

SECTORAL ACTIVITIES DEPARTMENT

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Private Employment Agencies in South Africa

Debbie Budlender

Working papers are preliminary documents circulated to stimulate discussion and obtain comments

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Acronyms and abbreviations

AEL	African Explosives Limited
ANASA	Allied Nursing Association of South Africa
ANC	African National Congress
APSO	Federation of African Professional Staffing Organizations
BCEA	Basic Conditions of Employment Act
BUSA	Business Unity South Africa
CAPESS	Confederation of Associations in the Private Employment Sector
CEA	Constructional Engineering Association
CEPPWAWU	Chemical, Engineering, Paper, Printing, Wood and Allied Workers Union
CIETT	International Confederation of Private Employment Agencies
COSATU	Congress of South African Trade Unions
EEA	Employment Equity Act
FAWU	Food and Allied Workers Union
FEDUSA	Federation of Unions of South Africa
GIWUSA	General Industries Workers Union of South Africa
ILO	International Labour Office <i>or</i> International Labour Organization
ITA	Information Technology Association of South Africa
ITARCS	ITA Recruitment Consultancy Services
LBD	Labour Broking Division
LFS	Labour Force Survey
LRA	Labour Relations Act
LRS	Labour Research Service
MEIBC	Metal and Engineering Industry Bargaining Council
NEDLAC	National Economic and Development Council
NEHAWU	National Education, Health and Welfare Union
QES	Quarterly Employment Survey
QLFS	Quarterly Labour Force Survey
SACCAWU	South African Commercial, Catering and Allied Workers Union
SACTWU	Southern African Clothing and Textile Workers Union
SACWU	South African Chemical Workers Union
SAMWU	South African Municipal Workers' Union
SATAWU	South African Transport and Allied Workers Union
SECTOR	Sectoral Activities Department (ILO)
SSETA	Services Sector Education and Training Authority
TEBA	The Employment Bureau of Africa
TES	Temporary employment service
TES-D	Temporary Employment Services Division
UASA	United Association of South Africa

Preface

This paper, written by Debbie Budlender, presents the findings of a study into the work of private employment agencies in South Africa, focusing on empirical and statistical aspects. The study covers the temporary agency work industry (known as “labour broking” in South Africa) as well as the recruitment and placement of individuals in permanent or temporary employment. It draws attention to the shortcomings regarding data on agency work in South Africa, and provides some reflections on how knowledge on this topic could be improved. The responsibility for opinions expressed in this paper rests with the author, and publication does not constitute an endorsement by the ILO of the opinions expressed in it.

A separate study on laws, regulations and practice on this area in South Africa has also been completed. These two papers on South Africa have been prepared at a time when the relevant legislative provisions are under revision, following a long period of intense political debate in the country on this subject.

This paper is one of several research studies prepared in 2013 for the Sectoral Activities Department (SECTOR) on the impact of the Private Employment Agencies Convention, 1997 (No. 181); the framework for operation of private employment agencies; employment conditions; and treatment as regards such issues as pay, social protection, leave and pensions in selected countries, providing sectoral information as appropriate. The first such paper, on Morocco, was published in September 2011. The 2013 studies – on Argentina, Chile, China, the Netherlands, South Africa, Spain, Sweden and Uruguay – consist of (a) statistical and empirical research on private employment agencies and agency work and/or (b) legal research on whether and how the provisions of Convention No. 181 are reflected by laws and regulations and by practice in selected countries.

The initial proposal to carry out this research on the impact of the Private Employment Agencies Convention, 1997 (No. 181) was proposed at the Sectoral Advisory Body for Private Services Sectors in October 2010 and recommended by the Sectoral Advisory Body Meeting in January 2011. The proposal was endorsed at the March 2011 sitting of the ILO’s Governing Body. At the March 2012 sitting the Office was asked to bear in mind for future work the views expressed by the participants in the Global Dialogue Forum on the Role of Private Employment Agencies in Promoting Decent Work and Improving the Functioning of Labour Markets in Private Services Sectors (October 2011), as summarized in the *Final report of the discussion*. These research papers were prepared taking into account those views, and are preliminary documents intended – like other SECTOR Working papers – to stimulate discussion and critical comment, and should not be considered as ILO policy papers or documents. The ILO uses the term “private employment agency *industry*” (not “sector”, an inappropriate word to refer to such a cross-sectoral industry). We use the term “sector” for a more distinctive and well-delineated category of industries that can be clearly distinguished from other sectors of the economy, and our Department currently works on 22 such sectors.

SECTOR promotes decent work by addressing social and labour issues in various economic sectors, both at international and national levels. By tackling challenges for specific sectors, the International Labour Organization (ILO) assists governments, employers and workers to develop policies and programmes that generate decent employment and improve working conditions in each sector. SECTOR’s integrated approach links up with the entire Decent Work Agenda, allowing the ILO to respond comprehensively to specific needs of the sectors in relation to employment, social protection, labour rights and social dialogue issues.

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Executive summary

Introduction

This report presents the findings of a study into the work of private employment agencies in South Africa. The study covered recruitment and placement of individuals in permanent or temporary employment, as well as “temporary employment services” (TES), in which the agency provides the services of the worker to another company or employer while the agency continues to pay the worker and deal with other human resources-related requirements throughout the duration of employment. The second business model is more commonly referred to as “labour broking” in South Africa, or as “agency work” internationally. These terms are less confusing – and more reflective of reality – than the term “TES” given that, as seen below, the practice often involves long-term placements.

The overall aim of the study was to explore the relevance of the ILO Private Employment Agencies Convention, 1997 (No. 181) to South Africa, and to provide information on the sectoral distribution of the operation of employment agencies in South Africa.

The methodology used included a desk-based review and analysis of existing studies, data and literature, interviews with key informants, and a short, on-line survey disseminated to members of the relevant employers’ organizations.

The legal situation

The ILO Private Employment Agencies Convention, 1997 (No. 181) came into being in 1997. South Africa has not yet ratified Convention No. 181. The preamble acknowledges the role that private employment agencies play in a “well-functioning” labour market, but also notes the need to protect workers against abuses, to guarantee the right to freedom of association, and to promote collective bargaining and social dialogue. The Convention refers to three types of labour market services, of which the first two are considered in this report, namely (a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships and (b) services consisting of employing workers with a view to making them available to a third party – or “labour broking”, as this practice is commonly known in South Africa.

The concept of labour broking was introduced into South African law in 1983 through an amendment to the 1956 Labour Relations Act (LRA). The amendment deemed the broker to be the employer of the workers, and thus created a triangular employment relationship. Section 198 of the 1995 amendment to the LRA retained the statement that the labour broker (now referred to as temporary employment services (TES)) was the employer. The Basic Conditions of Employment Act (BCEA) of 1997 includes a similar definition of TES to that in the LRA. In both the BCEA and LRA, the client and TES are “jointly and severally” liable for breaches of the law. Section 57(1) of the Employment Equity Act (EEA) of 1998 differs from the LRA and BCEA in that it states that a person whose services have been procured by a TES will be

deemed to be an employee of the client if the client uses the person's services for longer than three months (Theron et al., 2005). The Occupational Health and Safety Act of 1993, in contrast, defines the workplace in a manner that is more helpful for TES employees, namely it is defined to mean "any premises or place where a person performs work in the course of his (sic) employment."

