiate an umbrella agreement for all its members. These negotiation tactics were introduced in the 1980s and national bargaining forums were established at most oil companies to negotiate wages at the company level. In 2001, the National Bargaining Council for the Chemical Industry (NBCCI) was set up to promote collective bargaining in the chemical and oil industries.

Wages and conditions of work of most oil workers in South Africa are determined by collective bargaining at the oil sector of NBCCI. This organ promotes the philosophy of social dialogue in resolving problems and disputed issues. Collective bargaining is also conducted at the enterprise level in line with the agreements reached at the NBCCI oil sector.

Negotiations at the oil sector of NBCCI decide wages and conditions of work such as annual leave, family responsibility leave, shop stewards' leave for trade union activities during working hours, maternity leave, monetary benefits. Negotiations take place between June and July every year.

7.3. Wages and conditions of work

Table 14 shows how management and trade unions in the oil industry have decided their wage and working conditions between 2002 and 2005. NBCCI is still setting up their infrastructure and has not yet established a wage database in the oil industry.

In order to ensure better working conditions for all workers, social partners wish to extend the coverage of the NBCCI's collective bargaining agreements to non-party companies. To this end, the Department of Labour requires that trade unions have sufficient representation in the sector. This is currently being ascertained by the bargaining council.⁴⁴

Table 14. Major terms of collective agreements agreed at the NBCCI oil sector, 2002-05

| Period of agreement | Wage agreement 2002-03 | Wage agreement 2003-04 | Wage agreement 2004-05 |
|--|---|---|---|
| Implementation date of salary increase | 1 July 2002 | 1 July 2003 | 1 July 2004 |
| Parties | Employers: NPEA ¹ Unions: CEPPWAWU, SOLIDARITY, SACWU | Employers: NPEA ² Unions: CEPPWAWU, SOLIDARITY, SACWU | NPEA ³ Unions: CEPPWAWU, SOLIDARITY, SACWU |
| Wage increase | 9% on existing actual basic salary | 9% on existing actual basic salary | 6% from 1 July 2004 and a further 1% increase in base salary from 1 January 2005. |
| Minimum wage | Not described | R2,500 | R2,500. Employers commit to increase to R3,000 per month over 3-year period. |

⁴⁴ Interviews with Bheki Mtwethwa., Bargaining Council Secretary, and Gerrie Bezuidenhout, NPEA spokesperson, 2 Apr. 2005.

| Period of agreement | Wage agreement 2002-03 | Wage agreement 2003-04 | Wage agreement 2004-05 |
|-------------------------------------|---|---|---|
| Weekly working hours | Not described | Not described | Ordinary hours = 40 hours per week. Except in refineries and continuous shift operations = 42 hours per week. |
| Shift allowance | Determined by company plant arrangements but paid in accordance with agreement made by NBCCI. | Determined by company plant arrangements but paid in accordance with agreement made by NBCCI. | Determined by company plant arrangements but paid in accordance with agreement made by NBCCI. |
| Annual bonus | Not described | Not described | 13th-month cheque |
| Annual leave | Not described | Not described | 20 working days |
| Maternity leave | Not described | Not described | Six months, with the first four months paid at 30% of salary. |
| Family responsibility leave | As per BCEA, includes compassionate/ special, paternity and childcare leave. Minimum 8 days or as per company/ plant level, 6 days fully paid and 2 unpaid. | Not described | As per BCEA, includes compassionate/special, paternity and childcare leave. Minimum 8 days or as per company/plant level, 6 days fully paid and 2 unpaid. |
| Shop steward duty leave | Not described | Not described | 5 days paid per annum |
| Severance pay | Left to company/plant level | Left to company/plant level | Left to company/plant level |
| Provident fund Insured benefits | Left to company/plant negotiations | Left to company/plant negotiations | Left to company/plant negotiations |
| Contractors and non-permanent staff | Not covered by sector agreement Company/plant level issue | Not covered by sector agreement Company/plant level issue | Not covered by sector agreement Company/plant level issue |

Notes:

¹ NPEA members at this time are BP, Blendcor, Caltex, Cera Oil, Engen, FFS Refiners, Natref, Sapref, Sasol Synfuels, Sasol Oil, Easigas, Total, Shell.

² NPEA members at this time are BP, Blendcor, Caltex, Cera Oil, Engen, FFS Refiners, Natref, Sapref, Sasol Synfuels, Sasol Oil, Easigas, Total, Shell.

³ NPEA members at this time are BP, Blendcor, Caltex, Cera Oil, Easi gas, Engen, FFS refiners, Natref, PetroSA, Sapref, Sasol Oil, Sasol Synfuels, Total.

Source: Petroleum Sector Agreements under the NBCCI, 2001-2004.

All the major oil companies offer additional fringe benefits. They provide their workers with housing allowance, medical plan, education allowances, insurance, commuting allowance, study leave, retrenchment and severance pay. HIV/AIDS treatment is provided by either on-site health-care facilities or medical insurance. Some oil companies have in-house medical schemes while others rely on public medical insurance providers. The nature of negotiation on health care varies from company to company.

7.4. Wage levels

A study comparing the average minimum wage across sectoral Bargaining Councils and the Trade Union Average Minimum Wage to Poverty Line found that:

- while the average minimum wage among trade union members is above the poverty line, it is still lower than the levels considered to be basic subsistence levels; and
- job loss due to introduction of new technology; Nominal minimum wage of workers in the oil sector is just above the level considered to provide a basic living standard.⁴⁵

These findings are shown in table 15.

Table 15. Minimum monthly wages and the poverty line in South Africa, 2003 (Rand)

| | |
|--|-----------------|
| Sectoral Bargaining Councils average minimum wage | 1 609.68 |
| Minimum Living Level (MLL) | 1 871 95 |
| Trade Union Average Minimum Wage (Award) | 2 097 97 |
| Household Subsistence Level (HSL) | 2 314 87 |
| Supplemented Living Level (SLL) | 2 452 73 |

Source: LRS Report, April. 2004, Vol. 9.

Oil companies increasingly favour incentives schemes as they believe this will spur productivity. One oil company reports that a productivity-linked system increased its workers' wages by up to 15 per cent. A rise in productivity is normally gauged by unit or regional performance at large rather than individual performance.⁴⁶ This could create differences between workers' wages and undermine collective bargaining achievements, but information is not sufficient to explore this issue in more depth.

Another survey of wage agreements in South Africa shows that the vast majority of collective agreements (88.9 per cent) are concluded for 12 months, 6.7 per cent for 12-24 months, and 4.4 per cent for more than three years.⁴⁷ The secretary of the Sectoral Bargaining Council suggests that a longer agreement would be beneficial to social partners in so far as other issues could then be developed.⁴⁸ Employers are generally in favour of longer terms of collective agreements, while unions do not wish to change present practice since they are concerned that in times of rapid changes in the oil industry, longer-term collective agreements make it difficult to give a timely response to members' demands. This trend is not likely to materialize soon in the oil sector, but in the metal sector social partners are already extending contract terms to longer periods than in the past.

Workers in the oil industry have been considered as the highest income earners in South Africa (see table 16).

⁴⁵ The LRS Report describes the Minimum and Supplemented Living Levels as including the following items (at very low levels of expenditure): rent, water, electricity, services, washing and cleaning materials, transport (work, school, shopping), clothing, fuel and light, education, contribution to medical aid funds, medical and dental expenses (including patent medicine), support of relatives (applicable only to single-member households).

⁴⁶ Interview with Victor Selepe, Labour Coordinator, Apr. 2005.

⁴⁷ Andrew Levy Employment Publications, The Wage Settlement Survey Quarterly Report, Dec. 2004.

⁴⁸ Interview with Bheki Mthwethwa, Secretary of the Bargaining Council, Apr. 2005.

Table 16. Wage comparison of oil industry and metal and engineering industry in South Africa, 2002-03

| Sector | Hours of work | Minimum weekly wage 2003 (Rand) | Minimum weekly wage 2002 (Rand) | Increase (%) | Real wage increase (%) CPI-X (average 6.8%) |
|----------------------------------|---------------|---------------------------------|---------------------------------|--------------|---|
| Fast-moving consumer goods | 40 | 531 17 | 483 36 | 9 | 2.2 |
| Industrial chemicals | 40 | 577 36 | 525 40 | 9 | 2.2 |
| Petroleum | 42 | 638 90 | 571 40 | 9 | 2.2 |
| Pharmaceutical | 40 | 623 55 | 567 43 | 9 | 2.2 |
| Metal and engineering industries | 40 | 498 80 | n.a. | n.a. | n.a. |

n.a. = not available.

