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Deregulation and Working Hours in the Retail Sector

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DEREGULATION AND WORKING HOURS IN THE RETAIL SECTOR*

Peter Lewis

INTRODUCTION

This research report investigates changes in working time in the retail sector in the 1990s in the broad context of the extension of trading hours, the deregulation of the distribution of goods in the South African economy and the resulting intensification of competition in the sector. The research data that forms the basis of the analysis comes from two surveys undertaken by the author in the course of 1996. The first was conducted in the Cape Town branch of the South African Commercial, Catering and Allied Workers' Union (SACCAWU), which gave detailed information on working hours, employment practices and conditions (hereafter referred to as the "Cape Town survey").¹

The second survey was a questionnaire sent in November 1996 to Human Resource Managers of 51 of the larger retail companies in clothing, footwear, jewelry, furniture, general merchandise, and miscellaneous markets (hereafter referred to as the "retail survey"). Although the response rate was very poor (only 7 companies responded), the information from the replies is nevertheless informative.²

The report begins with an account of the deregulation of retailing that has taken place rapidly from the late 1980s onwards, part and parcel of the shift in political power. For important sections of the formal retail trade sector, competitive pressures have increased significantly increased by this development. Employers have reacted by attacking wage costs, which has led to a change in the forms of labour contract in retailing towards insecure, "flexible" part-time or fixed term contract work, and a decline in the influence of trade unions in the sector.

These developments form the environment for the report's focus on working time issues in retailing. The report examines the existing regime of working time for the retail trade sector as determined by Wage Determination 478 for the Commercial Distributive Trade. It assesses the impact on the Wage Determination of the current proposals and approach in the Employment Standards Bill, which will likely pass into legislation in some form during the current session of parliament. The paper analyses the Bill's proposals for flexible working time standards, and concludes that they contain several problematic clauses that would hamper trade union efforts to secure a positive outcome to flexible working time innovations in the retail sector.

The data from the Cape Town survey is used to illustrate the normal working time patterns in retail based on the Wage Determination, and shows that working hours are generally longer

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than 40 hours per week for full-time permanent workers who work a 5.5-day week. Furthermore, weekend and evening trading is covered by “flexible workers” working various kinds of “non-standard” contracts.

The national employment and output profile of the sector is then examined through official statistics. They show that total retail sector employment reached a 40-year peak around 1988/9, it has since declined, despite the continuous increase in total retail sales during the transition from apartheid to democracy. Full-time “regular” or full-time employment has remained static in the sector since 1988, and the number of full-time equivalent posts has similarly been static. “Flexible” jobs such as part-time, “late sales”, and casual jobs have however fluctuated quite widely over the same period, from a low point of around 12% of total employment in 1988 and 1994, to high points of 25% in 1989, and 16% in 1994. The overall pattern is one where flexible labour is used by employers to manage variation in demand over the working week, seasonal variation during the working year, and longer-term business cycle fluctuations, such as the period of limited economic growth since 1994. Measured as the ratio between total retail sales and total employment, labour productivity increased over the period 1988-1995.

Using the data from the retail survey and the Cape Town survey, the relationship between extended trading hours, turnover, and flexible labour contracts is examined in more detail. Weekend trading accounts for a very significant proportion of retail sales, and various forms of casual contracts take up between 20% and 50% of available labour contracts in the companies concerned. For some companies, new stores are now designed around only 30% “core” permanent staff, with the other 70% of contracts being “flexible”. A situation has therefore developed where full time “regular” workers are working relatively long hours (standard 45 per week + overtime), but are increasingly being supplanted by flexible workers with much shorter hours, poor pay, poor job security, and few (if any) fringe benefits of employment. This also undermines the bargaining position of trade unions in the industry, as bargaining units shrink. Because of the strong feelings of workers around reduction of working time to 40 hours, impending legislation on the issue, and the strong relationship in the industry between flexible labour, extended weekly trading hours, and seasonal variations in consumer demand, the issue of working time offers an opportunity to retail unions to make gains in shorter working hours, job creation, and employment security, if they can accept flexibility of working time for their established constituency.

Innovations in working time such as “chosen time” and flexible working schedules need concerted attention from retail unions to prevent employers from controlling working time and employment contracts. Success depends on the degree to which unions can force employers into centralised bargaining. The paper looks at the failed attempt by SACCAWU to gain a centralised bargaining forum during 1996, which would have been an ideal instrument to address the issues around working time. This suggests that the best strategy for unions now is to concentrate on the struggle over the reduction of hours around the employment standards statute, and work on a “model” agreement with a large national employer, which can then be imitated with other employers, and then in a future centralised bargaining forum.

The report then looks at examples where this opportunity has been exploited internationally, and there have been some trade union successes in company level bargaining. These

examples combine job creation with reduced working hours, and some choice for workers over what hours they will work within the overall pattern of extended trading hours. The 1986 guidelines on flexible working time from the European retail workers' federation are examined, and are recommended as still a useful approach for the South African retail unions in the mid-1990s.

The report ends by looking at contemporary workers' experiences of working time in South Africa at shop level as revealed by the Cape Town survey. The main barriers to workers accepting flexible working time are examined: these include problems of transport (and personal security), and child care. The section also assesses the way in which employers have maintained control over working time alterations at shop level to date. There is some interest among workers in shorter working hours - even with loss of some earnings - as well as changes in starting and finishing times of work. However, attempts by workers to negotiate favourable changes with their employers are usually unsuccessful, whereas unilateral changes in working time made by employers are more common.

1. INTENSIFICATION OF COMPETITION AND EXTENDED TRADING HOURS IN THE RETAIL SECTOR IN SOUTH AFRICA

Until the late 1980s the traditional pattern of trading hours for most retailers in South Africa was Monday to Friday 9am-5pm, and Saturday 9am-1pm. Local authority by-laws enforced this pattern, and also served to reinforce the tight zoning restrictions on hawking. These regulations were partly based on restricting "unfair competition": formal businesses, through their influence in the old racial local authority structures, prevented encroachment on their markets by means of these restrictions.

As the old power structures associated with apartheid crumbled, so did the restrictions on hawking and trading hours. Local authorities changed their policies to an open policy of encouraging small business, and the Business Act 1991 reinforced this trend towards "free trade" in goods. Public health restrictions remained, but these were streamlined as much as possible, and mainly relate to the sale of food. The only real restriction on hawking in the urban centres is now the ban on hawkers sleeping on the streets where they sell goods.

As formal sector retailers in mass markets such as food and clothing came under competitive pressure from informal sector sellers in the late 1980s, they moved to defeat the restrictions on trading hours, and began to trade in the evenings and on Saturday afternoons and Sundays. They tended to treat local authority fines for contravention of by-laws as part of overhead costs. This occurred particularly in clothing and general merchandise stores, but has since become general for many other types of stores. There is now no significant restriction of any kind upon trading hours anywhere in South Africa. From a situation of restricted trading hours with legally regulated competition (including racist legislation), the retail sector has changed in a few years in the early 1990s to a situation of maximum deregulation of trading hours and competition. In the past year, all the major metropolitan regional councils have been developing new by-laws on trading, which encapsulate this approach.

Because of the greatly increased competition for mass markets, these new developments have led to a large increase in the number of small operators who employ small groups of casual workers and who can undertake limited expansion. It has also benefited cartels and formal

sector operators who have moved into supplying goods, providing transport, storage or physical "protection" at a cost for hawkers. (Meuller, interview, November 1996) Cartels of larger operators are increasingly paying quite large numbers of hawkers at very low wages for selling their goods on the street³, thereby evading labour laws. (Botha, interview, November 1996)

The intensification of competition in the retail sector since 1990 can be seen on the streets in the main urban CBDs, where pavement space to trade is hotly contested, where there are increasing links between formal and informal sector traders, and where the number of retailers is increasing exponentially. Johannesburg metropolitan area now has an estimated 20,000 hawkers operating on the streets, and a very significant number of them are estimated by the Johannesburg Department of Urbanisation to be workers from other African countries. (Perniger: interview, November. 1996)

Intensified competition is also acting as a dynamo to other industry developments, both on the national and international levels. Retailers in South Africa are complaining of competition from cheap, sometimes illegal imported goods.⁴ Large scale South African retailers are developing outlets in other African countries, beyond the traditional markets in "front-line states".⁵ Formal sector retailers have been competing intensely through offering credit facilities, which makes them very vulnerable to the interest rate increases.⁶ Overhead costs such as rents continue to increase for formal sector businesses,⁷ while CSS data on retail sales (at least in the formal sector where it can be measured) shows recent signs of a decline⁸ from a 4-year peak in late 1995. It is impossible to know how much of this decline is due to a switch in consumers' buying patterns from formal to informal outlets, or to an absolute reduction in spending due to falling disposable income and the "credit squeeze". In the clothing sector, even large-scale garment manufacturers are using hawkers as distributors to break out of the control exerted over their profit margins by their traditional monopsonistic buyers.⁹ Increasing numbers of small "cut, make and trim" home-based businesses employ hawkers as part of the operation to sell their goods. Intensification of competition is the backdrop and one of the principal causes of the movement towards 7-day working by formal sector.

2. WAGE DETERMINATION 478: FLEXIBLE LABOUR CONTRACTS AND THE CURRENT WORKING TIME REGIME IN THE RETAIL SECTOR

The "Commercial Distributive Trade" is covered by a Wage Board under the Wage Act 1957. It is the largest of all the extant wage boards, covering 1078 employers and 31,697 workers in late 1995. The Wage Board began investigation of the sector in 1993, and reported on its findings to the Minister of Labour in August 1995.

The revised Wage Determination 478 (Department of Labour, 1995) came into effect on 11 September 1995, and will be effective until 30 November 1997 (unless it is overtaken by new arrangements under the LRA). For the first time, continuous trading and Sunday working made its appearance in the Wage Determination (see table 2 for these clauses). 6-day workers were to be paid at standard wage rates for up to 4 hours work on Sundays, and thereafter at either double time for the time worked, or double the standard daily wage, whichever is the greatest (as in the Basic Conditions of Employment Act). 7-Day workers, however, would receive no premium payment for Sunday work, but get two days off per week. They can only

work overtime on their days off by agreement with the employer, who must then pay time +1/2 for the first four hours worked, and double time for any subsequent hours worked.

In effect then, the 1995 Wage Determination was a trade off: shorter working hours in return for working unsocial hours, and foregone Sunday premium pay. Although the major unions in the industry attended some Wage Board hearings, and put forward their recommendations, it is not clear whether this particular trade-off had the support of the unions, or whether it represented the majority wishes of their memberships to actually work under these arrangements. The evidence from the Cape Town survey suggests that this provision for 7-day 40-hour workers has had very little effect, and that most full-time permanent workers work the 6-day week arrangement, while Sunday work is done overwhelmingly by casual workers.

Table 1: Wage Determination 478 (November 1995), provisions for working time

Type of worker	Maximum standard hours - extendable by 15 mins per day and hour per week for dealing with last customers
Casuals	8 per day
part-time (ie. Permanent staff)	25 in any week Monday-Saturday, 8 per day
Security Officers	60 per week (as in Basic Conditions of Employment)
6-day week (Monday to Sat)	45 per week, either as 5x9hr days, or 5x8hr. Days plus 1x5hr day. The length of the day can be extended for late trading by up to 1.5 hours, as long as the weekly standard hours are not exceeded
7-day week workers (written consent of the worker is required)	40 per week, 5x8hrs per day, and maximum of 3 Sundays on duty per month. 2 days off per week. The length of the day can be extended for late trading by up to 1.5 hours, as long as the weekly standard hours are not exceeded.