At the time this research was conducted (mid-2013), labour legislation that dealt with TES was under consideration by the national parliament. The Employment Services Bill of 2012 provides for regulation rather than the banning of TES advocated for by the Congress of South African Trade Unions (COSATU) among others.

The above legislation relates primarily to TES activities. Recruitment and placement services of private employment agencies are covered by Section 24 of the Skills Development Act (No. 97 of 1998) which requires that all individuals and companies wishing to provide employment services "for gain" must apply for registration with the Department of Labour. The Skills Development Levies Act (No. 9 of 1999) requires that all employment agencies register with the Services Sector Education and Training Agency (SETA).

The key actors

The Confederation of Associations in the Private Employment Sector (CAPES) (www.capes.org.za) serves as the umbrella body for private employment agencies and, more specifically, for TES. CAPES' direct membership is made up of four associations who, in turn, have members that range from very small staffing businesses to large national and multinational corporations. Through these associations, it reportedly represents over 1,200 staffing businesses, which employ an estimated 10,000 permanent employees and an estimated daily average of more than one million temporary (TES) workers.

CAPES' largest affiliate is the Federation of African Professional Staffing Organizations (APSO), which is, in turn, affiliated to the International Confederation of Private Employment Agencies (CIETT). In addition to APSO, CAPES' other direct members are the Allied Nursing Association of South Africa (ANASA), the Constructional Engineering Association (CEA) and the Information Technology Association of South Africa (ITA). In addition to the member associations, CAPES has several large corporate members. These include companies listed on the Johannesburg Stock Exchange as well as private South African companies and international companies. CAPES and its members appear to cover virtually all sectors of the economy aside from domestic work.

The CAPES Code of Conduct says very little about employees. However, the CAPES website details the legal rights of TES employees. This information is provided to inform affiliated companies both as to their obligations and as to the percentages they should add to charges to clients to cover the various rights and obligations.

On the labour side, the Congress of South African Trade Unions (COSATU), which is the major union federation in the country, is in an alliance with the ruling party, the African National Congress (ANC). COSATU is the federation that, both as a federation and through its members, has been most vocal about private employment agencies. Its attention has focused on TES, where it has called for banning of the practice. It has paid almost no attention to recruitment and placement services of private employment agencies. The ANC, in turn, in its 2009 election manifesto committed to addressing the issue of labour broking.

The Federation of Unions of South Africa (FEDUSA), which is the second largest federation, has taken a less oppositional stance in respect of TES. CAPES has collaborated with FEDUSA in establishing the world's first dedicated call centre for temporary workers.

The current status: quantitative evidence

While there is widespread agreement that a large number of workers are employed by temporary employment agencies in South Africa, and that the number has grown over time, there is similarly widespread agreement that the available numbers are estimates based on various assumptions rather than more reliable "counts" of the phenomenon. The situation is even worse in respect of the number of workers placed by employment agencies, in part because this aspect of the work of the agencies has been much less contentious.

Statistics South Africa (Stats SA) does not itself currently produce estimates of the number of workers placed or employed by employment agencies. CAPES and APSO, as the lead federations of agencies, rely heavily on estimates generated by Adcorp, the largest agency. Recent estimates from the industry on TES are included in CIETT's 2013 publication "The Agency Work Industry Around the World". The South African estimates for the CIETT publication were provided by CAPES, which in turn drew on estimates produced by Adcorp as well as estimates commissioned by the Services SETA. The CIETT publication shows South Africa to be an outlier in respect of many of the statistics. There are also substantial differences between the estimates offered by different sources, including the number of agencies registered with the Department of Labour and the SETA. The inconsistencies include differences for a particular point in time as well as differences over time.

While we can be fairly confident that the extent of TES in South Africa is high in international terms, it is not at all certain that the extent of South Africa's "exceptionalism" is as stark as the estimates recorded in the CIETT publication suggest. Estimates based on information provided by the industry for this research suggest that the commonly quoted estimates could be 40 per cent or more higher than the reality. It also seems that the number of agencies has fallen over time. This could reflect both the ongoing impact of the global economic crisis and increasing domination of the bigger companies.

Key sectors

The section of the report that discusses practices in different sectors focuses on TES, as there is very little information on standard recruitment and placement. The section includes discussion of sectors as diverse as chemicals, clothing and textiles, communications, construction, health, local government, metal and engineering, mining, motor vehicles, printing and packaging, retail, road freight, and transport. These examples illustrate the widespread nature of the practice of TES, as well as the widespread resistance to the practice on the part of workers. The case studies also provide examples of social dialogue in which workers and employers (including both existing and potential "client" companies and, to a lesser extent, the private employment agencies) engage on the issue.

Comparison of South African practice on agency work with Convention No. 181

The research brief required that this paper investigate the extent to which the situation in South Africa is in line with ILO Convention No. 181. This section of the paper begins by a consideration of what the evidence discussed above reveals in respect of each of the aspects specified in article 11 of ILO Convention No. 181. It then goes on to consider other aspects highlighted in the terms of reference or that emerged through the research. Across all these aspects, there are practices that are not in line with the Convention.

In terms of drivers of agency work, the research commissioned by the SSETA found that 64 per cent of TES companies said that clients used their services to deal with seasonal increases in labour requirements, 49 per cent for shift work requirements, and 61 per cent because they wanted to “outsource” labour. The latter percentage probably refers primarily to those who choose labour outsourcing as a way of either avoiding the administrative and other burdens of labour legislation and/or not having to meet the wage, benefit and other requirements.

The research uncovered very few references to “rogue” agencies. The sectoral case studies reveal that unions have focused their attention on use of TES workers in formal enterprises. For the most part, it seems that these companies use formal TES agencies.

Business, labour and government representatives have probably spent more time and energy on discussing TES than has happened in most other countries. The parties still seem relatively far apart in what they would like to see, but there is perhaps an emerging compromise position on regulation of the extent of TES. It is less clear if attention has been paid to addressing all the aspects of TES employment that make it so unattractive to labour and that in some cases are out of line with the Convention.

At the sector and company level, employers and unions across a range of different industries have been able to reach agreement on either (a) prohibiting labour broking completely, or (b) placing limits on the practice in terms of the number or percentage of TES workers involved, or the length of time for which they are employed, and/or ensuring that the earnings and conditions of work of people employed through labour brokers satisfy the same minimum standards as those of workers employed directly. Less commonly, agreements have provided that workers employed through labour brokers enjoy the same benefits as workers employed directly. What is noteworthy is that these agreements have almost all been reached with the user enterprise employer rather than with the TES companies.

1. Introduction

Objectives and scope

This report presents the findings of a study into the work of private employment agencies in South Africa. The study covered both recruitment and placement of individuals in permanent or temporary employment, and “temporary employment services” (TES), in which the agency provides the services of the worker to another company or employer but the agency continues to pay the worker and deal with other human resources-related requirements throughout the duration of employment. The second model is more commonly referred to as “labour broking” in South Africa, and as “agency work” internationally. These terms are less confusing than the term TES given that, as seen below, the practice often involves long-term placements

The overall aim of the study was to explore the relevance of the ILO Private Employment Agencies Convention, 1997 (No. 181) to South Africa, and to provide sectoral information on the work of employment agencies in South Africa.

As will be briefly discussed below, the research was done in a period when the issue of labour brokers was particularly contentious. In particular, there were ongoing developments and debates as to whether and how labour broking should be regulated or even banned. These discussions included consideration by the national parliament of a bill that envisaged restricting the use of labour brokers. When it was tabled, the major business daily newspaper carried a front-page article stating that parliament planned to place an outright ban on labour broking (Ensor, 2012).