Source: LRS Report, Vol. 9, April. 2004.

A large oil company states that the maximum salary earned in the bargaining unit is R16,890 per month and the average monthly salary R8,147. Unions argue that although oil workers belong to a group of “highly paid” workers they have not yet reached the top and therefore try to increase their wages. Table 16 also shows that in 2003, oil workers received on average a 9 per cent pay increase, more than other major economic groups.

The apartheid legacy of racial discrimination in the labour market and a lack of access to training for black workers still persist, as can be seen in the disparity of workers’ incomes set out in table 17.

Table 17. Income distribution by race in the oil industry in South Africa, 2002

| Income (Rand) | Percentage of workers | | |
|----------------|-----------------------|----------------|-------|
| | African | Coloured/Asian | White |
| <1,000 | 4 | – | – |
| 1 001 to 2 500 | 24 | 10 | – |
| 2 501 to 4 500 | 34 | 36 | 9 |
| 4 501 to 8 000 | 36 | 25 | 49 |
| >8 000 | 3 | 16 | 27 |
| Total | 100 | 100 | 100 |

Source: Labour Force Survey 2003.

7.5. Hours of work

According to the 2003 Labour Force Survey, the minimum weekly average hours of work covering all companies in 2002 stood at 42.2 hours. Based on the survey, table 18 shows the distribution of oil workers in accordance with their weekly hours of work.

Table 18. Oil industry workers' weekly hours of work, South Africa, 2002

| Hours of work | Percentage of workers |
|---------------|-----------------------|
| <35 | 13 |
| 35-45 | 48 |
| 46-55 | 30 |
| Over 55 | 9 |

Source: Labour Force Survey 2003.

7.6. Contract and casual workers

Oil companies feel that the use of contract workers is necessary, and that such irregular employment practices are dictated by the needs of individual enterprises. The regulation of such work should therefore be decided at company/plant level. However, workers believe that this practice must be decided and regulated at the national sector level.⁴⁹

South Africa's economy has an increasing tendency to hire more workers on a fixed-term contract (35.8 per cent in 2002). According to the 2003 Labour Force Survey, 96 per cent of oil workers have written contracts (89 per cent have permanent contracts and 7 per cent are on fixed-term contracts). The types of their contracts are shown in table 19.

Table 19. Nature of contracts in the oil industry in South Africa, 2002

| Type of contract | Percentage of workforce |
|------------------|-------------------------|
| Permanent | 89 |
| Fixed term | 7 |
| Temporary | 2 |
| Unknown | 2 |

Source: Labour Force Survey 2003.

The same survey shows that 95 per cent of oil workers were paid for the hours actually worked. Only 3 per cent were hired and paid by labour brokers. No details are available concerning the remaining 2 per cent. However, unions attack the credibility of this survey because they feel that the number of atypical forms of work has been increasing in recent years. According to one oil company, the number of contractors working on site varies greatly depending on seasonal needs. When the facilities are idle, around 10,000 contract workers could be found for maintenance. At other times, there could be as many as 1,000 contract workers on site. The type of contract workers depends on the companies' needs.

⁴⁹ Interview with Gerrie Bezuidenhout, NPEA Apr. 2005.

8. Social dialogue in the oil industry

ILO standards provide the basic framework that legislators and social partners can make use of in developing their national laws. Prior to the introduction of the new labour law in South Africa, the relevant ILO Conventions helped trade unions to improve workers' rights and conditions of work at multinational oil companies operating in the country.

Various institutions promoting social dialogue have been set up in South Africa, some in the oil industry; institutions for both tripartite and bipartite social dialogue are in operation. A typical and important means of bipartite social dialogue is collective bargaining, instrumental in determining wage and working conditions as well as serving as an effective means of dispute resolution between employers and employees in the oil industry. These issues are addressed in the following sections.

8.1. Instruments of social dialogue in the oil industry

South Africa's Government notes the efficiency of social dialogue saying, "The Parliamentary Portfolio Committee on Minerals and Energy has long enjoyed an open and constructive relationship with the South African Petroleum industry ... and sees it as having been strengthened through the process of making ... important policy and legislative changes required to transform and enhance the industry."⁵⁰ Unions initiate bipartite dialogue on issues of importance relating to the sector, such as the formation of PetroSA. CEPPWAWU has held meetings with the Minister and the Department and has also submitted union opinions to the Parliament Portfolio Committee. Unions believe that social dialogue has a positive effect in minimizing mass retrenchment.⁵¹ Similarly, employers benefit from social dialogue to build mutual understanding among the parties concerned and better apprehend common problems, threats and challenges in order to resolve them by amicable means. This obviously leads to increased stability.⁵²

8.1.1. National Economic, Development and Labour Council (NEDLAC)

The oil sector is one of the most important sectors to be directly affected by the National Economic, Development and Labour Council (NEDLAC) Act, 1994. Under the Act, NEDLAC is formed as a tripartite social dialogue institution encompassing the oil industry. It has developed positions regarding the oil industry and its deliberations are considered by the Parliament in the development of subsequent policy and legislation such as the White Paper on the Energy Sector. As a tripartite social dialogue institution, NEDLAC is pivotal in deciding the direction of the oil industry as well as industrial relations within it. Decision-making at NEDLAC is based on stakeholders' consensus. All stakeholders are able to discuss the policies and actions that will have a profound effect on oil employers and workers. All problems and contentious issues must be heard at NEDLAC and be resolved there before the Parliament decides on the matter.

⁵⁰ N. Mthethwa, MP, Chairperson of the Parliamentary Portfolio Committee on Minerals and Energy, SAPIA Report 2004.

⁵¹ Interview with Keith Jacobs, Deputy General Secretary, CEPPWAWU, Feb. 2005.

⁵² Interview with Fanie Ernest, Chairperson of the Bargaining Council, Feb. 2005.

The NEDLAC Act aims to establish a “Council”⁵³ comprising representatives of organized business, labour, communities and government⁵⁴ to ensure that all stakeholders are included in decision-making processes. The Council’s primary objectives are to:

- promote economic growth through the participation of all stakeholders in decision-making for social equity;
- seek to reach a consensus of all stakeholders on social and economic policies;
- consider all proposed labour legislation relating to labour market policies before it is introduced in the Parliament;
- consider all significant changes concerning social and economic policies before they are deliberated in the Parliament; and
- encourage and promote the formulation of coordinated policies on social and economic matters.⁵⁵

NEDLAC has formulated a number of regulations, the most significant of which in respect of social dialogue are the Labour Relations Act (LRA) and the Growth and Development Summit (GDS) agreements. In the words of the Minister of Labour, NEDLAC’s role is to “facilitate conclusion of the GDS which epitomizes the best results of social dialogue”.⁵⁶ A key provision agreed at the GDS concerning the oil sector is to increase investment in the sector. The GDS agreements stated that “the oil industry is going to invest, by 2006, some R10 billion in refinery upgrades to produce ‘clean fuels’, i.e. unleaded petrol and lower sulphur diesel. These clean-fuel projects should create a number of jobs in the energy sector, and will result in South Africa enjoying better fuels. This is an additional investment to the ongoing investment plans, which can be expected to be of the order of R2 billion per annum”.⁵⁷

In its strategic work plan, the Government identifies new challenges in employer-employee relations. It believes that labour and management “need to redefine their relationship to enable them to jointly tender” in a globally competitive market. The Government must facilitate and promote good industrial relations through NEDLAC.

The social partners respect NEDLAC as a key institution in the exercise of social dialogue. NEDLAC establishes task force teams and working groups by topics. Social partners in the oil industry participate in social dialogue by freely selecting and sending their delegates to sit as members of these teams and groups. A recent example of tripartite collaboration which included the oil industry was the study group on air pollution.

All social partners acknowledge that NEDLAC makes a positive contribution to the transformation of industrial relations in South Africa. The Government commends it for “transforming industrial relations in South Africa from an area of constant conflict to

⁵³ Section 2.

⁵⁴ Section 3.

⁵⁵ Section 5.

⁵⁶ Ministerial Programme of Action 2004-09, Department of Labour, Pretoria 2004, p. 17.