Source: Department of Labour, 1995

The wage determination also deals with the issue of the “ratio” between permanent and casual workers in the industry. “Casuals” are defined as workers on contracts of no more than 3 days per week and 8 ordinary hours per week. They must be paid at the wage rate prescribed in the wage determination for the area and the same class of work, or time +1/3 of the wage actually paid to regular workers doing that job, whichever is the higher rate. This provision seems to acknowledge underpayment of wages as a normal occurrence. Jobs like sales assistant, till operators, and shop assistants are paid on a scale according to experience up to a “qualified rate”. Casuals doing these jobs must be paid at the “qualified rate” if they are paid according to the schedule. Casuals must be paid for 4 hours work per day minimum, so 4 hours is effectively the minimum contract. They must be paid on a weekly basis or less, and are not entitled to a statement of their earnings from their employer according to the LRA.

The wage determination also lays down the maximum ratio of casuals to permanent: two casuals to one permanent worker (full-time or part-time) who is doing the same class of work, which is surprisingly high. This maximum does not however hold for “unqualified” scholars or university students employed during December for the seasonal rush period, when the ratio of casuals to permanents can be even higher. The 2:1 ratio of casuals to permanents is used by employers in new stores, where employers have freedom to determine contracts from scratch. For example, Jet Stores, part of the Edgar’s group, opens new stores with approximately 70% “key timers” (casuals who work in peak demand periods in the day, month, or year), and only 30% permanent staff. (Boshoff, Interview, November 1995)

The determination defines “part-time” workers as those who work a maximum of 25 ordinary hours per week, and no more than 8 hours per day ordinary time. Part-time workers must be paid no less than two-thirds of the standard weekly wage laid down in the determination for a worker in the same area and in the same class with the same experience, which gives part-time workers a premium on their hourly rate compared to full-time workers. Part-timers are paid on a minimum of a weekly basis, and a maximum of a monthly basis, and must be given pay slips with full details of their earnings (LRA). An employer cannot employ a part-time worker unless there is a full-time worker doing the same job, and the ratio of part-timers to full-timers is a maximum of 2 to 3. If a work area (eg. a shop) has 3 full-time workers in a particular job (sales assistant, sales assistant operating a till, shelf filler, etc), the employer can employ a maximum of 2 part-timers and 6 casuals in the same job, according to the ratio provisions of the wage determination.

The effect of these definitions is to limit the variation in work contracts that can be negotiated in terms of working hours, and to allow employers to operate with a high level of insecure flexible contracts. Workers cannot opt to work schedules between 25 hours and 45 hours, and this disadvantages part-time workers in terms of their status at work, and pay-related non-wage benefits of employment. This is particularly important in a female-dominated industry like retail trade, where the majority of the workforce has a heavy domestic workload. Full-time workers may want to reduce their working hours a small amount at various times of their working life even if this means a reduction in income, but they are much less likely to want to cut their hours by almost half and their income by a third.

Given the variation in workload in the retail industry over time, a much more flexible and less hierarchical relationship between part-time and full-time work should be possible and would benefit workers. This would help to lower the average hours worked, especially if the unions could maintain the premium hourly rate for part-timers pro-rata with increasing hours (eg. a worker working 3/4 time would earn 7/8 pay). Unions need to maintain the premium pay rate for part-timers while removing the maximum ordinary hours they may work. In return, employers would gain increased flexibility in terms of scheduling working hours over weekly, monthly, and seasonal variations in demand.

The provisions for the ratio of permanent workers to casual workers allow employers a great deal of freedom to decide how secure part-time workers can be in their jobs, since there is no limit on the length of time worker can be employed on a casual contract either in the wage determination or in any other labour law, including the draft Employment Standards Bill. Workers in weakly-organised shops, or in new stores can find themselves in situations where 66% of the workforce is casual, possibly paid on a daily basis with no job security or benefits,

while a significant number of the permanent workers could be part-timers, who are themselves in a weak position to bargain. Improvements in working conditions, hours and wages would be very hard to achieve under these circumstances. Bargaining units would be negotiating working conditions for an ever smaller number of workers. The survey data discussed later in this report shows that employers have taken this gap rapidly in the past few years, and casualisation and “flexible” labour with few rights is already at high levels.

The Cape Town survey investigated actual working hours under the wage determination. All the respondents were full-time workers. Overall, the weekly average standard hours were 43, plus an average of 2 hours per week overtime on a regular basis, and 5 hours per week in a busy week (stocktaking, Xmas season etc.). Women in the sample generally reported slightly longer standard working hours than men (43.4 hours/week for women, 42.3 for men). On the other hand, men worked more overtime: 2.8 hours per week on average, compared with 1.7 hours per week for women. Men were also more likely to work overtime on a regular basis: two-thirds of the women (39) said they did not usually work overtime, compared to only half of the men. The gender difference in overtime working was explained by the greater responsibility that women reported for children on a day-to-day basis.

Although women and men in the sample had the same average number of children (1.4), a greater proportion of the men had no children at all, or no children living in the same household. Women therefore had greater responsibility on a day-to-day basis than men. Those who worked regular overtime were less likely to have children than those who did not (see Table 2).

Table 2: Relationship between overtime working and childcare responsibilities

	No overtime	Usually work overtime	Total
Responsible for child(ren) on a day to day basis	31	16	47
No responsibility for children	22	16	38
Total	53	32	85

Source: Cape Town Survey

The survey asked questions on weekend working to see if the 7-day week option with 40 basic hours had been taken up by employers or workers to any extent. 73% of the sample of largely full-time permanent workers worked every Saturday, while a further 20% worked some Saturdays on a regular overtime basis, and only 7% never worked on Saturdays. Nobody worked every Sunday, and 69% never worked on Sundays. 31% worked *some* Sundays on an *overtime* basis. The 7-day option in the Wage Determination had therefore not been implemented for this sample. Only about 1/3 of stores were operating on Sundays, all with mainly casual or part-time labour.

IMPLICATIONS OF NEW LEGISLATION FOR WORKING TIME IN THE RETAIL SECTOR

As mentioned above, the Wage Determination for the retail sector applies until November 1997. The Labour Market Commission has reported and a Labour Ministry review of its findings has been completed at the time of writing. Its central findings on Wage Boards endorse the proposals put forward in the Employment Standards Bill for the replacement of the Wage Act by the Employment Standards Act. (Department of Labour, 1996a:67) The proposed tripartite Employment Standards Commission will then issue sectoral employment standards after public hearings involving all interested parties, which will replace Wage Determinations.

In considering exemptions from standards, the Minister is urged by the Labour Market Commission report to take account of whether those businesses requesting exemption are in fact able to conform to the sectoral standard. According to the Employment Standards Bill, a sectoral employment standard is seen as a minimum standard for the sector, and must take account:

- the operation of small and medium enterprises and new enterprises in the sector;
- the cost of living and minimum subsistence levels by region;
- the alleviation of poverty;
- conditions of employment;
- wage differentials and inequality;
- the impact of the standard on employment and job creation;
- and the health, safety and welfare of workers. (Department of Labour, 1996b:55)

The alternative to the proposed sectoral employment standards is the 3-tier approach to centralised bargaining in the LRA. The first option is a collective agreement on centralised bargaining, which can contain dispute procedures and enforcement provisions, but which cannot be extended to non-parties, and will not grant a trade union organising rights to unorganised workplaces in the sector concerned.

The second option is a statutory council, which requires that either the unions concerned or the employers concerned have 30% representation in the sector. A statutory council does not have many powers, and would not affect the working time issue in the retail sector, because agreements on wages and conditions of employment cannot be extended to parties outside the council. The only advantage of a statutory council for negotiating working time, employment, wages, and employment security would be that the union side could negotiate the issue with several employers who are parties at the same time instead of having to undertake the logically complex task of separate negotiations with different employers. This might result in uneven results for the unions in different retail markets.

The third option is a bargaining council, which can extend agreements on wages and conditions of employment to non-parties under a variety of different circumstances. A bargaining council depends on both sides representing between 30% and 50% of the sector, the precise definition of "sufficient representivity" depending on characteristics of the sector in the judgement of the Department of Labour. If either of the latter two options under the LRA were adopted for the retail sector, it would replace the Wage Board.

Collective bargaining in the retail sector takes place at shop or company level. Under pressure from threats of retrenchments in Shoprite/Checkers and Pick 'n Pay, SACCAWU signed flexibility agreements in 1993 and 1994 respectively which allowed employers to use staff flexibly between jobs under certain conditions relating to payment, notice, equity, and procedure. These agreements forestalled 4,330 retrenchments of permanent staff, and in so doing undermined the rationale of old rigid job definitions. It was the union's intention to build upon these agreements towards an industry-wide job security agreement, including a review of job definitions, grading, industry actual wage differentials and training arrangements. The union also hoped that such an agreement would be capable of developing procedural and framework agreements to cover extended trading hours. A job security agreement would be a major step towards centralised bargaining.

Progress towards a centralised bargaining forum in the retail industry began in November 1995, with an initiative by SACCAWU to call employers in the industry to discussions on the issue. The proposal was for a bargaining council to include all national companies, defined as those operating branches in 3 or more regions, to be sub-divided into 4 "chambers": furniture, clothing and footwear, general merchandise (supermarket chains) and miscellaneous. Meetings in late 1995 and early 1996 between the national shop steward and official leadership of SACCAWU and representatives of the employers concerned resulted in commitments in principle to a centralised bargaining arrangement of some kind from 18 national companies in a variety of different retail markets.

However, few employers were more than luke-warm about the idea of a central bargain. Their main reservations were about its viability in the extremely competitive markets that had emerged following deregulation of trading. They pointed to the fact that SACCAWU's membership was weak in many companies, and that other unions organising in the sector were not part of the talks. The lack of representativity on the union side would mean that any agreements which increased wage costs would simply allow non-parties (right down to the informal sector operators in several key markets) to undercut the major players and steal their markets. SACCAWU invited most of the other unions to join the talks (FAWU, SACCAWU, CWIU, SACTWU, and NUDAW), but these organisations did not respond enthusiastically: competition for and poaching of membership remains a problem in the retail sector. In this environment the matter was referred by the parties for mediation in the final quarter of 1996. Mediation failed, and so the opportunity for a centralised bargaining structure for the retail sector was for the time being lost.

This process indicated that employers are being led by deregulation and the growth of the informal sector and prefer an uncoordinated and opportunistic approach to "flexibility" rather than a planned and coordinated approach. This bodes ill for working conditions in the retail sector as a whole, as the formal sector will begin to resemble the informal sector rather than the other way around. The process also indicated the costs for trade unions of inter-union rivalry. A short-sighted pursuit of membership in competition with other unions in the sector will lead to a long-term decline in membership for *all* unions, as employer-led "flexibility" undermines trade unionism in the entire sector. Resolution of demarcation disputes between unions at Federation level are important here, especially in the light of the provision in the LRA for NEDLAC to define appropriate sectors for centralised bargaining. In the meanwhile, status quo in terms of collective bargaining institutions in retail looks set to

continue - a Wage Board with a more flexible approach to enforcement, and collective bargaining at company or shop level in the larger companies.

The Employment Standards Bill as it stands at the time of writing will have a considerable potential effect on working time issues in the retail sector. As discussed in more detail later in this report, the workload in any particular retail market varies on a daily, weekly, monthly, and seasonal basis, and in different ways from market to market. For the large, well established retail companies, the precise variation in sales activity is becoming increasingly predictable because of the use of computerised point-of-sale technology with network-type access to data at shop level. Centralised high-technology warehousing of goods is also making it more possible for companies to pool their storage costs and use "just-in-time" methods to adjust stocks to demand accurately over time.

