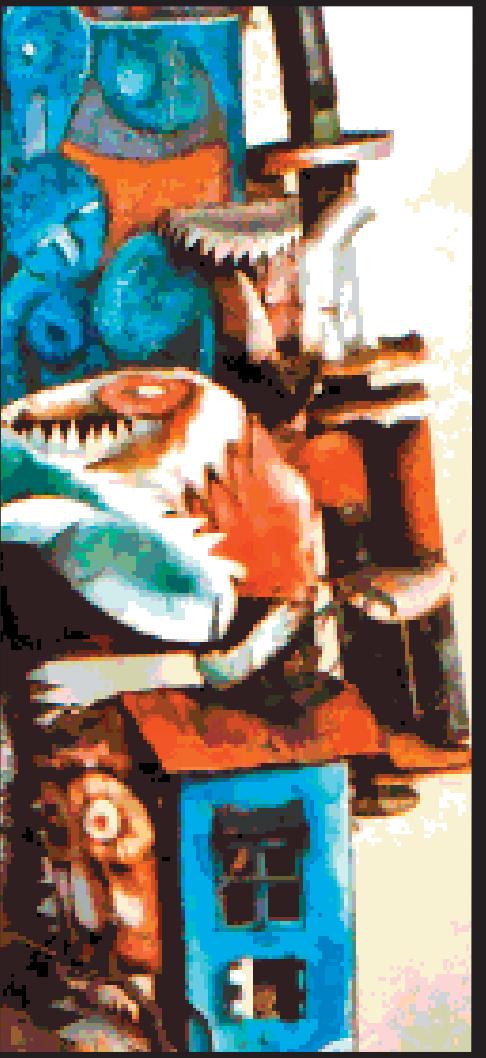
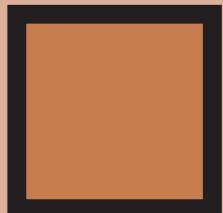


organising and campaigning developing union strategy and capacity



booklet two



a publication series
for garment workers
in africa

A bout This Publication Series

This booklet series is part of the international workers' publication project, an initiative of IRENE, that includes workers' newsletters produced and distributed in Thailand and in Sri Lanka.

The booklet series was produced to share with trade unions, NGOs and workers in Africa the efforts of many organisations on improving working conditions in Multinational Companies. These efforts take many forms such as developing policies in tripartite structures, multistakeholder campaign initiatives, research, and worker education. It incorporates the work done in Africa on multinationals in the garment industry, spearheaded by the ITGLWF Africa office. Much of the research work in the sector has been conducted by SOMO in partnership with organisations based in Africa, in the past this was the Trade Union Research Project and more recently Civil Society Research and Support Collective. As the number of Multinationals that either produce or source in Africa continues to increase so do the challenges that are faced by workers and trade unions. Workers have risen to meet these challenges and it is in support of their struggle that these booklets have been produced.

The booklets have been designed as an educational tool to provide a wide range of information, from contextual issues of the garment sector in global trade to practical considerations for shop stewards. Whilst most of the material used in these booklets have been written by Civil Society Research and Support Collective, a fair amount borrows from other useful information or educational products, in particular those of ITGLWF, Clean Clothes Campaign, SOMO and ICFTU. Where possible these sources have been acknowledged. Please note that material taken from other sources have been used for fair use and the views and opinions in these booklets are not necessarily the same as those held by the funders of this project.

These booklets would not have been possible without the coordinating efforts of SOMO. The workers' publication project has been supported by funds from the EED - Church Development Service, an Association of the Protestant Churches in Germany. Funds for additional printing have been provided by the Netherlands Trade Union Confederation (FNV).

Booklet two

B is more about the practice of combatting multinational producers and retailers than booklet 1. You should in fact read the two booklets together to get a theoretical understanding and develop practical actions in advancing the rights and interests of workers in the sector. This booklet is aimed at trade union organisers and shop stewards with some experience already. It assumes a basic working knowledge of union concepts and issues in the industry. Some sections may also be useful to new shop stewards or workers wishing to get organised in a factory if it is read in conjunction with booklet 3.

Booklet 2 has a dual focus on tools for the use in developing international solidarity on the one hand whilst developing plant based union organisation on the other. Both aspects are critical in supporting workers to better their lives.



M essage from Thabo Tshabalala

Acting Regional Secretary of the International Textile Garment and Leather Workers Federation- Africa Region

The struggle for workers rights is hundreds of years old and has never been easy despite civilization, democracy, and the development of technology which have solved some problems but created others in its place.

We hope the day shall dawn where through out the world workers rights like all human rights are respected. This booklet covers stories of workers from different countries and continents who all share the same experiences of exploitation and mistreatment. The stories teach a common lesson of organising unity amongst workers who can do

nothing alone to change their fate but together have the power to create a different future. We call for all workers in the textile, garment and leather industries to unite under the banner of ITGLWF.

We further call on all workers leaders to educate and teach their members not only through formal education but through vibrant debate and analysis in active union structures. A trade union lives in its member's hearts and minds, and it is through members that we can begin to action new solutions to new problems. Read, learn, share and, mobilize for the improvement of working conditions.

We thank all those international organizations who have expressed solidarity by making this series of publications possible - IRENE, CSRSC, SOMO, EED AND FNV

AMANDLA!!!!!! POWER TO THE WORKERS. UNITED WE BARGAIN, DIVIDED WE BEG.

Thabo Tshabalala

Outlining the Problems

There are many problems faced by African workers and their trade union organisations alike. Many workers feel helpless to change their fate and the abusive conditions in which they toil everyday. Companies do not invest in a country out of a sense of responsibility to that country or the workers who live there; They do so to extract as much profit in the shortest time possible. The retailers and buyers who place orders with these production companies squeeze these profit margins and the companies squeeze more production from workers in turn. Improved working conditions and wages are seen by companies as a further reduction in profits and are therefore resisted. External conditions of trade, labour law and international labour conventions on their own have been proved to be very limited in improving workers lives in these factories as has been documented in research in the garment industry in Africa over the last five years. To improve conditions workers must fight or put another way use their power, but they can not do this as individuals they must organise themselves. This normally means a trade union. The existence of a trade union does not automatically mean that workers problems are solved this is just the beginning of the struggle with unions facing many problems. The origin of these problems lies in social, economic, political and organizational conditions in Africa. In this booklet we look at trade unions as organizations and then a number of ways that workers and unions can fight for better conditions in a global production environment. The focus of this series of booklets is on multinational production companies and as such most of the organizing and campaigning case studies and examples are drawn from these type of employers. These are not the only companies producing in Africa but have been the fastest growing companies involved in production in the African garment sector and currently employ the majority of workers in countries attempting to grow the sector through exports. The basic values of solidarity and worker based organising, necessary for effective unions have always been the same regardless of the type of employment but new strategies and tactics need to be developed in an ever changing multinational led global production chain. Let's look at some of the problems that confront workers in Africa.

The employers

The companies selected in the case studies are mainly Asian owned, often Taiwanese and whilst they have factories in Africa they also have factories in other countries around the world, thus they are called multinationals. African governments wanting to attract foreign investment invite these companies to set up operations in their country and offer them incentives such as premises, tax holidays, reduced service costs etc. There is also a tendency for governments to attempt to assure investors that they will not have difficulties with labour and therefore may protect these employers from workers organizations regardless of what the law says about union and worker rights.

These multinationals are also attracted to invest in African countries so that they can benefit from preferential trade arrangements between African countries and the wealthy countries in Europe and the United States. These arrangements give preferential access to goods produced in Africa to these wealthy markets. This preferential access means that the goods are taxed less and therefore can be more competitive than if they were produced in Taiwan for example and then sold in the United States. The multinationals are also attracted by cheap labour made available by the

desperation and poverty that exists in Africa. With these sorts of trade deals the people who benefit the most are the foreign companies that come to poor countries and the retailers that by the reduced price items which they sell for a huge amount of profit.

Global supply

In this process local businesses are often not developed and if they must compete with these foreign companies they may in fact be disadvantaged by their presence. This always creates the concern that if trade deals change and these multinationals leave what will be left in the country and how much actual development will have taken place. There is a danger of this in 2005 when the Multi Fibres Agreement (MFA) comes to an end which will mean many Asian countries will have better access to markets. Whilst on the face of this, it does not seem to be a problem, given that working conditions are often very bad and labour is relatively cheap, a lot of production could shift to these countries. (see booklet 1)

If domestic industry is not being developed in the mean time this could leave poor countries like Lesotho worse off than before the investment arrived. Governments in Southern Africa as in most poor countries have increasingly taken on economic policies of western governments often recommended by institutions such as the International Monetary Fund (IMF) and the World Bank. These policies are referred to as structural adjustment programmes or (SAP's) and they encourage government to control inflation, spend less on welfare and education, open the economy to the world market by dropping tariffs, decrease company taxation and increase labour flexibility by having less strict rules for hiring and firing workers as well as less strict rules about conditions of work. These policies are to make it easier for bosses to do business so that foreign companies will invest.

Poor legal protection for workers

From this way of organising domestic economies comes the idea that countries should compete with each other to get investment and this means that there is never ending pressure to make workers more easy to exploit and more profitable for the investor, to employ. One way to engage in this competition for investment is for governments to provide labour laws or codes that are friendlier to employers or else to simply avoid enforcing the law. Not enforcing the law can be done by giving insufficient money to the departments that are to monitor and enforce the law. This may include labour inspectors and law courts.

The law courts often have huge backlogs which means it may take years for a dismissed worker's case to get to court. Sometimes governments just ignore the law and the complaints that that foreign companies are not listening to the law. Sometimes employers make agreements and then just break them knowing that it will take a long time for the union to have the agreement enforced.

Poverty and unemployment

In countries where the unemployment rate is very high and there is a lot of poverty, it is often difficult for workers to try and enforce the rights they have in law as they fear losing what little they have. Management will normally try to play on this fear to ensure that workers do not become or-

ganised but stay as vulnerable individuals as this is in their interest and helps to make workers more easily exploitable. Workers will often be threatened with dismissal if they join a trade union. Management sometimes goes even further using security guards with dogs and even guns. Many workers have been injured in trying to enforce their rights or pressing for a better life. The police and army have also often been used in the past by governments wishing to make sure that investors are not negatively affected, often at the expense of workers. It is therefore often quite difficult for a union to organise workers in these types of conditions. It takes bravery on the part of workers to overcome the fear that employers try to fill them with.

Union recognition

Once the union has organised a number of workers the next step is to attempt to reach a recognition agreement with the company. Even when the law says that this should happen where a significant number or majority of workers are organised employers may refuse to do this, knowing it will take a long time for the law to intervene in the situation.

Although it is sometimes difficult, it is useful for workers to find out who owns the company that operates in a poor country so that pressure can be brought against the mother company. Often the management of these companies will be very secretive about what they are doing, who they have contracts with and who owns them. Packaging and brands can provide a lead as can finding out who the buyers that come to the factory work for. Given the above recognition can sometimes be a long and difficult fight during which workers may lose faith in the organization.

Union capacity

Unions in Africa can often be quite small mainly for two reasons, firstly because of the number of people employed in a particular industry may be limited or secondly, the number

of workers that will not sign up because they fear joining other members even in a common battle to improve their conditions. Unions like any organisations need resources to operate well. For a union, the membership is its life blood not only because of the membership fee that helps to build the union infrastructure to make it more efficient (doing something right), but more importantly because to a union, membership is power, the power of workers acting together to change their lives. More membership helps a union become effective (doing the right thing) and increases the ability of the union as the collective agent of workers to force employers to change their ways. Many times unions seem to stop growing even though there are many more workers in the industry. This often relates to issues such as difficult employers, fearful workers, or harassment by governments to stop the unions gaining in power. The union itself will often have relatively few resources or lack the infrastructure to communicate and organise effectively. There are also cases of union leadership running the organization for gain or in undemocratic ways. This ultimately means workers lose faith in the union as they do not really control it and the union will lose power and become ineffective.

These limitations mean that unions need to develop creative ways of dealing with the problems of organising workers on the most marginalised continent on earth.

Union organisational form

It is abundantly clear that unions in many countries that cling to a notion of sector based unionism where the sector employs too few workers to sustain the organisation can not be seen as an effective form of workers organisations. These unions continue to exist more as a function of protecting individual positions and through the accessing of external funding sources than as the best method to defend and protect workers. There are at times genuine ideological differences but these should not stand in the way of coordinated joint actions.



Instead there are obvious benefits to unions organising in small sectors to form together into larger organisations that have the potential to be self sufficient. It is self evident that this is in the interests of workers.

This is not to advise that simple general all comers unions are formed as such organisations normally experience the drawbacks of lacking sufficient focus to assist workers in a particular sector. As observed in some unions in Africa the most beneficial organisational form that has been tried and shown to be effective is where a single organisation operates in a number of focussed sectors. Such unions are able to grow in their ability to organise and defend workers and are also normally in a better position to pressure national governments to consider policy changes. There are also far more opportunities for such unions to achieve economies of scale in developing infrastructure and communication abilities for the union.

Unions also need to consider the relationship between the number of employed officials and the number of members as these two concepts are integrally linked and decisions on the one should never be made in the absence of information on the other. Where this occurs it is normally a strong indicator that membership interests are not the primary consideration in organisational decision making.

Having said this if unions move to more general manufacturing forms as most of the GUF's are acknowledging is strategically necessary then the way that GUF's interact in support of unions with multiple affiliation must become more integrated. Discussions between GUF's with affiliates that are not self sustaining because of the size of the sector that they organise can begin to pave the way for cooperation discussions between these affiliates. It does not make strategic sense to continue supporting the activities of organisations that by their very existences have the potential or worse the actual effect of ensuring that workers struggles are kept small and divided. This needs to be driven as a priority at the GUF forum in Southern Africa but should also where possible extend at GUF head office level.

Unions with a number of sectors of focus will also tend to represent members drawn from a wider cross section of society. Instead of being seen as a weakness as is sometimes argued this should be seen as an opportunity to more deeply integrate trade union and civil society groupings. Such an intensified link would mean that unions should see their scope as far broader than just industrial issues and become active at social levels as well. There is a need for a balance between membership sectional interests and those of national regional and global social formations.

At the same time broader union forms have far more potential for joint action across national borders against common employer groups or on regional issues such as the SADC Social Charter. In such an argument the best form of coordination would be where general manufacturing unions or multiple sector unions have similar scope in different countries.

Unions need to create broad civil society alliances

This is a core area for union action into the future. We need to realise that our struggles are not limited only to a specific workplace but that the attack on the working class is a broad one that needs coalitions of multiple interest groups to fight. This is linked to shifting organisational form and strategically locating the union movement in a fight to develop

an alternate approach to globalisation. This is not a short term pay off strategy but rather the practice of values that with longer term investment will shift the nature and functioning of unions.

Unions in the informal sector

Increasingly the global economy has forced more and more workers in poorer countries into the informal sector. In the clothing industry many thousands of people make a living off the sale of second hand clothes. Unions have traditionally ignored or viewed these workers with hostility as the used clothes industry has lost many jobs for garment workers (see booklet 1) but this is a result of shifting economic policy. Some unions are starting to realise the importance of engaging this section of workers as well as other informal sector workers in a broader struggle. These sections of workers are more difficult to organise and will require organisational changes but these in themselves are not reasons to avoid these workers.

Case Study: Tanzanian trade union strategising the future:

TUICO's activities in the informal sector

The union decided to organise in the informal sector at the beginning of 2004, after a decrease in membership as the public sector declined through privatisation. Some of the retrenchees wanted to be self employed and began seeking opportunities in the informal sector.

Currently the union is organising in Karioko Market where 570 vendors are members of the union. These vendors are organised into 13 societies based on what goods or services they are selling, for instance there is a porters society, vegetable society etc, and each society has nominated leadership. This is a departure from normal union activities. So far the union has started to provide the vendors with education on sanitation (for the food vendors) and on running a small business. The market is open air and the vendors membership fees, currently at US\$1 a month, is being used to put up shade clothes to give traders and their goods some protection from the elements. Also the government wanted to move traders to another area where there is not much passing trade and the union was able to successfully defend the traders against this relocation. Also the workers employed by the government at the market are members of the union so the management was known to us and it was easier to negotiate with them.

The union has also been involved in negotiations with the Dar Es Salaam City Council to establish a permanent place in Ilala for second hand clothing vendors to trade, amongst them are 140 batik makers. They are continuing to organise in other districts of Dar Es Salaam as well.

In addition the union has earmarked other small businesses and service vendors such as parking attendants and hairdressers. Also the local authority has privatised waste services and the union is looking to organise the cleaners. The potential in the informal market is unknown, but the union is targeting a membership of 5000 to 6000 from vendors in the markets.

Part One: A n approach to organising

We don't organise workers by making promises that can't be kept. This is short term thinking that only causes more problems when the promises can't be met. Members that have joined will leave the union with less trust of trade unions and this will make these workers much harder to organise again. Instead when we organise workers we must emphasise the idea of workers taking control of their lives and building solidarity as the only antidote to exploitation. It is important to emphasise that there are no short cuts and that we are preparing for a fight which like any battle needs strategy. The role of the union is to give a voice to workers beyond their factory and to help workers to get organised. The union is workers therefore it does not make sense to say the union can do this and that for workers, this is not logical. It only serves to make workers dependent on an organisation as opposed to building workers belief in themselves and their ability to demand and fight for their rights. The organisation that is built by workers like this will be far stronger than a union organisation built by organisers acting like salesmen.

Organising is a total approach to the problems faced by workers it is not just about recruitment and service when the members have a problem it is also about changing the way workers see themselves and the trade union. For this reason issues of education must be integrated into the organising efforts. Given that in many countries the majority of workers are women it also makes sense to build around women's issues and demands in the factory and develop the way in which women interact and participate in the union. This is not being done adequately at the moment and this is reflected in that the majority of leadership and organising staff in many unions in Africa being men.

On these issues unions must manage their relationships with external funders and donors who will say they would like to do education on this or give money to start a gender structure. These activities are okay but shouldn't be seen or run as separate projects that have nothing to do with organising. Similarly, issues of HIV and AIDS need to be spoken about by organizers and shop stewards as these are all issues that harm people in the working class and therefore need to be taken on by workers organisations at plant level.

This will not happen in a short period of time however it is something that needs to be built through frequent visits to the factory even if it is just from outside the gates and by developing the workers representatives in the factory and then mutually deciding on ways to reach all workers with this kind of information. It is true that sometimes individual union officials and shop stewards like to keep information to themselves to make themselves more important or indispensable, but such attitudes and actions are unacceptable in a democratic African trade union movement as it slows down the efforts to make workers self reliant and only perpetuates more dependency. In short such actions are anti worker. Linked to the problem of information hoarding is the tendency for people who are made desperate by their economic circumstances to look for saviors. This desperation is sometimes used by individuals to develop a culture of heroes. Workers come to believe that by following this or that person there lives will improve. Encouraging

such hopes steals from workers the opportunity to believe in their own power which is the real source of change. This is often the source of splinter unions emerging when a popular leader becomes displaced and takes a small following to start another union that now competes with the first. This again serves only to break down solidarity and undermine workers power.

Running the union effectively

The core strength of a union will always be with membership and it therefore makes sense that most of the organisations resources should be directed towards organising. It doesn't make sense to have 5 senior leaders and two organizers in a small trade union. The union needs to asses its resources to allocate them in areas that will have the greatest positive impact in organising workers. Organised workers are also the main element of income for the union and as workers are organised into the union the additional funds need again to be allocated in the areas where they are needed the most.

A word on Donors. A workers organisation must be self sustainable otherwise it can cease to play its intended purpose. By giving money to unions donors have in a number of instances created dependency on outside funds for the organisation. This creates a number of problems. Firstly for a while the union can support more infrastructure and staff than it could on membership subscriptions alone. This leads to the problem of when the funding ends how are these staff sustained other than cutting into the money that would be used for organising activities. Often funding being linked to other activities takes union resources away from its primary objectives and because there is money from outside the union comes to believe that these primary focus on organising is no longer all that necessary. This is fatal to a union organisation that can become efficient (it does stuff right) as opposed to effective (doing the right thing.)

The union should do a calculation based on its subscription income and costs to determine how many members it takes to sustain activities and staff. For example 2000 members paying R5 for subscriptions would mean R10 000/month income to the organisation. From this you must deduct Rent, phone bills transport etc and wages for union officials. If you employ an organiser for R1000 a month to employ an additional organiser you should recruit at least another ($R1000/R5=200$) 200 workers to employ this organiser. If you pay the organiser R2000 you would need to recruit 400 members to make this viable. Also remember that people join and leave unions thus you should build in a safety margin of at least (30%-50% of the salary cost) so in our first example where the union pays the organiser R1000 a month this would mean recruiting between 250 and 300 members to justify the extra expense. Self sustainability is the key to union independence, and a union must be independent if it is to place workers interests as the primary objective of all that it does.



Constitutions and Organising

An important part of union organizing is to ensure that members play an active and ongoing role in the trade union. Part of this is organizing workers into structures so that they can debate issues and give direction to the union. For members to be actively involved in the union they must be familiar with the union constitution. This is also the right and duty of anyone belonging to a membership based organization.

All unions have slightly different constitutions but basically they all cover similar areas;

Purpose of the organization

This lays out the reason for the union existing and will normally relate to protecting workers and advancing their interests

Principals of the organization

These may be set out from the beginning in the constitution or brought about through policy decisions of the union decision making bodies. Some important principals for democratic trade unions which are often found at the beginning of a constitution are concepts such as;

Workers control of the organization

Leadership should be regularly elected by the broad membership

Union independence

Decisions by paid up membership

Decision making structures

This would outline the major decision making bodies in the union. Normally there is a congress or conference open to the broad membership through shop floor representative systems and acts as the parliament of the trade union. This body elects leadership positions such as General Secretary, President (sometimes called chairman) Deputy General Secretary, National Treasurer and could include other national posts. The constitution determines how often this body meets which is hardly ever more than every 4 years.

There may also be a smaller but still general meeting every year for the taking of important decisions that affect all and

then a regular structure such as an executive committee that has both elected and worker delegates that meets very regularly to oversee the general running of the trade union.

Depending on the size and area covered by a union there may well be regional or branch decision making bodies that oversee the running of local union activities and staff and may well be factored into the representation system at the national decision making bodies.

Election of office bearers and leadership

The election of office bearers and leadership is an important element and is normally under the powers of the congress of the union. Some constitutions prevent leadership being re-elected more than once or twice to allow the organization to remain dynamic and prevent too much control coming to rest in the hands of one or two people for a long time. Constitutions also determine what level of officials of the union are elected or appointed but this normally relates to regional and organizer positions, more senior positions are normally elected through a democratic process that involves membership.

The election of leadership is key to the concept of workers control of democratic trade union organization.

Procedures for changing the constitution

Because a union is a democratic organization working in a changing environment (e.g. the union suddenly has many more members it must serve) there needs to be ways to change the constitution but this should never be left in the hands of a few people. Thus the constitution can normally only be changed by the largest meeting with the broadest representation such as a congress. The constitution will also determine the level of support necessary for a constitutional change to be effected.

Scope of the union

The scope of the union is sometimes in the constitution. This covers the areas or industries that the union organizes in. Some times this is only in the registration of the union with a government body such as the Department of Labour.

Financial controls

The constitution will normally also stipulate who can make

money decisions and may limit the amount of money involved in a transaction that officials can make without referring back to membership. It would also normally stipulate that the union books should be audited and the role and duties of the treasurer such as annual reporting of the financial status of the union which covers monies collected and donated and how these have been spent. The constitution often gives the right to any paid up member to inspect the financial statements of the union on demand.

Meeting rules and procedures

The constitution of the union should also set out how meetings such as branch, executive and congress should be run and the powers and duties of people such as the chairman of a meeting. Such rules will normally also include how people are selected to speak for how long and under what circumstances somebody can interrupt a speaker. These rules are sometimes called standing orders.

The constitution is the foundation of the union and needs to be respected by all in the union. If the union is to continue to represent workers in a vibrant and active manner it is critical that members participate actively and knowledgeably in meetings and structures of the union. The union has a duty to ensure that every member understands the constitution and the principals of the union. Where a union prevents members from accessing such a document it is normally a sign of undemocratic organization. This can only end up harming workers interests which defeats the purpose of the organization.



Organising for recognition

Workers will either come to the union or the union will send people to try to organise a factory. The first step is setting up key contact with workers in the factory and having discussions with these workers around strategy as well as giving information on what will be necessary to develop workers solidarity. Union officials along with these key workers and others as the organising effort expands should then begin speaking to and mobilizing workers around issues that are taking place in the factory. This is not a recruitment drive but rather an organising initiative where the objective is to first mobilise workers into organising themselves around concrete issues. Once this has been done and some kind of plan developed to get workers organised workers should then begin to sign up as many members as possible and when power is consolidated on the shop floor, workers demands brought to the company. (also see booklet 3 in the

series)

At this point the primary struggle is to get the workers organisation recognised by the company. If the employer realizes that most workers support the union they may back down and recognize the union, after which the real organising and education process can commence with a view towards preparing workers and workers leaders for the collective bargaining process that is to come. The important point is organising doesn't end with recognition, although this is the critical first step. It is important to allow the workers to develop and drive this process that the plans that emerge come from the workers, bottom up and not top down from the union to the workers.