⁵⁷ Growth and Development Summit Statement, 2003.

institutionalizing social dialogue NEDLAC's role as a key driver of social dialogue in South Africa has just begun".⁵⁸

In the words of the Executive Director of NEDLAC, before NEDLAC there was no formal forum for tripartite dialogue and "even if nothing else was achieved, the building of bridges between the different parties remains an eminent and unique accomplishment of the NEDLAC. Even though differences and tensions between social partners remain, social partners are enjoying much greater mutual understanding and respect for each other than ever before"⁵⁹ A trade union executive also praised NEDLAC's enormous accomplishments in recent years, saying that social dialogue at NEDLAC provides a meeting point among different opinions and "facilitates an openness to talk and to share ideas and to work together in solving problems".⁶⁰

However, constituents, and businesses in particular, bring up issues about the functioning of NEDLAC. All stakeholders have raised concerns that constituencies are not sending sufficiently senior representatives with appropriate mandates so that decisions can be reached and implemented. Union representatives suggest that government departments "do not speak with one voice" and that there is a lack of consistency with representation. While NEDLAC is broadly and politically a good initiative, a greater effort must be made to ensure that it is as effective in implementation.⁶¹

Unions see that NEDLAC is a broad social dialogue institution leading to the conclusion of sector summit agreements. Union representatives are concerned that the oil sector, which is part of the Chemical Sector Summit, did not play a major role in the NEDLAC negotiation process. South Africa's President initiated the formation of the GDS to enhance growth and employment in each sector. While unions do not consider it a total failure, they indicate that the absence of such a strategic role for the oil industry in this process resulted in undesired outcomes for trade unions. SAPIA shares the trade unions' view that sectoral dialogue required the full involvement and participation of the oil industry. This is because SAPIA acknowledges the importance of social dialogue in deciding all matters in a democratic way with trade unions. SAPIA cites social dialogue at NEDLAC as an example of a forum to "build trust and confidence with investors ... to bring about mutual understanding between the social partners by providing a platform for discussion".⁶²

Trade unions stress that the oil industry currently participates in other social dialogue forums such as NBCCI and CHIETA. Although the oil sector is regulated by the Department of Minerals and Energy, crucial aspects of its business activities fall within the jurisdiction of two other government departments, namely the Department of Trade and Industry and the Department of Labour.

Unions cite the Millennium Council as a bipartite social dialogue platform. Its objective is to discuss problems relating to economic growth, competitiveness, job creation

⁵⁸ Dr. Vanguard MKosana, Director General, Department of Labour, NEDLAC Annual Report 2003-04.

⁵⁹ Mr Herbert Mkhize, Executive Director, NEDLAC Annual Report 2003-04.

⁶⁰ Interview with Welile Noling, General Secretary, CEPPWAWU, Feb. 2005.

⁶¹ *ibid.*

⁶² SAPIA Annual Report 1998.

and issues of social concern in the oil industry. However, any decisions made at this forum are voluntary. Institutional organs such as NEDLAC must decide when the social partners wish to make their decisions binding.⁶³

Broad policy initiatives in the oil sector are negotiated and decided in a bipartite manner. The chairperson of the Bargaining Council suggests that during the apartheid era bipartite deliberations helped keep the workplace going when apartheid laws prevented formal negotiations between the parties.⁶⁴

8.1.2. National Bargaining Council for the Chemical Industry (NBCCI)

NBCCI is a key collective bargaining mechanism. Its history began in 1995, in a dispute between the Chemical Workers' Industrial Union and chemical industry employers. The dispute was resolved through conciliation, which led to development of social dialogue between employers and employees; the parties subsequently agreed to engage in sectoral bargaining and establish appropriate bargaining forums in various economic sectors of the chemical industry. A social dialogue mechanism was created in the form of a representative national working group and interim arrangements. It facilitated "informal" sectoral dialogue before the statutory bargaining council were established. In 2001, the Minister of Labour approved the NBCCI as an official bargaining unit under the Labour Relations Act of 1995.

The Council covers oil, chemicals, consumer goods, glass, industrial chemicals and pharmaceutical sectors. It includes 207 companies, nine registered employers' associations, and about 78,000 employees (or about 38 per cent) of the oil and chemical industries, who are dues-paying union members. It is estimated that 104,000 workers are presently employed in the oil and chemical industries, about 16,000 of whom are covered by NBCCI's oil sector.

The National Petroleum Employers' Association is a signatory to the NBCCI on behalf of the oil industry, while workers are represented by CEPPWAWU, SACWU, and SOLIDARITY.

8.1.2.1. The aims of NBCCI

The primary aim of NBCCI is to provide a vehicle for dialogue between employers and workers in South Africa's oil industry with a view to improving industrial relations within it.

NBCCI is intended to provide the social partners with new approaches in industrial relations. Employers and workers can obtain a better overall picture of the industry in order to contribute to sustainable economic growth. They believe that NBCCI plays a positive role in minimizing tensions between the parties concerned.

NBCCI's other functions include:

- promoting economic development, social justice, labour peace and democratization;
- promoting the oil and chemical industries;

⁶³ Interview with Welile Noling, General Secretary, CEPPWAWU Feb. 2005.

⁶⁴ Interview with Fanie Ernst, Chairperson of the Bargaining Council, Feb. 2005.

-
- formulating collective agreements;
 - determining which parties will be covered by NBCCI-negotiated collective agreements;
 - enforcing collective agreements in oil companies;
 - preventing and resolving labour disputes;
 - establishing, promoting and coordinating education and training schemes;
 - imposing levies on employees and employers registered with NBCCI;
 - establishing pension, insurance, medical, sick pay, holiday and unemployment schemes and creating mutual benefits funds; and
 - formulating draft legislation to submit to the legislature.⁶⁵

8.1.2.2. Representation

NBCCI encourages all organizations in the oil sector to participate in collective bargaining initiated by the Council. This can enhance freedom of association and social dialogue, and strengthen the application of collective agreements. Fair representation is a basis of promoting fairness and freedom of association.⁶⁶ This includes:

- thresholds determining representation;
- methods for determining the proportionality of representation;
- qualifications for being parties under NBCCI;
- rules on voting; and
- procedures in the determination of mandates.

The creation of Bargaining Councils under NBCCI promotes freedom of association. For example, a group of workers who had been members of the major chemical union broke away and formed a separate union. They have been able to obtain recognition and participate in NBCCI negotiations as an independent trade union organization.

8.1.2.3. Levels of bargaining in the oil sector by NBCCI

As stated above, NBCCI's oil sector covers about 16,000 workers throughout the country.⁶⁷ NBCCI provides for two levels of bargaining – sectoral and plant/enterprise-level bargaining. Minimum standard working conditions are negotiated at the National Bargaining Council, which decides broad policies on working conditions. In the oil sector, the minimum wages are set through sectoral bargaining. The oil industry is a pattern-setter on national negotiation.⁶⁸ Table 20 summarizes the scope of collective bargaining in the oil industry. It shows that although the key elements of working conditions are set at the sectoral level, enterprise-based negotiations are significant in determining many issues concerning working conditions. This results in the disparity of wages and working conditions across companies.

⁶⁵ NBCCI Constitution, 2003 (3).

⁶⁶ NBCCI Constitution, 2003 5(1), 5(4).

⁶⁷ Personal Communication, Gerrie Bezuidenhout, NPEA coordinator.

⁶⁸ Secretary of the Bargaining Council, Apr. 2005.

Table 20. Demarcation of negotiations by sectoral and enterprise level in the oil industry in South Africa

| National Bargaining Council | Sectoral level (oil) | Enterprise/plant level |
|---|---|---|
| Enforcement of agreements | | |
| Exemptions and extensions | | |
| Unemployment funds | | |
| Industry retirement funds | | |
| Industry medical schemes | | |
| Industrial policy and structures (e.g. tariffs) | | |
| Levies (National Bargaining Council) | | |
| Legislation | | |
| Liaison with Government, NEDLAC and other institutions | | |
| | Minimum wages: <ul style="list-style-type: none"> • Minimum wages; and • Rand or actual percentage increases on actual wages | |
| Minimum conditions: <ul style="list-style-type: none"> • Leave • Sick leave • Maternity leave • Paternity leave • Childcare leave • Annual bonus • Hours of work (maximum) | Actual terms and conditions: <ul style="list-style-type: none"> • Leave • Sick leave • Maternity leave • Paternity leave • Childcare leave • Annual bonus • Hours of work • Compassionate leave | |
| | Shift allowances | |
| Framework agreements on: <ul style="list-style-type: none"> • Affirmative action • Productivity | | Actual conditions regarding: <ul style="list-style-type: none"> • Affirmative action • Productivity |
| | | Performance/productivity bonus |
| Industrial restructuring | Sector-specific restructuring | Workplace restructuring (e.g. shift pattern changes) |
| Industry training and development policies e.g. Industry Training Authorities | Sector-specific training and development Sector-specific implementation of adult basic education | |
| Dispute resolution mechanisms | Dispute resolution | Dispute resolution |
| Public holidays | Public holidays | Public holidays |
| Framework agreements on: <ul style="list-style-type: none"> • Safety, health and environment | Sector-specific agreement Safety, health and environmental issues | Actual implementation of safety, health and environment agreements |
| Framework agreements on: <ul style="list-style-type: none"> • Job grading | Sector specific agreements on: <ul style="list-style-type: none"> • Job grading | Job grading |
| Framework agreements on: Job creation and retrenchment | Sector specific agreements on: <ul style="list-style-type: none"> • Retrenchment • Job creation | Retrenchment Job creation |
| Minimum conditions in respect of: <ul style="list-style-type: none"> • Industry retirement funds • Industry medical funds | Additional benefits/contributions/ deductions relating to: <ul style="list-style-type: none"> • Retirement funds • Medical schemes | Company-specific: Retirement funds Medical schemes |
| <p>Note: Shaded areas indicate absence of negotiation at a given level. Source: Constitution of the NBCCI as amended 2003.</p> | | |