The report does not discuss these debates in any detail, and does not argue for one or the other position. Instead, it presents the evidence available on the current situation. This information was sourced primarily from documents, but also through key organizations and individuals, and through a short on-line survey directed at private employment agencies belonging to the main associations of such agencies.

Methodology

The research was initially envisaged primarily as a desk-based review and analysis of existing studies, statistics and literature. It soon became evident, however, that the available literature was very limited. Methods were thus extended to include interviews of varying length with key informants among the social partners, and business and labour more generally, researchers, and officials in government and government-related agencies. The main employer associations also distributed a short, specially designed on-line survey to all their members.

Structure of the report

The report is structured into seven chapters, including this short introduction:

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- The first content section of the report, chapter 2 describes the legal situation. It covers both the terms of Convention No.181 and the current legal provisions in South Africa. The discussion is brief, as the information is intended primarily as background.
 - Chapter 3 describes the main players active in the industry. This includes discussion of the associations and some of the larger private employment agencies. It also includes a brief discussion of the stance of organized labour.
 - Chapter 4 presents the statistics available from different sources. It also provides more qualitative information as to the prevailing situation in respect of workers supplied by agencies.
 - Chapter 5 describes the situation in particular user sectors. It includes a discussion of how the social partners in the various user sectors have engaged on the issue of private employment agencies.
 - Chapter 6 reviews what the evidence in previous chapters reveals in respect of each of the aspects specified in article 11 of ILO Convention No. 181.
 - The final section, Chapter 7 considers other aspects of temporary agency work in South Africa that were included in its terms of reference or that emerged through the research, namely employment security, drivers of agency work, “rogue” agencies and social dialogue in the context of agency work.

2. The legal situation

The ILO's Private Employment Agencies Convention, 1997 (No. 181)

This international labour Convention came into being in 1997, as part of a process of revising the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), and South Africa has not yet ratified Convention No. 181.

The preamble acknowledges the role that private employment agencies play in a “well-functioning” labour market, but also notes the need to protect workers against abuses, to guarantee the right to freedom of association, and to promote collective bargaining and social dialogue.

A private employment agency is defined as “any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:

- (a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;
- (b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a “user enterprise”) which assigns their tasks and supervises the execution of these tasks;
- (c) other services relating to job seeking, determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment.”

The third of the categories, “other services related to job seeking”, is not of direct interest for this report although most of the agencies that provide the first services within the first two categories will also provide some other services. In particular, this research revealed that some of the larger private employment agencies have over recent years expanded their scope to cover learnerships, a South African form of training akin to apprenticeships. The Services Sector Education and Training Authority (SSETA) recorded its labour recruitment member companies as providing 765 funded and 2,689 unfunded learnerships in 2011/12, and a somewhat lower 113 funded and 2,643 unfunded learnerships in 2012/13. For 2013/14, companies have submitted expressions of interest in respect of SSETA learnerships for 2,446 employed and 2,904 unemployed learners and non-SSETA learnerships for 1,028 employer and 160 unemployed learners (SSETA, June 2013).

The first of the three categories of service named in Convention No. 181 relates to what this report refers to as recruitment and placement of workers. (The convention notes that the term “worker” includes work-seekers.) The second of the categories relates to what the report refers to as TES or labour broking. Elsley & Petersen (2013) observes that this convention provides the first recognition of TES in a convention. Theron et al. (2005) observe that some commentators see the Convention as signifying a shift by the International Labour Organization (ILO) away from one of its foundational principles, namely that “labour is not a commodity”.

The Convention does not cover all forms of triangular employment relationships. For example, it does not cover “outsourcing” where an employer contracts another company to provide services such as cleaning, security or information technology. Nor does it cover contracted services that were never part of core business.¹ In such cases, the company contracted provides a service rather than individual workers whose tasks are assigned by, and who are supervised by, a client company. In practice, many similarities may be perceived between the situation of workers in contracted or outsourced services companies and those employed by TES, but this report does not discuss the former.

Article 2 of Convention No. 181 states that it applies to all private agencies, all categories of workers and all industries except seafarers. The article specifies that member States may, after consulting with representative organizations of employers and workers, prohibit the operation of agencies for particular categories of workers or sectors of the economy. Member governments can also exclude categories of workers from the scope of the Convention if other forms of adequate protection are provided.

Article 4 requires that member governments take measures to ensure that workers employed through or by private employment agencies are not denied the right to freedom of association and collective bargaining. Article 5 requires that member governments prohibit discrimination by private employment agencies on the basis of all forms covered by national law and practice, but allows for special services or programmes to assist the most disadvantaged. It thus effectively, like the Constitution of South Africa, allows for affirmative action.

Article 7 prohibits charging of fees to workers, whether directly or indirectly.

Article 8 requires that special measures be adopted to prevent abuse of migrant workers recruited by private employment agencies. This article, like some others, explicitly requires prior consultation with the social partners on such special measures.

Article 10 requires that there be adequate provision and procedures for reporting complaints, abuse and fraud and that, where appropriate, these should involve the social partners.

Article 11 requires that members, “in accordance with national law and practice” put in place measures to protect workers in respect of (a) freedom of association; (b) collective bargaining; (c) minimum wages; (d) working time and other working conditions; (e) statutory social security benefits; (f) access to training; (g) occupational safety and health; (h) compensation in case of occupational accidents or diseases; (i) compensation in case of insolvency and protection of workers claims; and (j) maternity protection and benefits, and parental protection and benefits.

Article 12 requires that government specify the responsibilities of the agencies and “user enterprises” in respect of each of the above aspects.

¹ See another ILO Sectoral Working paper on the provision of cleaning and security services, Andrew Bibby: *Responsible contracting: An approach aimed at improving social and labour practices in the property services sector* (Geneva, ILO, 2011), SECTOR Working Paper No. 282, prepared as a background paper for an ILO Tripartite Global Dialogue Forum on the Role of Private Employment Agencies in Private Services Sectors, 18–19 October 2011.

Article 13 requires that private employment agencies provide (non-confidential) information, including statistics, to the national authorities at regular specified intervals so as to allow the authorities to understand the “structure and activities” of the agencies. The national authorities shall, in turn, make this information publicly available.

Article 14 requires applying the Convention’s provisions by laws and other means, ensuring their implementation through labour inspection or other means and applying adequate remedies, including penalties in case of violations of the Convention.

South African legislation

Theron et al. (2005) suggest that temporary employment services date back to at least the nineteenth century in South Africa’s mining industry, in that workers were recruited by intermediaries on fixed-term contracts. However, at that time the intermediary or recruiter was not seen as the employer. The concept of labour broking was introduced into law in 1983 when the 1956 Labour Relations Act (LRA) was amended to make provision for agencies supplying skilled workers to the manufacturing sector. The amendment introduced this new concept by deeming the broker to be the employer of the workers rather than the client to whom the workers were provided. It thus created a triangular employment relationship in that it was effectively the client who determined and oversaw the work to be done and also determined the conditions under which the work happened. To a varying extent, the client would also determine the worker’s remuneration and other terms of employment.

Over time, labour brokers also began supplying unskilled workers in some sectors of the economy, and the number of brokers, the types of activities, and the number of workers increased.