Employers in these companies, if left to their own devices, will therefore be likely to move towards ever greater flexibility in working hours rather than less, so as to minimise unproductive labour costs. This means more evening and weekend trading, and a more pronounced seasonal variation in labour requirements. Employers are looking towards an ever-decreasing "core" workforce and an ever-increasing "flexible, non-core" workforce to achieve this. (Boshoff, interview, November 1995)

The current draft of the Employment Standards Bill (Department of Labour, 1996b, chapter 3) lays out a framework of a standard 45-hour week, progressing by *non-statutory* means to a 40-hour week over a 5-year period for the entire economy. Within this framework, employers will have considerable flexibility to arrange working time. Standard weekly hours can be averaged by collective agreement over periods of up to 4 months if individual overtime is limited to 5 hours per week. Standard working hours can also be varied seasonally either by collective or "individual contract". Standard hours for seasonal workers can be varied by up to 8 hours per week upwards or downwards for up to 4 months in any 12-month period, as long as the average working time does not exceed the standard working time provision (45 per week). The draft Bill stipulates that any agreement on seasonal variation of hours must determine that a seasonal worker's pay must remain the same during the short-time seasonal periods (which is good), but also during the extended working-time busy periods (which is bad, because it prevents unions negotiating for higher pay for the longer hours). The labour side in Nedlac has stated its position that there should be no variation in working time except by *collective* agreement, which would deal with the issue of seasonal workers' rights. However, the issue of the restriction on pay in seasonal working agreements also needs to be addressed, especially for the retail sector.

If variation of hours can be limited in the law to variations achieved by collective agreement only, the ESA would provide an excellent opportunity for unions in the retail sector to seize the initiative to use them to pressure employers (and other unions!) to form a central bargain. "No central bargain, no agreement on working time flexibility" would be a potent bargaining weapon. It could also provide an opportunity to use negotiations to achieve other objectives such as improve employment security, and create jobs.

If the proposals in the Employment Standards Bill that employers and unions must develop procedures to work towards a 40-hour week are promulgated as law, and if the 40-hour week in 5 years can be made mandatory, unions would have an opportunity to structure the

outcomes over working time flexibility. This could be achieved either through collective bargaining or through sectoral employment standards via the proposed tripartite Employment Standards Commission. A successful outcome to this task would require the unions to pay particular attention to finding out the views of their membership on working time variation in detail, taking into account gender issues, regional differences, and industrial relations contexts that differ from retail market to market and employer to employer. Variations in working time must also take into account health and safety issues. The adverse physical and psychological effects of longer working hours in peak demand periods in the retail sector in sedentary or monotonous and physically repetitive jobs at check-out stations such as till operation are not offset by seasonal periods of shorter working hours. In such jobs, seasonal variations in hours should be strictly limited, and unions need to concentrate on part-time job creation with secure contracts and pro-rata benefits.

In view of the fact that working time variation by averaging within an overall framework of reduction of working hours will be the legislative and collective bargaining scenario for the next 5 years, the next sections of the paper look closely at the current national picture of employment, output and “flexibility” of working time and labour contracts in the retail sector. It also examines how workers experience working time, to assess where the retail sector will be starting from.

3. “GROWTH WITHOUT JOBS?” EMPLOYMENT, EMPLOYMENT RIGHTS AND “OUTPUT” IN THE RETAIL SECTOR

Table 3 shows the “trade, catering and accommodation” sector following the general employment trend for the whole economy since 1950. According to these figures, both total employment and employment in the trade sector rose from 1950 to 1990, then peaked for the first time and declined 1990 to 1994. Employment in the trade sector grew significantly faster than total employment in the first two of these decades, but slowed down to mirror the growth rate in total employment more closely for the subsequent 20 years to 1990 (though staying ahead of it). It finally fell significantly faster than total employment from 1990 to 1994. The fourth column in Table 3 shows that the share of the trade sector in total employment also rose to a peak in 1990, falling thereafter.

Table 3: Trade sector employment compared with total employment in South Africa, 1950-94

Year	Employment in “trade, catering and accommodation” (thousands) (% change on previous year)	Total employment in SA (thousands) (% change on previous year)	Trade, catering and accommodation as a % of total employment (% change on previous year)
1950	364	3787	9.61
1960	513 (+ 40.9%)	4651 (+ 22.8%)	11.03 (+ 1.42)
1970	737 (+ 43.6%)	6165 (+32.5%)	11.95 (+ 0.92)
1980	944 (+ 28.1%)	7561 (+22.6%)	12.48 (+ 0.53)
1990	1017 (+ 7.7%)	8068 (+ 6.7%)	12.60 (+ 0.12)
1994	925 (- 9.1%)	7717 (- 4.4%)	11.98 (- 0.62)

Source: Standardised Employment Series SA, in Dept. Of Finance (1996): Appendix 13.

Although official national statistics count men and women separately for the wholesale and retail trade (sometimes with the hospitality sector), there is no *gender* breakdown of *retail* industry employment. “Trade and hospitality” absorbs 40% of the total population of women employed in formal sector economic activity, and 39.7% of African women.¹⁰ Women in wholesale and retail were between 16% and 20% of all economically active women, while the same figures for men were between 11% and 14%.¹¹ These figures seem high for men in retail, but they may reflect the higher proportion of men working in wholesale (warehousing work) rather than retail.

Moreover, wholesale and retail work absorbs a high proportion of female casual workers: in 1993, casually employed women were 17.5% of all casual female workers, and 11.7% of all casual African female workers. The sector was third after domestic services and agriculture as an employer of casual African women.¹²

Tables 4 and 5 show the movement of employment by type of contract in the retail sub-sector in South Africa from 1988 to 1995,¹³ during which time total employment and the share of trade in total employment peaked and fell. This peak occurred with other structural changes around the shift in political power, including the large-scale deregulation of trading hours. The indices, taking 1988 figures as 100, show clearly the pattern of remarkably static “core” permanent full-time jobs over the period.

Table 4: Retail trade sector: total employment and FTE, 1988-95

YEAR	TOTAL EMPLOYMENT	TOTAL EMPLOYMENT INDEX (1988=100)	FTE	FTE INDEX
1988	396375	100	365318	100
1989	473975	120	403036	110
1990	417675	105	374590	103
1991	409125	103	374939	103
1992	405125	102	373027	102
1993	400025	101	369546	101
1994	375600	95	347485	95
1995	387800	98	347315	95

Source: CSS, 1987-96a

Table 5: Retail Sector: total employment by employment status, 1988-95 (FT=Full time Permanent; PT = part-time permanent)

Year	FT	FT Index	PT	PT Index	Casual	Casual Index	Total Annual Sales Tax
1988	347374	100	10340	100	38662	100	100
1989	354401	102	8141	79	111433	288	120.13
1990	348111	100	7588	73	61977	160	140.61
1991	355440	102	8413	81	45272	117	158.90
1992	354441	102	7885	76	42800	111	175.16
1993	351792	101	10213	99	38020	98	190.11
1994	330277	95	10981	106	34343	89	212.95
1995	324965	94	10868	105	51967	134	244.68

Source: Central Statistical Services (1987-96a, 1987-96b)

By contrast, the “flexible” contracts (part-time permanent and casual labour) oscillate significantly around their 1988 level in the period to 1995. “Flexibility” over this period has helped employers in terms of output of labour in the sector. Chart 1 (derived from the last two columns in Table 5) shows that average annual sales per worker and per FTE job rose steadily. Chart 2 highlights the overall picture from 1988-1995 for sales, and “core” and “flexible” employment. Sales are rising steadily while “core” employment is static then falls gradually, and ‘flexible’ labour fluctuates around a medium-term falling trend, which picks up in 1995.

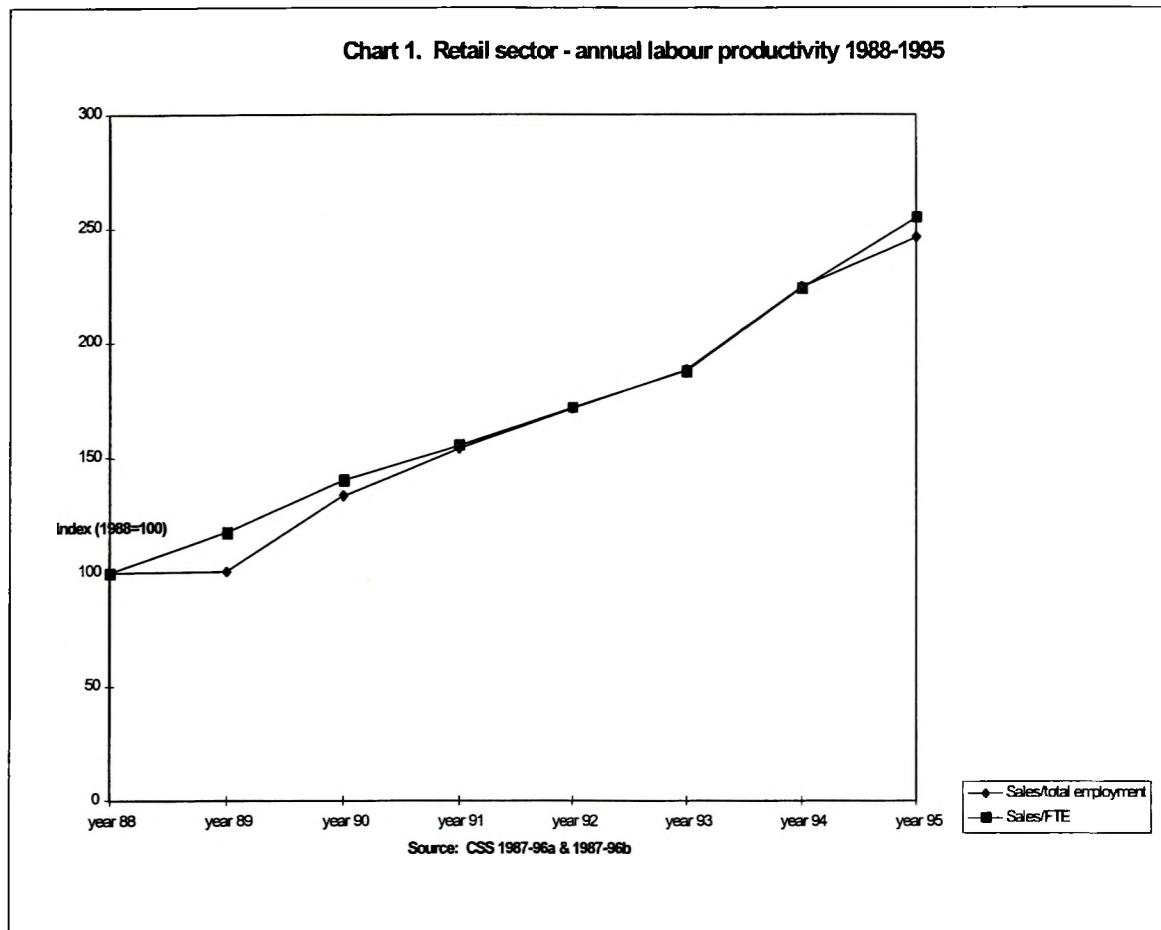
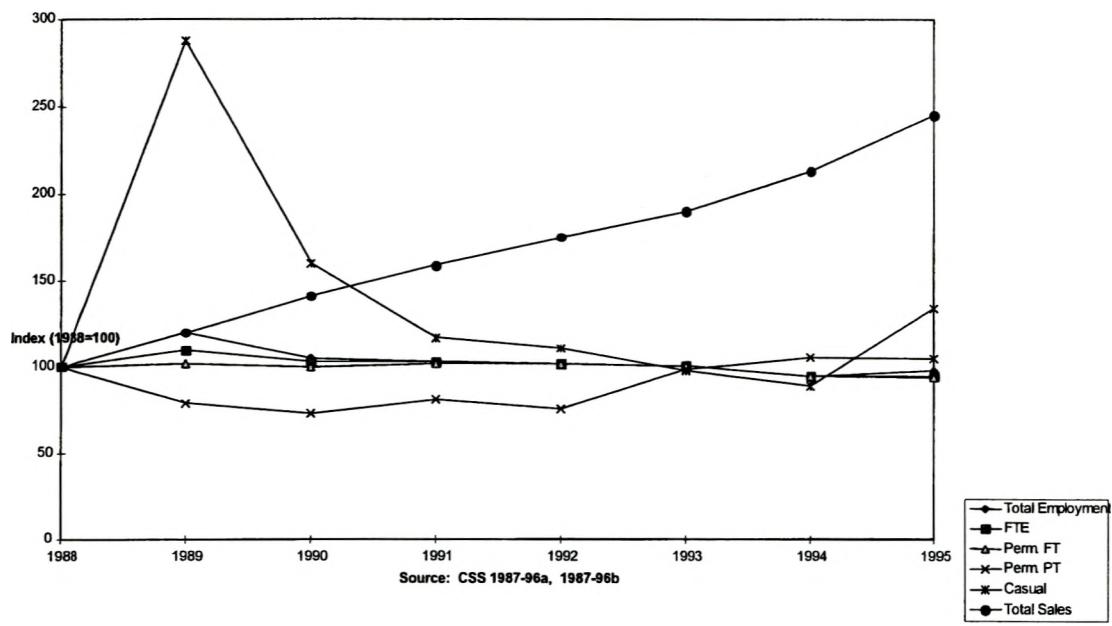