But the employer refuses to recognise the union then a number of different actions can be taken depending on local situations. The first option is to use workers power by striking to force the employer to recognize the workers organisation. This has been the traditional way for workers to achieve recognition for their unions all over the world. On the plus side of such a strategy is that it educates the employer from the start about workers power. As you will realise when you begin negotiating it is not people that negotiate but their perception of how much pain the other side can cause them that negotiates. In this sense a show of force early in the process is not a bad thing as it can create a perception in the mind of employers as to how powerful workers are. If the employers have had their way with workers for a long time their perception would be that workers are weak and this perception will need to change at some point if the employer is to be forced to pay better wages etc, as the process for struggling for rights and living standards continues. Sometimes the law will prescribe a process to follow to go on strike and this can often be a long confusing process designed to take the anger out of workers and the teeth out of strike action. For this reason many strikes are illegal but still supported by unions and workers. What is important though is that workers take the decision about what is to be done as during early strikes employers will also be keen to show their power by for example dismissing striking workers. It is a decision that will affect these workers lives and therefore one they should take with as much information as possible. Organising is often about helping workers make informed decisions.

It is important to see what the law says about recognition as well as in some countries it may be illegal to strike on recognition where the law makes provision for this. In such a case the first step would be to start the process prescribed by the law for recognition which may mean a verification process which is just a process of proving that there are certain percentage of signed up members in the workforce. These two strategies may also be linked where a demand for recognition is placed in terms of the law and if there is not compliance by employers then strike action may be used. In many countries the law is not properly enforced in the hope that weak labour unions will be more attractive to potential investors. In such a case a dual strategy may well be necessary. As said before you must assess the local conditions which include factors such as the situation of the employer, how angry and mobilized workers are, What the law says and so on.

A Case Study, Organising C&Y And Nien Hsing To Recognition

Nien Hsing opened its first factory in Lesotho; C&Y clothing, in 1991, which in 2002 employs about 4,000 workers. In January 2001, the company opened a second jeans factory, Nien Hsing, which employs about 3,500 people in 2002, 95% of whom are women. Nien Hsing Textile Co wholly owns both factories. The two factories can be found opposite of each other in the Thetsane Industrial Area, East of Maseru. Both Companies produce jeans for the US, known buyers include Bugle Boy, K- Mart, Sears, Casual Mail, Gap and Cherokee jeans for Canada. Nien Hsing is building a \$8.6 million (R100 million) textile mill a short distance from the Nien Hsing factory.

C&Y Garments and Nien Hsing were identified as two very large and exploitative employers early on in the interaction between the Lesotho Clothing and Allied Workers Union (LECAWU) and ITGLWF Africa. As such they were researched and information was generated about practices in these factories.

LECAWU kept up pressure on the ground and continued to speak to workers and tell them what was going on. The research information went into a booklet and also through the Clean Clothes Campaign the Canadian based Ethical Trading Action Group (ETAG) and the American garment union called UNITE became involved.

A major name that buys from these factories and then sells the clothes overseas is called the GAP and The Clean Clothes Campaign, ETAG and UNITE began to pressure this company and threatened to harm its public image when they would not make sure that the clothing they were buying in Lesotho was made under good labour conditions. UNITE also published details about the practices on their Web site as did the clean clothes campaign.

Another labour related international organisation, the American Solidarity Centre also called a meeting in Taiwan with the Nien Hsing head office to protest the violation of workers rights in Lesotho. In August of 2001 ITGLWF Africa held a campaign workshop for its different affiliates in the region and at this workshop the LECAWU delegates identified different problem employers and strategies to organise and campaign around issues.

On 26 March 2002, workers at C&Y stopped work in protest at the failure by management to resolve several of their grievances over pay and conditions at work. Management even assaulted a worker at one point. In the face of the assault brand names like GAP fearing the negative publicity began to put pressure on Nien Hsing and went so far as to monitor the labour conditions amongst suppliers through an office in South Africa. Nien Hsing was now facing pressure from International trade union federations, The American and Canadian unions and lobby groups, the Clean Clothes Campaign, the American Solidarity Centre. The senior management of the whole Nien Hsing group had been drawn into the issues and the factories themselves were under constant observation by the union as well as organised workers themselves beginning to resist the excesses of management at the plants. There was in short nowhere else for the company to turn. ITGLWF then visited Lesotho and began assisting with the organising campaign using their presence to place even more pressure on the employers. In an historic turn around, after talks between LECAWU, ITGLWF Africa and Nien Hsing, on 16 July 2002 management entered into a check off and access agreement. Recognition had been achieved after many years of effort.

Example :

MEMORANDUM OF UNDERSTANDING ON CHECK-OFF AND REASONABLE ACCESS BETWEEN NIEN HSING INTERNATIONAL (PTY) LTD, (Herein after referred to as employer) AND LESOTHO CLOTHING AND ALLIED WORKERS UNION (Herein after referred to as union)

- 1. Preamble**
The parties reaffirm their commitment to respect and enforce workers rights and Union rights as well as the Employers rights defined by Lesotho Labour Code and International Labour Organisation (ILO) core conventions and ILO Declaration on Fundamental Principles and workers rights.
1.2.1 The parties further commit themselves to resolve all disputes through dialogue as a first step and in no case shall they resort to unlawful means whether directly or through their members such as unlawful strikes, work stoppages, lock outs or violence, failing which the matter may be referred to DDPR as and when necessary.
- 2. Collective Bargaining Agreement**
The Employer agrees that upon the Union attaining the required majority of 50+1% of eligible workforce the parties shall negotiate a recognition and collective bargaining agreement. Proof of such membership shall be proved by the number of employees that have signed the check-off form referred to in 3 below.
- 3. Check-Off Facility**
The company agreed to deduct union dues based on signed authorization form in terms of this agreement.
3.2 The employer shall give the Union an opportunity outside normal working hours to persuade all employees, including those that are not members of Union to sign a written authorisation form for the deductions of union dues, in exchange for the service that the Union renders to them.

- 3.3 Upon receipt of an employee's written authorization, the Employer shall deduct from such employee's wages, such specified amount as Union and remit same to the Union not later than ten (10) working days after each month end – together with the list of names of the employees from whose pay deductions were made.
- 3.4 Employees are free to revoke their authorization, which will take effect twenty (20) working days after their receipt by the Employer and to the Union. Upon receipt of such a withdrawal of the authorization the Employer shall send the copy of such withdrawal to the Union Head Office.
- 3.5 The Union shall issue receipts of the monies within five (5) working days of receiving dues remitted by the Employer and send the same to the Employer who shall keep them on record.
- 3.6 Where monies have been deducted from the pay of an employee who does not owe such monies it shall be the responsibility of such an employee to obtain a refund from the Union.

4. Form of Authorisation

Authorisation form for the deduction of Union dues shall be in terms of the Union Constitution and reflect the following:

To the Employer

I..... Employment I.D. No..... hereby authorise you to deduct from my weekly wages/ monthly salary commencing from2002, a sum of money of M..... and pay that sum to LECAWU to be collected by a duly authorised Union official until further notice.

Signature.....

Date.....

5. Company Deduction

The Employer shall deduct 1% from the total sum to be given to the Union as an administrative charge.

6. Union Access to the Company Premises

6.1 The Union shall provide the employer with three names of Union officials unless agreed otherwise who shall be granted access to the Employer's premises for purposes of recruiting members, subject to 6.2 below.

6.2 The employer shall on five days notice grant the said union officials referred to in 6.1 above reasonable access to its premises on the agreed time and days per week. Such access shall not be unreasonably withheld but always at the discretion of the Employer who is the proprietor or occupier of the premises.

6.3 The said Union officials shall comply with the Employer's prevailing security, safety and health regulations and ensure that any activity on Employer's premises shall not be so conducted as to disrupt in the reasonable opinion of the Employers its operations. The Employer shall provide where possible suitable facilities where Union business may be conducted without disrupting the Employer's operations. In no case shall the said Union official talk with or communicate with workers that are working. In no case is this access provided for any other purpose other than recruiting, such as conferring with members, grievances investigations, or conferring with management.

7. Cessation of Union International Campaign

The Union undertakes to withdraw its international campaign against the Employer as soon as the Employer signs and implements this agreement. The Union will notify International Textile and Leather Workers Federation, Regionally and Internationally including their sister Unions abroad to withdraw the campaign regarding Nien Hsing International Lesotho and C&Y Garments (Pty) Ltd. on the basis of this agreement.

The Employers Address is:

Nien Hsing International Lesotho (Pty) Ltd/C&Y Garments(Pty) Ltd.

Private Bag A73,

MASERU 100

Signatures

On behalf of the Lesotho Clothing and Allied Workers Union

Signatures



Step by Step guide: What to Tell Shop Stewards about organising

This step by step guide from a previous publication called a Call to Action is useful for organisers when communicating with shop stewards. The link between organisers and shop stewards is about the most critical relationship in the whole union and crucial to the development of workers and that of the organiser so that he or she can fulfil his or her constitutional duties. Organisers are encouraged to become familiar with the guide or make copies to give to shop stewards when visiting the plants. Booklet 3 in this series is also useful in this regard.

Step 1: Recruiting Members

The union cannot do much to help workers if workers at the factory are not members of the union. Therefore, the first step is to ensure that workers in your factory are recruited to become members of the union. It is important that when you recruit you explain to other workers that in joining the union the union becomes their organisation as well and they should attend meetings and help to give the union direction and strength. The union is not owned by anyone but the workers who have formed it and are its members. The labour law may prevent you from recruiting members at certain times in the day. You must work with the union organiser to establish when it is best to recruit members.

New members need to fill out a membership form and then they must begin to pay a monthly amount to the union. This amount is called a monthly subscription and helps to fund the union activities like meetings, organisers, lawyers etc. As unions are democratic organizations workers have a right to check that money is being spent on their interests. The finances of the union are discussed at various meetings and how they should be handled is determined by the union constitution.

An example of a deduction form

Form of Authorisation

Authorisation form for the deduction of Union dues shall be in terms of the Union Constitution and reflect the following:-

To the Employer

I

Employment I.D. No..... hereby authorise you to deduct from my weekly wages/monthly salary commencing from2002, a sum of money of M..... and pay that sum to LECAWU to be collected by a duly authorised Union official until further notice.

Signature:.....

Date:.....

Sometimes by agreement or by the law the union can have the employer deduct the money and then it is paid over to the union, as it is quite difficult to collect these subscriptions by hand.

Step 2: Getting The Union Recognised By The Factory

When you have recruited sufficient members in the factory, the union will demand that the employer recognises the worker's organisation. This means that the union can come

on the factory property to meet with the employers and to negotiate for better wages and working conditions for workers. Organisers will also be able to meet shop stewards (worker leaders in the factories) to help with grievances or cases of unfairness in the factory. It will also mean that if the workers have any problems the union can come on the factory property to speak to the employers about this.

When the union approaches the factory to demand that the employer recognise it, they will have to prove that there are enough workers as members. This is why it is important that workers sign membership forms. If the union can prove to the factory that it has sufficient members, then the union and the employer will sign a "recognition agreement". This agreement will outline all the rules and rights that workers and the union will have. It will also explain how workers' problems in the factory will be sorted out.

Sometimes the law in a country will make it a right for the union to be recognized once a certain percentage e.g. 30% or 50% of all workers have joined the union. If the law does not give this right or the government will not enforce the right then workers may have to strike to force the employer to recognize their trade union. Remember the point of workers coming together in an organization called a union is to increase your power which you don't have much of on your own. Going on strike is a way of teaching the bosses about your power.

In many countries unions to get recognition have fought battles. These battles have sometimes been helped by the ITGLWF Africa and by international campaigns to put pressure on the companies to correct wrongs and recognize the union. This was mentioned earlier in the booklet. Page 8 and 9 contain a good example of a recognition agreement achieved by good union organizing and international solidarity.

Step 3: Electing A Shop Stewards' Committee

Workers, who are members of a union in a factory, must together elect a committee of members to become shop stewards. The shop stewards will be the union leaders in the factory. They will represent workers to management. The union will work with the shop stewards to help them become strong and effective leaders. The union will train them and meet with them to help them with problems.

The shop stewards will be accountable to the workers. The shop stewards must meet with workers to ask them what are the problems in the factory. This means the shop stewards get a "mandate". The shop stewards take this mandate to the employers and demand changes. If the employers make another suggestion, the shop stewards should return to workers to ask them what should be the new mandate.

To be a strong and effective shop steward, you need:

- ▣ to be brave and without fear when speaking to employers
- ▣ to be close to workers and learn about what their problems in the factory are
- ▣ to always get a mandate from workers before speaking to the employers
- ▣ to make decisions with workers and the union, never make

decisions on your own

- to attend union and shop steward committee meetings
- to be trained by the union
- to know union policy on different issues
- to always tell other workers what is going on
- to know the labour laws of the country

Make sure that the union and workers know about all meetings that you have with the employers. Sometimes, an employer will try to get the shop steward onto their side to weaken the union. As a shop steward you should always be careful of the employers tricks to try to divide you from the other union members you represent.

Step 4: Getting the factory to co-operate

(a) Using the law

If the union is recognised at the factory, then many problems that workers' experience at the factory can be dealt with. If the company refuses to deal with some of the problems, then the union can go to the Labour department of the government to request them to help. The union can also take the company to labour courts. Your union organiser will know what to do when the factory will not solve workers' problems. The law is not the only way to solve problems though sometimes workers will have to come together and make their power known through going on strike to force the employers to listen.

(b) Using worker power

There are some issues that the law will not help workers with. For example, what is a good wage? The law is silent on this. Also, the law sets minimum standards but does not say how high standards must be. The law leaves this for employers and workers to agree on. When workers stand together, they have a lot of power. This power will be needed to resolve some of these problems.

Workers can show their power in a number of ways. One of the strongest ways is for workers to go on strike. Another way is for all workers to refuse to work overtime. If the workers are stronger than the employers, then factory problems can be resolved this way.

The law sets out how strikes can take place. Be sure that you know what the law says about strikes. Your union organiser will help you with this.

(c) Using retailer codes of conduct

If the factory will not co-operate with the union or will not make improvements in the factory, you can contact the retailer who buys from the factory. When this retailer has a code of conduct you must insist that the code of conduct of the retailer is shown on all the factory walls.

The retailer will come to the factory once or twice every year to look at production in the factory. It is important that shop stewards meet with the retailer to tell them that the factory is not implementing the code of conduct.

If the retailer is not happy with the factory, they can threaten to stop buying from the factory. The retailers are very powerful and can force the factory to make changes.

Sometimes, the factory will not tell workers that the retailer is coming to visit. They will also prevent workers from meeting with the retailer. The employers will also try to make the factory look better for when the retailers visit so that they think that the code of conduct is being implemented. They will also threaten workers and tell them to keep quiet and not complain to the retailers about the factory.

The union must be told when the retailer is visiting the factory so that the retailer also meets with the shop stewards and the union. This will make sure that the retailer knows of all problems at the factory. If shop stewards are afraid to talk

to the retailer, then workers' problems can be presented through the union organiser.

(d) Conducting an international campaign

There will be times when the factory, the government and the retailer will not help workers at the factory. They need more pressure on them to make improvements at the factory. The union can start an international campaign on the factory and the retailer to put more pressure on them. If your union is a member of an international union, they can call on the international union to help with the campaign. There are also organisations in the United States, Canada and Europe who will help the union to put pressure on the factory and the retailer that is supplied by the factory. These organisations can tell customers of the retailer in the United States, Canada and Europe that the clothes they are buying have been produced under bad conditions. They can tell the customers to complain to the retailer and force them to force the factory to make improvements. The union and these organisations can inform the media and embarrass the factory and the retailer and force them to make changes. Organisations your union can work with include the Clean Clothes Campaign (Europe), ETAG (Canada) and UNITE (US).

(e) Educating other workers

If other workers are going to participate in these actions they must be well informed about what they are doing and why. Shop stewards play a very important role in telling other workers about what the issues are and what can be done. This is important because it is the workers in general who must tell shop stewards and the union what to do, that is give them a mandate. To give an effective mandate workers must know what they are talking about and so the shop stewards must educate the other members. This is also very important if workers have to stand together and exercise their power as workers will not support a strike action if they feel there is no hope or do not really know what or why they are doing this.

(f) Pulling it all together (developing a strategy)

To organise in a factory shop stewards should have a plan. The first part of a plan is to collect information. You need to know who are members and who are not. You need to develop a strategy on how to recruit the other workers into your union. You will need to know what products the factory is making and who they supply with the product. You should have contact names and numbers for people in the union. You should know when union meetings are and participate in these. You will need to decide how and when you will communicate with workers and let them know how they can get hold of you. New workers should be approached to join the union as soon as they arrive in the plant.

You should keep a notebook that has the issues that workers are raising and somewhere to write down incidents that happen or what management says when in a meeting. The shop stewards committee should write a list of all the issues that are important to workers. This list should be discussed with the union. The committee should decide what the most important issues are and try to tackle these issues first. Once you have decided what the most important issues are you should develop targets to achieve these things and also a plan for how they will be achieved. (Remember when you are developing this plan you have many different methods that you can use. Try to think which ones will be the best for achieving that target.) Involve workers and tell them about the issues and what will need to be done. Try to develop your own skills and knowledge. Remember the union is your union so request that education happens so you can sharpen your skills to deal better with management.

A greements

What impact do agreements have?

Collective agreements find their power in the common law of agreement and as such may be sent to a civil court for interpretation. Sometimes national labour laws may specifically empower another court like a labour court to adjudicate on matters of agreements but parties may still have recourse to civil courts as a matter of common law.

Do agreements have more power than legislation?

Yes but under certain circumstances. E.g. you normally can't enter an agreement that specifically contravenes statutory law (legislation normally made by a parliament). E.g. if a child enters an agreement to work for someone, regardless of their being an agreement it is child labour which is a violation of statutory law and therefore the 'employer' cannot force the child to perform the promises of the contract. Also in most law a child is not considered to be a legal actor and therefore cannot enter into a contract.

Types of statutory law and their relationship to agreements

Minimum conditions legislation

Normally there is legislation that sets minimum conditions such as hours of work, restrictions on overtime, leave, sick leave etc. Collective bargaining should not go below these conditions either because the law does not allow this to take place or because there is no real point in having a union to agree on conditions that are below the minimum level of the law. Sometimes minimum wages can also be set as a minimum conditions piece of legislation,

Relationship and procedural legislation

These Laws normally govern the formation of union and employer structures and how they should interact as well as mechanisms to resolve disputes. Where the agreements make reference to statutory dispute settlement mechanisms this will normally be found in this kind of legislation.

Health and safety legislation

As the name suggests these laws deal with the minimum acceptable conditions in a country. Sometimes you may improve these conditions by agreement through collective bargaining.

This is not a complete list of legislation but it points out a few important aspects. The law itself is only a framework with minimum levels. Practical experience in Africa tells us that governments seldom uphold these laws properly and have few resources to do so. The role of the trade union is therefore critical in defending workers rights. Very few workers will be able to negotiate their way through the delayed and complex bureaucracies that African legal systems have become and constant pressure needs to be maintained. This all points to the need for strongly organised trade unions that are able to bring power to the negotiating table in order to improve working conditions for workers. The law itself is no substitute for democratic struggles.

The Law and Industrial Relations

The Law in industrial society forms a framework or skeleton if you will upon which to hang the meat of Industrial Relations. Laws in various countries will influence Industrial Relations differently but it is important to understand how the law establishes a particular system in this country for this has very practical ramifications for all. South Africa, as in most countries, has developed a dualistic system of Industrial Relations, which divides all issues into one of two groups. This is in an attempt to give the actors sufficient freedom in the system to pursue their goals but at the same time maintaining functional levels of conflict within the system. Thus a particular issue will either involve what is called a right or it would be an interest.

Negotiating Agreements

A new wave of organising workers in the garment and textile sectors is beginning to take root in Africa and progress is being made through different local, regional and international campaigns, in forcing employers to begin to bargain and recognise unions. This guide is primarily aimed at this group of unions but will also be very useful to unions that have established a relationship with a company and are now, or have been for some time, negotiating different substantive and procedural issues.

Procedural and substantive agreements

There is a major difference in procedural and substantive agreements. Procedural agreements are those agreements that cover recognition, discipline, grievance, retrenchment processes and new technology introduction, whilst substantive agreements tend to be focused on cost to the company in the form of wages and conditions. Procedural and substantive agreements should generally not be negotiated in the same sitting as you will end up trading money for procedures which will have a negative impact on member perceptions of the union. For this reason issues of discipline, retrenchment and grievance have by in large been removed from the agreement and should be included as annexures to a recognition agreement which the union should begin to negotiate as soon as possible after the substantive agreement has been concluded. Once the company has negotiated the substantive agreement with the union in common law they have to all intents of purposes recognised the union anyway through their actions and such an agreement would be more about the detail than the principle of recognition.

Some strategic considerations in negotiating this substantive agreement.

Central vs. plant based bargaining

By altering the name of the company/s this agreement can be used for one employer at a time or a group of employees. Where there is no legally constituted employers association who's constitution gives it the right to negotiate on behalf of the different companies the agreement should be signed by all companies. This is clearly an attempt to push for more centralised bargaining forum which is useful

especially where union resources are stretched and it is difficult for the union to participate in a number of plant level negotiations.

It is also important to consider the impact on workers of a more centralised agreement which tends to some extent reduce the clear identification of shop floor issues with the union as the focus is naturally broader. The central agreement tends because of a number of employers to settle on the lowest common denominator of the companies and should therefore be seen as a base agreement where plant level bargaining interventions are still possible.

Workers have less role and input into a central agreement and therefore are more likely to have notions of the union as an external service organisation as opposed to a worker led and controlled organisation than would otherwise be the case. This is a particularly crucial time for this as the union is suddenly enjoying an influx of members and every effort should be made to maintain strong organising techniques and stress the strategic thinking behind more centralised forms of bargaining. Frequent and conscientious mandating and feedback procedures are of paramount importance in establishing a democratic culture within the union and its members.

What to Negotiate

There are different approaches to what gets negotiated, when and with different strategic implications. Where wages and conditions are negotiated simultaneously there is the danger that you will have to trade issues covered in the conditions against the wage increase as employers tend to cost total increase in cost to company and then negotiate from this basis. Sacrificing the wage component too much especially in a new collective bargaining relationship will have the effect of undermining member confidence in, and therefore support for, the union. One option may be to set the conditions of service in one round of discussions and then later make a wage demand and negotiate this, or of course the other way round with wages first. Wages should include bonuses contemplated in the agreement.

Strategic thought must be given to the duration of the agreement. An agreement that proposes a two year period or longer which should be approached with some caution as this ties workers to an agreement that may bind them to conditions that they may want to change in the future. It is especially important for wage agreements where external factors such as inflation, may negatively affect yearly increases.

The Dispute (When You can't Reach Agreement)

What is a dispute?

A dispute is a continued disagreement between employer and employees or their union as regards to any matter of common interest, any work related factor affecting their interests or any process and structures established to maintain such relationship.

A dispute could then arise from a failure to agree to conditions of service or unilaterally changing those conditions. What is important here is the use of the word continued. Merely grumbling to oneself discontentedly does not constitute a dispute. A dispute will arise where there is a concrete demand, which does not lead to final agreement, or where a grievance is not settled in a mutually

satisfactory manner. There are occasions where a dispute will be declared with no prior negotiation, for instance, where information is refused that the union is entitled to by agreement, but this is not generally the case. Disputes may be followed by legal action; some form of industrial action (strike, go-slow, picketing, etc.) or may lead to the use of agreed dispute settlement machinery, e.g. mediation.

Types of Dispute

As discussed earlier, there are generally two types of dispute. Disputes of Rights and Disputes of Interest. A right is something you have while an interest is something you want. Conflict in Industrial Relations generally stems from conflict of interest.

Dispute of right

A right is that to which a party is entitled to by law, contract, agreement or by the establishment's practice.

A common definition of a dispute of right is: Something you have that is taken away.

These translated into labour relations would mean that rights are guaranteed by:

- Common law e.g. contracts of employment.
- Statutory labour legislation e.g. basic conditions of employment act.
- Legally enforceable agreements e.g. negotiated wages.
- Customary practices in the place of work e.g. working alternate Saturdays only, for the last 40 years. Thus while rights may be gained through negotiation, disputes of rights are normally subject to legal adjudication or arbitration and transgression of these rights is either a criminal offence or civil breach of contract.

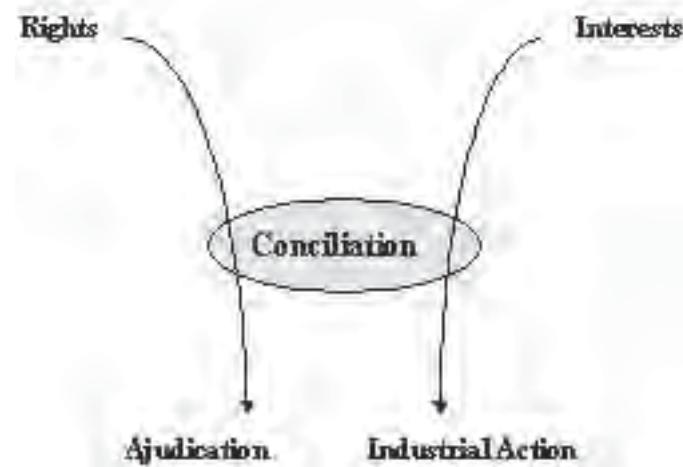
Dispute of interest

An interest is something you would like, but there exists no right entitling you to it as yet. Your objective then is to persuade management to grant this concession. This will often take place in a collective bargaining or negotiation forum.