Section 198 of the 1995 amendment to the LRA retained the statement that the labour broker (now referred to as temporary employment services (TES)) was the employer. Section 198 defines TES as “any person who, for reward, procures for or provides to a client other persons (a) who render services to, or perform work for, the client; and (b) who are remunerated by the temporary employment service.” Section 198(4) states that the TES and the client are “jointly and severally liable” if the TES, in respect of any of its employees contravenes a collective agreement of a bargaining council, a binding arbitration award, the Basic Conditions of Employment Act (BCEA) or a wage/sectoral determination. Subsequent sub-clauses provide for TES workers to be covered by bargaining council agreements, but only if these are formally extended to non-parties within the registered scope of the council/s concerned. (Bargaining councils and agreements are provided for by the LRA. Godfrey (2011) estimates that in 2011, close on 2.3 million workers were covered by bargaining council agreements, of whom more than a million were covered by public sector agreements. Workers covered by bargaining council agreements thus account for about 20 per cent of all employees in the economy.)

Section 198(2) states that “a person whose services have been procured for or provided to a client by a temporary employment service is the employee of that temporary employment service, and the temporary employment service is that person's employer.” Theron et al. (2005, p. 5) suggests that the 1995 amendment identified the TES as the employer “more confidently” than was done in the earlier law and to an extent not sanctioned internationally by the ILO at that juncture.

The BCEA of 1997 includes a similar definition of TES to that in the LRA. In both the BCEA and LRA, the client and TES are “jointly and severally” liable for breaches of the law. However, Benjamin et al. (2010) point out that the Labour Court has ruled that a worker cannot sue the client (the user enterprise) in the Commission for Conciliation, Mediation and Arbitration (CCMA) or Labour Court unless and until they have a judgment or award against the TES which the latter refuses to pay.

Section 57(1) of the Employment Equity Act (EEA) of 1998 differs from the LRA and BCEA in that it states that a person whose services have been procured by a TES will be deemed to be an employee of the client if the client uses the person’s services for longer than three months (Theron et al., 2005).

The Occupational Health and Safety Act of 1993 has a definition of workplace that is more helpful for TES employees, namely it is defined to mean “any premises or place where a person performs work in the course of his (sic) employment.” This is, however, not helpful beyond the rights and obligations conferred by this particular act.

As noted above, at the time this research was conducted, labour legislation that dealt with TES was under consideration by the national parliament. The Employment Services Bill of 2012 provides for regulation rather than banning of TES. It states that the term “temporary employment services” has the same meaning as in the LRA. It provides for criteria of registration that will distinguish between private employment agencies that provide TES services and those that do only other services. It requires that the agreement between a client company and the TES must specify how much of the amount paid will go to workers.

The above relates primarily to TES activities. Recruitment and placement services of private employment agencies are covered by Section 24 of the Skills Development Act (no. 97 of 1998) requires that all individuals and companies wishing to provide employment services “for gain” must apply for registration with the Department of Labour. The Skills Development Levies Act (no. 9 of 1999) requires that all employment agencies register with the Services Sector Education and Training Agency whether or not their payroll is large enough to require that they pay contributions.

3. The key actors

Convention No. 181 repeatedly refers to the need to consult with bodies representing employers and labour. It is therefore important to consider the key actors. The first sub-section below describes the main employer associations. It also provides a profile of some of the largest employment agencies. The second sub-section briefly discusses the key actors from the labour side. In each sub-section the discussion highlights information that assists with providing a profile of workers placed by private employment agencies in user enterprises, and also briefly describes relevant initiatives of the various actors in relation to the services provided and protection of workers.

Employer bodies

Confederation of Associations in the Private Employment Sector

The Confederation of Associations in the Private Employment Sector (CAPES) (www.capes.org.za) serves as the umbrella body for private employment agencies and, more specifically, for TES. CAPES was established in 2002 with the explicit aim of providing a “unified voice for the South African staffing industry”. CAPES’ direct membership is made up of four associations who, in turn, have members that range from very small staffing businesses to large national and multinational corporations. Through these associations, it represents over 1,200 staffing businesses, which employ an estimated 10,000 permanent employees and provide an estimated daily average of more than one million temporary (TES) workers to user enterprises.

CAPES, as well as its member associations, play an active role in the National Economic and Development Council (NEDLAC), which is the main statutory body for social dialogue. It does this through business organizations such as Business Unity South Africa and the Black Business Council. CAPES is also, through its largest member, the Federation of African Professional Staffing Organizations (APSO), affiliated to the International Confederation of Private Employment Agencies (CIETT),

In addition to APSO, CAPES’ other member associations are the Allied Nursing Association of South Africa (ANASA), the Constructional Engineering Association (CEA) and the Information Technology Association of South Africa (ITA).

Members of CAPES and its member associations appear to serve user enterprises in virtually all sectors of the economy. However, a CAPES representative as well as a representative of one of the larger domestic work agencies agreed that very few, if any, domestic worker employment agencies were members of CAPES affiliates. The number of domestic work agencies in the country is unknown, as is the number of those that make permanent placements and those that operate as TES. A large established agency contacted for this study has been operating for 15 years, and provides both types of service. On the TES side, one branch of this company alone employs about 45 permanent workers who are assigned to different workplaces on a daily basis (Kate Shuttleworth, personal communication, June 2013). Other smaller and less established companies may be less likely to employ workers permanently in this way. Private employment agency involvement in the domestic work sector probably merits a separate study, but is not considered further in this report.

In addition to the member associations, CAPES has several large corporate members, namely Adcorp Holdings, Express Employment Professionals, Gulf Contract Labour Hire, Kelly Group, Phakisa Holdings, Primeserv Group, Stratostaff, Transman, and Workforce Holdings. Several of these companies – Adcorp, Kelly, Primeserv and Workforce – are listed on the Johannesburg Stock Exchange. Others are private companies, which limits the amount of information that is publicly available. Transman is the largest unlisted independent company. Yet others are international companies that have limited public reporting on their South African operations. Express Employment Professionals, for example, is an international franchise, while Adecco is a multinational company.

The CAPES Code of Conduct says very little about employees. However, the CAPES website details the legal rights of TES employees, including the right to a written contract, annual, sick and family responsibility leave, allowances for night work, and higher rates of pay for overtime and work on public holidays and Sundays. It also notes that employers must make deductions and contributions in line with the Unemployment Insurance, Skills Development Levies and Compensation for Occupational Injuries and Diseases Acts. This information is provided to inform affiliated companies both as to their obligations and as to the percentages they should add to charges to clients to cover the various rights and obligations.

CAPES has introduced several initiatives that aim to promote the well-being of TES workers and address the criticisms levied against TES. In 2009 CAPES developed the CAPES Provident Fund. TES workers who are not covered by bargaining council retirement funds are offered the option of joining this fund, which preserves their savings over periods during which they are unemployed. CAPES and its affiliates do not contribute to the fund on behalf of workers, but offers the opportunity of membership. The fund currently has more than 4,000 members. It suffers from the same challenge as the medical fund established by Kelly and discussed below, namely that such funds are not designed for workers who are employed intermittently as they require regular monthly deductions from earnings.

CAPES has also collaborated with the Federation of Unions of South Africa (FEDUSA) in establishing the world's first dedicated call centre for temporary workers. The call centre is discussed further below under FEDUSA, as the latter plays the lead role in its operations.