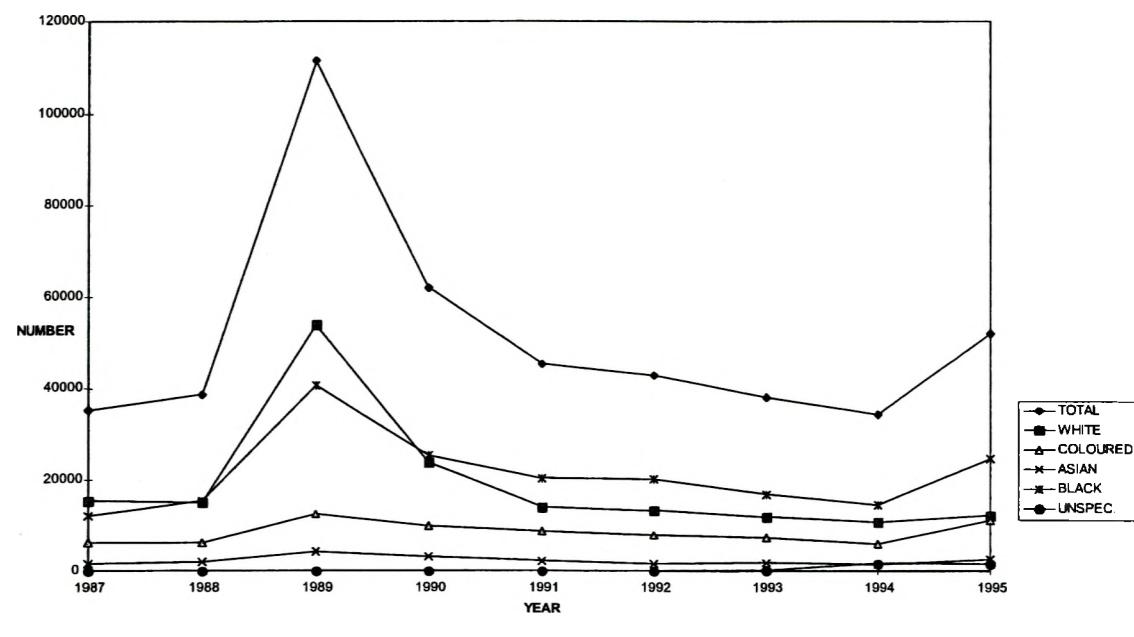
Chart 2. retail trade sector: employment and total annual sales (@1995 prices), 1988-1995



The sharp increases in casual labour in 1989-90 are related to the strike waves in the industry during those years. SACCAWU was formed as a national union in the commercial sector in November 1989, and quickly made organising strides in the larger retail stores. In June/July 1990, the union was involved in 5 national strikes at OK Bazaars, Checkers, Southern Suns, Trador Cash and Carry, Metro Cash and Carry, and was in dispute with SACCA, Clicks, Edgars and Smart Centre. (Roux, 1990) These strikes pioneered the tactic of workplace occupations and consumer pickets instead of stay-away strikes to drive home wage demands.

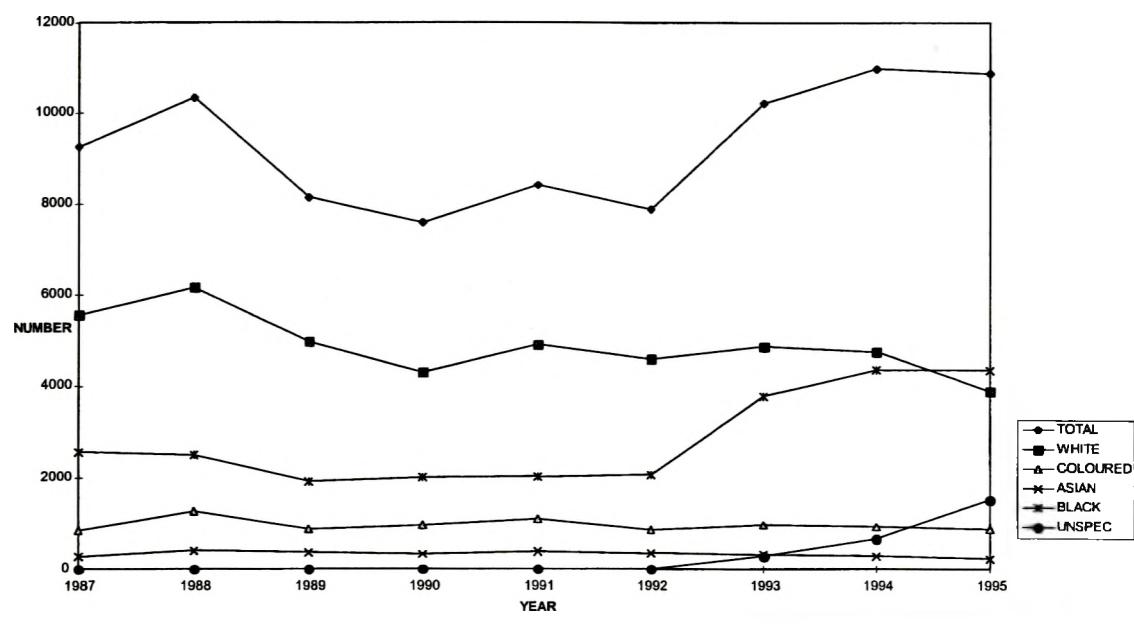
Relations between employers and unions in the industry reached a high level of confrontation, including the use of white casuals as scabs during strikes. The political nature of the upheaval in 1989 is further demonstrated by the swings in the racial composition of the “flexible” labour force: white casuals were engaged in large numbers by employers during 1989, while both African and coloured casuals dropped as a proportion of all casuals (although casuals of these two groups increased in absolute terms). This racial reshuffle temporarily gave white workers a dominant position amongst the casual labour force in the industry. However, they were soon supplanted by black (and to a lesser extent coloured) casuals by 1990/91 as the casual labour force shrank back to its 1987 level of 9% by 1994 (see Chart 3). The same pattern applies to part-time permanent workers (Chart 4). The “flexible” workforce in the retail sector is thus increasingly stabilising as a black workers’ ghetto.

Chart 3: Retail Sector: Casual Labour By Race 1987 - 1995



Source: CSS 1987-96a

Chart 4: Retail Sector: Part-Time Permanent Workers By Race 1987-95



Source: CSS 1987-96a

In gender terms, the casual labour force is also predominantly female. Table 6 shows the gender breakdown of the workforce in the 7 companies that responded to the retail survey. Where flexible contracts were used, and where figures were available, women were

somewhat over-represented amongst flexible (part-time and casual) contracts, suggesting a “female ghetto (flexible contract labour) within a female ghetto”.

Table 6. Types of employment contract by gender

Company	Women as % of permanent full-time contracts	Women as % of permanent part-time contracts	Women as % casual contracts
PEP	60	70	80
SAFSHOE	90	no figure	100
LEWIS	50	50	no figure
PICK 'N PAY	50	50	60
GAME	40	100	60
CNA	68	30	no figure
SA DRUGGISTS	30	no figure	no figure
Average (where figs available)	55.4	60	75

Source: Retail Survey, November 1996.

Chart 4 and columns 2-5 of Table 7 show that apart from the effects of the strike wave on the proportion of casual labour in the sector, the fluctuations in casual labour are seasonal. For most of the years covered, casual labour has a yearly peak in the last quarter of the year. Also, the rising number of part-time permanent contracts suggests that as casuals were reduced over the period, they were replaced to some extent by part-time permanent workers; perhaps the same casuals were offered part-time posts after several years. All flexible labour contracts were increasing in the first half of 1995.

From the point of view of working time issues, the most important information here is contained in columns 6 and 7 of Table 7. In general, the larger the gap between FTE and total employment, the shorter are average working hours (more people are being employed for fewer hours per week). Assuming a value for “full-time equivalent”, the average weekly hours worked in the industry can be derived as the ratio of FTE to total employment multiplied by that value.

The table shows two different calculations of average weekly working hours: the first assumes that “full-time equivalent” is 45 hours (as in the Wage Determination standard hours of work, and also the average weekly working hours in the Cape Town survey *including* overtime hours). In this case, the annual average actual weekly working hours for the sector from 1988-1995 varied between 38.26 hours in 1989 and 41.63 hours in 1994.

The second example assumes that FTE means 43 hours (the average ordinary weekly hours in the Cape Town survey *excluding* overtime). In this case, annual average actual weekly working hours in the industry were between 36.56 hrs in 1989 and 39.78 in 1994. These notional figures represent the average working week that everyone would have worked if every worker in the industry (whether “core” or “flexible”) had been employed for the same number of hours per week, instead of most being employed for 45 or 43 hours, and the rest being employed on part-time (permanent or casual) contracts of less than 25 hours.

Table 7 (and Chart 5, which is derived from it) looks further at how seasonal patterns of employment would have affected hours of work. It is very revealing that if everyone in the industry had worked the same hours during this period, there would have been no appreciable increase in weekly working hours during the seasonal peak in sales in the last quarter of each year.