A common definition of a dispute of interest is: Something you want that they won't give you.

Here industrial action or an implied threat thereof plays a central role.

Dispute Routes



Collective Bargaining

Collective bargaining is the process in which workers through their union negotiate for agreements with their employers on wages and other conditions of employment in exchange for their labour. Workers often join a union for the purpose of establishing a channel through their union to talk to management who often will not otherwise engage with workers.

But negotiating with management is not for the faint hearted, you must be prepared to stand up and fight for the rights of the workers you are representing. Negotiating is a big responsibility, it is a skill that comes with experience and it is in the best interest of the union that this skill is developed by the union, which means that more experienced negotiators should be taking along novices to learn through the process. Negotiating also requires that union negotiators are level headed, able to see the big picture by understanding the implications of the terms that they are agreeing to and able to use a tactical approach that has been strategised but also flexible enough to change their approach through the process. Negotiating is the crux of union work and should you feel that the union requires assistance in developing this skill or negotiating with particularly difficult employers, there are support structures that are open to helping you. These support structures are likely to be found at your local federation or ITGLWF. Remember it is wise to ask for help if it means that your members will get the best representation. However, the support that you accept must always build the capacity of your union so that in the future you will be able to proceed with negotiations comfortably on your own as a union.

There are some important factors that must be borne in mind to have successful and effective negotiations with management.

Power

Collective bargaining is first about power and secondly about skill and argument. Power is the ability to get what you want from your opponent who will only give into your demands if there is something in it for them (like more productivity) or if they want to avoid some negative consequence (like a strike). If you can make management believe that it will be cheaper in the long run to agree to your demands then they will often give in but you have to make them believe that you can hurt the company and their profits if they force you to.

Membership Support

No matter how good your case or well prepared the negotiators arguments are they are not enough to ensure successful negotiations. The fundamental building block of negotiations is good union organisation and membership support. Members' feeling on an issue as well as their relationship with the union is the cornerstone of the power a negotiator must use to attempt to achieve the best deal for its members.

It is for this reason that it is important if you are going to negotiate with management that you call a meeting with membership to obtain a clear **mandate**. This helps to see how far members will support the negotiating team

on a particular issue and also gives the negotiating team direction in compiling demands for management. The mandate is really the core of the negotiator's strength and must be respected by the negotiator or they will lose the trust and support of the membership.

As negotiations continue you must keep members informed by having meetings with them. This prevents the negotiating team from becoming isolated from the membership, which is a strategy management will always try. If management can drive a wedge between the negotiators and the membership they will have gone a long way to breaking down the power of the negotiators and therefore the members as well. By holding regular meetings the trust relationship between the union negotiator and members is maintained and negotiators can also get an ongoing idea as to how far members will go in supporting the demands. It also creates the impression in the mind of management negotiators of a unified workforce that is prepared to back its demands with action if necessary. As negotiators it is very risky to bluff management about membership support on an issue for if management calls the bluff the credibility and power of the negotiating team will be completely undermined.

Planning For Negotiations

Before negotiations start you should have done careful planning of the following:

Demands

You would have consulted with members about their demands and also looked at any union policies that may exist about these issues. You should formulate these demands and send them to management. Try to also dictate the negotiations agenda in a way that favours your demands.

Arguments

Pick the strongest arguments to support your case. You shouldn't use all your arguments in one go, as you may need to change tactics later in the negotiations. You should also think of management's likely counter arguments and prepare for these. An example of a very common one is that the value of workers' money is undermined by inflation so by the end of the year workers are earning less than when the year began. Therefore to just earn the same amount of money an increase would have to equal inflation, otherwise workers are actually getting a decrease.

This is a better argument when inflation is high. These days in many countries the inflation rate is kept artificially low by the central banks following the policy advice of the International Monetary Fund, so you must always research your figures when entering negotiations.

Fallbacks

In planning your negotiations it is wise to accept that you probably won't get everything that you ask for and may even have to compromise. Never compromise on the spur of the moment, this will isolate you from workers and make you appear weak to the management negotiators. Rather in your planning phase you should act as a negotiating team, work out the minimum workers will accept and therefore at what point you will break off the negotiations.

Actions

You should already know at what point members would be prepared to take industrial action when you go into the negotiations. You should also know what kind of industrial action would be the most effective in bringing the managers to see your point of view. Issues such as how violently the police treat strikers in a country may also effect these decisions. Different strategies and methods exist such as strikes, sit ins and pickets. Try to be creative, for instance workers once held a candlelight meeting outside the managers home, an action that effectively carried a message; why should only workers private lives be negatively affected by an industrial dispute. You should however always bear in mind the safety of workers when opting for a particular strategy.

Tactics

The negotiating team should decide in advance of the negotiations the different roles that team members will play. It is quite common to have a chief spokesperson with different team members coming in at different points. Someone from the union should always be recording what is said in the discussions as well as observing how the different managers react to the demands and arguments of the union team. Never depend on management to provide you with a record of the proceedings.

Information

Information is the currency of negotiations and you should try to get as much of it as possible. You may want to demand certain information during your planning phase in order to help you prepare your demands etc. Never treat information given by management at face value rather try to determine how true it is by asking questions about it.

Negotiations are not something that just happens once a year. The success of negotiations depends on how well a factory is organised as this impacts on how unified and militant workers will be. If the union is very active in a plant and actively pursues disputes through the year and involves membership in this process then members will have more confidence in their own power. Management can normally perceive a strong or weak workforce and this will impact quite directly on the way that they will negotiate and the concessions they will make.

The Negotiations

The Negotiating Team

Just like it is important the members are consulted on demands and positions so to is it important that they feel they are well represented in the negotiating team. There should always be shop floor representatives on the negotiating team and the representatives must make the feelings of members clear to the other party. If only union officials represent the members, the membership will see negotiations as a top down service by the union instead of a bottom up exercise of confronting management, which is far more empowering for the workers.

Present A United Front

As mentioned it is quite usual to have one main speaker as this is one of the best ways of maintaining unity. The basic rule of negotiations is never to disagree amongst yourselves

in front of management. If you feel disagreement emerging in the union team it is best to call an adjournment at an appropriate time and sort out the differences behind closed doors.

Adjournments

Use adjournments wisely to maintain unity in the team, to develop and change tactics during the negotiations and also to make decisions about pulling out of the discussions to go back to members. You should always attempt to reach consensus on decisions in the negotiating team during adjournments even if this takes a bit longer.

Control The Discussions

Try to keep discussions around your strongest arguments but avoid talking all the time. If management make a point you should ask as many questions as possible. Remember that information is key to negotiations. When you are talking you are giving information, when you are asking questions you are receiving information. Successful negotiators almost always ask more questions than they give answers. If you are compromising you should always extract the concessions before you offer the trade off. In other words you would say that if management do this then we could take this compromise offer back to the membership.

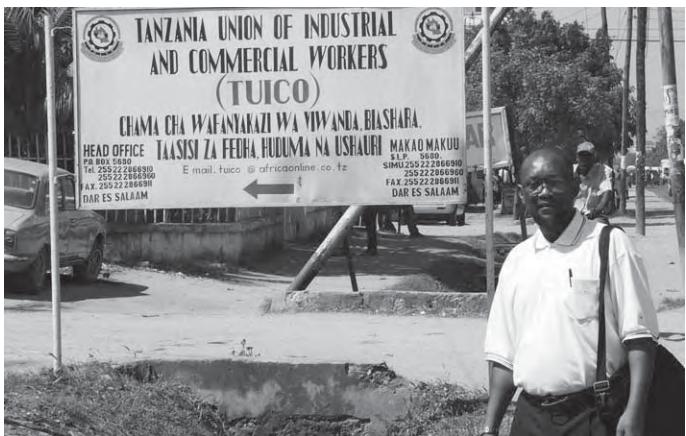
The Agreement

It is a mistake to leave the negotiations without a clear record of what has been agreed and also how it will be implemented. Both areas are very important. Don't leave and await management draft of the agreement rather complete the exercise there and then. You must read any written agreement very carefully and check for any subtle changes to the meaning of the agreement in the words that are used. Do not let your guards down at the end as it is quite natural to relax once you have reached verbal agreement.

The Report Back

Once an agreement has been completed you should report back to the membership as soon as possible to give details of the agreement. If the negotiations have been successful, as a negotiator you should avoid taking the credit for the settlement as this is disempowering to the workers. Rather congratulate workers on the settlement that was achieved because of the pressure they actually or threatened to bring to bear on the employer. It is, in any event, closer to the truth.





The Long Term Relationship

If you have tricked management in some way you should not tell them after the fact, as tempting as it may be. Remember information is power and when you give that sort of information away you are giving away union power. Be aware that negotiations are not isolated from one another. What happened in this year's negotiation will affect next year and so on. You should bear this in mind when preparing for negotiations and always review what happened the previous year. This is especially important where new members come onto the negotiating team you should also try to keep records of previous negotiations in terms of what was achieved and what was traded off for the achievements.

Record keeping

We all know that in a trade union, there is usually more work than there is time or hands to do it. Often while the really important work of representing workers is getting done, other tasks such as filing and record keeping piles up and we hope someone else will be assigned to sort it all out. The truth is that these tasks that we find so hard to do are very important to the work that we do, it cannot be simply assigned to an administrator, we all must play our part.

There should be a coherent system to managing records in the union office. Often we think that this is about financial record keeping and filing agreements, correspondence and case paperwork. However, there are other important records that need to be kept, these are of the day to day work of the union often done by the organiser. Remember that information is power. It is very important that you are constantly collecting information and keeping records of this. Accurate record keeping of your work will make the union strong and ensure the best representation for your members.

But what information exactly should you be collecting?

The answer quite simply is everything. Every meeting with members, every encounter with management, every factory visit, every individual member grievance that you listen to. You may think this is ridiculous and impossible, but it isn't. It just requires a disciplined approach that will save you time in the long run. You could quite simply keep a diary of the day noting down key points on issues that you encountered. It is easiest if your diary is open and you are noting these things down as they happen rather than planning to write up a report of the day later.

A diary is the best way to start getting into the habit of keeping records and once you are comfortable with it you might want to upgrade your system of keeping records.

A practical way of doing this is by including in your bag a notepad of file paper. On the top of the page you would write the name of the workplace and the date and then an account of the event or issue. The secret is to keep it as short as possible but to record the facts accurately and you could use point form to do this. Once a week, you can transfer this information into files that you would have in the union office on the different workplaces and this information would then give an accurate account of events that unfold in a workplace.

But why should you bother?

Your work is important and there are workers that are relying on you to do it to the best of your ability. Take the worst case scenario, if you are run over by a bus tomorrow, the work of the union must still continue and workers should not be compromised. And even if you are very careful when you cross the road and you believe it will never happen to you, there are other reasons. Record keeping makes you less reliant on your memory, it is easy to forget an important point when you are recalling an incident that may have been reported to you months ago. It also helps you to construct a good argument or develop a strategy if you can work through the facts. Also record keeping allows you to share all the information that you have on a workplace with other people that you work with, for instance this would come in handy when preparing other members of the union on a workplace that you are about to enter into negotiations with.

There is one other important aspect to recordkeeping, which is you will refine your listening skills and your writing skills. If information is power then communication is the key to power for the union. Communication skills need to be well developed in the union like negotiating with employers and addressing workers. But it is also important to develop good listening skills and when you are writing down an account it can help you to get past all the emotions that may be involved so that you can clearly define the core of an issue. Good writing skills are also important to develop so that you can, for instance, present an argument or expose a bad employer.

These skills come with practice and your everyday record keeping will help you to develop them. These skills will also aid communication with organisations outside your country. This will ensure that the union has control of the information that it is sending outside the country, this could be support for an international campaign or exposing poor working conditions at a multinational company. It is important that this information is accurate and in the best interest of the union and its members.



R ecognition Agreements

This is a guide to a fuller form of recognition. It is the actual agreement and we have inserted commentary about some of the more important clauses and consideration when negotiating the recognition agreement. You can amend and develop this as a basis for discussions with the company by putting in the right names and then going through and deciding which clauses would be best in the case of the factory and the country laws and what dispute procedures may give you a strategic advantage.

1. Preamble

This agreement is entered into for the purpose of organising and regulating industrial relations between the COMPANY and the UNION and its members in the employ of the COMPANY and to develop fair and equitable worker/management relations.

2. General Principals

2.1 Both parties recognise the concept of freedom of association.

This is normally recognised in law and is an ILO convention and means workers and management have the right to join organisations they choose. This would include political parties i.e. management would not be able to discipline a worker for belonging to a particular party. It is sometimes used by management to oppose the negotiation of a closed shop or agency shop agreement.

2.2 The parties commit themselves to abide by the procedures and principals set out in this agreement in a spirit of respect and shall endeavour to ensure that the agreement is fully understood by their respective constituencies.

In order to effect the second part of this clause it gives the opportunity to the union to address workers a number of times in order to ensure that they understand the agreement. Effectively it provides a platform to launch a recruiting drive inside the company straight after recognition is signed and is therefore a useful clause to argue for. It can also be used to suggest that management trains the supervisors and foremen on proper staff management in terms of the agreement as this group of people can often be a problem in implementing an agreement.

2.3 The parties expressly acknowledge the conventions of the International Labour Organisation and the rights and duties contained in these conventions.

This clause is quite important to get in especially if conditions are very poor as it sets a minimum base for rights of individuals as well as trade union rights to bargain. If there is a dispute that you take to court or some other dispute process you can use the ILO conventions in that dispute.

3. Definitions

3.1 'bargaining unit' – shall mean all workers excluding management as defined below on who's behalf the union is recognised as the sole bargaining agent

Setting the bargaining unit is a key part of negotiating strategy. In this agreement here the bargaining unit is used to define who the union will negotiate for but the definition is left vague to allow the union to argue that the clause means all workers meaning members and non members or the union may wish to argue that it means only members and as such only members should get the union negotiated increase or improvement in conditions. You should however be weary of this strategy as management has been known to then give non-members a larger increase than union members in an attempt to force workers to resign from the union. In most countries this would probably be seen as an infringement on freedom of association or in less delicate language union bashing but this may take time to resolve through the court process. The approach adopted should be dictated by the relationship between union and the company as well as how much active support (not just paper membership) the union enjoys from workers.

Bargaining units may also include supervisory staff but again this is dictated by realities on the ground. Including this category of worker can have strategic advantages and disadvantages and therefore should be based on real situations. In these definitions lower level supervisors would definitely fall into the category of worker and are an important group to get onto the side of the union. The bargaining unit may also be set for different grades if the company has a job evaluation system or more than one bargaining unit could be included in a company.

3.2 'Majority' – shall mean the 50%+1 of workers in the bargaining unit.

Majoritarianism is used in a few ways. Firstly to determine a threshold for bargaining substantive (issues relating to work and pay) agreements. Whilst a union may achieve recognition at 30% or even lower by legal definition in some countries and thus you will you will change the meaning of majority to that percentage; remember that recognition is no substitute to well organised collective power on the part of the trade union. Substantive agreements normally relate to issues of interest (it is not carried as a right in law or agreement) e.g. wage increases. Until the union is sufficiently strong of which representivity plays a part it is unwise to enter negotiations as with insufficient power as there is no way to force concessions. If the union achieves nothing in the first substantive negotiations the management will take the union less seriously as well as the members losing confidence in their own organisation.

3.3 'Company' - shall mean [COMPANY NAME] or its successor.

3.4 'Union' – shall mean [UNION NAME] or its successor.

3.5 'Union Constitution' – shall mean the constitution of {UNION} as amended from time to time.

3.6 'Management' – shall mean senior management whose contract of employment or status confers the authority to do any of the following in the workplace;

3.6.1 employ and dismiss employees on behalf of the Company

3.6.2 represent the Company in dealings with the trade union

3.6.3 determine policy for the Company

This definition does not relieve the owner/s of any duty s/he may have at law or through this agreement.

3.7 'Member' – shall mean an employee of the Company employed within the bargaining unit, who is a member of the Union in good standing.

It is important that the union constitution is clear on this point.

3.8 'Shop Steward' – shall mean a member who represents union members.

This will normally be defined in the unions constitution along with shop stewards roles and responsibility. Shop stewards are the heart of trade union democracy and worker participation and control and should be protected in the carrying on of their functions as much as possible. It is also important that shop stewards are involved in the negotiation of these agreements and know the agreements well as it is them who should ultimately enforce the agreements.

3.9 'Parties' – shall mean either the Union or the Company.

3.10 'Notice' – shall mean notice in writing.

3.11 'ILO convention' – shall mean conventions passed by the ILO regardless of national ratification.

This definition is set up in such a way so as to ensure that ILO conventions are imported into the recognition agreement regardless of their status in National legislation. This is simply an attempt to develop another source of rights and would have relevance were there to be a dispute that is arbitrated around this agreement or any other issue. This definition is connected to the clause on the ILO.

3.12 'the Act' – shall mean [national legislation governing labour relations in the country].

3.13 'employee' – shall mean a person who assists in the carrying on of the Company business and who is not part of management as defined.

3.14 'casual or contract labour' – shall mean those workers temporarily employed in a job that has a short life span and have a specific contract to this effect.

The last two definitions should be read together. Firstly an employee is defined very widely which will assist if there are disputes as to whether a person is or was an employee. Casual and contract is formalised through a contract but the failure to provide a contract would see them being defined as employees by this document

4. Recognition

4.1 The {COMPANY} recognises the {UNION} and all rights conferred by this agreement, provided the {UNION} represents (X)% of the employees within the bargaining unit.

In other words once (X)% membership is reached the union would gain recognition. This could be 30%, 50% or any other figure, it may differ from one country to the next.

4.2 The Company agrees that clause 4.1 shall be applied to all unions seeking access to organise in the company.

The clause is included to keep small splinter unions out as these only serve to fracture the nature of worker solidarity on the shop floor. It also prevents a number of unions competing for membership at a factory as this weakens effective worker representation.

4.3 The Company recognises the Union's right to represent its members and to negotiate with the Company, on behalf of such members, collective agreements on wage rates, and all other substantive conditions of employment and other matters negotiable in terms of this agreement in respect of those employee's who fall within the bargaining unit, provided that the Union represents more than half the employees within the bargaining unit.

In many ways such a clause is to protect the union from having to negotiate too soon. The first negotiations around the recognition agreement are important as it sets the tone and perception of the different parties. It is set at 50%, as this will serve the purpose of ensuring that the union is sufficiently representative to bargain and therefore has sufficient power. It will also delay splinter union activity, as they would need to recruit a majority of members before they can access this right.

4.4 Where the Union represents more than half the employees within the bargaining unit, it shall be the sole bargaining representative of workers within the bargaining unit.

4.5 All negotiations between the Company and the Union and all representations by the Union to the Company shall take place in accordance with the provisions of this agreement.

4.6 Both parties recognise the shop stewards as representatives of the Union elected to act on its behalf in terms of this agreement and the Union constitution.

4.7 The Company, through its management and the Union, through its officials and office bearers, shall ensure as far as is reasonably possible that no worker shall be intimidated or victimised for any reason whatsoever.

4.8 Membership of the Union, in so far as it may be relevant for the purposes of this agreement shall be determined on the basis of stop orders in favour of the Union signed by the individual members.

5. Breach

If either party is in material breach of any of the provisions of the agreement, the aggrieved party may give written notice to the other party calling upon it to remedy such breach within Ten (10) days. Should the breach not be remedied within the stipulated period the aggrieved party may pursue their rights by any means available at law.

A lapse clause has difficulties as management can simply breach the agreement and fail to rectify the breach until the document is linked. Depending on the national labour law either at a civil court or a labour tribunal.

6. Shop Stewards

6.1 One shop steward may be elected by secret ballot in accordance with the Union Constitution and subject to the provisions of this agreement, for every 50 employees or part thereof in the bargaining unit, provided that there shall be no more than 25 shop stewards and no less than 3.

The union constitution should be checked to see if it is in accordance with this agreement or has any provision for the election of shop stewards. These numbers should be seen as a suggestion only. Before negotiating recognition discuss these issues with the internal workers committee, hopefully set up to organise the plant into the union, as to how many shop stewards would be suitable and in which areas, as they will know the problem area and difficult managers etc better than anyone.

6.2 Alternative shop stewards may be elected as required.

Alternative shop stewards are sometimes used where there is a tendency for shop stewards to be very busy or where there is a high turnover of shop stewards. It does however make structures a lot more difficult to manage and to keep track of everyone.

6.3 Where the Union has more than 60% of employees in the bargaining unit as members, and the Company employs more than 500 employees in the bargaining unit the Company agrees that 1 shop steward shall attend to Union matters in a full time capacity without any loss of earnings and benefits and guarantees such shop steward reinstatement into the same or comparable position, (in nature pay and conditions as well as location), at the conclusion of his/her term.

6.4 Where no full time shop steward is in place the shop stewards shall elect a senior shop steward, who shall have reasonable access to a telephone and fax as well as up to 40 hours per month paid time off for the purposes of conducting Union business.

6.3 and 6.4 are simply trying to establish a more permanent presence on the shop floor. Employers seldom agree to this in the initial negotiations around recognition. You may need to take this off the table and establish it in the company once a more mature industrial relationship has been established.

6.5 All new employees shall be introduced to the senior or full time shop steward on their first day on the job.

6.6 For the purposes of meetings with management the shop stewards shall elect a committee of not more than 10 shop stewards.

This will again depend on the situation at the plant being organised. In the long term if there are a number of shop stewards it is preferable to rotate the shop stewards through this structure. Avoid a situation where the committee becomes exclusive. Obviously if there is a complaint from a section where the shop steward is not part of this committee then they should take part in any meetings around this issue. It is also useful to co-opt members onto this group where relevant as it maintains workers stake in the organisation and prevents minority control arising in a factory.

6.7 The duty of the shop steward shall be to represent Union members and to perform the functions described in

the Union Constitution.

Ensure that this is in the constitution before tabling this or extract the clause. Also ensure that shop stewards are completely aware of what the constitution says about their function. It is better to get this clause in as being defined by the union constitution as this can be changed without negotiation where as if the duties and responsibilities are specifically set out in this agreement to amend them would require negotiated agreement changes. Notice also the definition of constitution in the definitions section specifically allows for amendments.

6.8 Subject to the provisions of clause 10 below, the Company agrees to grant Union officials reasonable access to the Company premises to conduct nominations and elections of shop stewards.

6.9 The Union shall, within Seven (7) days of the completion of the election, notify the Company in writing of the names of the shop stewards so elected.

After new shop stewards have been elected the union should ensure that it has the details of the shop stewards in an orderly form and commence with training as soon as possible as this serves to build momentum in organising efforts.

6.10 A shop steward so elected shall have reasonable access to other shop stewards or members, provided that he has obtained the consent of a representative of management (whose consent will not be unreasonably withheld).

6.11 A shop steward shall cease to hold office as such if:

6.11.1 the period for his appointment in terms of the Union Constitution and in terms hereof terminates and he is not re-elected;

6.11.2 he resigns as a shop steward;

6.11.3 he ceases to be a member of the Union;

6.11.4 if, for any other reason, he ceases to be a shop steward in terms of the Union Constitution.

6.12 Any vacancies arising in the ranks of shop stewards shall be filled by the election of a shop steward to the vacant office in accordance with the Union Constitution.

6.13 All shop stewards shall be subject to the norms of behaviour expected from all employees and no shop steward shall be victimised due to his position as such.

6.14 The Company shall not transfer a duly elected shop steward from his/her constituency without agreement from the Union.

6.15 Shop stewards shall be entitled to hold meetings amongst themselves on the premises during their own time or in Company time subject to this agreement but with due regard to Company regulations and security procedures of the Company.

6.16 The Company shall not discipline any shop steward without consultation with the Union.

6.17 The Company shall disclose all relevant information to a shop steward to allow him/her to perform his/her duties



effectively.

This is a very useful clause and can be used to discover information in grievance and disciplinary hearings etc. If the clause is excluded in the negotiation of the recognition agreement the information disclosure clause can still be used to discover information as it is termed to include consultation.

7. Meetings Between Shop Stewards Committee And Management

7.1 Meetings between the Company and the Shop Stewards Committee may be called by either party to discuss matters of urgency by giving the other party not less than Forty Eight (48) hours notice of such a meeting and the matters to be discussed. The parties may agree to waive the notice period for a meeting convened in terms of this clause.

The time period is an important consideration to prevent management from stone walling to avoid meetings etc. Again should there be a failure to meet the matter may be referred to dispute.

7.2 The Shop Stewards Committee shall have the right to include Union officials/office bearers in any such meetings.

8. Report Back

After any meeting referred to in terms of 5 the Shop Stewards Committee shall be entitled to report back to members after advising management of the date and venue of any such meeting.

9. General Meetings

The Shop Stewards Committee shall be entitled to hold general meetings with members on Company premises provided that such general meetings do not unreasonably disrupt normal plant operations.

10. Access and Facilities

The Company shall grant the following facilities:

10.1 Office bearers or officials of the Union shall be allowed on to Company premises upon prior arrangement with management in order to meet with Union members outside working hours or, where approved by management, during working hours.

10.2 Shop stewards may be granted access to a telephone by the Company to contact the Union office and permission thereof shall not be unreasonably withheld.