8.1.2.4. Exemptions from NBCCI agreements

The NBCCI's Exemptions Committee may exempt companies from applying sectoral collective agreements. However, the Committee requires prior consultation between employees and employers with full disclosure of relevant information to trade unions. The key criteria in awarding exemptions are:

- refusal would impose undue financial hardship on the company;
- nature and size of company;
- representations by affected employees;
- circumstances in oil industry as a whole; and
- when the collective agreements decided by the Council are prejudicial to the company.

While the decision of the National Exemptions Committee is final and binding on the parties, it is still subject to judicial review by the Labour Court.

8.1.2.5. Exemptions from statutory obligations

NBCCI's remit is extremely broad and covers a wide range of issues on collective agreement. However, employers and employees at the enterprise level are able to negotiate on any issues not decided at the sectoral level. South African law stipulates that the parties should not negotiate any collective agreements that provide for lower benefits than those stipulated by law. However, there are many exceptions to the rule. For example, DOL allows NBCCI to decide on the application of collective agreements, and this includes granting exemptions in certain circumstances.

8.1.3. Bargaining councils in small and medium-sized oil firms

Sectoral Bargaining Councils are regarded as having functioned "effectively as centres of social dialogue". Their impact on small business is an issue that the Government investigates where necessary. The Government also acknowledges the "tendency to casualize workers and create triangular labour relations [which] undermine the letter and the spirit of labour legislation – thus rendering workers vulnerable".⁶⁹

The Constitution of the Bargaining Council encourages the inclusion of small companies by ensuring that small and medium-sized oil firms are represented through employers' organizations.⁷⁰ For the Bargaining Councils, a small enterprise is one with fewer than 100 employees.⁷¹

⁶⁹ Draft Ministerial Programme of Action, 2004-09, in Strategic Plan of the Department of Labour 2004-07, p. 7, DOL, Pretoria, 2004.

⁷⁰ NBCCI Constitution, 2003, 5(6).

⁷¹ Secretary of the Bargaining Council, Apr. 2001.

8.1.4. Women in collective bargaining

Most trade unions have established a policy of promoting female participation to break through the ceiling of 25 per cent participation by women in any trade union activities. In the oil industry, however, the majority of trade union members that participate in collective bargaining are men. This reflects the male dominance of the oil industry.

In addition, there is no formal mechanism enabling unorganized contract workers to participate in collective bargaining.

8.1.5. National consultative forums

Most major oil companies have national consultative forums. Before the National Bargaining Council was established, each of the major oil companies had national bargaining forums at which the union and the company conducted negotiations. These were converted into the current national consultative forums.

National consultative forums develop social benefits. These include issues such as medical aid and alcohol policy at the workplace. Another contentious area is annual plant shutdowns for maintenance. While trade unions are opposed to outsourcing of functions, they acknowledge that certain specialized functions require a high degree of skill. They have proposed to management that the oil companies establish a specialized team to carry out refinery maintenance.

8.1.6. Areas of conflict in collective bargaining

Trade unions and companies in the oil industry differ when it comes to the question of appropriate levels of bargaining and some substantive negotiation issues. These are briefly outlined below.

8.1.6.1. Appropriate levels of bargaining

Most of the differences between the parties in oil sector bargaining relate to the appropriate level of the baseline determining critical areas in collective bargaining. As a result, the parties take different approaches to certain bargaining-related issues, such as the following:

- hours of work: trade unions think that negotiations should be conducted at the sectoral level, whereas employers want hours of work to be decided at the company level;
- outsourcing and use of labour brokers: employers want to exercise their discretion at the enterprise level, whereas workers wish to decide this matter at the sectoral level negotiations.

8.1.6.2. Emerging issues

Agency shops: South African law enables trade unions to conclude agency and closed-shop agreements.⁷² Unions see the introduction of an agency shop in the oil industry as fair and reasonable. Unions' resources paid by their members are used in the

⁷² Labour Relations Act 66 of 1995, section 25(1) and section 26(1).

negotiation, and non-union members benefit from collective agreements. Non-union members pay union dues into a separate fund set up by trade unions. This fund is intended to “advance or protect the socio-economic interests of employees” and may not be used for certain activities such as “support for any political party”.⁷³ Employers insist that this is undermining freedom of association.⁷⁴ There is no closed-shop agreement in the oil sector in South Africa.

Wage increases: At presently, sectoral bargaining decides the rate of wage increase, which is applicable to the parties to the oil sector of the NBCCI. Some companies, believing that their wages are higher than those in other companies, want the national agreement to set a cap on the actual increase so that their wages are more in line with other parties to the agreement.

Labour brokers: According to the 2003 Labour Force Survey, labour brokers provide 3 per cent of jobs in the oil sector. Unions are opposed to the use of labour brokers whom they believe undermine the fundamental rights of workers as regards wages and working conditions. Unions are trying to set the sectoral standards for using labour brokers in the oil industry.

8.2. Chemical Industries Education and Training Authority (CHIETA)

The democratic South African Government has promulgated legislation to address skills shortages and redress racially biased access to training and education. However, white workers still have better access to training than other South Africans (see table 21).

Table 21. Access to training by race in the oil industry in South Africa, 2002

| Demographic group | Percentage receiving training |
|-------------------|-------------------------------|
| African | 11 |
| Coloured/Asian | 18 |
| White | 30 |
| African | 11 |

Source: Labour Force Survey 2003.

The aim of CHIETA, which was set up under the 1998 Skills Development Act and the 1999 Skills Development Levies Act, is to address the skills shortage. CHIETA is run on the basis of social dialogue principles with the aim of enabling employers and workers to reach agreement on how education and training should be provided in the sector.⁷⁵

⁷³ *ibid*, section 25(4).

⁷⁴ Interview with Gerry Bezuidenhout, NEPEA Secretary, Apr. 2005.

⁷⁵ Interview with Fanie Ernest, June 2005. The accreditation of process controllers through CHIETA is another success of the dialogue process. This has increased the opportunities for workers in the petroleum sector to obtain portable skills that are relevant to more than their current place of work.

8.3. Workplace forums

South African labour law allows the establishment of workplace forums at the enterprise level. Their primary aim is to “promote the interests of all employees in the workplace, whether or not they are trade union members”.⁷⁶ They also seek greater efficiency in the workplace and mandate employers to decide matters of mutual interest based on a consensus with trade unions. Workplace forums may deal with such issues as restructuring at the workplace (including the introduction of new technology and new work forms), changes in the organization of work, partial or total plant closures, mergers and acquisitions, transfers of ownership in so far as they have an impact on workers, the dismissal of employees for just cause, opt-outs from any collective agreement, job grading, merit increases, payment of bonuses, education/training, product development plans and promotion. However, “workplace forums” as envisaged by the LRA do not exist currently in the oil industry.⁷⁷

8.4. Industrial action in the oil industry

South African legislation sets restrictions on the right to strike or lock-out in businesses that are declared an essential service.⁷⁸ However, the Government does not consider the oil industry as part of essential services; as a result, oil workers are not prevented from taking industrial action.⁷⁹

8.4.1 Disputes and industrial action

The oil sector has been relatively stable since the creation of NBCCI, indicating that the mechanism is an effective means of reducing industrial action by promoting social dialogue. The last national strike of petroleum workers took place in 1998. Although 8,774 days were lost due to industrial action in 1999, in 2000 the number had dropped to 4,749 and, according to DOL, no industrial action has been reported in South Africa’s oil sector since 2001.⁸⁰

8.4.2 Dispute resolution

The Bargaining Council plays an important part in resolving disputes in the oil sector. Unless there is a collective agreement binding on the parties in dispute, the South African Labour Relations Act requires that all disputes arising in the oil sector be referred to the

⁷⁶ Labour Relations Act 66 of 1995, section 79(a), (b), (c) and (d).