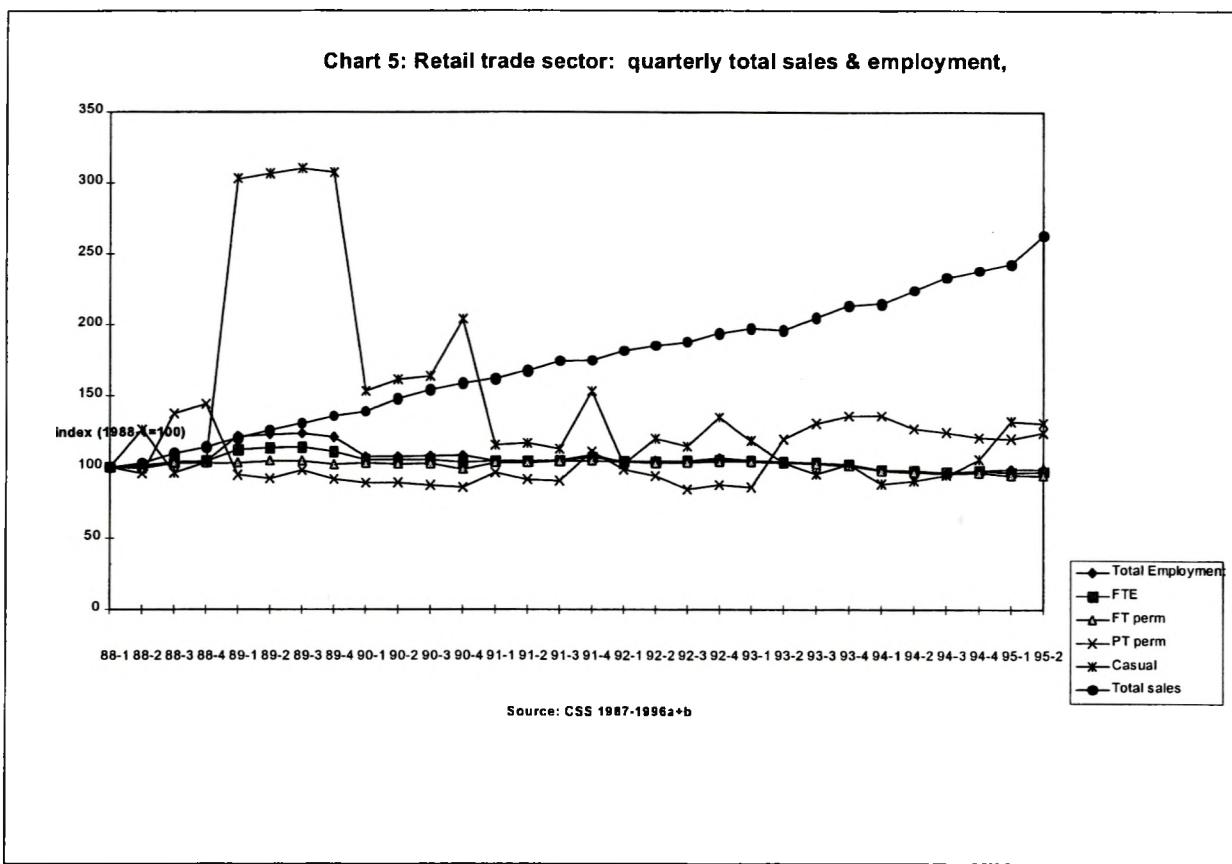
Indeed, in some years, working hours would have been marginally reduced during those periods. This is because although many “flexible” workers were hired by employers for the seasonal peak (students, scholars etc), they were each working on contracts for very short weekly hours.

Table 7: Proportions of total employment in different types of contract, average hours worked, and labour productivity in the retail sector, 1988-1995

Year	FT %	PT %	Casual %	FTE %	Average hrs worked assuming FTE=45	Average Hrs worked assuming FTE=43hr	Sales/total employment (R1000)	Sales/FT (R1000)
					hrs	s		
Year 88	88	3	10	92	41.47	39.63	126	144
Year 89	75	2	24	85	38.26	36.56	127	169
Year 90	83	2	15	90	40.36	38.57	168	202
Year 91	87	2	11	92	41.25	39.41	194	223
Year 92	87	2	11	92	41.44	39.60	216	247
Year 93	88	3	10	92	41.57	39.72	237	270
Year 94	88	3	9	93	41.63	39.78	283	322
Half year 95	85	3	13	90	40.58	38.77	155	183
88-1	88	2	9	92	41.46	39.62	30	34
88-2	86	2	12	91	41.12	39.29	30	35
88-3	88	3	9	93	41.70	39.85	32	36
88-4	88	3	9	92	41.61	39.76	33	38
89-1	75	2	23	85	38.28	36.58	30	40
89-2	75	2	23	85	38.39	36.68	31	41
89-3	75	2	24	85	38.25	36.55	32	43
89-4	75	2	24	85	38.14	36.44	34	45
90-1	85	2	13	91	40.79	38.97	39	46
90-2	84	2	14	90	40.56	38.75	42	50
90-3	84	2	14	90	40.50	38.70	43	51
90-4	81	2	18	88	39.60	37.84	44	55
91-1	88	2	10	92	41.40	39.56	47	54
91-2	88	2	11	92	41.41	39.57	48	55
91-3	88	2	10	92	41.52	39.67	50	57
91-4	85	2	13	90	40.65	38.84	48	57
92-1	89	2	9	93	41.75	39.89	53	60
92-2	87	2	11	92	41.30	39.47	54	61
92-3	88	2	10	93	41.65	39.79	54	62
92-4	86	2	12	91	41.05	39.22	55	64
93-1	88	2	11	92	41.50	39.65	57	65
93-2	88	3	9	92	41.57	39.72	57	65
93-3	88	3	9	93	41.69	39.84	60	68
93-4	88	3	9	92	41.53	39.68	63	72
94-1	88	3	8	93	41.74	39.89	66	75
94-2	88	3	9	93	41.75	39.90	70	79
94-3	88	3	9	93	41.63	39.78	73	83
94-4	87	3	10	92	41.40	39.56	74	85
95-1	85	3	13	90	40.55	38.75	75	88
95-2	85	3	12	90	40.60	38.79	81	95

Source: CSS 1987-96a & 1987-96b

This analysis shows what might be the effect of equalising working hours between part-time and full-time workers in the sector. If this could be achieved with no appreciable loss of earnings, with an improvement in the job security of “flexible” workers, it would be a very positive outcome for the period of adjustment to “flexible” working hours that is on the horizon for the sector. It would also automatically improve the racial and gender skew in permanent status in the industry, since flexible workers are increasingly and disproportionately black female workers. The downside would be that more workers in the industry would have to perform some work on a regular basis during evenings or Saturdays and Sundays, and unions would have to work at minimising this by careful negotiations over the principles on which working time should be scheduled.



4. RATIONALE FOR A REDUCTION IN WORKING HOURS WITH NO LOSS OF EARNINGS: WAGES AND OUTPUT IN THE RETAIL SECTOR

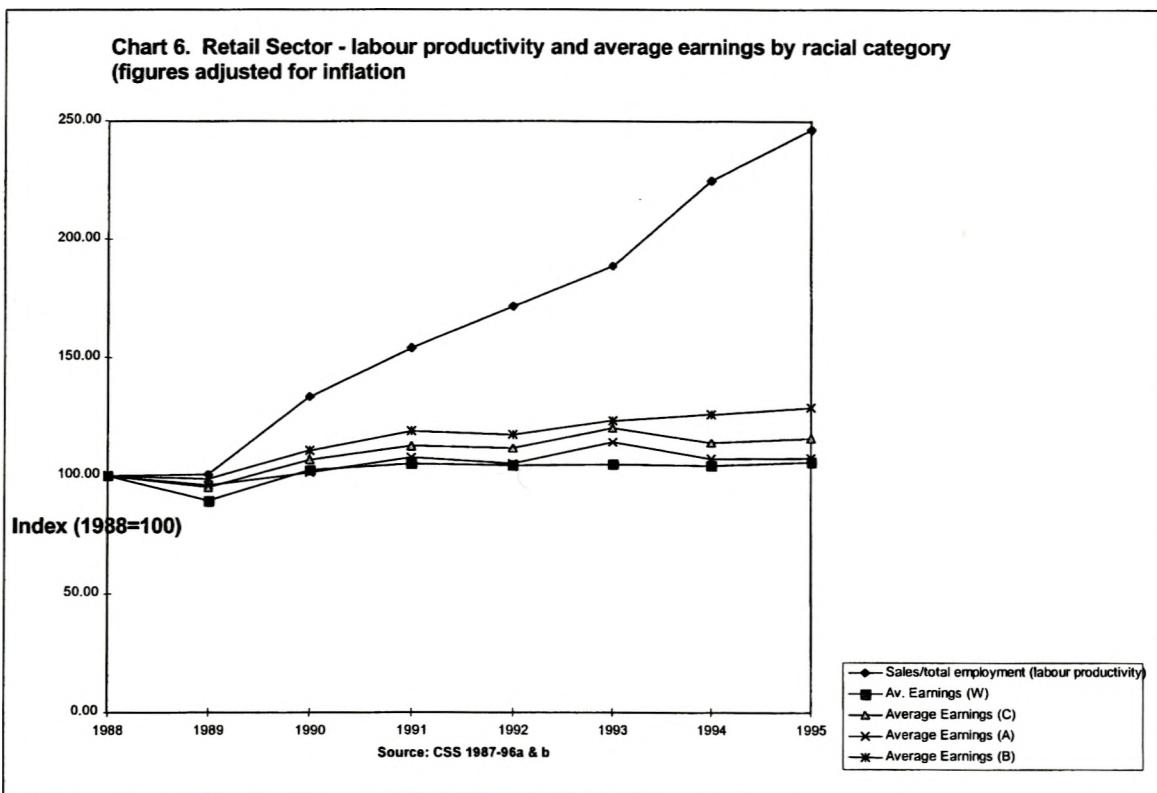
The movement in real earnings¹⁴ by racial category and labour productivity (measured as the real value of sales per employee) in the retail sector is shown in Chart 6. Over the period 1988-1995, total average earnings have risen only marginally while real sales have risen by 150%. Thus, workers have not benefited noticeably from the increase in their productivity. The rapid increase in union membership amongst black workers in the industry over the period has ensured that black workers’ earnings have risen faster than white earnings, but this has only marginally reduced the enormous racial skew in earnings, as shown in Table 8.

Table 8: Average Earnings in the Retail Sector, 1988-1996 (at 1990 prices)

Year	Average total earnings	Average earnings (white)	Average Earnings (black)	Black av. earnings as % of white
1988	1077	1798	663	36.87
1989	1016	1608	653	40.61
1990	1119	1841	734	39.87
1991	1171	1892	788	41.65
1992	1156	1876	778	41.47
1993	1204	1885	818	43.40
1994	1210	1878	836	44.52
1995	1222	1903	855	44.93

Source: CSS 1987-1996a

A reduction in working hours in the sector could be financed by ongoing increased productivity. Since black workers and women are disproportionately casual and flexible workers, the redistribution of working time suggested above would have the added advantage of speeding up the reduction in racial and gender skew in average earnings.



5. THE IMPORTANCE OF WEEKEND TRADING, POTENTIAL FOR FURTHER EXTENSION OF TRADING HOURS AND EMPLOYMENT: A VIEW FROM EMPLOYERS

The retail survey looked at how employers estimated the extent and effects of existing extended trading hours in their companies on turnover, and gave information on how these employers see "flexible working time" developing in future.

Table 9 gives the location of stores for the sample, and the extent of current turnover that is generated in weekend trading. Saturday trading was not limited to the mainly urban-based companies, but Sunday trading was limited to stores trading in upmarket suburbs, shopping malls, or CBDs in large towns.

Table 9: National Retail Companies: Location of Outlets and Weekend Trading

Company	PEP	SAF-SHOE	LEWIS	GAME	CNA	SA DRUG-GISTS	PICK'N PAY
% Stores in rural districts	40	70	80	10	5	10	12
% Stores in CBDs + upmarket residential suburbs	30	30	20	20	15	60	78, including malls
% Stores in townships	10	0	0	0	0	0	8
% Stores in hypermarkets/malls outside of CBDs	10	0	0	70	80	30	see above
% Total turnover on Saturdays	25	50	45	25	40	4	22
% Total turnover Sundays	2	0	0	12	35	0	10
% Total turnover in weekend trading	27	50	45	37	75	4	32

Source: Survey of Retail Companies, November 1996

Saturday trading was a significant part of total turnover for all companies except SA Druggists. Sunday trading was considerably less, but three companies traded 10, 12, and 35% of their total turnover on Sundays (Pick 'N Pay, Game, CNA respectively). The average percentage of total turnover traded on weekends was 38.5%, or 44% if SA Druggists is excluded. This shows the unevenness of workload in this sector on a weekly basis.