Federation of African Professional Staffing Organizations (APSO)

APSO was established in 1977, with the aim of promoting professionalization and regulation of labour recruitment in South Africa. APSO has close to 800 companies as members, and thus accounts for nearly two-thirds of CAPES members. Some members are, however, also members of one or more of the other CAPES member associations. APSO operates as the secretariat for CAPES.

Allied Nursing Association of South Africa (ANASA)

ANASA was established in 1994 under the auspices of the then South African Nursing Association. The scope of its 20 member agencies extends beyond professional nurses to auxiliaries and other care workers. Some of the member agencies also place locum dental assistants, pharmacy assistants and administrative staff. Clients include private and public hospitals, old age homes, frail care units and private homes. The association's Code of Ethics includes fair practice procedures in disciplinary and grievance procedures. As with the other associations, TES operating in the health sector are not obliged to join ANASA.

Constructional Engineering Association (CEA)

CEA is one of 39 associations that form part of the Steel and Engineering Industries Federation of South Africa. CEA's members operate in the structural, mechanical, electrical, instrumentation, piping and project management fields of the engineering industry. The website notes that most companies involved in this field "rely on flexible workforce arrangements, most often managed by labour broker service providers". On 9 June 2013 the Association's home page contained an article on "Compliant Labour Broking". CEA sees its role as ensuring compliance with bargaining council agreements and sectoral determinations.

The CEA has two divisions, the Labour Broking Division (LBD) and the Temporary Employment Services Division (TES-D).

The LBD was established by 13 labour brokers in 1949. Bamu (2009) reports that by 2009 its membership had increased to 168, but these members still covered less than half of the labour brokers operating in constructional engineering. In June 2013 the CEA website stated that the CEA had 61 members. This sharp decline may be partly explained by the decline in the engineering industry as a whole since 1990, which is also reported on the CEA website. The decline may also, in part, reflect the impact of the controls placed over labour broking in the industry.

To become a member of the CEA, a labour broker must itself register with the Metal and Engineering Industry Bargaining Council (MEIBC). In doing so, it becomes subject to the collective bargaining agreements. Existing members must vote in favour of a labour broker being granted membership. Where a member subsequently contravene the law, the CEA and LBD apply pressure to get the member to comply. The association could, ultimately, expel members who continue to contravene the law but has not, to date, done so.

TES-D was established in January 2003. Its members supply "white collar" workers, such as draughtspersons, engineers, technicians and project managers. These workers are not covered by the bargaining council agreement.

Information Technology Association of South Africa (ITA)

ITA was founded in 1934 (under a different name) and serves as the official trade and employer body of the Information Technology Industry in South Africa. Its scope thus extends beyond employment issues.

ITA established ITA Recruitment Consultancy Services (ITARCS) to address issues related to recruitment and contracting issues, with a focus on the Labour Relations Act and other employment legislation. Members of ITARCS are bound by a Code of Conduct which aims to protect both workers and clients. The ITA did not respond to requests that it provide information for this research.

Individual companies

Adcorp encompasses a range of divisions, covering different types of workers and/or industries. It is acknowledged as the largest TES provider in the country, and employs approximately 80,000 TES workers daily. Adcorp currently accounts for an estimated 10-11 per cent of all TES employees, slightly down from the estimated 12 per cent a year or two ago. This would imply that approximately 800,000 or fewer TES workers are employed in the South African economy each day.

Within Adcorp's operations, blue-collar workers are covered by Capacity Outsourcing, Capital Outsourcing, Staff-U-Need, and Employrite. Blue collar is broadly defined, as Charisma's focus, according to Adcorp's 2012 annual report, includes professional nursing staff. White-collar workers are covered by Paracon and Mondial (both of which focus on ICT), Allaboutxpert, the Personnel Concept, Quest, DAV, Premier, and Adcorp Search Partners (which focuses on executives). While both the blue- and white-collar operations encompass services in respect of permanent and temporary staff, the descriptions of the divisions suggest that temporary placements are more common for blue than for white-collar workers. The 2010 annual report notes further that the blue-collar businesses were the largest contributors to the Group's profitability.

In an interview, an Adcorp representative claimed that more than three-quarters of Adcorp's TES workers are covered by bargaining council agreements (Loane Sharp, personal communication, June 2013). This seems difficult to understand given the large spread of TES placements made by the company, combined with the fact that only about one-fifth of all employees in the economy fall under bargaining council agreements.

Like the other large groups, the **Kelly Group** has several different companies or divisions, namely Accountants On Call (temporary and permanent assignments and placements), Executive Secretary Appointments (permanent placements), Frontline Recruitment (financial placements, InnStaff (outsourced services and recruitment), Professional Assignments Group (engineering, technical and ICT sectors), Renwick Talent (executive recruitment) and Sizano Staffing Services (permanent and temporary contract from entry level to junior management).

One of the listed objectives in the Kelly Group's annual report for 2012 is to "positively impact the long term sustainability of its society and the communities in which it operates, promoting decent work and targeted socio-economic development initiatives". Elsewhere, the annual report states that the Group "has adopted and actively supports the four pillars of decent work throughout all operating divisions." Of the annual reports considered for this report, it was the only one to have decent work as an objective. The report also refers to engagement with trade unions "to develop a positive relationship and facilitate wage and benefit discussions". Another objective of the group, which may at times conflict with the decent work aspirations, is to "achieve and improve upon the lowest cost position in all its key client segments".

Kelly is currently implementing a turnaround strategy that involves closure of some branches as well as some retrenchments. In 2012, it had 838 permanent internal employees in South Africa, and 18,044 temporary employees. Despite the retrenchments, the number of temporary employees provided with temporary work in 2012 was larger than the 17,202 provided with temporary work in 2011.

Kelly offers temporary employees membership of the Umvuzo Medical Aid Scheme. This is a "capitated" scheme, which means that workers can only become members through an employer group, but membership is not confined to Kelly employees (Grace Mbedzi, personal

communication, June 2013). The medical scheme has three levels of coverage, and workers choose both whether they want to join the scheme and, if so, what level of coverage they want. The scheme works with a network of hospitals and medical practitioners, which reduces the cost of accessing health services. Kelly does not make monetary contributions, but does channel the worker's contributions to the scheme. The scheme is not appropriate for workers who have short-term contracts as membership lapses when the contract of employment with the participating employer ends. At the time the research was done, approximately 100 Kelly employees were members of the scheme. The largest group of members were non-South Africans working in an IT company's call centre. The scheme is attractive to these workers as the Department of Home Affairs requires that foreign workers have medical cover before it will issue a work permit. The average age of members from Kelly is 27 years.

Kelly also offers both permanent and temporary workers, their spouses and children The Personal Protection Cover, which provides immediate support in the event of exposure to HIV/Aids. Workers are not required to make any contributions towards this benefit.

Primeserv HR Services is the operating pillar for the **PrimeServ** Group. Primeserv HR Services encompasses (a) Human Capital Development, which in turn consists of (i) Primeserv HR Solutions and (ii) Primeserv Colleges and (b) Primeserv Outsourcing. The Group's website (<http://www.primeserv.co.za/>) names Primeserv Outsourcing (which focuses on TES) as the largest component of the Group.

Primeserv's operations cover "20 broad industry bands, across more than 70 job categories". The job categories range from semi-skilled general labourers to highly skilled white collar and specialist workers. It has up to 20,000 contract staff in the field at any time, and it boasts a database containing over 70,000 "skilled, trained and fully screened" individuals. In 2012 the Group had 387 permanent internal employees.