⁷⁷ Interview with Jerry Nkosi, CEPPWAWU negotiator, Feb. 2005.

⁷⁸ Labour Relations Act 66 of 1995, section 65(1)(d). The Act provides further for the establishment of an essential services committee after consultation with NEDLAC and the Public Service and Administration Minister. Section 70(1), (2) and (3). Consultations with NEDLAC ensure tripartite representation on such a committee. The role of this committee is to investigate and designate all or part of any service as an essential service or maintenance service. Bargaining Councils can refer the determination of services as essential services to the committee. The committee is serviced by representatives.

⁷⁹ E-mail from Stephen Rathai, DOL, Jly. 2005.

⁸⁰ DOL, official email communication, June 2005.

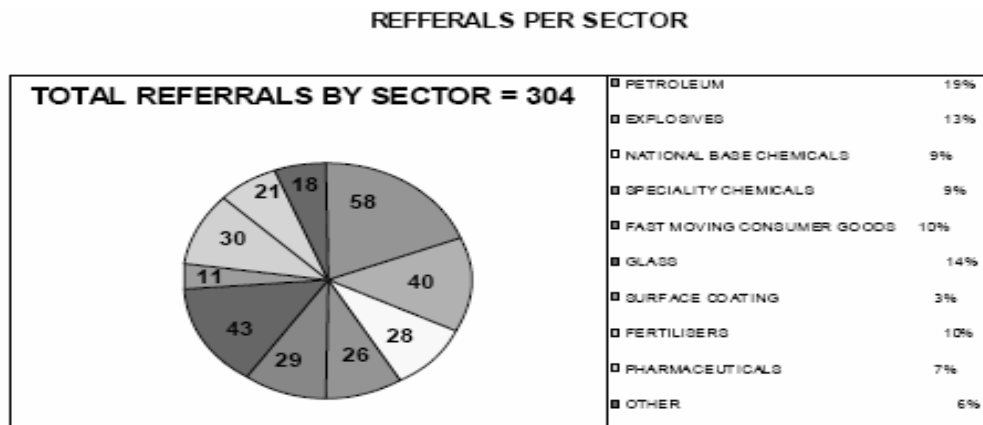
Bargaining Council for conciliation, whether the parties concerned are Council members or not.⁸¹

Under the Labour Relations Act (LRA), NBCCI is competent to arbitrate the following types of disputes in the oil industry:⁸²

- unfair dismissal relating to:
 - employee’s conduct or capacity (excluding participation in unauthorized industrial action);
 - termination of work contract; and
 - any dismissal cases where the employees concerned are not given the reason for dismissal.
- disputes concerning severance pay; and
- unfair labour practices (excluding those concerning unfair discrimination).

The majority of disputes brought before NBCCI for conciliation are from non-member oil companies.⁸³ The Bargaining Council appoints a panel of conciliators and/or arbitrators for dispute resolution. Dispute resolution process at the Bargaining Council is faster than taking the cases to the judicial review.⁸⁴ As shown in figure 6, in 2002 the oil sector referred about 20 per cent of disputes to the Bargaining Council. The trend has remained unchanged in recent years.

Figure 6 Disputes referred to the National Bargaining Councils in South Africa, 2002



⁸¹ NBCCI Constitution, 2003, 13(1), (2); disputes referred to the Council are defined in terms of the LRA and NBCCI and would include issues concerning interpretation or application of the Bargaining Council's constitution.

⁸² LRA section 191 (5)(9a). Section 196 Schedule 7 of the Act (2)(1)(a) and section 74(1).

⁸³ In order to redress this, an agreement provides for a dispute resolution levy to be extended to non-parties. The Bargaining Council has been accredited by the CCMA to conduct all dispute resolution within the chemical industry. Once approved by the Minister of Labour, the agreement will also ensure compulsory registration of all employers who fall within the registered scope of the Council. The Council concluded an agreement which provided for a dispute resolution levy to be extended to non-parties.

⁸⁴ Interview with the Secretary of the Bargaining Council, 30 Mar. 2005.

9. Occupational health and safety

9.1. National legislation

The oil industry is covered by national occupational and environmental laws as outlined in table 1, and the social partners take part in drafting the legislation in the areas of occupational health and safety in the industry through tripartite social dialogue.

The responsibility for the prevention of accidents at work and the regulation of health and safety fall within the competence of DOL. The Occupational Health and Safety Act (OHSA) has adopted a concept of “self-regulation” as central to its implementation.

Although DOL’s role was expanded to include health issues by the OHSA, some administrative matters need to improve, in particular as regards OSH inspectors. An ILO study found that the DOL had an insufficient inspection presence to implement an effective prevention policy.⁸⁵ The Department of Labour has changed the structure of its Occupational Health and Safety Inspectorate, which is now integrated into an Enforcement Inspectorate within DOL.

The social partners, as well as professional safety associations, have expressed their concern about the implications of the integration of OSH inspectors under a single enforcing unit. CEPPWAWU, for example, believes that certain sectors require specific skills and a higher level of specialty than other sectors. The oil sector is a good example of this. The President of NACTU questioned the competence and expertise of the DOL’s inspectorate in carrying out their statutory functions. He stated that “what we have been finding in recent accidents ... at Sasol is indeed inspectors do come but their capacity to look and come up with a finding [is limited]. They are very new and do not understand some of these issues”. Furthermore, DOL has been criticized for not being proactive in ensuring that companies comply with the law.⁸⁶

South Africa’s laws take a self-regulatory approach in the implementation of the OHHA. Criticisms of this approach have been raised in recent years. According to research conducted in the United Kingdom, self-regulatory mechanisms show a higher success rate only in the economic sectors with higher wages and trade union commitment. The size of the enterprise is also important.⁸⁷ Similarly, the report by Benjamin and Greeff (1997) indicates that self-regulation should take place within a framework of adequate national law; it is the responsibility of the State to ensure that OSH management systems are working well at the plants, and the State should impose sanctions on employers whenever they violate the law.⁸⁸

⁸⁵ ILO Report on a Mission to South Africa (Jan. 1996). Assessment of the Labour Inspection System, at p. 15, referenced in Benjamin and Greeff (1997), p. 127.

⁸⁶ Joseph Maqhekeni, President of NACTU, Business Report, 14 June 2005.

⁸⁷ Dawson et al. (1988), p. 268.

⁸⁸ Benjamin and Greeff (1997), p. 122.

The present OSHA puts more emphasis on protecting workers' health than earlier laws, but trade unions are doubtful whether it achieves this objective. In their opinion, the reporting is not comprehensive and a vast number of accidents go unreported. This view is supported by a 1996-97 investigation of OSH in South Africa which highlighted the problem of OSH recording in the country, saying that there was no national system for reporting accidents and occupational diseases. The development of appropriate preventative measures depends on accurate reporting.⁸⁹ The report also found that there was no national reporting system for health occurrences. As a result, there are no reliable figures on the number of workers who are exposed to dangerous hazards in the workplace and/or who contracted occupational diseases.

9.2. Data on work accidents in the oil industry

Accidents at work in the oil industry are reported in some oil companies' social responsibility report in the context of the Global Reporting Initiative (GRI).⁹⁰ SAPIA examined available member reports for the number of accidents in 2003 (see table 22). The limitations of this report are as follows: first, data exclude the oil refineries; second, there is no breakdown between contract and permanent staff; third, the location and cause of fatalities are not known; fourth, the research lacks the description of the type of occupational health diseases, the number of workers potentially exposed in adequate comparison over time.

Table 22. Number of work accidents in the oil industry in South Africa, 2003 *

| Type of accident | Number/quantity |
|---|---------------------|
| Fatalities | 25 |
| Lost time injuries | 66 |
| Hours worked | 29.3 million |
| Total Recordable Rate (TRR) fatalities plus lost time injuries per 200,000 hours/worker | 0,62 |
| Health Occupational illnesses | 5 |
| Environment Rose Foundation: Waste oil collected (litres) | 36.6 million litres |
| Fires | 41 |

* Including staff and contractors.
Source: South African Petroleum Industries Association, Annual Report 2004.

9.3. Improving OSH in the oil industry

Under South Africa's Compensation Act, companies' ratings can be adjusted for the purpose of payment of compensation levies. Workers suggest that this could encourage companies to fail to submit claims. However, this is unlikely in the case of multinational oil companies who must fulfil their responsibilities in the light of corporate social

⁸⁹ *ibid.*, p. 187.