Table 10 gives the respondents' impressions on the potential for further late sales and weekend sales in their markets, for the different locations. 2 stores (Lewis, CNA) indicated that there was potential for expansion of weekday evening sales, 2 (Lewis, PEP) that there was more potential for Saturday trading, and 3 (Safshoe, Lewis, Game) that Sunday trading could be expanded. In addition, Table 10 shows the estimations that the HRD managers made of the likely change in their markets, and the likelihood of new stores and employment creation (either permanent or casual) in their companies in 1997.

Table 10: Market, potential for out-of-hours trading, and employment creation

Company	PEP	SAF-SHOE	LEWIS	GAME	CNA	SA DRUG-GISTS	PICK'N PAY
Projected change in total market in 1997 (total revenue)	growth	Static	Limited growth	growth	static	falling	static
Potential for more weekday evening trading	NO	NO	YES, in CBDs	NO	YES	NO	NO
Potential for more trade on Saturdays	YES, Mall & CBDs	NO	YES, all stores	NO	NO	NO	NO
Potential for more Sunday trade	NO	YES	YES, in CBDs	YES	NO	NO	NO
Projected change in number of stores in 1997	Will open new stores	No change	will open new stores	+ 14% stores	Increases	No change	No change
Will employ more permanent FT workers in 1997?	NO	NO	YES (new branches)	YES	YES	NO (less)	NO
Will employ more casuals in 1997?	YES	NO	NO	YES	YES	NO	NO

Source: Survey of Retail Companies, November 1996

The different companies put forward different mixes of the four factors: market/revenue expansion, further extension of trading hours, opening new stores, and employment of permanent or casual workers (or both). With the exception of Safshoe, potential increased trading hours was in all cases associated with an intention to create more jobs in 1997, resulting from a combination of extended trading hours and opening new stores. It is most likely that new stores will generally open in urban centres or hypermarkets, with weekend and evening trading, so that the employment effect of extended trading hours is difficult to disentangle from the effect of opening new stores. Unlike the other companies, Safshoe sees potential for increased Sunday trading, but no new jobs, which implies that the envisaged increase in weekend trading would merely be a switch in customer buying patterns during the week rather than an increase in total sales.

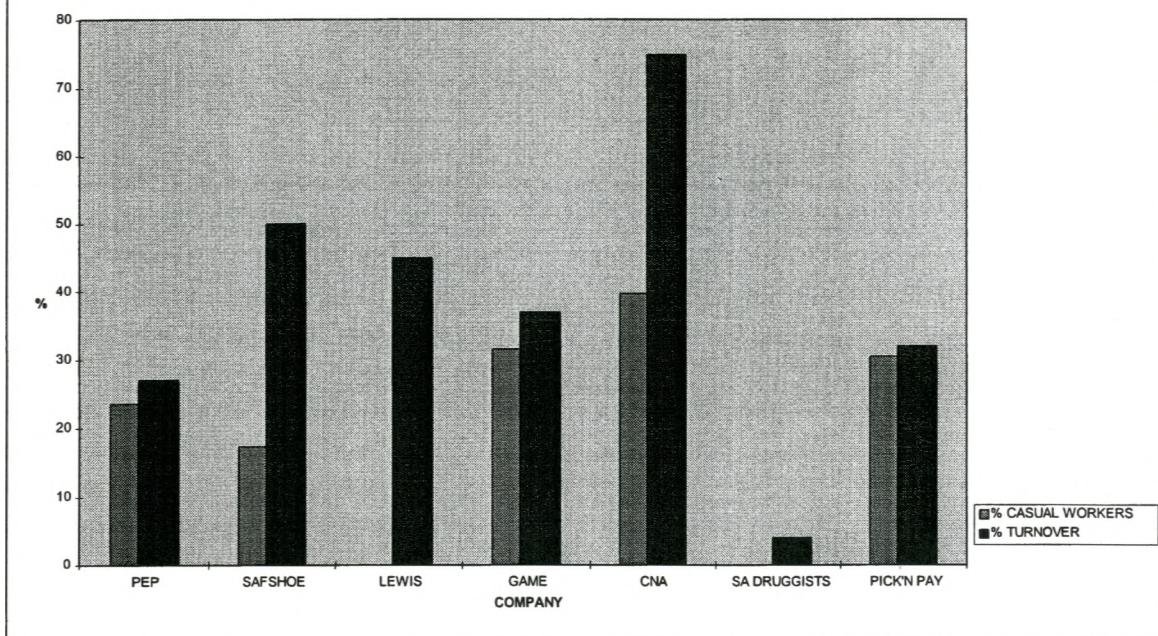
Table 11 and Chart 7 show that casual labour in these companies is higher than would be suggested by the industry average in the CSS figures. They also show the general proportional relationship between the percentage of total turnover generated at weekends and the extent of casual labour. With the exception of Lewis (which does not employ any casual workers - possibly because of the fact that the company still administers its own credit sales system), weekend trading is strongly related to the employment of casual labour.

Table 11. Weekend sales and casual labour

Company	PEP	SAF-SHOE	LEWIS	GAME	CNA	SA DRUG-GISTS	PICK'N PAY
% Total turnover on Saturdays	25	50	45	25	40	4	22
% Total turnover Sundays	2	0	0	12	35	0	10
% Total turnover in weekend trading	27	50	45	37	75	4	32
Total Employment	8933	611	4500	2749	6149	963	27895
Total permanent FT	5800	505	4500	1860	3363	963	17192
Total permanent PT	1033	0	0	22	1997	0	2192
Total casual labour	2100	106	0	867	442	0	8511
% Casual	24	17	0 (5% commission agents)	32	39.6 ¹⁵	0	31

Source: Survey of Retail Companies, November 1996

Chart 7. 7 Selected retail companies: casual labour and weekend



The disparity between survey data in this survey and CSS data on the extent of casualisation in the industry is repeated in the Cape Town survey. Table 12 shows the estimations that the Cape Town shop stewards gave of the proportion of casuals in their shops. It is very much higher than the CSS figures.

Table 12: Casual labour in retail stores, Cape Town

Firm	Average % casual staff	Stores
CLICKS	46	9
DISKOM	29	5
FOSCHINI	24	9
MAKRO	17	2
PICKNPAY	65	2
SHOPRITE	55	9
WOOLWORTHS	70	1
Total	43.7	37

The authors of the ILO draft report on the South African economy point out that the sample of firms upon which the manpower data is based is drawn from a list of firms in the previous industrial census, so old firms are included while new firms are excluded. (ILO, 1996:69) In retail, new firms are employing a much higher rate of casual workers. (Boshoff, interview) Another possible reason for the discrepancy is that the CSS series is compiled from responses from employers sampled for their representivity of both firm size and geographical region. The inclusion of smaller companies (much more numerous but much less important as employers) may have skewed the casual labour figures downwards. Whatever the explanation, the high level of casualisation reported in the two surveys dealt with here increase the urgency for retail unions of dealing with the issue of working time in a way that improves job security.

6. INTERNATIONAL EXPERIENCE ON FLEXIBLE WORKING TIME IN RETAIL: SOME EXAMPLES

Deregulation and extension of trading hours are now the norm in many countries, including other African countries. Working time innovations in retailing have been negotiated by unions and employers over the past 10 years in the developed economies, where large, national-scale retailers have moved on to a plethora of different types of working time contracts. These include:

- annualised hours schedules;
- “term-time” contracts (for women who do not want to work during school holidays);
- “time banking” for workers who wish to work fluctuating hours over time,
- part-time contracts from 4 hours to 35 hours per week, and
- individualised schedules where sales assistants elect their own hours of work.

Managers now use software packages to coordinate coverage, sometimes blending hundreds of different individual working time schedules to achieve coverage according to carefully calculated demand patterns. (Hewitt, 1993; ETUC, 1994) In some cases, workgroups in large retail outlets determine individual working hours internally according to general constraints negotiated between unions and management at company level. The effects of these changes have been variable with regard to employment creation, working conditions, intensity of work, incomes, and employment status.

International experience in working time innovation in retail is relevant in South Africa. In the past few years, many South African retail executive managers have undertaken study tours of their counterparts in Europe and America particularly, and have assessed the working

time innovations with a view to adaptation in the South African legal and industrial relations contexts. (Boshoff, interview, November 1995) These innovations resulted from the interplay between two main economic and social movements operating in Europe in all economic sectors during the 1980s and early 1990s. On the one hand, employers reacted to increasing international competition by attempting to reduce labour costs in all spheres.

In opposition, trade unions stressed the need for individual choice in working time as a means of addressing women's preponderance in low paid, or zero paid (domestic labour) occupations, and unemployment. According to this perspective, trade unions all over Europe put forward a new approach to the organisation of working time which took into account the persistently different roles that men and women fulfill in society over their working lifetimes, in a way which would reduce gender inequality. In the ideal world, a "chosen time" would shape working hours on life-cycle needs of men and women, while recognising that gender roles would receive a significant incentive to change should such a system become real. (Table 13).

Table 13: The "ideal world?": Working time reforms and people's life cycles

Life phase	Group	Working Time Issues
Young, independent	Men and women	<ul style="list-style-type: none"> • Longer holidays (possibly paid for longer days/weeks) • More time for education and training • Longer hours for more money and promotion
Parental Phase: Pre-school children	Women	<ul style="list-style-type: none"> • Maternity, paternity, parental leave • More flexible hours • Option to work shorter hours
School Age children	Women	<ul style="list-style-type: none"> • Term-time working/ longer holidays (even at the expense of longer days/weeks) • Time for education and training/retraining • working hours that fit with partner's • option to move into full-time employment • 4-day week/ longer weekends • Opportunity to work longer hours for more pay
Older, independent phase	Men	<ul style="list-style-type: none"> • Time for education/retraining, study leave • 4-day week, longer weekends • Longer holidays • Option to reduce working hours
Older, caring phase	Women	<ul style="list-style-type: none"> • Option to work shorter week/part-time • Longer holidays
Pre-retirement	Women and men	<ul style="list-style-type: none"> • Flexible retirement (individual choice of retirement date; option of part-time retirement) • Earlier retirement by choice, not compulsion
Retirement	Women and men	

Source: Hewitt (1993): 81

The European Community White Paper on Growth, Competitiveness, and Employment (EC 1993) concludes that a number of European countries succeeded in bringing about a decrease in structural unemployment by reducing working hours over the period 1983-1991. During

that period, the number of hours worked (a measure of the volume of work undertaken) increased 2% in Denmark and Belgium, while the number of people in employment increased 8%, due to a fall in average individual working hours. In Germany, the volume of work rose by 7%, and the number of people employed by 12%. In the Netherlands, more than half the 30% rise in employment was due to the fall in average working time (a 13% fall over the period to an average of 33 hours per week, compared with an average of 39 hours per week for the entire EC). (EC, 1993:126) To see how this applied in the retail sector, this section will now look at several examples of retail collective bargaining agreements on working time between unions and large-scale retail companies.

Netherlands

In late 1993, in the context of rising unemployment, the FNV (the Dutch trade union federation) in Netherlands began a national campaign to improve the situation of part-time workers, the overwhelming majority of whom were women. These workers had insecure, low paid jobs. The campaign was based on awakening the potential for "chosen time" and the reduction of working hours for full-time jobs (which were predominantly held by men). At the same time the campaign called on part-time workers everywhere to organise for a better position with regard to working hours, pay and conditions. The concept was to attempt to lower average working hours, increase hourly basic wage rates, to reduce unemployment and increase job security.