Workforce Holding's annual report for 2012 places the company "at the forefront of the temporary employment services sector in South Africa for over four decades." The group's companies provide "employer-centric solutions" both within South Africa and beyond. On the worker side, the group sees itself as "introducing" workers to the job market, in that they (and particularly first-time jobseekers) can start off in "atypical" employment and use the skills obtained to move on later to other work.

The group has eight divisions under staffing and recruitment, namely Workforce Staffing, Fempower, Workforce Worldwide Staffing, Accotech, Only the Best, Teleresources, and Albrecht Nursing Agency. Only the Best, Teleresources, Fempower and Accotech provide permanent placements. A wide range of industries are served, including agriculture and the public sector.

During 2012, Workforce's internal permanent staff reduced from 999 to 942. Non-permanent staff, of whom most or all would be TES workers, totalled 22,614 in the company's Employment Equity report.

The **Adecco** Group is an international company, that operates in South Africa and that describes itself in its annual report for 2012 as the world "leading provider of HR solutions". The Group has 32,000 (internal) full-time equivalent employees and is responsible for approximately 700,000 "associate assignments" (i.e. TES placements) to more than 100,000 clients each day. Emerging markets, among which South Africa would be included, account for only 9 per cent of the company's revenue.

As noted above, companies that provide cleaning and security services are not considered to be TES. However, some of the companies that provide standard recruitment and placement and TES services also provide outsourced services. Both Prestige and Servest, for example, are important providers of contract cleaning services. The cleaning sector has its own representative association, the National Contract Cleaners Association. The Security Association of South Africa serves as a member organization for the sector but does not focus exclusively, or even primarily, on employment issues. The private security industry is regulated by the Private Security Industry Regulatory Authority.

Trade unions

Congress of South African Trade Unions

The 2009 Election Manifesto of the ruling African National Congress (ANC) (quoted in Benjamin et al, 2010) committed to the introduction of “laws to regulate contract work, subcontracting and out-sourcing, address the problem of labour broking and prohibit certain abusive practices ... in order to avoid exploitation of workers and ensure decent work for all workers as well as to protect the employment relationship.” The manifesto commits to introducing provisions “to facilitate unionization of workers and conclusion of sectoral collective agreements to cover vulnerable workers in these different legal relationships and ensure the right to permanent employment for affected workers.”

The Congress of South African Trade Unions (COSATU), which is the major union federation in the country, is in an alliance with the ANC. COSATU is the federation which, both as a federation and through its members, has been most vocal about private employment agencies. Its attention has focused on TES, with almost no attention paid to recruitment and placement services of such agencies.

The most recent organizational report of the federation (COSATU, 2012), prepared for its 2012 Congress, attests to the attention the issue of labour broking receives within the affiliates as well as within the federation as a whole. COSATU initiated the campaign against labour broking in early 2010, and it remains one of the organization’s ten priority campaigning. Activities related to labour broking included mobilization of members as well as participation in parliamentary public hearings. In the latter, COSATU argued for banning rather than regulation of labour broking. The federation argues that regulation is not appropriate because the Department of Labour is not able to enforce even existing legislation. In March 2012, COSATU coordinated a national strike on the two issues of labour broking and e-tolling². This was reportedly the largest national strike in the history of the country.

COSATU’s organizational report provides evidence of action against labour broking at the local branch level of the affiliate, including action in QwaQwa in Free State province, Jan Kempdorp, Kuruman and Noupoot in Northern Cape, Witbank and Middelburg in Mpumalanga, and Rustenburg and Moses Kotane in North West province. The report also refers to strikes related to specific cases of labour broking in at least five affiliates – Chemical,

² Electronic tolling system that allows for South African road tolls to be collected without vehicles having to stop or slow down at toll booths.

Engineering, Paper, Printing, Wood and Allied Workers Union (CEPPWAWU), Communication Workers Union, Food and Allied Workers Union (FAWU), National Union of Mineworkers and the South African Transport and Allied Workers Union (SATAWU).

COSATU's collective bargaining conference of March 2013 confirmed that the banning of labour brokers was a "central demand". More specifically, it demands that labour broking not be allowed "from day one of employment" rather than only after six months, as envisaged by the ANC and in the Employment Services Bill (COSATU, 2013).

Benjamin et al. (2010) suggest the following reasons for the unions' felt need to amend legislation in respect of TES, in particular:

- Concerns about the extent to which decent work can be achieved in atypical employment arrangements;
- Differences in wages and benefits available to atypical workers compared to those of permanent workers doing similar work;
- Lack of access to benefits such as medical aid, pensions, and maternity leave for atypical workers;
- Limited access to training opportunities for atypical employees;
- Insecurity of temporary work;
- Use of TES for workers who work in the same company for a lengthy, or even indefinite, period;
- Reported abuses of labour legislation by some TES and/or employers;
- Dismissals of TES workers without following proper procedures and, in particular, the ability of a client to instruct the TES to replace a particular worker;
- Low rates of unionization among TES workers;
- Limited application of bargaining council agreements to TES workers;
- TES contracts that exclude the right to strike or to join a union.

Elsley & Petersen (2013) records specific instances of difficulties related to labour broking reported by organizers and shop stewards surveyed by the Labour Research Service (LRS). One-on-one interviews were conducted with participants in the COSATU Western Cape organizers' forum, the "Organize locally Organize Globally" workshop hosted by LRS and the COSATU collective bargaining and organizing conference held of March 2013.

Elsley & Petersen's interviewees reported widespread use of TES staff in construction, health care (caregivers and part-time nurses), retail and wholesale trade, telecommunications (call centres), and manufacturing (in particular paper). In at least some of these cases, workers reported that permanent workers were being replaced by TES workers. Further, in manufacturing and retail, TES workers worked alongside permanent workers who did the same jobs but with very different conditions of employment. Unions experienced difficulties in organizing TES workers, as employers objected that they were organizing across sectors. When employers conceded on the scope issue, workers were shifted to other sites to "nullify their membership".

Federation of Unions of South Africa (FEDUSA)

FEDUSA, which is the second largest federation, has taken a less oppositional stance in respect of TES. It has collaborated with CAPES in trying to address challenges arising from the practice. In particular, it entered into a memorandum of understanding that provided for a call centre which TES workers could use when they had problems. The call centre is managed by

UASA – The Union (formerly United Association of South Africa), a FEDUSA affiliate, but offers services to all TES workers regardless of affiliation (Leon Grobler, personal communication, June 2013).

The person who services complaints received by the call centre was provided with training by Kelly and Transman. For the first 18 months, UASA and CAPES met on a two-monthly basis to analyse the trends in complaints and deal with the underlying problems. The questions raised by callers related most commonly to what would happen when the contract ended, whether payment and deductions were correct, whether workers were being charged for placements, and contract termination. There were also some cases in which workers were prevented from joining trade unions, and others in which an agency required that workers be paid through a particular financial institution, which offered products at a discount. The collaboration with CAPES assisted in liaison with the employment agencies concerned, and in some cases solutions were achieved that gave workers rights beyond those enshrined in the law. The call centre continues to operate. There are no longer bi-monthly meetings with CAPES, but there is an unwritten agreement that UASA can approach CAPES if problems concerning CAPES' affiliates persist. At the time this research was done, the call centre was receiving 25-30 calls each month.