10.3 Shop stewards may be granted access to a photostat machine to photocopy documents relevant to the performance of their duties in terms of this agreement provided that prior permission from management is obtained, and permission thereof shall not be unreasonably withheld.

10.4 Should a shop steward wish to interview a member, a suitable private space will be made available as far as is practicably possible.

10.5 The Shop Stewards Committee shall be entitled to display notices and/or announcements concerning bona fide Union activities on a designated Company notice board. subject to approval by management.

10.6 The Shop Stewards Committee, officials and/or office bearers of the Union, may hold general meetings of union members at a venue on the premises to be determined by the Company upon prior arrangement with management, which meetings shall not unreasonably disrupt the normal and safe operations of the Company.

11. Training

The Company recognises the value of training to enhance the skills of all its employees. In addition to any training which it may provide for its employees, the Company agrees that:

11.1 Each shop steward may be granted ten (10) days paid leave per year to attend industrial relations training courses conducted by the Union, provided that both the date and duration of such training courses are arranged with the Company at least Fifteen (15) days beforehand and provided further that the number of shop stewards to attend such specific course shall be agreed upon with management.

11.2 Further unpaid leave may be granted at discretion of the Company but not unreasonably withheld, to shop stewards to attend Union meetings. A request for such unpaid leave shall be made at least Fifteen (15) days before the unpaid leave is required

For this section you will probably end up arguing over the number of days. Let circumstances on the ground and the negotiations determine what is settled upon. It is a key point however as shop steward education and development is one of the core methods used to drive a stronger working class agenda as well as to develop shop steward skills to more ably deal with management.

12. Union Subscriptions

12.1 The Company agrees upon receiving stop order forms signed by staff to deduct subscriptions for Union fees to a value determined by the Union from time to time, from their wages.

12.2 The Union's subscription shall be deducted each week and paid to the Union branch office by the middle of the month following that in which the deductions were made, together with a list of names of Union members whose subscriptions have been deducted. A copy of the list handed to a member of the Shop Stewards Committee by the Company.

12.3 The Company shall cease to deduct subscriptions from a Union member's wage upon written notice by a member to the Company instructing the Company to cancel the stop order against his/her wages. The Company shall thereupon advise the Union of such cancellations and post to the Union copies of all such written notices of cancellation together with the following month's list of deductions.

This depends on how regularly workers are paid and the level of the subscriptions. Where workers are paid weekly a one off deduction at the end of the month is often too much.

13. Negotiating Procedure

Clause 12 of this agreement comes into effect within 30 days of the Union achieving majority membership in the bargaining unit and notifying the Company of this fact. Should the Union membership fall below 50% the Company shall advise the union in writing if it intends to suspend clause 12 at which point the Union shall have 90 days to regain majority.

This section also deals with clearing the environment for negotiating and makes negotiations and the agreements reached binding. Unions need to always be on the look out for the date in which the agreement takes effect and expires. This part should form part of the agreement. Effectiveness and allowing time for consultative meeting with the general membership can be set in line with the duration of the agreement.

13.1 The parties agree to negotiate annually on changes in members' conditions of employment of a collective nature. The commencement of annual negotiations will be by agreement failing which it shall commence within 12 months of the notification of majority status by the Union.

13.2 The parties agree that there is a duty to bargain and to bargain in good faith.

The duty to bargain is an important right to have written down otherwise the employer can simply refuse to negotiate and the union will have to strike to force the employer to the table. Having this clause allows the union to send the matter to arbitration. This will not resolve all the issues related to this concept but it will at least reduce some of the pressure on the union whilst it organises itself for a fight.

13.3 The Company undertakes to disclose all relevant information requested by the Union that will allow the Union to engage effectively in consultations and collective bargaining.

This is important as in negotiations information is power. Should the company fail to disclose this information then the union may pursue the matter to dispute via the normal channels. It is likely that the company will fight against this clause. Perhaps in the negotiations as a compromise insert a guarantee that certain information will be regarded as confidential. This clause could also be used to develop information on who the company produce for etc that can be used in international campaign initiatives etc.

13.4 The Union shall submit to the Company, by a date to be determined by the parties, proposals in writing containing particulars as to the proposed changes and the Company shall be entitled to add proposals which shall be submitted to the Union within Ten (10) days of receipt by the Company of the Union's proposals.

13.5 Within a period of Ten (10) days after receipt of the proposals in terms of clause 14.2, the parties shall convene a meeting at a mutually acceptable date between Company representatives, the Shop Stewards Committee and up to Two (2) Union officials for the purposes of negotiating the proposals which meeting may be adjourned and re-convened from time to time.

13.6 In the event of parties failing to reach agreement during negotiations and after at least Three (3) meetings shall have been convened in terms of this agreement, either party may declare a dispute, by written notice to the other party. Thereafter the matter shall be dealt with in accordance with the dispute settlement procedure set out in clause 14 of this agreement.

13.7 The Union will be granted access to a venue on the Company's premises to report back to its members after working hours as often as may be necessary during negotiations as well as at the conclusion of negotiations.

13.8 Any agreement reached between the parties after negotiations shall be reduced to writing and signed by both parties.

13.9 No agreement shall be regarded as having been concluded until such time as it has been approved by the Managing Director of the Company and a majority of members of the Union at a report back meeting.

General discussion on clause 13. The first obvious point is that it is linked to the 50%+1 provision earlier in the document. There is a 12 month time frame inserted to prevent management dragging out the first set of negotiations. The union has the trigger to effect this section by officially notifying management of the majority status of the union. The union may opt for strategic reasons not to engage in bargaining at the 50% level and as long as no notification is sent can continue organising without invoking this clause.

14. Dispute Procedure

The dispute section is the core of such an agreement as it relates to how enforceable the agreement is. How disputes should be dealt with is a core strategic decision for the union. If the union has a militant membership it may be best to go for a simple process that can get workers out on strike quickly regardless of the national law, which are often designed to frustrate strikes. In such a case where there is an agreement workers will at least be protected by civil courts. Such an approach which counters or streamlines the normal legal dispute process is sometimes called contracting out. The ability of the union to get such a contracting out agreement will often depend on the power of the union in the first instance. It is usually best to start a new bargaining relationship with simple procedures aimed at protecting members and at least forcing meetings as management often tries to ignore disputes.

There are many alternatives given below for different procedures for rights and interests, e.g. private arbitration. These may develop as the bargaining relationship becomes more established, and again strategic. In the early stages of a relationship it is usually good for a union to exercise power and hurt the company as this will influence what the company will give in the future. Therefore in a new relationship it is usually best to avoid dispute procedures that remove the right to strike.

Some options below attempt to develop private dispute

resolution and contracted rights in an economic environment that tends to undermine the authority of the state to the point that many laws are simply not enforced adequately or are too slow to use to gain any vague idea of industrial justice. As a strategy getting these ideas accepted will be a struggle and the success of this will largely depend on how powerful the union is and how committed the membership is to this.

There are some strategic considerations here which relate to the differential treatment of disputes. Firstly there are disputes of Interest (e.g. wage disputes) and disputes of right (e.g. unfair dismissal). Most labour law has some forum for disputes of right to be heard in such as an Industrial Court. Some countries have more complex methods to try to speed up dispute resolution such as a commission to hear smaller disputes of right. How this section is strategised depends on the circumstances in the country where the recognition is being negotiated. If the courts give poor decisions against workers all the time or if the waiting period to appear in court is very long and would prejudice a dismissed worker for example, then it is probably better to go for some kind of private arbitration process. The downside of this is how costs are to be allocated as it can be expensive although no more expensive than hiring an attorney to appear in court. The other downside of such an arrangement is where an employer refuses to adhere to the arbitration outcome. In this way statutory mechanisms are often preferable as it is fairly usual to make an award an order of court and where there is non adherence to charge the transgressor with contempt of court and impose a criminal sanction. This is usually not the case with arbitration as to get adherence one would probably have to approach a civil court which is unlikely to award specific performance (what the arbitrator ruled) but rather award damages (money). This is not always the best thing where a reinstatement is the appropriate solution. Failure to achieve reinstatement tends to weaken worker resolve and confidence in the union and is hence of important strategic consideration. A lot will therefore depend on the particular laws of a country and the state of the courts in a particular country. Another possibility is

to reach agreement that an arbitrators decision be made an order of court and as such enforceable but again the time delays in getting court appearances could make this problematic.

The second area of strategic consideration is that of disputes of interest. Disputes of interests are simply disputes where one party wants something that the other party will not give. In such an instance there is no basis in law to decide that a 5% or a 10% increase is for example a fair increase. As such these disputes are very seldom subject to courts or arbitration. The only time they would be is where two parties agree that the dispute should be resolved this way. It is unlikely an employer would budge on this point unless confronted by ongoing industrial action as it effectively places the distribution of company profits in a third party's hands. In addition to this point it would be unwise for a union just achieving recognition to take this route as it would undermine any attempts to build collective power at a shop floor level. Having said this though, there may be a time in the future where this may be a worth while pursuing. This may be in a limited fashion in settling disputes around operational requirements for instance where traditionally union power is very limited and the law has been reluctant to intervene. You may wish to work an arbitration process into the retrenchment procedure attached as an annexure hereto.

Below are different measures for discussion in the committees organising a workplace. It is suggested that the union consult a labour lawyer in their respective country before making a final decision as to their demands in this regard.

14.1 A dispute is any serious disagreement over a rights or interest issue between the parties arising inter alia from negotiations conducted in terms of this agreement, a grievance, any disciplinary action, health and safety procedures, an alleged unfair labour practice, the interpretation or application of a collective agreement or



a strike or lock-out.

14.2 Either party may declare a dispute by giving the other party written notice of the dispute, explaining the issue which has given rise to the dispute in which case the dispute settlement procedure shall apply.

14.3 Where a dispute has been declared the parties should meet within 5 days in an attempt to resolve the dispute. (Such a meeting shall be mediated by a neutral third party the costs of which shall be shared by the Union and the Company.)

note: you may include or exclude the last part on mediation depending on the situation you are negotiating.

Below are a series of different options to consider

Statutory Arbitration Rights

14.4 Should no agreement exist at the conclusion of the process described in 14.3 in the case of a rights dispute follow the statutory mechanisms or in the case of an interest issue give 24 hours notice and proceed with industrial action.

OR

Private Arbitration Rights Only

14.5 Should no agreement exist at the conclusion of the process described in 12.3 in the case of a rights dispute, a private arbitrator shall be appointed within two weeks from a pre selected panel of recognised arbitrators consisting of three names submitted by the Union and three by the Company. Each party can object twice and the decision between the remaining two names will alternate, where the union shall select in the first instance of the use of this procedure. The cost of such arbitration shall be shared or in the case of an interest issue give 24 hours notice of industrial action.

14.6 In the event of a dispute being referred to arbitration the decision of the arbitrator shall be final and binding on all the parties to the arbitration (including the member or members concerned).

14.7 Unless the parties agree otherwise, liability for the costs of the arbitration shall be determined by the arbitrator concerned.

Alternatively this could be a 50/50 clause but always start negotiating from a higher point i.e. the company should pay all costs.

OR

Private Arbitration Rights and Interests

14.8 Should no agreement exist at the conclusion of the process described in 12.3, a private arbitrator shall be appointed within two weeks from a pre selected panel of recognised arbitrators consisting of three names submitted by the Union and three by the Company. Each party can object twice and the decision between the remaining two names will alternate, where the union shall select in the first instance of the use of this procedure. The cost of such arbitration shall be shared.

14.9 In the event of a dispute being referred to arbitration the decision of the arbitrator shall be final and binding on all the parties to the arbitration (including the member or members concerned).

14.10 Unless the parties agree otherwise, liability for the

costs of the arbitration shall be determined by the arbitrator concerned.

Alternatively this could be a 50/50 clause but always start negotiating from a higher point i.e. the company should pay all costs.

OR

Comprehensive including rules around industrial action with Private Arbitration for rights disputes

Arbitration

14.11 Should the dispute relate to discipline of members, the interpretation of this or any other agreement which may be concluded between the parties, an alleged unfair labour practice, health and safety procedures or the interpretation of the law, the dispute shall be referred to arbitration provided that in the event that the dispute arises from disciplinary action then such arbitration shall take place in accordance with the disciplinary procedures annexed hereto.

14.12 A private arbitrator shall be appointed within two weeks from a pre selected panel of recognised arbitrators consisting of three names submitted by the Union and three by the Company. Each party can object twice and the decision between the remaining two names will alternate, where the Union shall select in the first instance of the use of this procedure.

14.13 In the event of a dispute being referred to arbitration the decision of the arbitrator shall be final and binding on all the parties to the arbitration (including the member or members concerned).

14.14 Unless the parties agree otherwise, liability for the costs of the arbitration shall be determined by the arbitrator concerned.

Alternatively this could be a 50/50 clause but always start negotiating from a higher point i.e. the company should pay all costs.

Mediation

14.15 Should the dispute relate to a deadlock at a negotiation in terms of clause 14 of this agreement and no alternative means of resolving such dispute is agreed upon at a meeting, then the parties shall be obliged to submit to mediation by a mediator agreed upon by the parties from the panel of mediators off and the costs of the mediation shall be shared between the parties.

14.16 Should the parties not agree upon a single mediator when the Union and the Company shall each appoint a mediator who will attempt jointly to reach a settlement which is acceptable to both parties.

14.17 Should the dispute be referred to mediation in terms of clause 14.11 of this agreement then Union officials shall be permitted to meet with members at the premises of the Company, in order to discuss the dispute, provided that prior permission of management has been obtained, that will not be unreasonably withheld.

14.18 The Company and the Union officials and the Shop Stewards Committee shall meet as soon as practicable and in any event within Five (5) days of a dispute being declared in terms of clause 14.2. the Company and the Union may meet as often as they deem necessary thereafter.

14.19 In the event that a dispute is not resolved by mediation then either party may, subject to the provisions

hereof, invoke industrial action upon TWENTY FOUR (24) Hours notice to the other party.

14.20 The Company and the Union agree and undertake not to resort to any industrial action until the dispute procedure contained in this clause has been exhausted.

14.21 During the notice period provided for above the parties may meet to establish rules governing their conduct during the proposed industrial action.

14.22 So long as the parties conduct themselves in accordance with this agreement, neither party shall be entitled to invoke the provisions of any law whether criminal or civil, including the provisions of the Labour legislation, with the exception of where a dismissal may occur.

14.23 The Company undertakes not to dismiss any striking Union members provided that industrial action does not occur prior to the exhaustion of the agreed dispute procedures.

15. Cancellation

This agreement may be cancelled by:

15.1 Either party on Three (3) months written notice to the other party. Such notice shall state the reason for the cancellation.

15.2 The Company, on notice to the Union if the Union no longer represents a clear majority (50% plus one) of the employees employed within the bargaining unit, provided that the Company shall have given the Union notice of the proposed cancellation of the Agreement and the Union is unable within Ninety (90) days of the date of such notice, raise the number of members of the Union employed within the bargaining unit to a number constituting 50% plus one of the employees employed within the bargaining unit.

16. Amendment

16.1 Proposed amendments to this agreement may be negotiated annually at a meeting to be convened in terms of this agreement provided that at least Twenty (20) days notice of any proposed amendment is given, together with a draft of the proposed amendment to the other party.

16.2 No amendment to this agreement shall be of any force unless reduced to writing and signed by both parties.

17. Retrenchment Procedure, Disciplinary Procedure And Code And Grievance Procedure

The parties agree to negotiate a Retrenchment Procedure, a Disciplinary Procedure and Code and a Grievance Procedure, which procedures shall, upon conclusion thereof, form Annexure 'A', 'B' and 'C' respectively to this Agreement.

note on annexures: these are to drive the company into negotiating after procedural agreements to avoid the situation of conducting recognition with no follow up thereafter.

18. Domicilia And Notices

The parties choose as their Domicilia citandi et executandi for the purposes of the giving of any notice, the payment

of any sum, the service of any process and for any other purpose arising from this agreement, as follows:

18.1 The Company - _____

18.2 The Union - _____

18.3 The addresses referred to in this sub-paragraph may be changed by written notification thereof to the other party.

Signed at _____ (town/city) on the
____ day of _____ (month) 20 ____

Managing Director for

(full name of Company)

As Witnesses:

1: _____
2: _____

Signed at _____ (town/city) on
the ____ day of _____ (month) 20 ____

(Union position) for

(full name of Union)

As Witnesses:

1: _____
2: _____

points on negotiating

1. Have a clear **mandate** from the members that you are representing that details their **demands**.
2. Use your strongest arguments to support your case but don't use all your arguments at once as you may need to change **tactics**.
3. Work out in advance what **compromises** on the demands will be acceptable to the members. This means knowing what is the minimum that workers will accept and at what point you need to break off negotiations.
4. You must know in advance at what point workers will be prepared to take **industrial action** and what is the most effective kind of industrial action that can be used. Always bear in mind the safety of the workers you represent.
5. Identify in advance the different roles that will be played by each member of the negotiating team. Always have someone assigned to **recording** the discussions in writing.
6. Collect as much of the **information** that will be useful in the negotiations in advance. Do not depend on information supplied to you by employers, always try to verify the information given to you.
7. Always have **shop floor representatives** on the negotiating team.
8. Never disagree among yourselves during negotiations rather call for an **adjournment** and sort out the differences in opinion behind closed doors.
9. Use adjournments wisely to maintain unity in the team, change tactics and make decisions. Always try to reach **consensus** on decisions as a team even if it takes a longer time.
10. Ask the other party as many **questions** as possible. Remember when you are questioning you are receiving information, when you are talking you are giving information.
11. If you are **compromising** always extract the concessions before you offer the trade off. - "If you do this we will then take this compromise back to members."
12. Make sure you have a **clear record** of what has been agreed on and how it will be implemented. Read it carefully and **check** it for small changes.
13. **Report back** to members on the negotiations as soon as possible.
14. What happened in this years negotiations will affect next years so work towards building **a relationship of respect and trust** between the union and members and the union and the employer.
15. Remember to **keep records** of the negotiations as these will be useful in the future.
16. Remember to **give credit** for the success of negotiations to the workers and not to take credit yourself or as a team. **It is their victory**.



Conclusion Part One

In the first part of the booklet we focused on the trade union and the best ways of organising and running it in the interests of workers. As was pointed out earlier the global supply chain in the garment industry has transformed the way we do many things and added the need for new skills and abilities when organising. In part 2 we turn our attention to international solidarity and the different tools we can use and how to use them to better the lives of workers. The first booklet in the series has broad information about these various tools and methods and should be read along with part two of this booklet.

Part Two: **I**nternational and Regional Campaigning and Organising

Because of the nature of global production for global markets in the garment industry the way trade unions need to approach the problem of protecting and advancing worker rights and interests have changed a bit from when there was domestic production for domestic consumption. The basics though are still the same. For a union to protect workers the first thing it must do is to organize at plant level. From here members need education so that they can play a full role in the democratic functioning of the union because if workers do not play an active role in building and guiding their own organisation it will come to be run in the interests of leadership and politicians and not focus on its purpose which is to protect workers.

These days it is not enough to organise and educate, often the union will need to apply pressure somewhere else in the supply chain in support of its demands. Fortunately there are Brother, Sisters and Comrades in other countries, both in the North and South, who see what large retail and production companies are doing to workers all over the world and have the courage to do something about this by organising protests and engaging these companies. Also within the countries in Africa unions and NGO's are starting to work together and support actions to improve the lives of workers.

This is also assisted by networks emerging between African and Asian groups committed to fighting the enslavement of the working class. This has added another weapon to workers struggle for rights and a living wage. International campaigning is not the only answer though and without solid organisation on the ground amongst workers is not much use at all. Organised workers must control how and what gets done in an international campaign as it is these workers jobs that are affected by this process. In other words if there is to be an action against a retailer who is buying from a factory in Africa in order to get the retailer to put pressure on the factory to respect workers rights the workers in that factory must have decided that the employer is so unwilling to change that it is necessary to take the risk of forcing the hand of the company in this way.

This booklet then deals with the issues of organising and campaigning in an attempt to explain the links that exist between these two concepts and how they can be used

together to benefit workers. You can use campaigning to reach strategic milestones in organising like attaining recognition from the employer or to defend rights where an employer has unfairly dismissed workers or treats them badly. Whilst we will start with organising and then talk about campaigning it is important to realize that an effective union strategy integrates both of these components with the active participation of workers.

This part mostly deals with international actions and methods and also makes reference to regional resources. There is more information on regional resources in booklet 1 of the series.

Getting Started

In order to develop pressure on an employer or government that is not adhering to or enforcing labour laws, refusing recognition etc, you first need to do some homework on the employer. This means doing some research by speaking to workers in the factory, collecting labels and deciding on what actions are the most appropriate. This last step is important and must not be overlooked. Unions are democratic organisations and a union official should not just decide on their own to call for a consumer action of a factory as it is the workers in this factory that must endure the consequences and therefore it is they who should say what course of action or strategy they are most comfortable with. Consultation with workers is a non negotiable item in preparing action against an employer.

In doing your research you may want to consult the internet for example to get more background on the company or find out from other organisations what they may know. Africalabournet.org is a useful site for this and booklet 1 has a series of useful contacts at the back. Of course the first place to go looking is probably the regional office of ITGLWF Africa.

Once you have done some background research it is time to start collecting information from the factory that you will use as evidence in developing your international solidarity action. The following section will help with this.



R eporting working conditions at your factory

As international solidarity links increase and the fight for worker rights in the garment sector in Africa intensifies, it is becoming increasingly important that membership on the ground and elected leaders such as shop stewards actively participate in exposing the employers that violate worker rights and the companies that use these employers to make their clothes.(for more information see booklet 1 in this series)

The reason retail companies get clothes from all over the world is so that they can put as much pressure on factories to produce quality clothes cheaply and quickly. These retailers do not have to be responsible for dealing with workers and the harsh conditions that are necessary to manage the exploitation that is really the source of these overseas companies' super profits.

Many good organizations have over time begun to develop the consciousness of people around the conditions in which clothes are manufactured and have begun to expose these exploitative companies. This has led some of these companies to adopt codes of conduct which workers may sometimes see on the walls of factories in Africa but very seldom experience the conditions that these codes are supposed to enforce. So the big companies get to say that they have codes of conduct and therefore the clothes that are sold in the US and Europe are made under good conditions.

Workers know this is not the truth and workers on the production line are the best placed researchers to expose the lies that are told in order to silence the protests of African workers against their exploitation.

For a union to organise in a factory effectively information is critical to plan an approach how to deal with an employer. Once the union has identified a problematic factory there should be a meeting between workers and union officials to discuss what the information means for organising in the factory. For example, when production runs start and finish is important information if you are thinking of some form of industrial action as you will want to strike when the employer is most vulnerable.

One of the biggest problems in exposing the big retailers is drawing links between where the factories make the clothes and the stores that sell them at a huge profit. To do this organizations that help workers need to constantly get information about where garments are being made and where they are sent to. There are different ways of doing this but one of the easiest ways is for workers to report on what is happening in the factories and where the products are going. This information is best coordinated through the union which will have the necessary contacts with international organizations. To help this process ITGLWF Africa and a number of funding partners have been training union staff in the different affiliate offices to collect information on the factories they organise. The vital link in this information chain that is being set up is still the worker though and this article is intended for unions to use in guiding workers through the process of collecting information. Often the union may be unaware of what is taking place at the factory so workers should be encouraged to organize a meeting with the union if there is a problem, and talk about what can be done and what information needs to be collected by workers in the factory.



There are two areas that need to be focused on to do this:

- Factory and working conditions
- Product information

The union can also collect useful information about the company, its ownership and local labour law that the company may be ignoring. The company may be refusing to recognize the union so details of what discussions have taken place are also useful. The union must keep workers informed about the information that is being collected along with how it is to be used.

Two Types of Information

The first part of this information is useful to discover what the problems are in order to organise in the factory. It should be collected by union officials and workers acting together. Union officials should collect information outside the plant about ownership etc and guide workers in collecting information inside the plant as per the above questions. Once this information is collected and a strategy for dealing with the employer developed such information may then be used to develop an international campaign or other means (codes of conduct, OECD guidelines, pressure for government to apply labour laws etc) of putting pressure on the employer. With such uses the factory information would become evidence of labour abuses.

The second area of information that will be important to develop strategy and international action is to find out all about who the products are going to. Again the union should guide workers in collecting this information using the guidelines detailed below.

Factory and working conditions

The first area is to get information on how workers are being treated by the factory. This is necessary to help workers and their organisations make decisions about organising in the factory and what exactly the problems are that need to be targeted. The union should begin to keep detailed records on wages and conditions in the factories that emerge from these discussions.

This information could also later on be used to get the retail shops and brand names to put pressure on factories to improve working conditions or risk being exposed in public. It is important to have evidence of exactly what is happening in the factory. Because this information is basically evidence it is very important that it is accurate, so collect information exactly as things are or are happening.

Such information can be broken down into different categories. These are listed below with some simple questions to guide in the collection of information. If you cannot answer all questions that is OK just try to collect as much information as you can.

The Factory and Ownership

What is the name of the factory?

What is the physical address of the factory?

Do you know who owns this factory? What nationality are they?

Are there any other production units/factories that belong to the company in your country or elsewhere? If yes, what are the names of these factories? Where these are located? What do they produce?

Are there any codes of conduct in the factory? If yes what is the name of the company on the code of conduct? In which language are they written in?

Is any one checking on labour conditions? Where are they from? Do they speak to workers? (inside/outside the factory?) Is the manager there? Do workers feel free to tell the truth?