As an example, in late 1993 the retail sector union in the Netherlands negotiated an agreement with one of the largest retailers in the country (KBB), employing 24,000 workers, 15,000 of whom were full-time workers. It resulted in a 4-day working week (32 hrs per week, 8 hours per day) for the full-timers - without loss of pay, but with no pay raise for 2 years thereafter. During the busy 6-week holiday season in December, work would be 5 days per week (40 hours). Shop opening hours remained the same (Monday to Saturday, plus Thursday evening), and all staff covered by the agreement would work on Saturdays and Thursday evenings by turns, for which they would receive compensation in time off. The overall annual average weekly hours were calculated at 35 hours per week for each worker as their standard working hours. The number of casual, or fixed-term contracts were reduced, and over a 5-year period, the contracts of all remaining casuals would be equalised with full-time permanent workers. Part-time workers were to get a pay raise pro rata with the reduction in working hours. The net result was the creation of about 500 jobs. (Passchier, 1994) Perhaps one of the most important aspects of the agreement was that although employers gained some flexibility in determining working hours, individual choice of hours was limited, preventing employers from determining the types of employment contracts outside negotiations with the union.

Germany

Like the Netherlands, normal German shop hours are Monday to Saturday. Beck, a Munich department store, gives its 700 workers (mainly women) a choice of working hours from 60-170 per month. The hours of work can vary from month to month at the choice of the worker, and hours are agreed in works' councils at department level at the beginning of each month. A more detailed weekly plan is worked out by each department head. An offer by the company to the union to return to ordinary working hours after 2 years was rejected by the

workforce, who preferred the new arrangement. No details on employment and pay implications were available. (Hewitt, 1993:46)

Karstadt AG employs over 60,000 people in its department stores. A scheme for flexible working was developed at the works council level for the entire company, and computer systems to manage flexible working hours were introduced in the entire company. Workers can choose their working hours between 75 (the threshold for social security payments) and 167 per month. The length and arrangement of each worker's hours are fixed a month in advance. Pay and all benefits are paid pro rata to workers on shorter hours. Training is available to part-timers on the same basis as full-timers, and workers who want to move from full-time to part-time work, and vice versa, have priority over external candidates when vacancies arise. Again, no details were available on the employment implications of this agreement. (Hewitt, 1993:47) These two examples show how the reduced influence of unions in the works council system led to more individual choice by workers and employers to determine the distribution of part-time contracts, and therefore less union control over eventual outcomes.

Japan

In Japan, where working hours are generally considerably longer than in Europe, the Tenmaya retail corporation, with 6 department stores and a head office establishment, set up a joint committee with the trade union side. The committee established a new basis for scheduling work time to make provision for extended trading hours. The agreed basis of the committee's work was a reduction in working hours for workers, and a change in the labour standards law to accommodate averaging of working hours restrictions. The final result was a 3-month averaging scheme for working time covering 75% of the full-time workforce (pregnant women and workers with child-care and elder-care responsibilities could be excluded on request). A national company agreement was signed for 1,918 basic hours per year for each worker, an average of 36.8 hrs per week. Overtime was to be a maximum of 80 hours per year, or an average of 1.5 hours per week. Each worker was to have 107 annual rest days (including 52 days when the stores are closed, public holidays, and 55 days annual leave including 2 consecutive 5-day periods of holidays). Daily normal working hours were between 6 and 8.5 hours, and weekly working hours must be less than 52 hours, these limits being averaged over a 3-month period. A three-shift system was introduced at company level: an early shift for 7.25-7.75 hours, the afternoon shift for the same length, and the ordinary shift of 8.25 hours during normal daytime hours (assigned during the busiest periods of the year).

Based on this company level pattern, managers at store level fix the distribution of shifts and rest days for their store, according to varying patterns of demand from store to store (in Japan national festivals are July and December). Finally, the precise work schedules for each worker are discussed in the "quality circles" by workers, with whom the section managers consult before drawing up every worker's daily and weekly working time. This example is one where the unions only have influence over the company level limits for hours, but management has complete control over the detailed scheduling within these limits. Later evaluation of the results showed that the union side gained an actual reduction in total average working hours per year: overtime was reduced from 100 hrs per year to 80 per year average. Total hours worked declined from 2080 to 1988, while workers gained an extra 6

rest days per year. They also gained the removal of clocking-in systems, as workers were to report their own hours.

In return, all unexempted workers in the scheme had to work a shift system covering early mornings and evening trading. They also underwent a change in job descriptions to increase the number of duties and responsibilities in their jobs. No details were available on the employment implications, but job creation was not one of the objectives of the joint committee at company level. (Thurman, 1990:64) The innovative provision in the agreement - for an agreed proportion of the workforce to opt out of the time averaging scheme and shiftwork system because of domestic circumstances or health considerations - gave the union control over individual variations. But the system of "quality control circles" for determining detailed schedules at section level reduced this control over outcomes.

In contrast to these international examples, the South African retail survey showed that none of the 7 companies had collective agreements with trade unions over the distribution of working time. Furthermore, trade unions have so far exerted very little influence on how staff are deployed in late sales and weekend trading. However, in 1996, SACCAWU shop stewards at Woolworth's signed a "flexibility" agreement on 7-day trading, within the framework of Wage Determination 478. Under this agreement, weekday trading hours were to be shifted to a later start on weekdays, with shorter hours on several weekdays. Saturday trading was to be a full day (9am until 5pm), and Sunday trading until 1pm. Workers would work a 40-hour week, but there would be no new jobs: existing casual labour would be laid off, and permanent workers would be "flexible" between Woolworth stores. They would move around from store to store in a particular area to provide cover. They would also be "flexible" in terms of multi-tasking.

Overall, the intensity of work would therefore increase. Workers were to have 2 days off per week, and be paid double pay if they worked any overtime during these off days. Their work would be scheduled to include the weekend times on a rotating basis. The new arrangements would be accompanied by a once-off basic wage increase of R300 per month across the board. In the event, the workforce refused to work under this agreement, and the company did not therefore implement it.¹⁶ This is an example of increased trading hours leading to shorter individual working hours, a loss of jobs, with a significant increase in the intensity of work - a poor agreement on working time flexibility.

Of all these cases, the Netherlands example is the only one to have addressed the issue of regularising casual workers' status, and creating jobs, which are probably the most important objectives in the South African context. The union also maintained considerable control over the final outcome by insisting on a detailed national agreement, with few opportunities for individual variation in working hours.

The European committee of Food, Catering and Allied Workers' Unions (ECF-UIF) adopted a recommendation on flexible working time at its first regional conference in 1986. (Thurman, 1990:173-5) It warned that employers' objectives in flexible working time were to respond to the trade union demand for a shorter working week, which at that time stood at 35 hours per week in Europe. The reduction would be accomplished by redistributing work accurately according to fluctuations in demand patterns, reducing paid overtime, and to finance the reduction in hours by a more efficient use of resources and capacities. The ECF-

UIF pointed out that this led to the intensification of work; the use of fixed-term contract labour; and the loss of control by workers over their working hours patterns, forcing them to change working hours often at short notice to accommodate their employers' demands. It also warned against "chosen time" systems because they individualise working time and make it impossible for unions thereafter to influence what is happening through collective agreements.

The ECF-UIF concluded that policy for agreements over long-term allocation of working time should include:

- continuous employment for the workforce;
- full time jobs must remain, and not be entirely replaced with part-time jobs;
- the number of full-time equivalent jobs must be such that the volume of work can be done without compromising health and safety;
- overtime should be minimised, and paid with time off wherever possible, which would help to create more jobs;
- There should be a built-in disincentive to employers to allow workers' individual hours to fluctuate widely between short time in slack periods and long working hours in busy periods. This could be done by keeping workers wages stable when hours fall and increasing them when working hours get very long (note this is expressly forbidden in the current draft of the Employment Standards Act in South Africa);
- Long-term planning of hours should include study leave; longer sick leave for recuperation from illness; childcare or care of old or sick family members for long periods (eg. 1 year, 2 years etc.) with a guarantee of job security on return. In this way, what some workers may lose in terms of individual choice of hours on a day-to-day basis can be compensated by an increase in individual choice on a long-term "life cycle" basis.

Judging by the Woolworths agreement discussed above, these guidelines remain highly relevant for the contemporary retail sector in South Africa.

7. HOW SOUTH AFRICAN SHOP WORKERS EXPERIENCE WORKING TIME

The Cape Town survey investigated some aspects of retail workers' preferences for working time arrangements. To find out strong preferences, workers were asked what changes they would prefer in their working hours even if shorter hours meant a loss in earnings. Most of the 64 people who responded said they wanted either the same hours (27) or a few less hours per week (28). 3 said they wanted to work more hours, while 3 opted for a lot fewer hours. Of the 28 workers who said they would prefer a few less hours per week, about a third gave reasons to do with family commitments. About 10% said that they were concerned about their personal security travelling home in the evening, and would therefore prefer to end their day earlier. Men had more reasons for wanting shorter hours than women. Of 12 women who said they wanted shorter hours, 10 said this was because of family commitments, while 1 said she wanted more time for herself, and another wanted to avoid traffic jams. Of the 5 men who wanted shorter hours, only 1 said this was for family reasons, 2 said it was to improve their social life, and 2 for reasons of security while travelling.

Although the majority in the sample did not want to change the starting and finishing times of their working day, a significant group did want to change this. Their reasons included:

personal security (about a third of those who wanted a change); getting children to school (about 10% of those wanting a change); commuting (reducing travelling times both to and from work - “flexitime”). The preferences of the sample for changes in starting and finishing time are given in Table 14.

Table 14: Preference of retail workers for change in starting time of work

Preference	Males	Females	Total
A lot earlier	6	1	7
A bit earlier	5	7	12
No change	11	26	37
A bit later	3	11	14
A lot later	0	1	1
Total	25	46	71

Source: Cape Town Survey 1996

20 people in the sample had asked their employer for a change in their working hours in the year before the survey: 10 of them for shorter working hours (part-time work), and 10 for the same hours at different starting and finishing times. 10 of these 20 had had their requests refused, while only 2 of them had been granted. In 7 of the cases, the employer had proposed a different change than that requested, which was refused by each of the 7 workers. In 5 cases, the employer had not responded to the request at all.

In 19 cases, employers had in the previous year proposed a change in working hours of workers in the sample, and workers had acceded to this request in each case. For about a third of these cases, the new working hours had made the fit between working life and non-working life more difficult, whereas it had been improved in only one-fifth of the cases. In 14 of these 19 cases, the change had been made unilaterally by the employer, while in a minority of cases the change had been negotiated with shop stewards, or agreed between the individual worker and front-line supervision. Employers thus have strong control over working time variation at shop level. A strong intervention by the union through collective bargaining is necessary to regain control over working time changes by workers.

TWO MAJOR STUMBLING BLOCKS TO “FLEXIBLE WORKING HOURS”: TRANSPORT AND CHILDCARE

Transport

The Cape Town survey investigated the costs of transport to and from work for the sample of shop stewards. The average time spent commuting to and from work per day was 1hr 48 mins (84 respondents), and the average monthly cost of transport to and from work for 85 respondents was R167. 28 respondents said they received a transport allowance from their employer, of which the average amount was R39 per month (23.3% of their average expenditure on travel).

The problem of personal security against attacks while travelling on public transport to and from work was often mentioned in both discussions and in the Cape Town survey responses. 60 out of the 85 respondents said workers from their store had been violently attacked on the

way to work or on the way home since the respondents had started their present job. 60% of the attacks took place on railway stations or on trains. Two-thirds of the respondents in the survey did not have any company transport available to them, even when working late into the evening or on weekends, when public transport is much less available. Only about a third of the employers provided transport for workers working late, or overtime.