4. The current status: quantitative evidence

While there is widespread agreement that a large number of workers are employed by temporary employment agencies in South Africa, and that the number has grown over time, there is similarly widespread agreement that the available numbers are estimates based on various assumptions rather than more reliable “counts” of the phenomenon. The situation is even more imprecise in respect of the number of workers placed by employment agencies, in part because this aspect of the work of the agencies has been much less contentious than the TES work.

Given the lack of reliably accurate estimates, this section of the report is organized according to the different sources. This approach allows description of the methods used to derive the different estimates and thus helps point to potential biases. The section ends with a description of the results of the on-line survey of CAPES-affiliated agencies undertaken for this study.

In terms of potential subjectivity, both the employment agencies and unions might tend to bias numbers upwards. The employment agencies might do so to emphasize the importance of their contribution to employment and thus the dangers in restricting the practice of TES, in particular. The unions might do so to show the extent of a practice which they strongly oppose. Sharp (2009) criticizes research commissioned by the Department of Labour in the mid-2000s for their small, non-random samples (typical of qualitative research) and the fact that they focused on sectors in which TES (and/or outsourcing) was believed to be most prevalent. This observation could probably be generalized to a statement that research and information on TES is likely to be more available for sectors where it is perceived to be prevalent than for those where it is not. This limits the extent to which available information can be extrapolated to the economy as a whole.

A further factor that might lead to inflated numbers is that many people and many commentators conflate outsourcing and labour broking; this is an important problem, and researchers’ estimates of labour broking might include the former. Factors that could result in under-estimation include the hidden nature of the practice, where in some cases workers employed by TES do not recognize that this is the case. The fact that TES workers are largely unorganized could also result in under-counting.

Statistics South Africa

Statistics South Africa (Stats SA) does not itself currently produce estimates of the number of workers placed or employed by temporary employment agencies. However, Stats SA’s statistics have and can be used to derive various estimates.

For the period 2000 to 2007, the Labour Force Survey (LFS) was the primary official source of labour force estimates. The questionnaire for this survey included a question that was asked in respect of all employees, asking who paid the worker concerned. The available answers were (a) the establishment/ enterprise / individual for which he/she works; (b) a labour broker; (c) a contractor or agency; (d) other; and (e) don’t know.

The final LFS survey, conducted in September 2007, provided an estimate of 11.0 million employees in the country, of whom 37 thousand (0.3 per cent) were reported to be employed

by a labour broker, and 274 thousand by a contractor or agency. Most commentators would agree that these estimates were far too low.

The Quarterly Labour Force Survey, which replaced the LFS, does not include a similar question. Benjamin et al. (2010) instead use the industry classification recorded for all employed people. More specifically, they used industry code 889, which covers labour recruitment and provision of staff, private and temporary employment services and agencies, and business activities not elsewhere classified. Using this code, they arrived at an estimate of more than 600,000 workers in 2007.

A similar exercise on the fourth quarter datasets for 2008 through 2012 shows that the number tends to increase from year to year, reaching over 865,000 in 2012. The only exception to the steady increase is for 2009, where the number recorded is close on 883,000. For each of the years a little over a quarter of the workers recorded for the industry are elementary (unskilled) workers.

Further exploration of the 2012 fourth quarter data suggests that the 889 code is not a good proxy for TES. Over two-fifths (44 per cent) of the workers recorded in this industry are security guards and 15 per cent are cleaners in offices, hotels and the like. Thus more than half of the workers captured are outsourced rather than PES employees. Many of the remaining workers, who span a large range of occupations, are presumably internal employees of the employment agencies rather than workers placed elsewhere. While over nine in ten (93 per cent) of the workers are employees, 59 per cent of the employees are recorded as having permanent contracts, 22 contracts of limited duration, and 19 per cent contracts of unspecified duration.

Examination of the QLFS questions used to determine industry coding confirms that these questions would not yield a reliable estimate of PES employees. The two questions read as follows.

4.3a What is the name of the establishment / institution /business / organization that you work for (the one that pays your salary)?

4.3b What are the main goods or services produced at your place of work or its main functions?

If a worker is placed by a TES in a factory, the response to the first question should give the name of the TES, while the response to the second question would probably reflect the work of the factory. Stats SA relies primarily on the second question for coding of industry (Susan Steyn, personal communication, June 2013).

Analysis by Tregenna (2010) uses Stats SA datasets to show that about a fifth of the substantial increase in employment in private services between 2001 and 2007 can be explained by companies in other sectors having outsourced their cleaning and security services. When this is the case, the workers concerned move from being recorded in the other sector to being recorded under financial services, although the nature of the work performed does not change materially. This analysis is useful for identifying outsourcing, but less useful for identifying TES.

Grotepass (2012) compares the employment estimates by industry produced by the LFS and QLFS over the period 2000 to 2011 with those produced by the Quarterly Employment Survey

(QES) and its predecessor the Survey of Employment and Earnings. These two exercises survey non-agricultural formal sector³ establishments. Unlike the QLFS and LFS, in the establishment surveys one can expect respondents to report accurately on industry. For example, while the TES worker placed in a factory is likely to say their workplace is in manufacturing and have their industry categorized in this way, in the QES the respondent would know that they were responding for the TES company, and that this falls within the financial and business services sector.

In analysing the LFS and QLFS data, Grotepass confines the analysis to employees in the non-agricultural formal sector. Overall, she finds that the employment totals from the two surveys are very similar at the aggregate level. However, disparities arise when the estimates are disaggregated by industry. Grotepass finds that the QLFS and LFS estimates exceed the QES and SEE estimates in all industries except for mining and financial and business services industries. In all other cases the QLFS records larger numbers of employees than the QES. The largest differences between the household and establishment surveys occur in the construction industry (where the differences is more than 340,000 at one point), and the transport industry (with a maximum difference of close on 270,000). The disparity is particularly large for construction after 2008. The disparity for mining can be explained by the fact – acknowledged by Stats SA – that sampling of worker hostels can produce biased estimates. The other patterns – undercounting by the QLFS of workers in the financial and business services industry and over-counting of workers in construction and transport – is likely, at least in part, to reflect TES workers.

There is also a relatively large difference between the two sources for the wholesale and retail trade industry. The disparity for this industry becomes smaller when the QLFS estimates include only those employees whose employers deduct income tax on their behalf and who have income above the tax threshold. This could reflect a relatively large number of low-paid workers, some of whom might be TES workers, in this industry.

The QLFS is not especially helpful in respect of placement activities of private employment agencies. The QLFS does not ask by what means workers obtained their current jobs. It does, however, ask of unemployed people what methods they used over the past four weeks to search for work or start a business. The first pre-specified option offered for this question is “waited/registered at employment agency/trade union”. The first weakness of this question for our purposes is that it is not possible to separate out those who registered at an agency and those who registered with a trade union. The second weakness is that it relates to people who have not yet found jobs rather than those who are currently employed.

In the fourth quarter of 2012, 492 thousand unemployed people – 11 per cent of the total – were recorded as having registered with an agency or trade union. There were no clear patterns in utilization of the agencies or unions on the basis of the length of time for which people had been unemployed, or on the basis for the length of time during which they had been actively seeking a job. In terms of previous industry for those with previous employment, mine workers were most likely to have registered with an agency or union, and agricultural workers least

³ The term “formal sector” is used here in the sense defined in the 1993 resolution of the International Conference of Labour Statisticians i.e. to refer to formal enterprises. This is different from the meaning implied by the terms informal or informal “economy” or “employment”, which also includes waged work in unprotected jobs. The ILO tends to use the term “sector” for more distinctive and well-delineated categories of industries, and to use the term “informal economy” or “formal economy” rather than “informal sector”. Likewise the term “private employment agency industry” is used, as the word “sector” is inappropriate to refer to such a cross-sectoral industry.

likely. In terms of occupation, those who previously had higher-skilled occupations (apart from managers) were somewhat more likely than the less skilled to have registered with an agency or union. By population group, African unemployed people, followed by white, were noticeably more likely to have registered than coloured or Indian, but there was little difference between male and female unemployed.