Are there any inspections from the labour Department?

Employment and employment contracts

Do workers at the factory have a contract?

If yes, can you get copies of the contracts? What is the name of the employer on the contract?

If no, describe the process that workers get work and what they are told by the managers?

How many workers are employed at the factory?

How many workers have written contracts of employment?

How many workers are on long term contracts? How many workers are on short term contracts? How many workers have no contract at all?

Of the workers on short term contracts or with no contracts, how many have worked for more than a year at the factory? How many have worked for less than a year at the factory?

Is there a grievance/disciplinary process at the factory?

Wages

How much do workers get paid for normal work hours?

Do workers get pay slips? If yes collect some of these

Do you get paid piece rate?

Do you get paid under any production incentive scheme?

Do all workers get paid annual leave? Explain

How many days paid annual leave do workers get a year?

Can workers decide when to take their annual leave?

Do all workers get paid public holidays?

Do you receive medical insurance from the company?

Do you have paid sick leave? How many days paid sick leave do you get a year?

Do you have paid maternity leave? How many days paid maternity leave do you get?

Do you have unpaid maternity leave? How many days unpaid maternity leave do you get?

After having your baby does the company take you back into the same job and pay?

Do you receive any retirement pay?



Hours of work

What are the normal days of work in the week?
 How many hours do you work in a normal working week (excluding overtime)?
 What are the normal hours of work on a week day?
 What are the normal hours of work on a Saturday?
 What tea breaks and lunch breaks do you receive?

Overtime

Are workers paid for overtime? (Are they paid for all the overtime or some of it, give specific examples if workers are not paid for all the overtime they work)
 How are workers asked to work overtime?
 Can you say no to overtime?
 When you work overtime how much do you work a day?
 When you work overtime how much do you work a week?
 When you work overtime how much do you work a month?
 If you have them write down specific examples with times and dates and the managers names where workers were forced to work overtime or were forced to work long hours (more than 10 hours in a day)
 Must workers work overtime if targets are not met?
 Are workers paid for this overtime?
 Is money deducted if targets are not met?



Abuse (physical, verbal or sexual) and discrimination

Are workers hit, shouted at, called insulting names or forced to have sex with managers or supervisors?
 If yes, write down examples again with details such as dates, times and managers names.
 What happens if a woman worker falls pregnant?
 Are women workers treated differently to other workers?
 Have there been any cases of wage discrimination between men and women workers?
 What happens to a worker who might have AIDS or be diagnosed as HIV positive?
 Are people searched? describe the process
 Are there any workers at the factory that are under the legal age to work?



Health and safety standards

Is there enough ventilation in the factory so that you are comfortable at work? Describe what the temperature is like in summer? Describe what the temperature is like in winter?
 Is there enough lighting in the factory for you to do your work?
 Do workers have access to clean drinking water at all times?

Are workers given any protective clothing?
 describe what protection (ear, hands, mouth, clothes) is provided?

Do workers suffer from any health problems that are caused by the working conditions in the factory?
 What happens if a worker gets hurt at the factory?
 Have workers that have been injured at the factory been compensated? Give details
 Are there any emergency exits? Are the exits opened or closed during working hours?
 Is the factory locked when workers are inside? (describe exactly what happens if this occurs)
 Is there any fire fighting equipment in the factory?
 Do workers have access to a first aid kit at work?
 How many toilets are there for men? How many toilets are there for women? Describe the condition of the toilet facilities.
 Do you need permission to use the toilet? Is there a limit to how many times you can use the toilet?

Trade Union

What is the name of the trade union organising at the factory?
 How many members does the union have at the factory?
 Is there another trade union organising at the factory?
 Name of other union. How many members does the other union have at the factory?
 Have there been retrenchments at the factory? If yes, were these done with consultation with the union?
 How many workers were dismissed in the last year? How many workers have been employed in the last year?
 Have there been workers dismissed for union activity at the factory?
 Have there been workers mistreated for being union members at the factory?
 Does the union have recognition at the factory? Were there problems with gaining recognition?
 Have there been any disputes between the union and management?
 Does the union have a collective bargaining agreement with the factory?
 Have there been any campaigns targeted at the factory?



to America or Canada it would have a number that's starts with RN for the United States and CA for Canada. For wool products the number may start with WPL. These numbers are very useful as you can use them to trace who is making them if they are a US company or who in the US and Canada is buying or distributing these products in these countries. As many factories are producing under the AGOA most of the labels on the garments you as a worker are manufacturing should have an RN number. See the diagram.

Price tags

Look for any price tags that are being put on the garments. Write down what the garment is e.g. men's T shirt, the store name and the price written on the tag.

Prices are useful information as we then know how much a garment is being sold for and can work backwards to figure out how little the worker who makes the garment is paid compared to the final garment price. The price tags could give you also information on the country where it is sold. Does it give the country's name? Is the price in euros? In dollar? or in another currency? This might tell you where the clothing is sold.



Production Information

Orders

How is production done at the factory?

How many lines are there? What are the different lines making?

How many garments must a line finish in a day?

How many units must one worker complete a day?

What orders are the different lines working on?

Have any workers heard who (which brands or shops) these order are for?

Do you know which country the garments are going to?

Do any workers know how many garments are in the order?

Is there a quality control person from outside inspecting the garments? (where are they from? How long have they been there?)

Where do the fabrics used at the factory come from?

How much of the goods produced at the factory is sold to the local market?

How much of the goods produced at the factory is sold to the export market? If all or some, which countries are they exported to?

How are the goods produced in the factory transported?

Sub contracting

Is your factory receiving any work from other factories in the country or giving work to other factories in the country?

If this is happening find out about the other factory and speak to workers there to join your campaign by also collecting information in this way

Labels

What is the name on the label of the garment?

Look for numbers on the labels? (you can write down the name on the label and the numbers) If garments are going

Boxes and Shipping

Are there any markings on the boxes saying where they are going?

How do the products leave the factory by truck or train? Can you see any marking on the truck/ (what company is transporting these garments)?

Other General Question on workers lives

You may want to ask a few workers from the factory some questions on their lives. Below are a few suggestions:

Where do you live? What payments do you make for housing every month?

How many people do you support on your income?

What is the size of your family? Do they live with you?

Are there others in your family that contribute to the family income?

How much do basic goods such as food cost you every month?

What other expenses do you have?

Is the money you make enough to support your family? If no, how do you make ends meet?

How do you get to work everyday?

Example of information collected during research on a factory

Companies Registry information

The Company name is Blantyre Garments

The company is owned by PUK CHAN Company Limited.

The amount of shares were increased from 10,000 to 55,700,000 on the 11th of May 2001. Puk Chan took 5560000 of the shares on the 9th of May 2001.

Head Office Address:

5th floor room number 24

Ming Chuan

Taipei

Taiwan

And Pete Smith of Santa Fe, New Mexico, USA, holds 100 shares. All shares are 1 MK.

Listed as directors we find Ronald Chong, Chen Lee and Lee Sui since 1 July 1996, taking over from Gavin Peters and Wilma De Bruin.

Factory Visit

The operations of this company in Malawi is divided between two facilities both located on the same industrial plot.

In the first building, some workers are sewing Russel Athletic shorts for JC Penney, which are sold for 16 US\$. Other workers are sewing shorts for Mr Cost which are sold for 39,99 SA Rand. One line is working on shorts for Stone River. The lines consist of 15-16 workers, with one supervisor and two assistant supervisors.

The second part of the factory looks the same as the first building. The workers who are checking, pressing and packing the garments are standing at large tables. The emergency exits are closed and locked.

There is a bulletin board with the code of Wal-Mart in English, outside. There is a paper that announces the wage rise of 8% for the basic wage and the attendance bonus with 15%.

The factory employs 39 overseas staff for the line management and supervision.

There are a few people who are wearing self made masks. Most people are sitting on stools, there are no adjustable tables. There is not enough light in this factory for workers to work comfortably.

Worker Interviews

The interviews were conducted with 3 (later 4) workers in a group discussion, outside the factory (at the union offices). One of the interviewed workers is a cutter, one a quality controller and one a packer. They have been working in this factory between 1.5 and 7 years. Two have a family with one child (They are the sole earners), and the third one is supporting his family in the countryside.

Later a worker was interviewed in the lunch break.

Products/labels

South Africa: Mr Cost, Stone River

US: Hidary, Outer stuff (for Subway), JC Penny.

General

There are about 2800 workers in this company, which is divided over 7 different departments in different buildings. They make golf-shirts, trousers, bodysuits, jackets, shorts, etc.

Wages and benefits

The wages are considered as very low by the workers interviewed, "we get paid every fortnight but after 4 or 5 days all the money is gone", says one of the workers. "We do not know how we manage", says another of the interviewed workers. "It is not enough to live on". They are earning 800 MK per fortnight, as most of the workers in this factory. The supervisors here are earning 1200 MK per fortnight.

This wage already incorporates a housing allowance and an attendance bonus (123 MK).

They will get an extra production bonus: when packing for example 50.000 items the workers get 20 MK, which can go up to 50 MK per fortnight. The Cutters get 20 MK for cutting 40.000 pieces. The Quality Controllers do not get a bonus.

In December they will receive 1000 MK as leave pay (this is already deducted from their wage every month).

The cheapest housing will be 500 MK per month, for which you get one room with a grass roof, without electricity and water. They have to pay 5 MK in the factory, for the lunch. They get one bun from the factory. They will pay about 70 MK per day on food for a small family (2 adults and one child). For school fees they would have to pay about 1500 MK every 3 months. The workers interviewed do not use transport to get to and from work, they walk, sometimes very far. These workers live between 8 km and 30 km from the factory. Transport could cost up to 50 MK. They buy second hand clothes which will cost them about 150 MK per item. They try not to borrow money but this is sometimes unavoidable, and they would have to pay this back with a 50% interest.

Their parents and other family are living far away in the countryside; they will only visit once a year during the December factory shut down.

Working hours

The working hours are from 7am to 5pm with a one hour lunch break, this is a 9 hour work day. The first week of every fortnight they work Saturday as well, from 7:00 until 16:00 (8 hours). The second week of the fortnight they work 5 days and on their pay day they don't get lunch and close at 15:00 (8 hours of work without a break). In total the workers work 96 hours every fortnight. When there is a big order the workers are expected to work until 20:00 and sometimes work 7 days a week. There will be overtime every fortnight, workers are paid double for work on Sundays (104 MK for the day), overtime on Saturday

is paid at time and a half (81 MK a day). Overtime is compulsory and if workers don't show up they have to sign a warning. Some workers are suspended for not working overtime. After receiving two warnings, workers are dismissed. When workers are late they are, depending on the urgency of the orders, either sent away or the first hour of work is deducted.

Workers can take 2 weeks unpaid leave per year. If they are not feeling well they are not allowed to leave. Wages are deducted for sick days off, there is no paid sick leave.

management relationship

The management comes from China, India, Bangladesh and the Philippines. The workers tell that some of the managers shout at the workers and some hit the workers.

Union

The union has just started organising in the factory. There are not many members. The management is perceived as hostile towards the union. The workers are afraid they will be dismissed for becoming members of the union. The management stopped the union from coming in the factory, so the union talked to workers outside the factory premises.

The workers interviewed said that they would like for the union to take up the following:

- improve the wages
- stop the compulsory overtime
- improve the labour conditions

In 2000 about 800 workers joined the trade union, and tried to negotiate wages but the negotiations broke down, after which members resigned.

Penalties

Warnings: When the workers are dismissed for getting warnings they will not be paid any severance pay for years of service.

Costs: When workers make a mistake, they are penalised through a wage cut which can be half of their wages. If they are late, even just once and by 5 minutes, their whole attendance bonus is cut.

Discrimination

Almost all workers, except the 40 workers in the embroidery department are male. The piece workers

get unpaid maternity leave, the permanent workers get two months paid maternity leave. Even when pregnant, the woman worker has to work overtime and some have to stand the whole day.

Health and safety

All the buildings can be accessed through one door only. This door is locked when the workers have entered the building. There is no key inside. "If there was a fire we would be trapped" said one worker. The fire equipment is not often checked and the workers do not get training on how to use them.

There is lot of dust in the factory, and the workers feel this is endangering their health. There are no protective clothing and no protective masks are provided nor gloves for the cutters.

Subcontracting

Subcontracted work is given to two smaller locally owned factories Queen Clothing and Jack Lyn Co.

Control on labour conditions

Workers suspect that when the labour inspector visits the factory he is bribed by management. They look around in the factory but do not talk to the workers. "The management does not believe in the law and no buyer looks at labour conditions. One worker said" One worker remembers seeing a code of conduct of Wal-Mart in the factory. It is in English and he did not know what it meant as his understanding of English is limited.

Contracts

The workers do not have contracts and are paid as casuals, this makes them very insecure. There are also no benefits. If a worker dies 5MK is deducted from all of the workers pay and given to the family of that worker from "the company".

Searching

The workers are body searched when leaving the factory for lunch and when leaving work (the searchers even put their hands in the trousers of the workers). This can take up till 20-30 minutes, which does not leave much time for lunch.



A useful guide to tracking brand labels



The labels sewn into garments for the US and Canada can also provide us with valuable information. All clothing produced for export to the USA and Canada carries an RN (USA Textile Products), CA (Canadian) or WPL (USA Wool Products) number, which can be used to track the manufacturer and the owner of that company. These numbers usually appear on the washing instructions label of the garment, but they also appear on the actual label that identifies the brand name as the clothing, such as Gap, Calvin Klein or Colombia (Sportswear). Unfortunately there is no equivalent site for European garments.

1. Record the brand label e.g. Gap, Calvin Klein or Colombia (Sportswear), the RN/WPL/CA number and the details of the factory that produces the garment.

2. Go to the website: <http://www.ftc.gov/bcp/rn/rn.htm> To look up the RN, WPL or CA number on the database select the appropriate category. There are three categories:

RN/WPL number
Company name
CA number

3. For this example, we will use the RN/WPL category. Select the RN category. When the RN category comes up click on RN Number, enter the RN number in the box provided and click 'Find'.

4. The following information will be displayed:

RN number
Company name
Address
City State
Zip code
Phone
Fax
Internet address (URL)
Date last updated
Date RN number issued

This information is the owner of the brand name. The owner may be a multinational company or it may be a part of a transnational group. Using contacts with groups in international networks, particularly those in the North, we can try to find out whether the company we have found is a transnational or is owned by a transnational. This information can be used to target a particular transnational company in a campaign or to determine if there is a code of conduct

which could apply to the factory we are researching, if the code recognises contractors/subcontractors.

Once we know who owns or subcontract to the factory we can also use this information in a regional or international campaign. We can ask groups in the country where its head office is located to put pressure on the company to meet our demands. We may also be able to find valuable information on the company's financial situation.

It's worth remembering that the owner of a brand label is not always the manufacturer of the brand label. Another company may own the factory that is manufacturing the brand label or it might be a joint venture with an overseas investor. This will need to be traced separately and can not be done through this data base - we can try www.kompass.com or www.hoovers.com for this information.

This information can be added to the other information we have collected. Or it can also be used to build up a database - for example on Microsoft Access - of who owns the factories in a given area or country and the goods that they produce for export. A database already exists with Clean Clothes Campaign

Kelly Dent TIE - Asia

Source: Action Research on Garment Industry Supply

Chains - Women Working World Wide

This useful guide can be downloaded at

http://www.cleanclothes.org/ftp/03-www-action_Research.pdf



Solidarity Policy of ITGLWF Africa



In order to better foster cooperation amongst affiliates ITGLWF Africa developed a solidarity policy to guide inter affiliate actions. Solidarity is not just from the North to the South but can also be between unions in the South. This is an important principal as often a problem Multinational Company will operate in more than one country providing unions with the opportunity to collaborate their actions.

Policy

The ITGLWF Africa, a federation of trade unions organising workers in the textile, garment and leather sectors in Africa, acknowledge the need for governments, employers and labour to work together as social partners to address issues of hyper inflation, low levels of savings and investment, accumulation of external arrears, high and unsustainable budget deficit, low industrial capacity utilization, market failure, a decline in real incomes, widening income differentials, high unemployment and under employment, high levels of poverty and its feminisation.

There is a need to restore macro economic stability and growth in the region through creating working and living conditions that are conducive to the attainment of low levels of inflation and interest rates, increase investment, creation of durable and quality jobs and poverty eradication.

ITGLWF Africa and its SADC affiliates are aware that the attainment of fiscal adjustment and sustainable economic reforms is only possible through the concerted efforts of co-operating partners working in good faith and have identified the need to stimulate sustainable growth and human development and to promote both local, regional and international solidarity.

Objectives

The objective of the ITGLWF Africa Solidarity Policy shall be, to unite and strengthen its affiliates and develop close co-operation and solidarity among affiliates through sharing and exchanging information, working closely and supporting each other in defending, protecting and advancing workers interests and aspirations within Africa.

ITGLWF shall also spearhead campaigning against any violation of workers rights and shall engage with governments and employers to ensure effective corrective measures are in place and that there is compliance with International Labour Standards.

Vision

ITGLWF Africa shall strive to develop and strengthen its affiliates and facilitate the development of a highly organized and enlightened union leadership and membership capable of resisting and countering any challenge and exploitation tendencies from any angle.

Mission Statement

The ITGLWF Africa as the sole, legitimate and bon fide regional trade union federation for workers employed in the textile, garment and leather sectors in Africa, shall work to develop and strengthen its affiliates to promote, defend and advance workers rights, interests and aspirations.

Ideological Thrust

The ITGLWF Africa shall fight to achieve the social, economic and political aspirations and well being of its members and all workers continentally through engaging into social dialogue at national and international level, whereby discussions should be based on international labour standards especially the ILO Core Conventions on human and trade union rights which are as follows:-

Convention 87

Freedom of Association and Protection and the Right to Organise Convention. (1948):

Establishes the right to all workers and employers to form and join an organisation of their own choosing without prior authorization, and lays down a series of guarantees for the free functioning of organisations without interference from public authorities.

Convention 98

The Right to Organise and Collective Bargaining Convention (1949).

Ratified by 137 states:

Provides protection against anti-union discrimination, the protection of workers' and employers' organisations against acts of interference by each other, and provides measures to promote collective bargaining.

Conventions 87 and 98 are prerequisites for a trade union's ability to operate.

Convention 29

Forced Labour Convention. (1930).

Ratified by 145 states:

Suppresses forced or compulsory labour in all its forms. Certain exceptions are permitted such as military service, convict labour and emergencies such as wars and natural disasters.

Convention 105

Abolition of Forced Labour Convention. (1957)

Ratified by 128 states:

Prohibits the use of any form of forced or compulsory labour as a means of political coercion or education, punishment for the expression of political or ideological views, workforce mobilisation, labour discipline, punishment for participation in strikes, or discrimination.

Convention 100

Equal Remuneration Convention. (1951)

Ratified by 137 states:

Requires equal pay and benefits for men and women for work of equal value.

Convention 111

Discrimination (Employment and Occupation Convention) (1958).

Ratified by 130 states:

Calls for a national policy to eliminate discrimination in access to employment and training and working conditions, on grounds of race, colour, sex, religion, political opinion, national extraction or social origin and to promote equality of opportunity and treatment.

Convention 138

Minimum Age Convention (1973)

Ratified by 60 states:

Aims at the abolition of child labour, stipulating that the minimum age for admission to employment shall not be less than the age for completion of compulsory schooling and stipulates minimum age for admission to hazardous work. The ILO is currently discussing a new convention on minimum age for hazardous work for young people and a package of aid to developing countries to help them implement the new convention which is due to be adopted in the near future



Solidarity and Campaigns

ITGLWF Regional Organising Committee shall be responsible for solidarity and campaign programmes and activities with affiliates. ITGLWF Africa and the Regional Organising Committee tasks shall be to:

- Plan regional campaigns and solidarity programmes and activities.
- Organise campaign material, human and financial resources.
- Coordinate, direct and monitor campaigns and solidarity programmes and activities at regional level and support such activities at national level.
- Evaluate campaign and solidarity programmes and activities in order to measure their effectiveness, weakness and strengths.
- Report the results of such evaluation to ITGLWF Africa office and ITGLWF affiliates.

Monitoring

As a control mechanism to ensure standard and uniformity in line with the objective of this policy, all campaign and solidarity organs of ITGLWF Africa affiliates shall be accountable to the Regional Organising Committee.

Coordination

The coordination of all ITGLWF Africa campaign and solidarity programmes and activities shall be the responsibility of the Regional Organising Committee (ROC).

Evaluation

All ITGLWF campaign and solidarity programmes and activities shall be subject to evaluation in the process of implementation and annually and termination of such programme activities within ITGLWF Affiliates countries shall be sanctioned through the Regional Organising Committee.

Conclusions

To realise the objective of the ITGLWF Africa and its affiliates, it is very important to have a clear policy guideline on campaigns and solidarity, which must advance and build workers capacity and skills to effectively defend and promote their interests and aspirations.

Unity amongst workers in the SADC Region through the ITGLWF Africa has to be encouraged, developed and maintained hence the need to have a Regional Solidarity and Campaign Policy which shall be reviewed from time to time.

Using Codes of Conduct

What is a Code of Conduct?

A Code of Conduct is a general term for a company's written commitment to treat its workers and contracted workers fairly. Codes have been put in place usually following protests about working conditions, from both the workers and public groups about working conditions and wages at factories that supply large retailers. Retailers tell factories that they must agree to obey the rules stated in the code of conduct as a condition to supplying them with clothes. In this way retailers can then say to the public that the clothes that they buy in the store are made in factories where worker rights are respected.

A meaningful Code names commitments to stop the sort of abusive practices that are quite common in the global garment industry.

A basic Code includes promises that the company and its contractors will:

- Pay a living wage that meets the workers' basic needs.
- Put a stop to forced overtime.
- Ensure that workers have the right to form and join an independent trade union without harassment, threats, or firings; and to engage in collective bargaining with their employers.
- Ensure safe and decent working conditions free of physical and sexual abuse and harassment.
- Commit to not using forced child labour or prison labour.

In other words, a Code of Conduct simply commits the company to respect existing national and international law. It's not as if the workers or advocacy groups are asking for extraordinary wages or working conditions.

Do these Codes really mean anything?

If they're monitored and enforced, or backed up by a union, Codes can make a big difference. It's true that a Code of Conduct can be window dressing, or designed to make Northern consumers feel less guilty. And without monitoring by an independent, outside group or by a strong union, a Code could be just a piece of paper. For example, Wal-Mart, the largest retailer in the world, has a Code of Conduct yet many violations in factories producing for Wal-Mart have been documented.

There are also a lot of different codes. An OECD study (2000) found 246 codes of conduct, 37 of which applied to the textile and clothing sector. Of these 37, thirty-two were company codes of conduct and 5 were developed by coalitions of companies, NGOs, trade-unions and in one case a government. Mostly there are those that are developed by retail companies for their suppliers and those that are developed by multi-stakeholder initiatives. Codes that are developed by companies are not always ideal as they may not include all the labour standards that trade unions and NGOs would expect a good code to have. Some company have updated their codes after pressure that their codes do not meet requirements of internationally accepted standards of labour rights, while other companies have joined multistakeholder initiatives with better codes.

There are also many codes that are developed by multi-stakeholder initiatives; we will look at a few here. Besides

the CCC Code included later in this booklet, there are 4 others that have attracted some interest. They are: the Ethical Trading Initiative (ETI), a British initiative; Social Accountability 8000 (SA8000) developed by the Council on Economic Priorities in 1997 and modelled on the ISO Standard; Fair Labor Association, an initiative by the American White House and a coalition of NGOs, American universities and companies; finally the Workers' Rights Consortium (WRC), initiated by United Students Against Sweatshops (USAS). These codes, all differ in objectives, social standards, applicability, scope and nature of stakeholders and use different monitoring, verification and financing systems.

With all these codes out there which one do you use and how do you know if it's the right one. You will normally start from the point of a factory producing certain brands of clothes for retailers. This and the codes that may be up on the factory wall are normally a good place to start. There are also brands and retailers who have subscribed to codes developed through discussions with NGO's, Unions and other interested parties. These may be part of the five mentioned above, a summary of which is found in the following table.

This may all cause some confusion but the best approach is to contact ITGLWF and the CCC or one of the other NGO's with details of the company and the labels being manufactured for advice on which codes may apply in your instance. Despite these problems a Code of Conduct still remains one of the best ways to force a company to publicly commit to standards that respect the law.

What is verification and independent monitoring? Why is it important?

The process of checking that the factory is implementing the code of conduct is called verification. Having an independent group monitor whether a company is obeying its own Code can make a real difference. Independent monitoring by knowledgeable, outside groups that support worker rights or a trade union provides some safety and support in a work environment that can be very hostile to workers' rights.

To our knowledge there are two basic models for independent monitoring. In the **Foundation model** there is a tripartite foundation that is responsible for monitoring that the code of conduct is adhered to, in the **Accounting model** the Company itself is responsible. However, in both there should be a direct involvement of trade unions and NGO's.

The Foundation Model

The basic idea is to make a Foundation that is **tri-partite**: it will consist of trade unions, NGO's and (federations of) companies. All parties in the Foundation agree on the contents of the Code of Conduct and on the principle of independent monitoring. If a Company wants to sign the Code, it can make an agreement with the Foundation. There will be a **contract** between the Company and the Foundation, making clear the obligations of each of the two. The Foundation will be responsible for the monitoring and it will use two ways to do this: by unannounced spot

checks and by a complaint procedure.