Childcare

46 workers in the Cape Town sample replied to the question on the type of childcare options they use for pre-school age children while at work. The results are given in Table 15. The two most commonly-used options were unsubsidised preschools, and family. This pattern is probably very regionally specific: in the other urban areas, one would expect home-based childminders to be used more frequently, because of the lower provision of preschools. The average cost of childcare for 47 people who responded was R209 per month.

The monthly household income (including only the income of cohabiting spouses or partners) was calculated for each respondent in the Cape Town survey. The average gross household income was R2529 (59 respondents: range R997-7500). The average household income *net of commuting costs* was R2333 (58 cases, range R780-R7350). The average household income *net of commuting and childcare costs* was R2833 (28 cases, range R670-R7050). This counter-intuitive result is because different people responded to the different questions on income.

Table 15: Type of preschool care used by Cape Town sample

Type of pre-school care	No of people in sample (% of respondents)
Private creche/preschool not subsidised by employer or local authority	14 (34.1%)
Private creche/preschool subsidised by employer	2 (4.9%)
Creche/preschool subsidised by local authority	3 (7.3%)
Childminder working from their home	6 (14.6%)
Friend or member of family	15 (36.6%)
Other	1 (2.4%)
Total	41 (100%)

Source: Cape Town Survey 1996

Transport and childcare provision are two crucial issues for retail workers. If the unions in the industry are to make use of the trade off between shorter working hours, higher employment, and “flexible hours”, they need to campaign for provision of safe transport by employers during unsocial hours, and for subsidies for childcare costs, either in the form of childminding allowances, or the direct provision of nurseries. Service industries such as health centres provide childcare at the centre for the customers, and unions need to campaign for similar facilities for workers in shopping centres, or in their communities.

8. CONCLUSIONS

Extended trading hours and deregulation of trading has been a “worst case” scenario from the point of view of employment security, job creation and working hours in the sector. Trade unions such as SACCAWU have only taken into account the position of their membership, which is based on the declining full-time permanent workforce, and have ignored the interests of the increasing numbers of “flexible” workers, both part-time and casual. Employers have been more than willing to agree to continue to negotiate wages and benefits for full-time workers, while covering extended trading hours with poorly-paid “flexible” workers.

These workers have none of the benefits and rights of employment, and have low status because they work fewer hours at unsocial times of day and night, and are unprotected by unions. These workers may be anything between 20% (official statistics) and 50% (unofficial surveys) of the industry. Whatever the precise figures, there is no doubt that unless the present collective bargaining scenario changes, these workers will become the bulk of the industry in future years, as they have long been in countries like the USA. They are disproportionately black and female, which accentuates the already radically skewed racial and gender distribution of wages in the industry.

This scenario steadily reduces the influence of trade unions in sectoral policy, and their ability to influence the aggregate level of wages, social security, and working conditions. The formal sector will increasingly resemble the informal trading sector, rather than the other way around. What economic growth that does take place in the sector will take place without meaningful job creation, while employers will benefit as labour productivity continues to increase.

Workers in SA retail have problems adjusting their present working hours to their domestic responsibilities, partly due to the long working hours, but also to the starting times and finishing times of their jobs. Employers however have control over what working time changes are taking place at shop level, due to the lack of collective bargaining over the issue.

Unions in retail need to regain control over flexible working time in the sector. This can only be done if the burden of working unsocial hours can be more evenly distributed between the present permanent and casual labour forces. The main policy goals must be:

- shorter working hours for full-timers and longer working hours for casual and part-time workers;
- equalisation and limitation of unsocial hours working;
- recognition of health and safety implications of working time arrangements;
- job security and pro-rata benefits for all workers;
- more jobs not less;
- adjustment of working time to life cycle need of workers by taking into account working time reductions over long periods as well as over shorter periods.

For the current full-time permanent workers to accept flexible working hours, improvements are necessary in the availability and subsidy of transport and childcare. Unions can pursue this through a combination of pressure on the state to provide services and on employers to

sign agreements that commit them to provide services and subsidise workers' costs in return for working unsocial hours.

The rationale for achieving this strategy with employers with no loss in earnings for permanent workers is that the change could be financed at least in part by the ongoing increases in labour productivity. At the same time, casual and part-time workers would be able to make gains in employment security, earnings, and a net increase in jobs.

Since the wage determination, and its successor, the sectoral employment standard, seem set to continue for the foreseeable future, elements need to be changed to facilitate this proposed strategy on working time. The Wage Determination has led to a situation where average weekly working hours for full-timers are well over 40 on a 5.5 day week from Monday to Saturday morning, but where hours of work for part-timers are restricted to 24 or 25 (casuals and part-time permanent workers respectively). Equalisation and reduction of standard working hours requires that part-time hours should have no upper limit, so that part-time workers can earn meaningful salaries, and gain access to training and other benefits of employment. The ratios 3:2:6 (full time : part-time : casual) should be re-examined to see whether they hinder a pro-active policy on working time or not. The ratio of casuals to permanents allowed in the wage determination is anyway too high to restrict seriously employers using casual labour extensively, and therefore seems to have little function. The ratio of part-timers to full-timers restricts any attempt to equalise working hours downwards.

Rather than concentrating efforts on maintaining ratios between artificial categories of working time contracts, this report suggests that a more progressive strategy for unions would be:

- to concentrate on organising casuals and part-timers into their ranks; and
- campaigning for them to work longer hours with more secure contracts under a wider agreement on flexible working time which reduces average working hours and increases hourly wage rates.

Retail unions could use the expiry of the current wage determination in November 1997 to press for a new approach to these questions through a new sectoral employment standard, which would set new parameters for collective bargaining in the larger retail companies.

In the light of the failure to create a central bargain in the sector, unions need to focus on gaining advantageous flexible working time agreements in large employers as a model for the industry in different markets. These agreements should minimise the degree of freedom of choice for individual workers and employers to determine the pattern of hours contracts, so that the eventual outcomes can be influenced through the collective bargaining process. Flexibility in working time for individuals can be achieved in a more long term sense that takes into account "life cycle" issues such as those outlined in Tables 14 and 15.

While retail unions can in principle find common cause with the concept of averaging working time restrictions in the ESA, the Bill presents a number of problems for a sector like retail, where demand fluctuates on a daily, weekly, monthly and seasonal basis. As already noted in the labour side's position at Nedlac, seasonal variation of working time limits should

be by collective agreement, and not individual agreement as at present. Individual agreement will perpetuate the present situation where employers have near complete control over working time contracts at shop level, which minimises the influence that unions can have on global outcomes of extended trading hours. The restriction in the Bill on wage agreements for seasonal workers which prevent them gaining increases for peak seasons needs to be removed and left to the sphere of collective bargaining.

The voluntary nature of the provisions for the move to a 40-hour week means that unions have little guarantee that agreements on flexible working time will achieve the desired results of shorter working hours and more - and more secure - jobs. A mandatory requirement on employers to move to a 40 hour week over a maximum time period will greatly ease the process of negotiations over working time flexibility, and enhance the possibilities for a positive outcome in terms of job creation. This is surely a crucial policy goal of all social actors involved with the retail sector, which is so dependent on internal consumer markets. Failure to achieve a legislated 40-hour week will mean that it has to be fought for in each company level agreement that is signed on working time flexibility, which will limit the overall impact that unions can achieve on working time reduction. It will also allow some employers to plead that the “competitive environment” in their market does not allow reductions in working time.

A crucial part of the overall approach to flexible working time put forward here is that unions will have to canvass the views of their members, and seek ways to represent the views of casual workers as well as their traditional full-time membership. Unions need to campaign for the rights of casual workers and part-timers to join their organisation, to elect shop stewards, and to be represented in bargaining units. They need detailed information at shop floor level about the numbers of casual and part-timer workers employed, and what jobs, wages and hours they are working. They need detailed information on management’s calculations of staffing levels required to meet seasonal fluctuations in demand. They need to negotiate for the creation of a “pool” of casual workers who can be re-employed for seasonal peaks, according to their total length of service with the company, irrespective of whether that service was broken at intervals. Eventually, they need to attempt to negotiate minimum time periods and pro-rata benefits for casual contracts, which can then be increased over time.

Decisions on working time cannot be made centrally unless a detailed mandate is obtained from both full time permanent and “flexible” workers. This involves a process of education and debate with workers. If this does not happen, any centrally-negotiated agreement is likely to go the way of the Woolworths agreement described in this paper: rejection by the membership of the union.

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ENDNOTES

¹ The sample was taken from shop stewards attending routine meetings of the general merchandise section of the branch during the first 6 months of 1996, and contained 57 women and 28 men, all of them permanent full-time workers in their companies. 20 of the respondents were cashiers, 16 shop assistants, and the rest were distributed more or less evenly in smaller numbers between a variety of different jobs in their companies. The table below gives the distribution of respondents between retail companies.

Sample for Survey of Shop Stewards in Cape Town Metro branch (general merchandise section) of SACCAWU, Jan-June 1996.

COMPANY	NO. OF STORES FROM THIS COMPANY REPRESENTED IN THE SAMPLE	NO. OF SHOP STEWARDS FROM THIS COMPANY IN THE SAMPLE
Clicks	9	27
Diskom	5	9
Foschini	10	19
Makro	2	2
Pick N Pay	3	6
Shoprite	11	18
Woolworths	3	3
Truworts	1	1
TOTAL	44	85

Source: Cape Town Survey 1996

The survey covered about half of the total number of SACCAWU shop stewards in the sector, and can therefore be regarded as representative of full-time permanent workers for the Cape Town metropolitan region. However, part-timers and casuals were not included, as they did not attend union meetings.

² The 7 companies (PEP, Safshoe, Lewis, Game, CNA, SA Druggists, Pick 'N Pay) are all nationally active companies, and employ a total of 51 800 workers, approximately 13% of the total number of workers in the industry in 1995, according to CSS statistics.

³ For example, Edgars recently developed a system of giving street vendors access to small moving trolleys to sell Edgars stock on the streets from its new megastore in the Johannesburg CBD. *Business Day*, 4 September 1996: "Edgar's new store will take hawkers under its wing".

⁴ See "Competition from imports hurts PEP," *Business Day*, 23 April 1996.

⁵ See "Shoprite Checkers to move into Africa," *Business Day*, 19 September 1996.

⁶ See "Increase in retail spending maintains interest pressure," *Business Day*, 27 September 1996.

⁷ See "Retail rentals seen remaining strong," *Business Day*, 20 November 1996.

⁸ See "Retail Sales in SA are down by R320 million," *Business Times*, April 15, 1996.

⁹ The markup by multiple retailers on clothing has been estimated as between 3 and 5 times the markup of hawkers (see Altman 1994: 69).

¹⁰ Source, D. Budlender, in ILO, 1996: 386.

¹¹ Sources of respective estimates: SALDRU Living Standards Survey, 1993; and CSS October Household Survey, 1994, both in ILO, 1996:68.

¹² Source: SALDRU living standards survey 1993, in ILO, 1996:388.

¹³ 1987 was the first year in the which the CSS collected national data on type of employment contract for the retail sector. Contracts are either full-time permanent (FT), part-time permanent (PT) or "other" (casual, "late sales", or temps). In CSS statistics, "race" is either White (W), coloured (C), Asian (A), or black (B). An "unspecified" category began to appear in the statistics after the 1994 election.

¹⁴ Earnings include overtime pay, bonuses, and commission payments. (CSS 1987-1996a)

¹⁵ For CNA, late sales personnel are what Wage Determination 478 calls "permanent part-time"; however, these workers (largely students or moonlighters) do not have security of employment, nor do they receive any non-wage benefits. They have therefore been included here as "casuals". (Bailey, interview, 1996)

¹⁶ *Business Day*, 4 September 1996. Details confirmed by telephone call to Woolworths Human Resources Department.