⁹⁰ Engen (2004).

responsibility. However, noting the increasing number of non-permanent workers, social partners in the oil industry are concerned that accidents at work involving these workers are not reported. In a statement, social partners in the oil and chemical industries noted the difficulty in reporting and committed themselves to “creating an environment that is conducive to both employers and workers contributing to improved reporting of occupational injury and diseases”.⁹¹

9.4. Voluntary reporting initiatives

There is increasing pressure on oil companies in South Africa to improve their image. They now have to convince local, national and international communities of their commitment to and compliance with various voluntary initiatives. This has resulted in a plethora of mechanisms to validate the companies’ business behaviours. The latest initiatives used in South African oil industry include the GRI, Global Compact, the Johannesburg Stock Exchange (JSE) sustainability index, Responsible Care (RC), and the National Occupational Safety Association (NOSA).⁹² Sasol’s recent audit report revealed that the company had a wide range of risk assessment methodologies, which means that there are differences in managing risk in the various plants. Following this report, Sasol is making efforts to improve the company’s risk assessment and risk management.⁹³

9.5. Occupational health and safety training

The demand for accredited training and portable skills has been at the centre of trade union demands in South Africa from the early 1970s. The unions’ proposal required employers to provide workers with basic education and further training.⁹⁴ With respect to health and safety, there has been a major shift by some oil companies to a greater focus on behavioural safety. Union representatives are concerned that while there is a role for training employees on safety at work, the concentration on behaviour can shift the responsibility of safety from process management (employers’ responsibility) to workers. An important move is the recent CHIETA grant of R2,000,000 annually for the specific training for workers who can specialize in ensuring plant shutdown in case of emergency. This will create more certified safety and health experts within oil companies. Unions believe that this is critical to improving safety at oil refineries.

⁹¹ Draft Agreement Chemical Sector Summit.

⁹² The King 2 Report on Corporate Governance emphasizes the requirement for triple bottom line reporting or reporting on sustainable development.

⁹³ According to Sasol Green SCENE, launched on 15 Mar. 2003, Sasol identifies certain problems with stakeholder perceptions. Sasol Oil is a member of the chemical industry’s international Responsible Care Programme. The programme is seen as contributing to modest performance improvements, but stakeholders had difficulty recalling information about industry’s performance. There were a range of opinions, but many influential stakeholders believe it is mainly a public relations initiative. There is strong support for establishing performance objectives and metrics. Stakeholders do not believe that Responsible Care can be credible without such commitments. Increasing transparency in all areas of Sasol’s business is the key to regaining stakeholders’ trust.

⁹⁴ *Mail and Guardian*, 2-8 Feb. 2001.

9.6. Contract workers and outsourcing

Unions believe that the growing use of contract labour has lowered safety standards in the oil sector. The process of maintenance and shutdown of plants in case of emergency is a cause for concern, especially in view of the recent fatal accidents at Sasol plants, including the Natref refinery. It is not clear how oil companies in South Africa deal with contract workers in terms of occupational safety and health training. Trade unions insist that contract workers should receive the same training on safety and health as permanent employees. In some cases, the oil companies give occupational safety and health training to contractors. Referring to the recent fatal accidents at Sasol, unions blame the company for accidents due to contractors' insufficient training. Unions argue that workers provided by labour brokers are trained in plant maintenance and emergency shutdown safety procedure for only two hours, instead of receiving two weeks of comprehensive safety training. They further claim that work-related accidents were unacceptably high at Sasol plants because of the use of less-trained contract labour. Unions request that they be able to participate in the process of hiring contract workers in order to monitor companies' compliance with safety obligations with regard to these vulnerable workers. Government acknowledges that generally there are problems with health and safety of contract workers across the country. The accident at Sasol's oil refinery is one of them.⁹⁵

Recent serious accidents at Sasol installations have prompted the company to commission DuPont to investigate safety management procedures and occupational safety management at various Sasol facilities in 2005. This included the Natref refinery, where some of the most serious accidents had occurred. The report recommended that "more emphasis be placed on certain of the safety management elements" (i.e. change of management, management of contract workers on site, and hazardous substance control procedures). It found that contractors played "a significant role in the operations and maintenance" at many Sasol sites. Although all Sasol sites had contractor safety management programmes in place, they are required to improve. It found that there were a number of good safety management practices such as the integration of contractors into the business, but it also identified certain areas where improvements were needed, such as:

- the company needs to involve operators in discussing safety concerns;
- safety personnel and operations management need to review existing roles in safety management procedures;
- the company needs to review safety and health training manuals, signs and boards to ensure that are friendly to non-English speaking or illiterate workers; and
- the company should review the present occupational safety and health training required for contractors.

Tragic accidents at Sasol led to union and management recognizing the importance of working together. The two parties signed a Safety Charter which will develop into a significant process for joint action to improve safety and health at work. All parties have acknowledged the importance of the Charter. A key issue highlighted in it is the need to address adequate safety management of contractors at Sasol plants, which entails strict hiring processes, provision of training, and a change in attitudes so as to ensure that these workers receive equally good treatment as the others.⁹⁶

⁹⁵ Jace Naidoo, OHS Acting Chief Director, personal interview.

⁹⁶ Star, 14 June 2005.

10. Conclusion

The key feature of social dialogue in the oil industry in South Africa lies in sectoral bargaining. In evaluating its benefits, there is clear consensus among social partners and the Government of South Africa that sectoral bargaining leads to better wages and conditions of work in the country's oil industry.

Trade unions need to evaluate the extent to which oil workers are strengthened through their participation in NBCCI and how workers in this sector can increase that participation. Currently, many important developments are seen at NBCCI, mainly at the central level. The challenge for the unions is to ensure that the oil workers participate fully in negotiations at each level: national, sectoral and company level. Workers were accustomed to company-level negotiations which were predominant in the oil industry in South Africa. The introduction of centralized bargaining means that many important substantive issues are decided at the National Bargaining Council. However, company-level negotiations still play the important role of deciding some matters specific to each company in the oil industry.

Minimum wages and working conditions are negotiated at the national level. It would be useful if research were conducted to evaluate the extent to which centralized bargaining has improved wages and working conditions for workers in different categories and operations, as well as social benefits such as housing, education and retirement allowances.

The centralized bargaining forum provides opportunities for the national and oil forums to extend their operations. The oil sector bargaining forum should extend its operations beyond minimum wages and working conditions and ensure that a wider mix of benefits is addressed.

The minimum wage in the oil sector is disappointing given the sector's relative profitability and general perception that its workers are better off than others. Though most companies do pay above the minimum negotiated rate, this minimum is supposed to protect the most vulnerable workers and remains very low and close to the poverty line indicators.

Because the NBCCI in the oil industry is new and is still engaged in setting up structures and information systems, it does not provide significant information in terms of minimum and actual wages, average working hours, employment, unionization and social benefits in the sector. More in-depth information would assist the parties in planning and making appropriate interventions.

As regards gender representation, both the sector in general and its negotiation forums remain dominated by men. This needs to be addressed by the parties.

With respect to occupational health and safety, the major oil companies have considerable resources and operate occupational health and safety programmes within their companies. However, the industry has not standardized information with respect to injury and disease in the petroleum sector in South Africa in an accessible form. NBCCI could play a role in facilitating dissemination of such information by identifying key indicators.

While South African legislation provides for the participation of unions in such processes as M&A in the oil sector, unions' ability to take full advantage of this is circumscribed by the complexities of the transactions and the need for highly skilled personnel to assess the socio-economic impacts of mergers, acquisitions and industrial restructuring. For all parties to participate, social dialogue requires a level playing field.

The multitude of social dialogue institutions puts a considerable burden on all the parties, and in particular on personnel within petroleum unions. Servicing all tripartite and bipartite dialogue and negotiations that take place and managing processes that focus on socio-economic issues and industrial relations, places a considerable strain on the organizations involved.

NCBBI has assisted negotiations by centralizing a significant part of the process. On the other hand, the creation of numerous subcommittees places a burden on all parties. However, the impact of centralized bargaining needs to be assessed further to ascertain its impact both on the industry as a whole and on the living standards of all categories of workers within the sector.

If international investment in the sector is to increase, the petroleum sector needs to meet national and international development imperatives. Social dialogue thus takes on an added significance since it can also guide or influence investment or business decisions in order to promote development.

Employers and workers in South Africa's oil industry have taken advantage of the opportunities created through the conduct of social dialogue at all levels. This is demonstrated by the low level of industrial action in the sector and the growing incidence of mature negotiation and interaction between the parties.