The Foundation will subcontract the actual spot checks in the factories to a third party, for example a quality controlling company. We will call them the **Monitor**. The Monitor needs of course to be **competent, qualified and trained** in the field of working conditions. The Company must give information on where they source to the Monitor; the Monitor has to **guarantee the confidentiality of company information**. The Monitor will make **unannounced spot checks** on the production locations of the Company. The Monitor will **interview workers** from these factories, outside the factory and **with guarantees for their safety**. And also the Monitor will **talk to trade unions and NGO's** to get their opinion. With all this information, the Monitor will report back to the Foundation on whether the working conditions are according to the Code. If there are problems or violations of the Code, they will be discussed within the Foundation. The Foundation will give advice to the Company on how the Company must act to improve the situation. The aim of the advice will always be to improve the situation. Cutting contracts and relocation production can only be used in the last resort if no measures of improvement are possible.

Apart from this work by the Monitor, there will be a **complaint procedure**. Every worker, trade union, NGO, journalist, or whomever finds a violation of the Code, has the right to file a complaint. The text of the Code will be put up in the factories in the local language, including a local address where you can go to complain. This should be a **neutral place** to guarantee the safety of the workers, for example a church or a human rights organization, depending on the local context. The complaint will be passed on to the Foundation, who will act on it. The Foundation can send the Monitor to **investigate the complaint**, or hire somebody else to do that. Again, the Foundation will give an advice to the Company on how to act.

If the Company does not follow the advice from the Foundation, the Foundation has the **right to make the case public**. If this happens three times, the contract between the Foundation and the Company will be terminated.

The Accounting Model

As in the Foundation model, there is certain cooperation between (federations of) companies, trade unions and NGO's. The parties agree on the Code and the principle of independent monitoring. However, this model differs from the Foundation model in that here the Code is '**owned**' by the Company itself. The Company will hire an independent company or agency to monitor for them. In theory this could be the same Monitor as in the Foundation model. The Monitor has to be **accredited** by the trade unions and NGOs and the information collected by the Monitor is also accessible to them. The Monitor has the same job as in the Foundation model: unannounced spot checks and interviewing workers on a confidential basis. The trade unions and NGOs involved in the Code have the right to accompany the Monitor on its visits. There will also be a complaint procedure similar to the one described in the Foundation model.

How can you use Codes of Conduct to fight for worker rights?

In their codes, the retailers are agreeing that workers have rights. This is a major victory in itself as for years they would not even acknowledge this. So if a code does exist it is important to use it in the fight for better conditions. If a retailer that buys from your factory has a code you have the right to know about it. The Code should be in your factory on the wall for everyone to see. It should be explained to you what the rights are according to the Code of Conduct. You should also be able to complain somewhere if the factory does not implement this code.

After a visit by a monitor

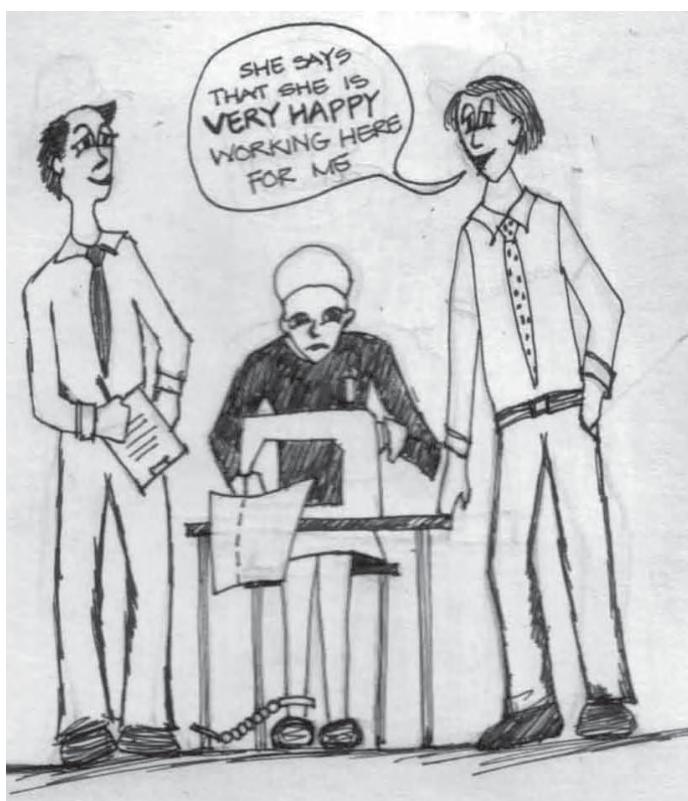
It is important to find a way to make codes of conduct work for workers. So after a visit by a monitor, a report should be made to the union about the visit. If there is any doubt that the monitor would give an accurate report of working conditions in compliance to the code of conduct then the union can take this up with the company that commissioned the factory visit. This can be done directly or with the assistance of ITGLWF and other labour support organisations. Pressure could then be put on the companies that the factory supplies to involve the union in the monitoring process of their codes to ensure that good working conditions and labour standards are achieved. Here are some guiding questions to ask yourself when making that report.

How many people came to inspect the factory?
Were they accompanied by any other parties, such as the trade union or an NGO?

How long did they spend at the factory?
Do you know what information they asked for from management?
Did they inspect the premises?
Did they do a safety assessment?
Did management know that the monitoring team was going to visit?

Were any changes made to the premises prior to the monitor arriving?
Were workers instructed on what to say or how to behave?

Did the monitor speak to workers?



If so how many?

How were the people that the monitor spoke to selected?

Did the monitor speak to people individually or in a group?

Where were the interviews held?

Was management present?

If a translator was used who was this person and are they connected to management?

Do you feel that workers felt comfortable to talk to the monitor?

What kind of questions did he ask? Do you think that workers raised their concerns with the monitor?

What was your impression of the visit?

Do you think that the monitor was in a position to properly assess the working conditions at the factory?

Is there anything that you think he might have missed?

Making a complaint about factory violations

Firstly it is important to note that a code of conduct is not a substitute for shop floor organising but a tool that can help in this process. Secondly there are many different codes of conduct some good and some bad but the most important factor in looking at the code of conduct is how strategically it is used by the trade union. What follows is a guide to using codes of conduct and what to look for in a code of conduct.

The first thing to check is if any codes of conduct are displayed in the factory. This is covered above under information collection. They are normally put up on a wall and may look something like the picture below. If there are no visible codes that does not mean that somebody the factory supplies does not have one, many do, it may just be that they are not displaying it. The brands alone are not sufficient to identify an applicable code of conduct. Wal-Mart for example sells many brands so you may need to look at the labels and then contact an outside organisation for help identifying the retailer, or use CA and RN numbers and of course price tags are always useful. It is necessary to do this as even if there is a code it may be old and the factory does not supply that retailer any longer. In such a case there is not much point in complaining to that retailer. It is also quite likely that a number of codes may be applicable in the same factory. In this case examine all the applicable codes and point out the violations of each code in separate complaints to the different retailers or brands.

Codes will normally outline what the buyer or retailer expects of the factory and you should be able to read through this to see if the rights that it guarantees are in place in the factory. If they are not then the code will normally give some kind of contact number. If this option of contacting the retailer is to be used a number of things should be in place. Firstly the union and workers should have a discussion about the best course of action and the possible consequences of the action. Secondly international organisations such as ITGLWF and the Clean Clothes campaign should be contacted for advice on the process and also to prepare themselves if solidarity action becomes necessary to back up the complaint. It is also possible to request an urgent appeal discussed later in the booklet. Information should be collected about the factory and prepared into a document that is like a body of evidence to support the claims that are being made in the complaint and finally if it has not been done the company should be approached and the demands you want (e.g. recognition, upholding the law etc.) be made in writing with an opportunity to re-

spond. This is useful to put into your complaint document as it can then be shown that the employer was warned but refused to comply.

Compiling the complaint document

Read the section on information collection and follow the necessary steps to collect the information. If you last collected information about the company a year or so ago it would be necessary to recollect information as orders change and so do the brands that are being made there as well as the conditions. The information used must be up to date to ensure that it is reliable.

Extract from the information the violations you are claiming are going on and if these relate to the law you should copy down the relevant sections of the law you are saying are being violated. Try to make the complaint specific. Don't make broad statements like "the conditions are bad" as these can not be followed up with actions. Make your demands clear and emphasise that it is not a request for withdrawal by the retailer but rather a request that they take action to get the employer back in line. This will make the retailer worse if they try to cut and run.

Use hard evidence to develop your case. E.g. if workers are being assaulted in the factory and management won't stop it then collect statements from workers (you should protect their identity though) who have been assaulted as well as those who have witnessed it. Or for example if the case is about recognition, include the relevant section of the act, copy all correspondence to and from the employer about the matter as well as recording all the times telephonic contact has been made, organisers harassed at the plant, whatever has happened.

Once you have compiled these documents send them through and ask for a response. Follow up with telephone calls if you can and if you are not having any responses contact relevant campaigning organisations to assist in escalating the case.

You would follow the same procedure if using other instruments to bring your complaints to the attention of the world where for example ITGLWF may on behalf of the union lay a complaint at the ILO which was done recently in the case of Tri Star Uganda. Here workers were interviewed relevant labour law collected and the documents put together and sent overseas where the complaint was formulated. Complaining to a National Contact point under the OECD guidelines would also entail the same preparation process.



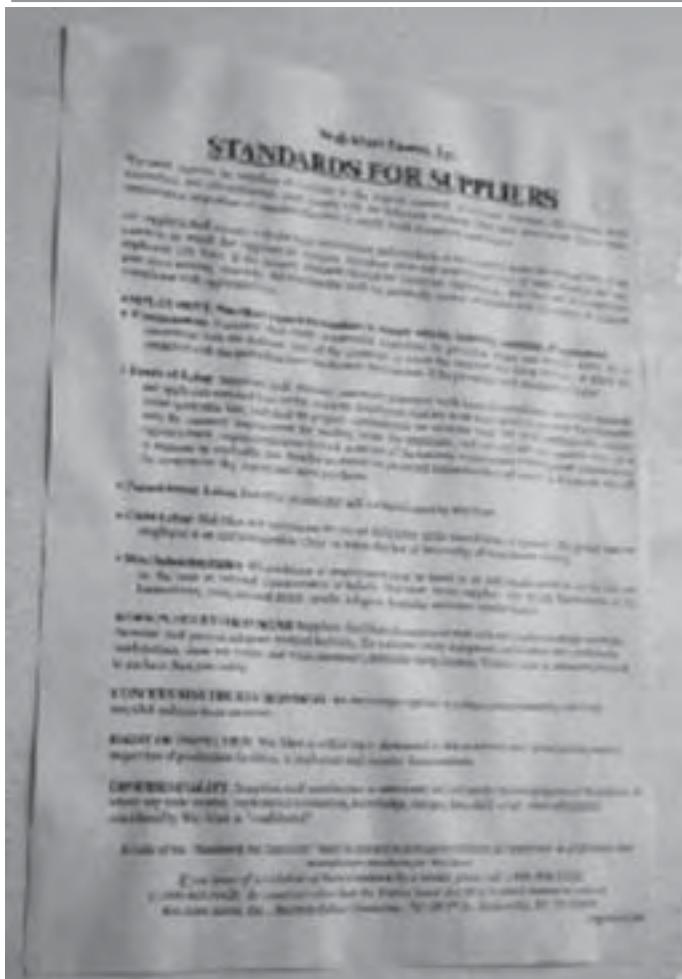
Overview of main features of the Clean Clothes Campaign CCC, Social Accountability SAI, Ethical Trading Initiatives ETI, Fair Association FLA, Workers Rights Consortium WRC

	CCC	SAI	ETI	FLA	WRC
Initiative/ Year of foundation	Dutch research institute SOMO 1990.	US-American consumer Organisation CEP 1997.	Various NGOs 1998.	Clinton Administration 1996.	US-American students organisation USAS 2000
Aims and objectives	Improvement of labour conditions in all industries (except mining).	Improvement of labour conditions in the worldwide garment and food industry and in horticulture.	Improvement of labour conditions in the worldwide garment industry and all industries producing under license for US universities.	Improvement of labour conditions in the worldwide garment industry and all industries producing under license for US universities.	
Methods/ Instruments	a) Code of Labour Practices, independent verification body, certification of member companies including whole supply chain, b) Legal initiatives, cooperation with government structures, c) North-South solidarity, d) Information of consumers	a) SA 8000 Standard independent verification, certification of producers/suppliers, b) 2001 - 2004 worker education programmes in cooperation with IGLWF.	a) Member companies committed to implement, monitoring and verification of ETI Base Code in whole supply chain, b) Multistakeholder learning forum: comparison of different models, c) Research and North - South advocacy, d) Networking between northern and southern groups.	Workplace Code of Conduct independent verification, certification of participating companies/ licensees including whole supply chain, certification of licencees.	a) Code of Conduct no certification of licensee companies, but spotcheck inspections in whole supply chain, investigation and remediation reports, Stand-ard setting for license agreements of US universities, b) Networking North-South, campaigns.
Membership/ Governance	More than 250 NGOs and unions in 14 autonomous CCCs with differing governance structures in 12 European countries. International Secretariat in Amsterdam.	a) Board: 2 NGO, 1 lawyer, 3 companies, b) Advisory Board: 5 NGOs, 2 unions, 1 UNO, 1 New York City, 8 companies.	a) Members: 29 companies, 15 NGOs, 4 unions (government), b) Board: 3 companies, 3 NGOs, 3 unions, 1 chair. (Government observer status).	a) Members: 13 companies, 6 NGOs, 178 universities, b) Board: 6 companies, 6 NGOs, 3 universities, 1 chair, c) NGO Advisory Council.	a) Members: 110 universities, USAS, b) Board: 5 universities, 5 USAS, 5 Advisory Council, c) Advisory Council: 22 experts.
Social standards	a) Freedom of association, b) Collective bargaining, c) No forced labour, d) No child labour, e) No discrimination, f) Living wage, g) Occupational safety and health, h) Hours of work, i) Establishment of employment relationship, j) No inhuman treatment. (Reference to ILO Conventions and to ICFTU Code of 1997).	a) Freedom of association, b) Collective bargaining, c) No forced labour, d) No child labour, e) No discrimination, f) Living wage, g) Occupational safety and health, h) Hours of work, i) Management systems. (Reference to ILO and to UN Human Rights/Child/Women/ Conventions).	a) Freedom of association, b) Collective bargaining, c) No forced labour, d) No child labour (14 yrs if legal), e) No discrimination, f) Legal minimum wage including benefits, g) Occupational safety and health, h) Hours of work, i) Establishment of employment relationship, j) Overtime pay possible at normal rate,	a) Freedom of association, b) Collective bargaining, c) No forced labour, d) No child labour, e) No discrimination, f) Living wage, g) Occupational safety and health, h) Hours of work, i) Establishment of employment relationship, j) Overtime pay possible at normal rate,	a) Freedom of association, b) Collective bargaining, c) No forced labour, d) No child labour, e) No discrimination, f) Living wage, g) Occupational safety and health, h) Hours of work, i) Establishment of employment relationship, j) No harassment or abuse, k) Women's rights.
Scope of application	The whole supply chain of garment products including contractors, subcontractors, suppliers and licensees. (Enforceable and enforced part of any agreement).	Emphasis on factory/ farm but also recommendations for supply chain.	The whole supply chain of garment, food and horticulture products including contractors, subcontractors, suppliers and licensees.	The whole supply chain of garment products including contractors, subcontractors, suppliers and licensees, with the exception of minimal facilities (short-term suppliers and small volumes).	The whole supply chain of garment products including contractors, subcontractors, suppliers and licensees. (Enforceable and enforced part of any agreement).

Monitoring/ Verification	Brand certification / orientation. Verification institution with board of 50% company and 50% NGO/ union representatives, contracts with audit companies possible. Since 1999 Dutch Fair Wear Foundation (incl. CCC), multi-stakeholder verification in cooperation with partner networks in garment production countries (unions, NGOs, business, labour inspectorate). Principle of continuous improvement.	Factory/farm certification. 9 SAI accredited audit companies (SGS, BV-OI, IIS etc.) verify producers according to SA 8000 Guidance document (consultation with NGOs and unions). NGO auditors also possible. SA 8000 certificate is valid for 3 years. Surveillance audits every 6 months.	Brand certification. Annual monitoring and verification. As from 2nd year onwards, internal monitoring of all facilities in supply chain, independent verification in 5% of all facilities (10% in the initial membership period). All internal and external monitoring in consultation with local NGOs, 13 accredited audit companies (BVOI, SGS, Verité etc.).	Brand orientation. Multistakeholder learning forum - companion of different monitoring and verification models and pilot projects since 1999. Principle of continuous improvements.	Brand certification. Annual monitoring and verification. As from 2nd year onwards, internal monitoring of all facilities in supply chain, independent verification in 5% of all facilities (10% in the initial membership period). All internal and external monitoring in consultation with local NGOs, 13 accredited audit companies (BVOI, SGS, Verité etc.).	Brand orientation. WRC Agency undertakes spot-check inspections in selected licensee supplier factories. Investigation and remediation reports. Licensee companies are required to disclose all production facilities.
Reporting/ Disclosure	After each inspection audit reports go to all parties involved and to the participating company. The verification body informs the public. Companies must disclose factory locations in the whole supply chain to the verification body.	Audit reports go to SAI and to the companies. Other parties can get audit reports after having signed a confidentiality agreement. Auditors inform consulted NGOs and unions about the outcome. Public list of certified facilities .	Pilot reports go to the ETI. ETI informs the public annually about the verification results.	Internal and independent monitoring reports go to the FLA staff. Annual public reports about every participating company, university and its licensees. Public information on monitored/verified factories. Companies disclose full list of applicable facilities to FLA. Schools publicly disclose factory locations of licensed products.	WRC verification and remediation reports go to all parties involved. Disclosure of all production facilities of licensee suppliers. -	WRC verification and remediation reports go to all parties involved. Disclosure of all production facilities of licensee suppliers.
Complaints/ Appeals/ Corrective Action	Complaints/Appeals go to the foundation which initiates corrective action. Decisions are taken after consultation with the parties concerned.	Complaints/Appeals can go to: a) the management of the factory, b) the certifying body, c) the accreditation agency each of them being able to initiate corrective action. Objections are being dealt with by the higher level bodies.	Complaints/Appeals go to ETI which then initiates corrective action in a process of continued improvement.	Third-party complaints go to FLA which then informs those who filed the complaints/appeals about the outcome of corrective action. Also possible complaints direct to brand companies.	The WRC Agency examines the complaints/appeals and initiates corrective action in cooperation with labour organisations.	The WRC Agency examines the complaints/appeals and initiates corrective action in cooperation with labour organisations.
Current develop- ments	Dutch Fair Wear Foundation (incl. CCC) pilot projects completed in India, Indonesia, Poland, Rumania and planned in Hong Kong/China, Tur-key etc. Pilot projects of CCC Sweden (India, Bangla-desh, China) completed, independent verification body on hold. Pilot projects of CCC Switzerland in India and China completed, independent verification body on hold. CCC France: after cooperation with Auchan now planning learning forum. Round Table on Codes of Conduct in Germany with CCC. Work with the Code next to public campaigns, legal initiatives, cooperation with governments, North-South solidarity work.	To date 190 certifications of factories in 31 countries and 3 industries. Cooperation with AVE/GIZ Germany on verification of 2500 factories in 15 countries in 2003-2005. 2001-2004 worker education programmes in 12 developing countries in cooperation with ITGLWF.	Pilot projects in South Africa, Zimbabwe and China completed. Currently 7 pilot projects in Costa Rica, Sri Lanka, India etc. Research programmes, advocacy and networking between North and South.	In the first year of independent verification (July 2001 - July 2002), 185 facilities were independently verified in 20 countries. The FLA Charter is currently under revision.	Follow-up to 4 main investigation remediation-reports (Mexico, Indonesia, USA, Dominican Republic). Factory Database updates. Further establishment of North-South contacts, networking.	Follow-up to 4 main investigation remediation-reports (Mexico, Indonesia, USA, Dominican Republic). Factory Database updates. Further establishment of North-South contacts, networking.

Wal-Mart Code of Conduct

Here is the Wal-Mart code of conduct. Wal-Mart does not subscribe to any of the NGO based code systems which should perhaps be a campaign on its own but it does claim to demand certain basic standards. In a recent instance Wal-Mart responded to complaints being made by traveling unionists in America by halting an order with a knitware company in Swaziland who had illegitimately been refusing recognition to the union SMAWU for a long period of time. This demonstrates that there is room for movement and to put pressure on companies to abide by decent standards. Note the contact details at the end of the code



Wal-Mart requires conformity from its Vendor Partners with the following standards, and hereby reserves the right to make periodic, unannounced inspections of Vendor Partner's facilities to satisfy itself of Vendor Partner's compliance with these standards:

Compliance with Applicable Laws

All Vendor Partners shall comply with the legal requirements and standards of their industry under the national laws of the countries in which the Vendor Partners are doing business, including the labour and employment laws of those countries, and any applicable U.S. laws. Should the legal requirements and standards of the industry conflict, Vendor Partners must, at a minimum, be in compliance with the legal requirements of the country in which the products are manufactured. If, however, the industry standards exceed the country's legal requirements, Wal-Mart will favour Vendor Partners who meet such industry standards.

Vendor Partners shall comply with all requirements of all applicable governmental agencies. Necessary invoices and required documentation must be provided in compliance with the applicable law. Vendor Partners shall warrant to Wal-Mart that no merchandise sold to Wal-Mart infringes the patents, trademarks or copyrights of others and shall provide to Wal-Mart all necessary licenses for selling merchandise sold to Wal-Mart which is under license from a third party. All merchandise shall be accurately marked or labelled with its country of origin in compliance with applicable laws and including those of the country of manufacture. All shipments of merchandise will be accompanied by the requisite documentation issued by the proper governmental authorities, including but not limited to Form A's, import licenses, quota allocations and visas and shall comply with orderly marketing agreements, voluntary restraint agreements and other such agreements in accordance with applicable law. The commercial invoice shall, in English and in any other language deemed appropriate, accurately describe all the merchandise contained in the shipment, identify the country of origin of each article contained in the shipment, and shall list all payments, whether direct or indirect, to be made for the merchandise, including, but not limited to any assists, selling commissions or royalty payments. Backup documentation, and any Wal-Mart required changes to any documentation, will be provided by Vendor Partners promptly. Failure to supply complete and accurate information may result in cancellation or rejection of the goods.

Employment

Wal-Mart is a success because its associates are considered "partners" and a strong level of teamwork has developed within the Company. Wal-Mart expects the spirit of its commitment to be reflected by its "Vendor Partners" with respect to their employees. At a minimum, Wal-Mart expects its "Vendor Partners" to meet the following terms and conditions of employment:

Compensation

"Vendor Partners" shall fairly compensate their employees by providing wages and benefits which are in compliance with the national laws of the countries in which the "Vendor Partners" are doing business or which are consistent with the prevailing local standards in the countries in which the "Vendor Partners" are doing business, if the prevailing local standards are higher. Vendor Partners shall fully comply with the wage and hour provisions of the Fair Labour Standards Act, if applicable, and shall use only subcontractors who comply with this law, if applicable.

Hours of Labour

"Vendor Partners" shall maintain reasonable employee work hours in compliance with local standards and applicable national laws of the countries in which the Vendor Partners are doing business. Employees shall not work more hours in one week than allowable under applicable law, and shall be properly compensated for overtime work. We favour "Vendor Partners" who comply with the statutory requirements for working hours for employees and we will not use vendors who, on a regularly scheduled basis, require employees to work in excess of the statutory requirements without proper compensation as required by applicable law. Employees should be permitted reasonable days off (which is at least one day off for every seven-day period) and leave privileges.

Forced Labour/Prison Labour

Forced or prison labour will not be tolerated by Wal-Mart. Vendor Partners shall maintain employment on a voluntary basis. Wal-Mart will not accept products from Vendor Partners who utilize in any manner forced labour or prison labour in the manufacture or in their contracting, subcontracting or other relationships for the manufacture of their products.

Child Labour

Wal-Mart will not tolerate the use of child labour in the manufacture of products it sells. Wal-Mart will not accept products from Vendor Partners that utilize in any manner child labour in their contracting, subcontracting or other relationships for the manufacture of their products. No person shall be employed at an age younger than 15 (or 14 where the law of the country of manufacture allows) or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15.

Discrimination/Human Rights

Wal-Mart recognizes that cultural differences exist and different standards apply in various countries, however, we believe that all terms and conditions of employment should be based on an individual's ability to do the job, not on the basis of personal characteristics or beliefs. Wal-Mart favours Vendor Partners who have a social and political commitment to basic principles of human rights and who do not discriminate against their employees in hiring practices or any other term or condition of work, on the basis of race, colour, national origin, gender, religion, disability, or other similar factors.

Workplace Environment

Wal-Mart maintains a safe, clean, healthy and productive environment for its associates and expects the same from its Vendor Partners. Vendor Partners shall furnish employees with safe and healthy working conditions. Factories working on Wal-Mart merchandise shall provide adequate medical facilities, fire exits and safety equipment, well lighted and comfortable workstations, clean restrooms, and adequate living quarters where necessary. Workers should be adequately trained to perform their jobs safely. Wal-Mart will not do business with any "Vendor Partner" that provides an unhealthy or hazardous work environment or which utilizes mental or physical disciplinary practices.

Concern for the Environment

We believe it is our role to be a leader in protecting our environment. We encourage our customers and associates to always Reduce, Reuse, and Recycle. We also encourage our Vendor Partners to reduce excess packaging and to use recycled and non-toxic materials whenever possible. We will favour Vendor Partners who share our commitment to the environment.

"Buy American" Commitment

Wal-Mart has a strong commitment to buy as much merchandise made in the United States as feasible. Vendor Partners are encouraged to buy as many materials and components from United States sources as possible and communicate this information to Wal-Mart. Further, Vendor Partners are encouraged to establish U.S. manufacturing operations.

Regular Inspection and Certification by Supplier Partner

Vendor Partner shall designate, on a copy of the Wal-Mart Vendor Partner Inspection and Certification Form, one or more of its officers to inspect each of its facilities which produces merchandise sold to Wal-Mart. Such inspections shall be done on at least a quarterly basis to insure compliance with the standards, terms and conditions set forth herein. The Vendor Partner Officer designated to perform such inspections shall certify to Wal-Mart following each inspection (i) that he or she performed such inspection, and (ii) that the results reflected on such compliance inspection form are true and correct.

All charges related to the inspection and certification of such facilities shall be paid fully by the Vendor Partner. Vendor Partner shall maintain the completed Inspection and Certification Forms on file at each facility and shall make the forms readily accessible to Wal-Mart, its agents or employees when requested. Any Vendor Partner which fails or refuses to comply with these standards is subject to immediate cancellation of any and all outstanding orders, refusal or return of any shipment, and termination of its business relationship with Wal-Mart.

Right of Inspection

To further assure proper implementation of and compliance with the standards set forth herein, Wal-Mart or a third party designated by Wal-Mart will undertake affirmative measures, such as on-site inspection of production facilities, to implement and monitor said standards. Any Vendor Partner which fails or refuses to comply with these standards is subject to immediate cancellation of any and all outstanding orders, refuse or return any shipment, and otherwise cease doing business with Wal-Mart.

Confidentiality

Vendor Partner shall not at any time, during or after the term of this Agreement, disclose to others and will not take or use for its own purposes or the purpose of others any trade secrets, confidential information, knowledge, designs, data, know-how, or any other information considered logically as "confidential." Vendor Partner recognizes that this obligation applies not only to technical information, designs and marketing, but also to any business information that Wal-Mart treats as confidential. Any information that is not readily available to the public shall be considered to be a trade secret and confidential. Upon termination of this Agreement, for any cause, Vendor Partner shall return all items belonging to Wal-Mart and all copies of documents containing Wal-Mart's trade secrets, confidential information, knowledge, data or know-how in Vendor Partner's possession or under Vendor Partner's control.

A copy of these Standards for Vendor Partners shall be posted in a location visible to all employees at all facilities that manufacture products for Wal-Mart Stores, Inc.

Any person with knowledge of a violation of any of these standards by a Vendor Partner or a Wal-Mart associate should call 1-800-WM-ETHIC (1-800-963-8442) (in countries other than the United States, dial AT&T's U.S.A. Direct Number first) or write to: Wal-Mart Stores, Inc., Business Ethics Committee, 702 SW 8th St., Bentonville, AR 72716-8095.

Clean Clothes Campaign Code of Conduct

Code Of Labour Practices For The Apparel Industry Including Sportswear

Statement of purpose

The Clean Clothes Campaign is dedicated to advancing the interests of workers in the apparel and sportswear industry and the concerns of consumers who purchase products made and sold by this industry. The Campaign seeks an end to the oppression, exploitation and abuse of workers in this industry, most of who are women. The Campaign also seeks to provide consumers with accurate information concerning the working conditions under which the apparel and sportswear they purchase are made. The Clean Clothes Campaign seeks to achieve its aims through a variety of means including a code of labour practice that would be adopted and implemented by companies, industry associations and employer organisations. The code, which is a concise statement of minimum standards with respect to labour practices, is meant to be accompanied by a commitment by the companies adopting it to take positive actions in applying it. Companies are expected to insist on compliance with the code by any of their contractors, subcontractors, suppliers and licensees organising production that would fall under the scope of the code.

Companies adopting the code will be expected to engage an independent institution established for the purpose of monitoring compliance with the code, in assisting companies in implementing the code and in providing consumers with information concerning the labour practices in the industry.

This code of labour practice sets forth minimum standards for wages, working time and working conditions and provides for observance of all of the core standards of the International Labour Organisation including Conventions 29, 87, 98, 100, 105, 111 and 138. These are minimum standards that are meant to apply throughout the industry and in all countries. The code is not a trade protectionist measure. It is not meant to be used as a means to close the markets of some countries at the expense of workers in other countries.

The code is not meant to be a substitute for international intergovernmental co-operation nor for international legislation. Although the code does seek to afford workers protection from oppression, abuse and exploitation where national laws are inadequate or are not enforced, it does not seek to become a substitute for national laws or the national labour inspectorate. The code is not a substitute for secure and independent trade unions nor should it be used as a substitute for collective bargaining.

Scope of application

The code is intended for retailers as well as manufacturers and all companies positioned in between those in the apparel and sportswear supply chain. It can also be used by industry associations or employer organisations.

The code applies to all of the company's apparel and sportswear products (including sportshoes). The code specifically applies to the following general industrial classifica-

tion of economic activities within the European Community (NACE) classification codes:

- 436 knitting industry
- 451 manufacture of mass-produced footwear
- 452 production of hand-made footwear
- 453 manufacture of ready-made clothing and accessories
- 454 bespoke tailoring, dressmaking and hatmaking
- 456 manufacture of furs and of fur goods

Through the code retailers and manufacturers declare their responsibility for the working conditions under which the apparel, sportswear and shoes they sell are produced. This responsibility extends to all workers producing products for the company, regardless of their status or relationship to the company and whether or not they are employees of the company. The code would therefore apply to home-based workers and to workers who are engaged either informally or on a contracted basis.

The code applies to all of the companies' contractors, subcontractors, suppliers and licensees world-wide. The terms 'contractor', 'subcontractor', 'supplier' mean any natural or legal person who contracts with the company and is engaged in a manufacturing process, including CMT (cut-make-and-trim), assembly and packaging, which result in a finished product for the consumer. A licensee means any natural or legal person who contracts with a company to produce or distribute finished products using the name or brand image of that company.

Observance of the code must be an enforceable and enforced part of any agreement between the company and its contractors, subcontractors, suppliers and licensees.

Code of labour practices

Introduction

The code provides a concise statement of minimum labour standards together with a pledge by the company to observe these standards and to require its contractors, subcontractors, suppliers and licensees to observe these standards. The code is concise in order to display it in workplaces and in order to avoid any confusion between basic principles and the application of principles. An independent institution, established to provide independent monitoring of compliance with the code and to assist companies in implementing the code, will provide an auditable checklist of practices and conditions that are consistent with the standards set forth in the code. This independent organisation will also provide a means by which questions over the meaning of the code can be resolved.

The preamble establishes three principles: First, the company accepts responsibility for its workers, including workers involved in contracting and subcontracting agreements. Second, the company pledges to observe the core ILO labour standards and to ensure that workers are provided with living wages and decent working conditions. Third, the company pledges to make observance of the code a condition of any agreements that it makes with contractors and suppliers and to require them to extend this obligation to their subcontractors.

The body of the code is based on the same core ILO conventions including prohibitions against child labour, forced or bonded labour, discrimination, freedom of association and the right to collective bargaining. This is followed by the basic labour conditions - wages, hours and working conditions (including health and safety) and their formulation in the code, also derived from ILO standards.

This section also addresses the issue of regular employment relationships. Increasingly employers avoid the obligations of the employment relationship by treating workers as "independent contractors" when in fact their situation is the same as that of regular employees. The ILO is in the process of developing an international standard on this subject.

The closing section sets out the most important obligations contractors, subcontractors, suppliers and licensees must undertake in implementing the code and pledges the company to enforce its code using a range of sanctions up to and including termination of any agreements. The closing section pledges all employers concerned to refrain from disciplinary action, dismissal or otherwise discriminating against any worker for providing information concerning observance of the code.

This part also states that the code establishes only minimum standards that must not be used as a ceiling or to discourage collective bargaining. The text of the code, when meant to be posted where workers can see it, shall also include a means by which workers can report failure to comply with the code in a confidential manner.

Preamble

1.(name of company) recognises its responsibilities to workers for the conditions under which its products or services are made and that these responsibilities extend to all workers producing products or services for (name of company) whether or not they are employees of (name of company).

2.Any workers producing products or services manufactured, sold or distributed by (name of company) must be provided with living wages and decent working conditions, and the international labour standards established by Conventions 29, 87, 98, 100, 105, 111 and 138 of the International Labour Organisation must be observed.

3.(name of company) will require its contractors, their subcontractors, suppliers and licensees to provide these conditions and observe these standards when producing or distributing products or components of products for (name of company). (name of company) will, prior to placing orders with suppliers, engaging contractors and subcontractors or granting licenses, assess whether the provisions of this code can be met.

4.For the purposes of this code the term 'contractor', 'sub-contractor' or 'supplier' shall mean any natural or legal person who contracts with (name of company), either directly or indirectly via another natural or legal person who contracts with (name of company) and is engaged in a manufacturing process, including CMT (cut-make-and-trim), assembly and packaging, which result in a finished product for the consumer. The term 'licensee' means any natural or legal person who as part of a contractual arrangement with (name of company) uses for any purpose the name of (name of company) or its recognised brand names or images.

Content

•Employment is freely chosen.

There shall be no use of forced, including bonded or prison, labour (ILO Conventions 29 and 105). Nor shall workers be required to lodge "deposits" or their identity papers with their employer.

•There is no discrimination in employment.

Equality of opportunity and treatment regardless of race, colour, sex, religion, political opinion, nationality, social origin or other distinguishing characteristic shall be provided (ILO conventions 100 and 111).

•Child labour is not used.

There shall be no use of child labour. Only workers above the age of 15 years or above the compulsory school-leaving age shall be engaged (ILO Convention 138). Adequate transitional economic assistance and appropriate educational opportunities shall be provided to any replaced child workers.

•Freedom of association and the right to collective bargaining are respected.

The right of all workers to form and join trade unions and to bargain collectively shall be recognised (ILO Conventions 87 and 98). Workers' representatives shall not be the subject of discrimination and shall have access to all workplaces necessary to enable them to carry out their representation functions (ILO Convention 135 and Recommendation 143). Employers shall adopt a positive approach towards the activities of trade unions and an open attitude towards their organisational activities.

•Living wages are paid.

Wages and benefits paid for a standard working week shall meet at least legal or industry minimum standards and always be sufficient to meet basic needs of workers and their families and to provide some discretionary income.

Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted without the expressed permission of the worker concerned. All workers shall be provided with written and understandable information about the conditions in respect of wages before they enter employment and of the particulars of their wages for the pay period concerned each time that they are paid.

•Hours of work are not excessive.

Hours of work shall comply with applicable laws and industry standards. In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every 7 day period. Overtime shall be voluntary, shall not exceed 12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate.

•Working conditions are decent.

A safe and hygienic working environment shall be provided, and best occupational health and safety practice shall be promoted, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer is strictly prohibited.

•The employment relationship is established.

Obligations to employees under labour or social security laws and regulations arising from the regular employment relationship shall not be avoided through the use of labour-only contracting arrangements, or through apprenticeship

schemes where there is no real intent to impart skills or provide regular employment. Younger workers shall be given the opportunity to participate in education and training programmes.

Closing section

Contractors, subcontractors, suppliers and licensees shall undertake to support and co-operate in the implementation and monitoring of this code by:

- providing (name of company) with relevant information concerning their operations;
- permitting inspection at any time of their workplaces and operations by approved inspectors;
- maintaining records of the name, age, hours worked and wages paid for each worker and making these available to approved inspectors on request;
- informing, verbally and in writing, the workers concerned of the provisions of this code; and,
- refraining from disciplinary action, dismissal or otherwise discriminating against any worker for providing information concerning observance of this code.

Contractors, subcontractors, suppliers and licensees found to be in breach of one or more terms of this Code of Labour Practices may lose the right to produce or organise production of goods for (name of company).

Questions as to the interpretation of the meaning of the provisions of this code shall be resolved according to the procedure set forth by an independent institution established for this purpose.

The provisions of this code constitute only minimum standards and conditions for the purpose of preventing exploitation. (name of company) does not intend, will not use, and will not allow any contractor, subcontractor, supplier or licensee to use these minimum standards and conditions as maximum standards or as the only conditions permitted by (name of company) or to serve as the basis for any claim as to what standards or conditions of employment should be provided.

Specific industry standards

Specific industry standards, especially with respect to health and safety (including access to medical services) and workers' accommodation may be incorporated into the code or attached separately and referenced in the code under section # 7 "working conditions are decent". These standards may be formally recognised standards or established best practice.

Implementation

Introduction

Implementation refers to the whole range of activities that could be taken by a company to give effect to the Code of Labour Practices. In the past some companies have adopted codes as a public relations response to reports of exploitation but have failed to implement them. Companies adopting the Code of Labour Practices for the apparel and sportswear industry will be expected to agree to certain minimum conditions with respect to implementing the code. One of the most important ways in which a code can be implemented is for it to become an enforceable and enforced part of agreements with contractors, subcontractors suppliers and licensees.

Implementation and monitoring are often confused. Monitoring, which means to watch or check that the terms of the code are being respected is one aspect of implementing a code. It is expected that companies adopting the code will in their relationship with their contractors, sub-contractors, suppliers and licensees monitor their compliance with the code.

Companies adopting the code are also expected to co-operate and support a system of independent monitoring of compliance with the code. This section concerns the general obligations of the company to implement the code.

The obligations of the company to implement the code:

- The company agrees to take positive actions to implement the code, to incorporate the code into all of its operations and to make the code an integral part of its overall philosophy and general policy.
- The company will assign responsibility for all matters pertaining to the code within its organisation and inform the independent institution and other relevant bodies where this responsibility is assigned.
- The Board of Directors (or other governing body) of the company shall periodically review the operation of the code, including the reports of internal and external monitoring.
- The company accepts responsibility for observing the code with respect to all employees and workers that it supervises and agrees to:-
- assign responsibility for implementing this code at each place that it owns or controls;
- ensure that all workers are aware of the contents of the code by clearly displaying an authorised text of the code at all workplaces and by orally informing these employees in a language understood by them of the provisions of the code;
- refrain from disciplining, dismissing or otherwise discriminating against any employee for providing information concerning observance of this code.
- The company will make observance of the code a condition of all agreements that it enters into with contractors, suppliers and licensees. These agreements will obligate these contractors, suppliers and licensees to require observance of the code in all agreements that they make with their respective subcontractors and suppliers in fulfilling their agreement with the company. Such agreements shall also oblige these contractors, subcontractors, suppliers and licensees to undertake the same obligations to implement the code as found in the preceding point.

Obligations of the company to enforce the code:

Observance of the code by contractors, sub-contractors and suppliers must be an enforceable and enforced condition of agreement with the company.

In order to achieve this:

- The company will ensure that all agreements it enters into concerning the production of apparel and sportswear allow for the termination of the agreement for failure to observe the code by any contractors, sub-contractors and suppliers.
- The company shall authorise a procedure with fixed time limits to rectify situations where its code is not being fully observed by a contractor, sub-contractor or supplier. The agreement by the contractor, sub-contractor or supplier to abide by this procedure would enable the continuation of the agreement with the company. The company shall require contractors or suppliers to institute similar procedures with respect to their contractors, sub-contractors or suppliers.

- Such procedures shall be authorised only where:
- there is a reasonable expectation that the situation will be corrected and that the code will be observed in the future;
- the period specified for correcting the situation is reasonable;
- recognisable and unmistakable violations of the code are ceased immediately;
- such procedures shall not be authorised more than once for the same contractor, sub-contractor or supplier for the same or similar failure to comply with the code; and
- such procedures are consistent with any recommendations or procedures set forth by the independent institution established to assist in implementing this code.
- With respect to child labour, such procedures shall require that there be no further engagement of children and that temporary measures to assist child workers such as the reduction in working time, the provision of educational opportunities and transitional economic support be instituted. In the end, child workers must be replaced by adults and, where possible, from the same family. Procedures should also include measures to assist the children concerned through provision of educational opportunities and transitional economic support.
- Contractors, sub-contractors and suppliers must, as part of their agreement with the company, agree to terminate any contract or agreement for the supply or production of goods by any contractor, sub-contractor or supplier that they engage not fully observing the code, or they must seek and receive approval from the company to institute a procedure with fixed time limits to rectify situations where the code is not being fully observed.
- Where there is repeated failure to observe or to ensure observance of the code by a particular contractor, sub-contractor, supplier or licensee, the agreement should be terminated. Guidelines or procedures for determining when it is necessary to terminate a contract for failure to observe the code shall be set forth by an independent institution established for this purpose.

In situations where it is not clear whether a particular practice constitutes a violation of the code, relevant international labour standards of the International Labour Organisation (ILO) and any recommendations provided by the independent institution established to assist companies in implementing this code shall be sought for guidance.

Independent Monitoring, Accreditation and Certification

Introduction

When a sufficient number of companies, industry associations or employers' organisations have adopted the code of labour practice for the apparel and sportswear industry, then they, in conjunction with appropriate trade union organisations and NGOs, shall establish jointly an independent institution, referred to in this document as "the Foundation".

The purpose of the Foundation shall be to:

- conduct, directly or indirectly through other organisations, the independent monitoring of compliance with the code;
- assist companies in implementing the code; and
- provide a means to inform consumers about observance of the code and more generally about labour conditions in the industry.

To these ends the Foundation shall:

- establish standards for the independent monitoring and for the accreditation of independent monitors;
- train, or to arrange for the training, of independent monitors;

- prepare an auditable checklist of labour practices to be used in monitoring the code;
- conduct or otherwise cause to be conducted independent monitoring of compliance by specific companies with the code of labour practice;
- receive reports of such independent monitoring and make effective recommendations based on these reports to the companies concerned;
- investigate any substantiated reports concerning compliance by participating companies and make effective recommendations based on the findings of such investigations;
- prepare and publish guidelines for participating companies on the implementation of the code;
- provide other technical assistance to companies in implementing the code, including the training of company personnel;
- prepare and publish the authorised version of code in various languages and in sufficient quantities as required by participating companies;
- establish a means to interpret the provisions of the code, provided that this means is based on the recognised jurisprudence of the International Labour Organisation;
- provide a means by which workers and any others can report on a confidential basis observance of the code;
- establish, based on independent monitoring, a system of certification concerning labour practices which can be used by consumers;
- collect information from any source on working conditions in the apparel and sportswear industry and make this information available to consumers;
- promote the code of labour practice and encourage all companies operating in the industry to adopt it; and
- establish a mechanism that can make effective recommendations with respect to any disputes arising out of the implementation or the certification process.

The Foundation shall be governed by a board consisting of equal representatives of appropriate trade union organisations and NGOs on one hand and of appropriate representatives of retailers and manufacturers on the other hand. The Foundation shall be financed by contributions from participating organisations and by payments for services from contracting companies.

The principal means by which the Foundation shall conduct its work will be based on contracts with specific companies to independently monitor and certify their compliance with the code and by contracts with individuals and organisations to conduct monitoring.

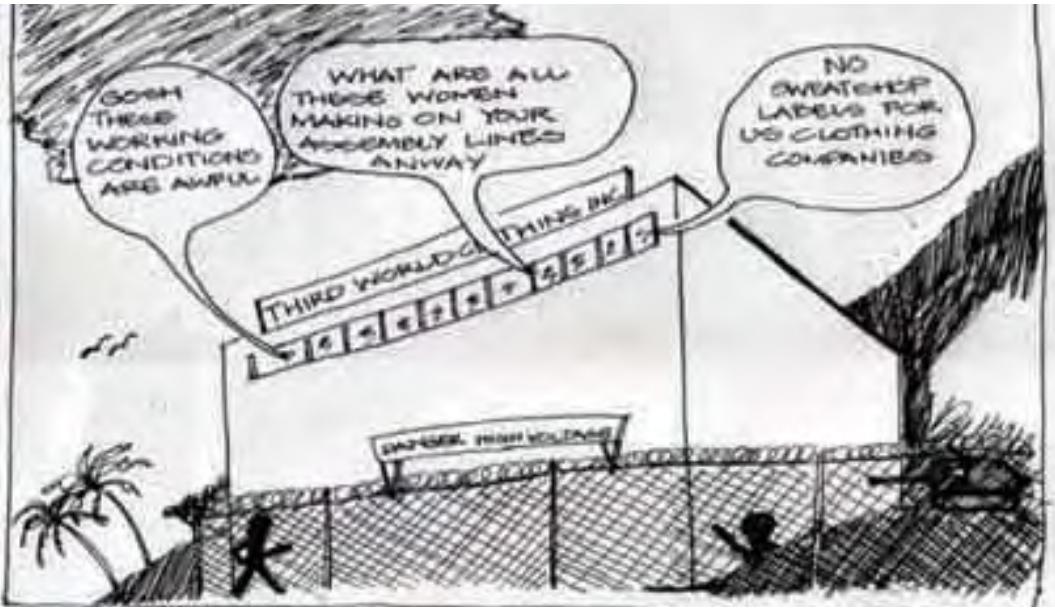
It is understood that the standards for independent monitoring established by the Foundation shall be based on the best practice of the two existing professions that monitor labour practices - the labour inspectorate and the contract-enforcement practices of trade unions. It is also understood that these standards shall include ethical practices for monitors, including respect for any confidential commercial information.

It is also understood that any individuals engaged to conduct monitoring shall receive training for this purpose.

Relation between the company and the Foundation

Companies adopting the code of labour practice for the apparel and sportswear industry shall enter into an agreement with the Foundation. This agreement shall provide for the following:

- the time-frame in which the production in the different facilities should comply with all the standards in the code;



- the information the company has to give to the Monitoring Foundation;
- the payments the company should make to the Monitoring Foundation;
- the procedures for the actual monitoring and the obligations of the different parties; and
- the use of the Foundation contract by the company in its public relations.

The company assumes the following obligations:

- to maintain full and up-to-date information on all contractors, sub-contractors, suppliers and licensees obliged to observe this code, including the nature and location of all workplaces, and to provide this information to the Foundation or its accredited monitors in a timely manner upon request.
- to require contractors, sub-contractors, suppliers and licensees to maintain records of the names, ages, hours worked, and wages paid for each worker, and make these records available for inspection by accredited monitors, and to allow the Foundation or its accredited monitors to conduct confidential interviews with workers.
- to ensure that the code is clearly displayed in all places where apparel and sportswear are produced and/or distributed by or under agreement with or for the company and provide authorised texts of the code to contractors and suppliers for their use, and the use by any contractors, sub-contractors and suppliers obliged to observe this code. In all cases the text of the code so displayed shall be in languages so that the workers concerned are able to understand it. The text of the code shall be provided to each worker covered by its provisions and all workers so covered shall be orally informed in a language that they can understand of the provisions of the code.
- the code so displayed must provide information to assist workers in reporting violations of the code to the Foundation or its agents taking into account the difficulties that workers will face in doing this and the need for confidentiality in order to protect workers.
- to allow for the necessary access to independent monitors and provide them with any and all relevant information upon demand.
- to ensure and clearly demonstrate that the code is being observed by all parties obliged to observe the code, the company must allow the Foundation and its agents access to all information pertaining to the implementation of the code, and ensure that its contractors, sub-contractors and suppliers give similar access to the Foundation and its agents.

Monitoring: basic principles

- monitoring must be by the actual observance of working conditions through unannounced inspection visits ("spot checks") to all workplaces covered by the code;
- the frequency of inspections must be established;
- accredited monitors must be permitted to interview workers on a confidential basis;
- in addition to regular or routine inspections, inspections shall be undertaken at specific locations following substantiated complaints, where there is sufficient reason to believe that the code is not being observed;
- inspections shall be conducted in a way which does not cause undue disruption to the performance of work in the premises being inspected;
- written reports shall be provided by accredited monitors to all parties and to the participating company concerned following each visit.

The Foundation may seek other sources of information concerning compliance with the code including consulting appropriate trade union organisations, human rights organisations, religious and other similar institutions in order to obtain additional information on a certain company or in order to investigate a certain complaint.

If violations of the code are found, the company must agree to accept the recommendation of the Foundation. This recommendation shall in the first instance be aimed at improving the existing situation. Where such improvement is not possible or satisfactory, then the Foundation can oblige companies to re-negotiate, terminate or refuse to renew their contracts with certain contractors, subcontractors and/or suppliers.

Where companies fail to observe their agreement with the Foundation it is understood that the Foundation may release any relevant information to the public and may terminate the contract between the company and the Foundation.

The independent monitoring process shall form the basis for any public claims by the Foundation or by participating companies as to the operation of the code or concerning the actual labour practices covered by the code.

The Clean Clothes Campaign Urgent Appeals System

The Clean Clothes Campaign (CCC) is a coalition of NGOs and trade unions that work together to push for better working conditions in the global garment industry and for the empowerment of garment workers. In the context of this work, the CCC is committed to carrying out direct solidarity action to support garment workers in their struggle to see that their rights are respected.

What are CCC Urgent Appeals?