Appendix I

ILO Conventions ratified by South Africa, situation as at 31 December 2005

- C2 Unemployment Convention, 1919
- C19 Equality of Treatment (Accident Compensation) Convention, 1925
- C26 Minimum Wage-Fixing Machinery Convention, 1928
- C27 Marking of Weight (Packages Transported by Vessels) Convention, 1929
- C29 Forced Labour Convention, 1930
- C42 Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934
- C45 Underground Work (Women) Convention, 1935
- C63 Convention concerning Statistics of Wages and Hours of Work, 1938
- C80 Final Articles Revision Convention, 1946
- C87 Freedom of Association and Protection of the Right to Organise Convention, 1948
- C89 Night Work (Women) Convention (Revised), 1948
- C98 Right to Organise and Collective Bargaining Convention, 1949
- C100 Equal Remuneration Convention, 1951
- C105 Abolition of Forced Labour Convention, 1957
- C111 Discrimination (Employment and Occupation) Convention, 1958
- C116 Final Articles Revision Convention, 1961
- C138 Minimum Age Convention, 1973
- C144 Tripartite Consultation (International Labour Standards) Convention, 1976
- C155 Occupational Safety and Health Convention, 1981
- C176 Safety and Health in Mines Convention, 1995
- C182 Worst Forms of Child Labour Convention, 1999

Source: ILOLEX.

Appendix II

Legislation significant to the oil industry in South Africa

In 2004, the Department of Labour (DOL) introduced its Programme of Action 2004-09. The introduction of the Programme is a reflection of the promulgation of several Acts, including the National Economic, Development and Labour Council Act, 1994,¹ the Labour Relations Act, 1995,² the Basic Conditions of Employment Act, 1997,³ the Employment Equity Act, 1998,⁴ the Skills Development Act, 1998⁵ and the Skills Development Levies Act, 1999.⁶

“The implementation of the key legislative framework, such as the Labour Relations Act and the Basic Conditions of Employment Act (BCEA) and other key legislation, has ensured that all workers are now covered by adequate legislation, which tries to balance security in the workplace (and in employment) with flexibility, to ensure that the overall performance of the economy in terms of job creation and investment is not negatively affected.”⁷

Furthermore, the Government reiterated its continued commitment to strengthening social dialogue through the introduction of new legislation and institutions not only to protect workers’ rights, but “to ensure that social dialogue is entrenched and that a true consensus is built around key interventions in the labour market with all the social partners”.⁸ DOL suggests that the “efficacy of our labour market policies as well as the maturation of social dialogue played a large part in the drastic decline in the adversarialism that had characterized the pre-1994 period”.⁹

Legislation regulating employment is therefore currently contained in a matrix of key Acts which regulate all aspects of employment, including collective bargaining, terms and conditions of employment, termination, health and safety, compensation for occupational accidents and disease, employment equity, training and skills development, and institutions and processes for social dialogue at national level (see summary below). The regulation of employment will also be influenced by additional policy documents recently published by DOL, namely the Strategic Plan of the Department of Labour 2004-07 and the Ministerial Programme of Action 2004-09.

Labour Relations Act, 1995¹⁰

The articulated purpose of the Labour Relations Act (LRA) is to change the law governing labour relations by:

¹ Act 35 of 1994.

² Act 66 of 1995.

³ Act 75 of 1997.

⁴ Act 55 of 1998.

⁵ Act 97 of 1998.

⁶ Act 9 of 1999.

⁷ M.M.S. Mdladlana, Minister of Labour, Strategic Plan of the Department of Labour 2004-07, p. v.

⁸ *ibid.*, p. vi.

⁹ Ministerial Programme of Action 2004-09, DOL, 2004, p. 26.

¹⁰ Act 66 of 1995.

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- giving effect to labour relations rights contained in the Constitution;
 - regulating the organizational rights of trade unions;
 - promoting and facilitating collective bargaining at the workplace and at the sectoral level through the establishment of bargaining councils;
 - regulating the right to strike and/or lockout;
 - providing simple procedures for the resolution of labour disputes;
 - providing simplified procedures for the registration of trade unions and employers' organizations, and to provide for their regulation to ensure democratic practices and proper financial control;
 - providing legal certainty in relation to the rights of workers and obligations of employers when companies change hands;¹¹
 - giving effect to the public international law obligations of South Africa in respect of labour relations.¹²

The Act creates a dispute resolution body, the Commission for Conciliation, Mediation and Arbitration (CCMA), to resolve dispute through conciliation and arbitration.¹³

Basic Conditions of Employment Act, 1997¹⁴

The purpose of this Act is “to give effect to the right to fair labour practices referred to in section 23(1) of the Constitution by establishing and making provision for the regulation of basic conditions of employment; and thereby to comply with the obligations of the Republic as a member State of the International Labour Organization”.

According to DOL, the BCEA is primarily aimed at protecting unorganized and vulnerable workers. In particular, the Act aims to address the following problems:

- inadequate protection for vulnerable workers, such as part-time, farm and domestic workers;
- poverty in employment;
- lack of mechanisms to set minimum wages for farm and domestic workers;
- child labour;
- excessively long working hours; and
- gender discrimination.¹⁵

The Act accordingly provides for workers' rights on a range of issues, including leave, working time, termination of employment and employer obligations. It does not specify conditions for every sector and provides for the determination of appropriate conditions through several mechanisms, including collective bargaining, sectoral determinations, individual contracts of employment and determinations made by the Secretary of Labour.

In addition, several Codes of Good Practice have been developed and gazetted by the Secretary of Labour. These include the Arrangement of Working Time,¹⁶ and Protection of Employees during Pregnancy and after the Birth of a Child.¹⁷

¹¹ Act 66 of 1995, section 197 as amended 2002.

¹² Preamble to the LRA.

¹³ Section 112 of the LRA.

¹⁴ Act 75 of 1997.

¹⁵ *ibid.*

The strategic plan acknowledges that certain types of atypical employment relations can have negative effects on workers and exacerbate precariousness and insecurity in the labour market. The Government intends to research the full impact of casualization of labour and outsourcing in order to deal with their negative impact on workers and the economy.¹⁸

Employment Equity Act, 1998¹⁹

The Employment Equity Act aims to correct past discriminatory employment practices and resultant inefficiencies and to achieve representativity in employment. In this regard, it places an obligation on employers to adopt employment policies and practices which do not unfairly discriminate on the basis of race, sex, sexual orientation, disability, pregnancy, marital status, ethnic or social origin, opinion, culture, language, religion or belief.

Chapter 3 of the Act requires employers to take certain affirmative action measures for black people, women and people with disabilities. However, the Chapter only applies to designated employers and accordingly does not apply to small businesses (with less than 50 employees), municipalities, the public service and employers who earn above a threshold that is stipulated in the Act.

A chapter on employment equity can also be found in the Liquid Fuels Charter. The Minister considers that such interventions will contribute positively to demographic shifts within this sectoral labour market.²⁰

The Act has provided for special attention to the rights of workers who have HIV/AIDS, through the inclusion of a Code of Good Practice on Key Aspects of HIV/AIDS and Employment.²¹ It has further given effect to this code by issuing Technical Assistance Guidelines to enable appropriate implementation of the Code. The Code itself is an outcome of social dialogue through the NEDLAC process.

Skills Development Act, 1998²² and **Skills Development Levies Act, 1999**²³

The Skills Development Act was passed in order to address the problems of skills shortage in South Africa. Its specific purposes are to:

- develop the skills of the country's workforce;
- improve the quality of life of workers and their prospects for work;
- improve productivity in the workplace and competitiveness of employers;
- promote self-employment;

¹⁶ GN R1440 GG 19453 of 13 Nov., 1998.

¹⁷ *ibid.*

¹⁸ Draft Ministerial Programme of Action, 2004-09, in Strategic Plan of the Department of Labour 2004-07, p. 5.

¹⁹ Act 55 of 1998.

²⁰ Ministerial Programme of Action 2004-09, DOL, 2004, p. 13.

²¹ Code of Good Practice on Key Aspects of HIV/AIDS and Employment Government Notice R1298 (GG 21815) of 1 Dec. 2000.

²² Act 97 of 1998.

²³ Act 9 of 1999.

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- increase the levels of investment in education and training in the labour market;
 - encourage employers to use the workplace as a learning environment, provide opportunities for new entrants into the labour market to gain experience, provide and encourage workers with the opportunity to acquire new skills and to employ persons who find it difficult to be employed;
 - encourage workers to participate in leadership and other training programmes;
 - improve the employment prospects of previously disadvantaged persons;
 - ensure the quality of education and training in and for the workplace; and
 - assist workers to find work and employers to find qualified employees.²⁴

The Act provides for the achievement of these purposes through the establishment of an institutional and financial framework comprising the National Skills Authority, the National Skills Fund, the skills development levy-financing system (through the Skills Development Levies Act), Sector Education and Training Authorities (SETAs), labour centres and the Skills Development Planning Unit.²⁵

The Skills Development Levies Act complements the Skills Development Act. It provides for employers (unless exempted) to pay a skills levy, currently in the amount of 1 per cent of their monthly payroll. SETAs have been established for each sector. The petroleum industry is a separate sector within CHIETA. Eighty per cent of the levies collected are transferred to the relevant SETAs, which administer grant payments to employers in the sector against prescribed criteria, with the remaining 20 per cent being transferred to the National Skills Fund.

Unemployment Insurance Act, 2001²⁶ as amended

This Act provides for a fund in terms of which a contributor is entitled to receive certain funds when he or she becomes unemployed. These include:

- unemployment benefits;
- illness benefits;
- maternity benefits; and
- adoption benefits.²⁷

The benefits are subject to certain limitations. For example, the benefit is limited to 45 per cent of the normal weekly earnings when the worker was last employed as a contributor, and for a duration not exceeding 26 weeks during a 52-week period.²⁸ The provisions of the Act have been extended to provide coverage for domestic and seasonal workers.

Occupational Health and Safety Act, 1993²⁹

The Occupational Health and Safety Act (OHSA) replaced the old Machinery and Occupational Safety Act, 1983.³⁰ Significant changes in the OHSA include the power to regulate

²⁴ Section 2.

²⁵ Section 2(2).

²⁶ Act 63 of 2001.

²⁷ Section 34.

²⁸ Section 34(2) and (4).

²⁹ Act 85 of 1993.

occupational health and hygiene, and a reorientation of employer's duties to encourage a more active approach to protecting the health and safety of workers. In this regard, the Act imposes a number of duties on employers in respect of health and safety of their employees and of the public in general, including the duty to maintain a working environment that is safe and without risk to employees, providing information, instructions, training and supervision as may be necessary to ensure the health and safety of employees,³¹ and the duty to inform.³²

Duties are also imposed on manufacturers and others regarding articles and substances for use at work:

- changing the system of safety representatives and committees to include trade union participation in the election of safety representatives and enhancing the rights and functions of safety representatives;³³
- a revision of the duties of employees;³⁴
- more protection of the public from hazards emanating from the workplace;³⁵ and
- changes in the system of inquiries into accidents.³⁶

Compensation for Occupational Injuries and Diseases Act, 1993³⁷

The purpose of the Act is to provide for compensation to be paid to employees who are partially or totally disabled, or who contract an occupational disease as a result of their activities in the workplace. In general, the Act provides for:

- compensation in the event of disease, disablement or death from the commissioner;³⁸
- in certain circumstances, increased compensation where there is negligence on the part of the employer;³⁹
- establishment of the Compensation Fund;⁴⁰ and
- contributions by employers to the Fund.⁴¹

The Government has announced its intention to integrate occupational and compensation legislation and competencies currently administered through three government departments, namely

³⁰ Act 6 of 1983.

³¹ Section 8.

³² Section 13.

³³ Sections 17-20.

³⁴ Section 14.

³⁵ Section 9.

³⁶ Sections 31-34.

³⁷ Act 130 of 1993.

³⁸ Chapters, IV, V and VII.

³⁹ Section 56.

⁴⁰ Section 15.

⁴¹ Sections 83-88.

DOL, Department of Health, and Department of Minerals and Energy into one Act and under one department. It is committed to this process being conducted in the form of social dialogue through NEDLAC.⁴²

Other legislation relevant to social dialogue

Competitions Act No. 89 of 1998⁴³

The preamble to the Act recognizes that apartheid and other discriminatory laws and practices of the past have resulted in excessive concentrations of ownership and control within the national economy, inadequate restraints on anti-competitive trade practices, and unjust restrictions on full and free participation in the economy by all South Africans. In particular, the Act states that an efficient competitive economic environment, balancing the interests of workers, owners and consumers and focused on development, will benefit all South Africans. In this regard, the Act provides for proposed mergers to be examined in terms of public interest grounds. The adjudicatory bodies – the Competitions Commission and the Competitions Tribunal – must consider the effect of the merger on:

- a particular industrial sector or region;
- employment;
- the ability of small businesses, or firms controlled or owned by historically disadvantaged persons, to become competitive; and
- the ability of national industries to compete in international markets.⁴⁴

The merging parties must serve merger documents on representative trade unions either in the target or acquiring firms. Unions have the right to participate in the merger deliberations and are not restricted to issues of employment. However, union participation is often frustrated by issues of confidentiality and access to information and a lack of sufficient technical skills to engage on all aspects of the mergers.

Other legislation and initiatives pertaining to the petroleum industry

The petroleum industry is also subject to legislative provisions emanating from the Department of Minerals and Energy. The Government considers that it is necessary to both meet South Africa's social challenges and remain internationally competitive. It outlines social priorities for the sector as "economic empowerment, human resource development, environmental protection, anti-HIV/AIDS efforts, development of rural areas and good governance".⁴⁵ Its overall ambition with respect to the petroleum sector is to "redress past imbalances, combat poverty, create employment and promote meaningful and responsible growth and investment across the entire petroleum-products value chain".⁴⁶

⁴² Strategic Plan of the DOL 2004-07, p. 17.

⁴³ As amended, Act No. 35 of 1999, Act No. 15 of 2000, Act No. 39 of 2000.

⁴⁴ Competitions Act No. 89 of 1998, 12(a)3.

⁴⁵ Hon. Ms. Phumzile Mlambo-Ngcuka, Minister of Minerals and Energy.

⁴⁶ Hon. Mr. Nkosinathi Mthethwa Mp, Chairperson of the Parliamentary Portfolio Committee on Minerals and Energy, in SAPIA Annual Report 2004, p. 9.

This section includes the most relevant regulatory instruments⁴⁷ and references certain key environmental legislation affecting the industry.

The Energy Policy White Paper

The legislative provisions of the Department of Minerals and Energy (DME) are underpinned by its Energy Policy White Paper, published in 1998. Key elements of the white paper which are of direct relevance to this study include:

- achievement of an efficient and internationally competitive industry;
- availability of quality products throughout country at internationally competitive and fair prices within appropriate health, safety and environmental standards;
- equitable balance between interests of participants and consumers;
- creating an industry supportive of the Government's broader social and economic goals;
- restructuring the State's involvement in the industry in context of South Africa's changed political and economic circumstances;
- optimum and efficient utilization of liquid fuels;
- meaningful inclusion of those who have been historically excluded;
- black economic empowerment in the composition of the industry at all levels and significant domestic black ownership or control in all facets of the petroleum value chain;
- adequate provision for national strategic considerations relating to security of supply;
- the creation of an efficient network of pipeline and storage infrastructure while ensuring that no abuse of market power and/or restrictive practices;
- the preservation and promotion of formal sector employment;
- phasing in managed liberalization or deregulation of the industry.

Key elements of the current regulatory regime, namely control of petrol retail prices and import control on certain products, will be phased out once relevant milestones have been reached. These milestones would include suitable arrangements to address any labour-related consequences of deregulation.

The Liquid Fuels Charter

A key outcome of social dialogue was the completion of the Liquid Fuels Charter by Business (major oil companies) and Government (Department of Minerals and Energy) in November 2000. This Charter is critical to the transformation of the liquid fuels industry since it aims to redress the exclusion of historically disadvantaged communities from the strategic liquid fuels industry. This would be reflected as a 25 per cent ownership and control in the privately owned part of the sector of all aspects and all parts of the value chain. It also requires parties to support procurement policies that would encourage the growth of HDSA companies.

Petroleum Products Amendment Act 58 of 2003

The Act aims to promote greater efficiency across the entire petroleum value chain from manufacturing through to retailing. In particular, it:

- provides for the licensing of all operators in the value chain of the petroleum sector, including oil refineries, wholesalers and service station operators;

⁴⁷ Comments by organized labour and organized business on key elements are included in relevant sections.

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- replaces the old Rationalisation Plan (Ratplan) which regulated the operation of service stations;
 - legalizes the provisions of the Liquid Fuels Charter;
 - safeguards the jobs of forecourt attendants and other industry employees;
 - stimulates the development of small businesses and additional new employment opportunities;
 - ensures countrywide availability of petroleum products at competitive prices;
 - creates stricter specifications for future fuels in order to lower potentially harmful impacts on the natural environment and human health; and
 - stimulates sustainable new investment in the industry.

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