Developing and circulating appeals for urgent action (called "urgent appeals" for short) is one way that the CCC supports garment workers in specific cases where their rights have been violated. A CCC urgent appeal is a request that people take action (e.g. write a letter of protest to a factory owner) to demonstrate support for workers' demands in a situation where their rights are not being respected. The CCC frequently receives appeals from workers producing garments and sports shoes for companies that are part of the international supply chains of major multinational brand name companies. These brand name companies are vulnerable to public opinion regarding conditions at their suppliers, therefore concern expressed by campaigners and the public can have an impact on the action such companies take in relation to these cases. In recent years the campaign has taken up an average of 30 cases per year in nearly as many countries.

Deciding to Take Urgent Action

The CCC only takes action on cases of rights violations if it is clear that this is what the workers involved in the dispute want. The CCC believes that garment workers should be the ones to decide if they want international support in specific cases where their rights have been violated. For workers, drawing public attention to rights violations at the international level often involves taking significant risk. They might suffer discrimination for speaking out about the conditions in their workplace – they might be reassigned to other jobs, they might be suspended, or they might lose their jobs and be blacklisted from future employment. Workers must understand and consider these risks when deciding if they want

to draw international attention to their dispute and the form that international support should take (a public campaign is just one option, in many cases workers do not want their complaints/negotiations to be made public but would still like support from international labor rights activists). Workers and their representatives know the local context of their cases best and therefore play a key role in determining if international action should be taken and in developing the international action strategies in these cases.

The CCC has limited resources and unfortunately is not able to follow-up on all the requests for action that are received. Decisions to take up cases are made by the CCC International Secretariat (see contact information below) in conjunction with the urgent appeal coordinators at the various national-level CCCs (each CCC is a coalition of NGOs and trade unions, and each has a designated urgent appeal coordinator). These decisions are generally based on capacity available at that moment to undertake effective action. In prioritizing cases, national-level CCCs usually prefer to get involved in cases that have a connection to their coalition or market (ex. the German campaign is more likely to work on a case that involves a company that is based in Germany, such as Puma, or another brand based elsewhere that sells its products in Germany; or if a CCC national-level coalition includes an organization that focuses on India, they will be more likely to do work on an urgent appeals case from India).

How the CCC Works on Urgent Appeals

The CCC receives requests for action through its International Secretariat or the individual national-level CCCs (for a list of contacts please see the CCC website <http://www.cleanclothes.org/contacting.htm>). CCC staff at the International Secretariat or the individual CCCs verify and clarify these requests, adding to the initial case information using the CCC's network of local contacts in the country where the rights violation has occurred. Each national-level CCC has a contact person who handles CCC urgent appeals work in their national coalition. If more than one CCC works on a case, a case coordinator is selected to serve as the



focal point for the campaign's work on a case. Questions about which CCCs are working on a specific case can be directed to the International Secretariat.

Urgent appeals activities include writing letters of protest to companies or public authorities, launching wide-scale public e-mail and fax campaigns to pressure companies to take positive action, writing letters of solidarity to workers and their organizations, and carrying out a variety of awareness-raising events (speaker tours, press conferences, demonstrations) to draw attention to cases of rights violations, both among the general public and the media.

Examples of Urgent Appeals Cases

Most of the cases in which the CCC takes action are related to violations of core labor standards on freedom of association and the right to organize and collectively bargain (International Labor Organization conventions 87 and 98). In the past, the CCC has been contacted about and taken action on violations of these standards in Asia, North and Central America, Africa, and Europe. Violations include denying workers the right to form a trade union and bargain collectively; discrimination, harassment, and violence against union members or sympathizers; and dismissal of workers due to union activities. Gender discrimination and other bad labor practices (such as unpaid wages or wages below the legal minimum, denial of legal benefits, unsafe conditions, and forced or improperly compensated overtime) are also violations that come up in cases that the CCC takes up.

Examples of cases the CCC has worked on publicly in recent years include the Matamoros Garment case, in which a Mexican factory producing for Puma denied workers their right to freedom of association; the Gina Form Bra Company case in Thailand, where union leaders were unjustly fired after trying to negotiate for better working conditions at a factory producing for various North American brands and retailers'; the case of Jaqalanka Ltd., a factory in Sri Lanka where workers faced a tough anti-union campaign; and a request to support garment workers in Kenya's export processing zones, on strike and demanding a range of improvement to working conditions. There are also numerous cases that never make it to the public; instead at the request of the workers or their organizations the CCC works behind the scenes to help create a space so that workers' concerns are heard by local management, public authorities, brand-name garment companies and retailers, and

others who have a responsibility to ensure compliance with good labor standards throughout international garment industry supply chains. To read more about urgent appeals cases that the CCC is currently working on, please see the CCC website <http://www.cleanclothes.org/appeals.htm>. If you would like to receive CCC urgent appeals by e-mail, please sign up at the CCC website <http://www.cleanclothes.org/action>.

Informing the CCC About a Potential Urgent Appeals Case

If your organization would like to explore the possibility of international support in relation to specific cases of labor rights violations, contact the CCC International Secretariat with the following information:

- Description of the labor rights violation that has occurred (including dates that they occurred and any local labor laws that have been violated)
- Name, address, and contact information (fax, phone, e-mail) of the factory/workplace involved
- Name and contact information of the owner of the workplace
- Summary of the workers' demands
- Name and contact information for the organizations seeking assistance and their relationship to the workers involved (again, the CCC will only take up cases in which it is clear that workers want such action to be taken)
- Name and contact information for any union involved
- Union affiliation
- Name and contact information for any other organizations actively supporting the workers
- Name of companies (brands) that the factory produces for
- Country where goods are exported to

The CCC will gather information on the brand name companies involved in the case and any codes of conduct that they might have (in some cases workers and their organizations find that the company codes can provide them with leverage in their negotiations). The CCC communicates this information back to the organization seeking assistance. The CCC also sends the organization copies of any correspondence that takes place in relation to the case. Functioning channels of communication between the CCC and any organization requesting assistance are a prerequisite for the CCC to take up a case.



Example of an International Campaign

Serious worker rights violations in 21 factories producing for Wal-Mart in Lesotho

6 Jan 2003,

The Lesotho Clothing and Allied Workers Union (LECAWU) has released information on serious worker rights violations in 21 factories producing for Wal-Mart in this small Southern African country. Sweatshop abuses include:

- excessive hours of compulsory overtime;
- poverty wages that don't meet workers' basic needs;
- verbal and physical abuse and sexual harassment;
- humiliating strip searches;
- unfair treatment of pregnant workers;
- inadequate washroom facilities and restrictions on their use;
- health and safety violations; and
- violations of freedom of association;

To lessen the possibility of Wal-Mart cutting and running from specific factories linked to specific abuses, LECAWU has requested that we not name the factories. LECAWU is calling on its supporters around the world to demand that Wal-Mart take immediate steps to ensure, and provide verifiable evidence, that all its suppliers in Lesotho are complying with the Lesotho Labour Code and the Conventions of the International Labour Organization (ILO).

Recently, LECAWU sent a letter to Wal-Mart protesting the inadequacies of that company's current factory monitoring program. According to LECAWU, the personnel director at one Wal-Mart supply factory acted as the translator for worker interviews during a social audit of the factory commissioned by Wal-Mart. Workers can not be expected to tell the truth about working conditions in the presence of factory management.

Tell Wal-Mart to not cut and run from Lesotho, but to stay and work with suppliers to fix the problems, in consultation with LECAWU. More information below and this information can also be found at the website from Maquila Solidarity Network at www.maquilasolidarity.org including a sample letter that can be send to Wal-Mart and at the website of the Clean Clothes Campaign as soon as the webeditor is back from his holiday. For your information, Wal-Mart is getting more and more into the European market and has now stores under its own name in Germany, and ASDA in the UK.

Sample Letter

(please write your own and send a copy to the Clean Clothes Campaign)

Wal-Mart: Fax: ++ 1 479-273-4329; email: hscott@wal-mart.com

H Lee Scott, CEO
Wal-Mart
702 SW Eighth St.
Bentonville, AR,
72716 USA

Dear Mr Scott:

I am writing concerning disturbing reports I have received of serious worker rights violations at over 20 factories producing for your company in Lesotho. Reported abuses include compulsory overtime that stretches workdays to up to 14 hours, poverty wages that don't meet one-half the basic needs of a family of four, verbal and physical abuse and sexual harassment, humiliating strip searches, and violations of workers' right to freedom of association.

I was also disturbed at reports that the personnel manager at one Wal-Mart supply factory was allowed to act as the translator for worker interviews during a Wal-Mart factory audit. Surely, your company does not believe workers will tell the truth about factory conditions in the presence of the personnel manager.

I urge your company to take immediate steps to ensure that all of your supply factories in Lesotho are in compliance with the Lesotho labour code and accepted minimum labour standards of the International Labour Organization of the United Nations, and I strongly urge you to consult with the Lesotho Clothing and Allied Workers Union (LECAWU) about violations of Lesotho law and the Wal-Mart code as part of that process.

I look forward to receiving a report on what actions your company is taking to use your considerable influence to help clean up sweatshop abuses in your Lesotho supply factories. I strongly urge your company to not cut and run from Lesotho, but to stay and be part of the solution.

Yours truly,

Report on Abuses at Wal-Mart Supply Factories in Lesotho

The following information is based on interviews with workers at Wal-Mart supply factories in Lesotho carried out by the Lesotho Clothing and Allied Workers Union (LECAWU) and the Africa office of the International Textile, Garment and Leather Workers Federation (ITGLWF).

1. Hours and Overtime

Normal working hours at most Wal-Mart supply factories are 10 hours a day, from 7:00 am to 5:00 pm., with compulsory overtime of up to four additional hours, adding up to a 14-hour workday. In heavy production periods, several factories require employees to work night shifts of up to 14 ½ hours. There are extreme cases of workers in some fac-

tories being forced to work double shifts around the clock from 7:00 a.m. until the following morning. It is common for workers not to be notified until near the end of their normal workshift that they must stay and work overtime hours. When employees must work on Sundays, they are not notified until late Saturday afternoon. The vast majority of workers are women, many with families and children. Compulsory and unannounced overtime makes it impossible for women workers to adequately care for their children. The right to attend funerals is an important issue for workers, since most funerals are scheduled for Saturdays and Sundays, which workers are often required to work. There is widespread confusion about whether the overtime rate is being paid correctly. Some workers complain that their pay slips do not specify how much overtime is being paid. Workers at one factory said that they were not allowed to clock in on Sundays, because the managers "were afraid of losing their orders" if buyers saw that the Code of Conduct was being violated.

2. Poverty Wages

Most workers at Wal-Mart supply factories in Lesotho receive wages of US\$54 a month. These poverty level wages cover less than half the costs of the basic needs of a family four.

3. Verbal and Physical Abuse and Sexual Harassment

Workers in most factories described the working atmosphere as tense. Verbal abuse is widespread. Supervisors often yell at workers, use profanity and insults. Physical abuse is also reported. Workers at one Wal-Mart supply factory charged that managers hit them with shoes, scissors and fabric punchers. Workers at another factory reported being beaten by supervisors. A worker at a third factory was severely beaten by supervisor in April 2001. Worker testimonies also reveal instances of sexual abuse by management personnel of some companies. A supervisor at one Wal-Mart supply factory reportedly demanded sexual favours and arranged "special appointments" to meet with female workers in his office. This person reportedly recruited other supervisors to put pressure on women workers who are reluctant to attend these special appointments. It is a common practice for supervisors to take bribes when recruiting new workers. Supervisors at two Wal-Mart supply factories are known to demand bribes of between M250.00 (US\$27) and M400.00 (US\$44) for hiring workers.

4. Employee Searches

Research revealed that most workers are searched at lunch and before leaving at the end of the day. The actual method of searching varies from factory to factory. Most common is for workers to be lined up and patted down by supervisors. Workers at three Wal-Mart supply factories must undergo strip searches, in which they are required to remove their clothing. At one factory, male supervisors are present during the searches and lift up the dresses of women workers; the workers described this practice as humiliating. At another factory, menstruating women are forced to show their sanitary pads during the searches. Managers claim that searches are necessary in order to catch thieves.

5. Pregnant Women

Pregnant women are not given any special consideration, and are not transferred to less physically demanding tasks.

6. Health and Safety

Workers complained that factories are bitterly cold in the winter and stiflingly hot in the summer, because most companies do not have adequate insulation or heating or air conditioning systems. Workers at one factory said the factory is equipped with heaters, but management refused to turn them on, claiming, "It's not cold enough". Most workers said they did not receive protective gear, such as facemasks. However, workers at one factory said they were given masks, but the cost was deducted from their wages. Workers at another factory told of an incident in the Packing Department, where a worker suffered a deep cut from a tape cutter. Her supervisor refused to allow her first aid, so instead, a colleague wrapped up the wound with toilet paper. Workers are also concerned for their physical safety when leaving the company premises. Two workers at another Wal-Mart supply factory were raped near the factory when they left at 6:00 pm and were not provided transport.

7. Washroom facilities

Workers at all factories surveyed complained that there were not enough washrooms. One Wal-Mart supply factory reportedly has only three washrooms for its 900 workers. At many factories, pass systems are used to limit how often workers can use washroom facilities. Workers at one factory were searched whenever they used the washroom. At other factories, access to washrooms was limited to certain times of the day. Most factories do not make toilet paper available. Workers at one Wal-Mart supply factory said they must use scraps of fabric "off cuts" to wipe themselves, which they then discard on the floors. The water that flushes the toilets at another Wal-Mart supply factory is pumped in from the dirty laundry water used by the Asian managers who live on the company premises.

8. Freedom of Association

Despite the fact that LECAWU has signed up more than 50% of the workers at some of the Wal-Mart supply factories, none of the employers have been willing to negotiate a collective agreement. Factory managers of many Wal-Mart suppliers are openly hostile to LECAWU members and union shop stewards. Although the Lesotho Labour Code requires companies to work with union shop stewards, whether or not the union represents the majority of workers in the factory, most Wal-Mart suppliers refuse to deal with union. At one factory, management established a Disciplinary Committee, which usurped the duties of the LECAWU shop stewards. At another factory, management transferred the shop steward to a production division where there were no union members.

Using the OECD Guidelines

In Booklet One we introduced the OECD Guidelines and its advantages and disadvantages. In this booklet we look at how the Guidelines can be used to make a complaint against a Multinational Company.

The OECD Guidelines are recommendations from governments to their multinational enterprises. The guidelines promote socially responsible business practices that reflect a company commitment to do business in a way that preserves or enhances, rather than harms, the surrounding community, employees, the environment and fair economic behavior. They provide voluntary principles and standards for responsible business conduct on a relatively broad range of areas and issues. Although they are non-binding recommendations addressed by governments to multinational enterprises operating in or from adhering countries, they are a widely recognised standard promoted by OECD member states and specific complaints against multinationals can be filed if companies do not abide by the guidelines.

A Summary of Relevant OECD Guidelines

Preface

The preface states that the Guidelines 'provide voluntary principles and standards for responsible business conduct', aimed at enhancing the contribution to sustainable development made by companies. The preface is the only part of the Guidelines with some reference to other documents such as the Universal Declaration of Human Rights, the ILO Declaration, the Rio Declaration and the Copenhagen Declaration.

(i) Concepts and principles

The concepts and principles state that companies should observe the guidelines wherever they operate and that the Guidelines are addresses to all entities (branches) of multinational enterprises.

(ii) General Policies

Enterprises should contribute to sustainable development, respect human rights, encourage local capacity building, create employment opportunities, refrain from seeking or accepting exemptions from environmental, health, safety, labour, taxation or other legislation and abstain from any improper involvement in local political activities. This part also includes whistleblower protection and has reference to supply chain responsibility. Companies should also support and adhere to good governance principles and practices and develop and apply effective management systems accordingly.

(iii) Disclosure

Enterprises should ensure that timely, regular and accurate information is disclosed concerning their activities, structure, financial situation and performance. They are also encouraged to disclose information on their social, ethical and environmental policies.

(iv) Employment and Industrial Relations

MNEs are to respect freedom of association, and contribute to the effective abolition of forced labour, child labour and discrimination. They should also observe standards of employment and industrial relations that are not less favourable than those observed by comparable employers

in the host country. Changes which will have considerable impact on employees (such as the closure of an entity or collective dismissals) are to be announced with reasonable notice.

Chapters (v) to (x)

These cover areas of environment, combating bribery, consumer interest, science and technology, competition and taxation.

Council Decision

The council decision attached to the Guidelines states that adhering countries shall set up National Contact Points (NCP) and that the NCPs will meet annually and report to the Committee on International Investment and Multinational Enterprises (CIME) and that the CIME is responsible for clarification of the Guidelines.

Procedural Guidance

The Procedural Guidance is an attachment to the Guidelines. This document outlines the follow-up procedures and obligations for adhering countries. It basically outlines what governments should do to promote and increase the use of the Guidelines by their multinational enterprises and describes how NCPs can be organised, what can be expected from NCPs and how they relate to the CIME.

Commentaries

It is important to note that each of the chapter of the Procedural Guidance are accompanied by what are referred to as the Commentaries. The commentaries were developed by the so called Working Party that prepared the review of the Guidelines. Although the commentaries are not officially part of the Guidelines, they provide useful information on the context and interpretation of the Guidelines. Their content can be quite helpful to substantiate your arguments when you are raising a case about the breach of the guidelines. Find the full guidelines and commentaries at www.oecd.org

Filing a Complaint

Basically any "interest party" can file a complaint if the party feels that a multinational enterprise has not complied with the OECD Guidelines. The "interest" can be the legitimate concern of any citizen or organisation. There have not been very many declarations by NCPs and so it is difficult to evaluate to what extent the Guidelines can be useful to ensure corporate accountability. Presently, the outcomes of cases that have been dealt with cannot be considered spectacular. However, only a few cases have been completed and several are still in the process of being handled. In a case against a Scandinavian based company, concrete improvements were realised after a case was raised about labour conditions. Sometimes even the probability of a case starting has pushed an enterprise to change. Take time to assess the structure of the company, the political context of the country, the character of the NCP and the potential for allies both in your country and in the company's home country in order to take an informed decision on these issues.

Preliminary Considerations

- Check whether the company that you are complaining about operates in any OECD member states and whether

the abuse could constitute a breach of the Guidelines.

- Check whether the abuse is a violation of the laws of in the country that homes the multinational. If it is check what options are available to you to deal with this in this country.
- If you are complaining about a retailer brand or buyer that uses a factory that is responsible for the abuse, you should assess what kind of control or influence, this retailer brand or buyer has over the factory. This may include pricing, delivery conditions, order management systems, proportion bought of the factory's total production etc.
- Define clearly for yourself what your direct and indirect goals are. Consider what a possible complaint procedure would mean for those involved (both in cost and profits).
- Is this action appropriate? Consider your limited resources (time, money, people) and make a list of ways that you could change a companies behaviour. You may find that other activities have a higher chance of timely success. Realise that you don't have to choose one of your options several ways can be worked on at the same time.
- Try and assess how much time a complaint procedure will take and whether this might inhibit your campaign or not.
- Will it be possible to come up with enough supporting evidence on your complaint?
- Do you need additional expertise? if so what expertise and will you be able to access this expertise?
- Are there any parties such as government or non governmental groups with opposing interests than yours on the issue? The political context might influence your strategy.

Getting Started

- Check whether the companies behaviour constitutes a violation of other international declarations. You can use this information when filing a complaint.
- Build coalitions; try to find allies at a local and international level.
- Contact NGOs, trade unions and other groups in the host country of the company, they might be able to help you and provides you with useful information about the com-

pany, the NCP etc.

- Contact the company by phone or in writing to get an idea of how it views the issue you wish to raise.
- When it looks like filing a complaint may be worth the trouble, check which NCPs could be approached. If the corporate activity that you are concerned about takes place in a non-adhering country, as is the case of African countries, then the appropriate NCP to contact will be the one in the country where the company's headquarters or "relevant part" of the company is located. An example of this is when the India Committee of the Netherlands filed a complaint about a sportswear company. The activities they considered in breach of the guidelines took place in India and the company's headquarters are located in Germany but because the company also had an office in the Netherlands, they could file a complaint at the Dutch NCP.
- If for any reason you think you might put yourself or your organisation in danger by filing a complaint contact other groups that may be able to file the complaint for you.

Information Required For the Complaint

The basic information an NCP will require is:

Your Identity and interest in the matter

Name of the company involved

The location of the company's activities

Part of the guidelines relevant to your complaint, with reference to specific paragraphs

Description of the activities you are complaining about with any supporting evidence.

What can be revealed to the company , for example he identity of those filing the complaint, documentary evidence (based on the confidentiality provision where a complainant can decide what information delivered to the NCP can be revealed to the company.

Information used in this section has been taken from Using the OECD Guidelines For Multinational Enterprises: A critical starterkit for NGOs, Friends of the Earth Netherlands,

The International Labour Organisation (ILO) and Trade Union Rights

The fundamental concern of the trade union movement has been the struggle to secure the right of workers to form and join independent trade unions and to bargain collectively with their employer. This is the very basis of trade union organisation and is still its highest priority. Defending trade unions and trade union rights under attack from any government is a main activity for the international trade union movement.

The basic trade union rights are the right to form or join a trade union, the right to bargain collectively and the right to strike. These trade union rights are human rights and, as all human rights, they are universal and indivisible. General rights for trade unionists are enshrined in the Universal Declaration of Human Rights, its covenants as well as in most national constitutions and labour codes. For example, article 23 of the Universal Declaration of Human Rights includes the following: "everyone has the right to form and to join trade unions for the protection of his interests".

Of particular importance for international trade union campaigns are the conventions of the ILO. These provide an opportunity to approach disputes via an additional angle: by putting pressure on the government of the countries concerned through the ILO. The fundamental trade union rights are those defined in the ILO conventions No. 87 on

freedom of association and No. 98 on the right to collective bargaining. International trade union organisations have been fighting since their inception to get these rights recognised by all governments and employers.

Recently the ITGLWF lodged a complaint at the ILO involving Tri Star Apparel in Uganda particularly because of the government of Uganda's alleged complicity in the treatment of the workers concerned and also as it was alleged that the government had not been upholding the law with regards to recognition and union as well as worker rights. (for more information on Tri Star see the case study in booklet 1)

The ILO complaint is essentially directed against the government who has signed the different conventions such as those mentioned below. In ratifying these conventions the government undertakes to practice these as law in their countries and where it can be shown that they are not the government can be questioned as to their actions. This is however a very long, slow and legalistic route to follow in the case of a complaint and the dispute may be long over and workers fired before any action is taken. It is strongly recommended that unions work through their GUF such as ITGLWF to pursue such a course of action.

ILO Convention No. 87 and 98

ILO Convention No. 87

on Freedom of Association and Protection of the Right to Organise, adopted in 1948, has been ratified by over 130 countries.

It declares:

- That workers can establish and join organisations of their choice without prior agreement from the state.
- That trade unions cannot be dissolved or suspended by the state.
- That they are free to create federations and confederations which, in turn can affiliate at the international level.

ILO Convention No. 98

on the Right to Organise and Collective Bargaining was adopted in 1949. Nearly 150 countries have ratified it.

- It extends worker protection against acts of anti-union discrimination.
- It encourages and protects the process of voluntary negotiation between workers and employer organisations to regulate terms and conditions of employment by means of collective agreements.
- It does not deal with public servants "engaged in the administration of the State" who are covered by Convention 151 (1978).



Part of the Newsletter Project Of

IRENE

Stationsstraat 39

5038 EC Tilburg

The Netherlands

contact: Peter Pennartz

T: +31 13 535 1523

F: +31 13 535 0253

email:peterpennartz@irene-network.nl

website: www.irene-network.nl

Produced for

TGLWF Africa

503 Charter House, Brand Road

Durban, South Africa

T: +27 31 201 0719/F: +27 31 201 0323

email:admin@itglwf-africa.co.za

website:www.africalabournet.org

By

CSRSC

18 Springdale Road

Kloof, Durban

T/F: +27 31 764 1760

email: labrat@dbn.stormnet.co.za

website: www.cspsc.org.za

In Collaboration with

SOMO

Keizergracht 132

1015 CW Amsterdam, The Netherlands

T: +31 20 639 1291

F: +31 20 639 1321

email: info@somo.nl

website: www.somo.nl

and funded by

EED

Ulrich-von-Hassell-Strasse 76

53123 Bonn

Germany

Tel.: +49 228 81 01-0

Fax: +49 228 81 01-160

email:eed@eed.de

website:www.eed.de

with additional funding from

FNV

Naritaweg 10, 1043 BX

Postbus 8456, 1005 AL

Amsterdam

T: +31 20 581 6300

F: +31 20 684 4541

website: www.fnv

IRENE

This booklet has been produced as part of the international workers newsletter project, an initiative of IRENE. IRENE has been stimulating and facilitating the exchange of information on labour issues since 1981 and has contacts, resources and a European programme of work which covers current international labour issues.

IRENE is an international network on development education. IRENE's aim is to stimulate that international labour issues are taken up by NGOs and trade unions in their mainstream education and campaign programmes. IRENE is set up to strengthen international workers solidarity. By organising international seminars and workshops it gives attention to new areas of work and provides new inputs in existing work. IRENE's activities stimulate the exchange between organisations in the South and the North and within Europe (also Eastern Europe).

The core question of IRENE's work is: How are workers in different regions in the world, affected by international restructuring in the industrial and services sector. The outcome of IRENE's work is published in the bulletin "NEWS from IRENE".

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