The QLFS also contains a question relating to the duration of the written contract or verbal agreement with an employee. The three response options for this question are (a) limited duration; (b) permanent nature; and (c) unspecified duration. Adcorp and others commonly use this question to determine the extent of temporary employment in the country. The first challenge when this is done is the assumption that workers have a copy of their (written) contract if it exists and/or know what it says. The second challenge is how to classify those who chose the third option. Legally, if a contract does not specify the duration, the contract is arguably of a permanent nature. However, some of these responses might come from people for whom the duration is specified in terms of completion of a task rather than a period of time. Further, those for whom the third response is given might include large numbers of people who have little certainty about their employment security. This assumption is borne out by the fact the 70 per cent of those who are reported to have contracts of unspecified duration have verbal agreements rather than written contracts, whereas this is the case for only 4 per cent of those with permanent contracts and 12 per cent of those with limited duration contracts. However, one could also argue that people placed by TES should have written contracts, so one cannot assume that a large number of those with unspecified duration agreements are TES workers. It is thus arguably problematic to combine those who say that they have limited duration contracts and those with contracts of unspecified duration into a single category of “temporary” workers and use this as an indication of the growth or otherwise of TES work. This conflated estimate of “temporary” workers is, however, used by Adcorp and others.

In the fourth quarter of 2012, the first round of the QLFS, 14 per cent of employees were reported to have limited duration contracts, 64 per cent to have permanent contracts, and 23 per cent to have contracts with unspecified duration. In absolute terms, the numbers were 1.6 million, 7.4 million and 2.6 million respectively. In the first quarter of 2008, the first round of the QLFS, 62 per cent of employees were recorded to have permanent contracts, 12 per cent to have contracts of limited duration, and 27 per cent contracts with unspecified duration. These figures do not suggest an increase in non-permanent employment.

In the fourth quarter of 2012, women accounted for 47 per cent of limited duration employment, 43 per cent of permanent employment, and 48 per cent of those with contracts of unspecified duration. In 2008, similarly, women were noticeably less likely than men to be in employment with a permanent contract. This might mean that women are more likely than men to be TES workers, but this cannot be claimed with any certainty. The mean age of the different categories of employees was 39 years for permanent employees, as against 34 years for those on limited duration contracts and 36 years for those on contracts of unspecified duration.

In terms of occupation, managers were most likely (91 per cent) to have permanent contracts, and domestic workers (26 per cent) and skilled agricultural workers (33 per cent) least likely. Among non-domestic elementary workers, 44 per cent had permanent contracts. In terms of industry, permanent contracts were most commonly reported in mining (93 per cent) and least commonly in private households (24 per cent) and construction (40 per cent). The fact that permanent contracts are reported for such a large percentage of mining workers is surprising

when foreign workers, who still account for a substantial proportion of the industry's workers, cannot legally be given permanent contracts.

Employer bodies

CAPES and APSO, as the lead agencies, constitute important sources of statistics on the work of employment agencies. However, a CAPES representative explained that one of the reasons for poor internal information was that the majority of their members were small and did not have the resources to collect and report the information. In addition, many members were reluctant to share information because of the high degree of competition in the sector.

The two agencies therefore rely heavily on estimates generated by Loane Sharp, the Adcorp official who, among others, produces the monthly Adcorp Employment Index. Adcorp, CAPES and APSO are therefore discussed here as a single source.

Recent estimates from the South African TES industry are included in CIETT's 2013 publication "The Agency Work Industry Around the World". The publication focuses on TES rather than employment agency broadly defined, and the term "agency work" is, in fact, the one favoured by Sharp for referring to TES workers. Sharp argues, in particular, that the term "labour brokers" is problematic as it suggests that there are similarities between current practices and poor practices that were prevalent during the apartheid years.

The South African estimates for the CIETT publication were provided by CAPES, which in turn drew on estimates produced by Sharp as well as estimates produced by Topline Research Solutions in work commissioned by the SSETA. (The Topline research is discussed further below.)

Sharp's employment and unemployment estimates have been criticized by academic economists. In particular, Kerr and Wittenberg (2012a; 2012b) have questioned his estimates of the "unofficial" sector (employment not counted by Stats SA) and Van der Berg (2013) has challenged his claims that unemployment stands at only around one million people as well as his, somewhat contradictory, claim that 600,000 university graduates are unemployed. The employment series that Sharp makes available on types of employment and occupational and industry breakdowns also has different employment totals for the occupation and industry breakdowns. These criticisms are probably not of direct relevance for our purposes as it seems that, despite his criticisms of Stats SA, Sharp relies on Stats SA's employment estimates and data in generating his estimates of TES workers. The criticisms are nevertheless noted here to alert readers to possible inconsistencies in the estimates for private employment agencies.

Sharp does not make the details of his methods publicly available. However, in an interview he explained that the estimates are based on both the number of people not in permanent employment (for which his numbers more or less match those of Stats SA), an estimate of the number of TES workers produced by the National Association of Bargaining Councils in 2010 on the basis of information from 14 bargaining councils, and the profile and trends found within Adcorp's own operations. Sharp acknowledged in the interview that his estimates are only as good as the underlying data and assumptions that he uses (personal communication, June 2013).

A final difficulty with Sharp's estimates, related to lack of clear explanation of methods, is that he sometimes uses terms differently from how they are used by Stats SA and other labour analysts. Further, usage of the different terms does not always seem to be consistent within and across his own work.

In 2009 he produced a paper (Sharp, 2009) to inform the position of the Business Unity South Africa (BUSA) Social Policy Task Team on atypical employment. The paper cites CAPES as reporting that there were 3,140 registered and an estimated 2,000 unregistered employment agencies in South Africa at that point. (These estimates presumably refer to registration with the Department of Labour.) Sharp reported that approximately one fifth of the agencies offered permanent recruitment services; 70 per cent offered TES services, and the rest offered a combination. These estimates, which give a total of about 3,600 TES, contrast sharply with the more than 6,000 companies which Benjamin et al. (2010) estimated to be offering TES services in the country. They are also much higher than the Department of Labour's own records for 2013 (of about 980 agencies) shown in Table 4 below.

Sharp estimates that in 2008 the daily average headcount of TES employees was 902,350 (33 per cent) of a total of 2,739,315 "contract" (or temporary) employees. (Sharp states that he prefers the term "contract employment agencies" to the term TES, but at other points uses the term "contract employees" to refer to all temporary employees rather than only those employed by TES.)

He notes that the percentage of non-permanent employment ranges widely across sectors, but is not able to provide sectoral estimates for TES workers rather than for non-permanent workers as a whole. His 2009 paper notes further that figures provided by CAPES suggest that more than 32 per cent of all temporary employees would have secured permanent jobs within 12 months and 47 per cent would have done so within three years. It seems from the paper that these estimates again relate to temporary workers as a whole rather than TES workers. However, in an interview Sharp said that these estimates were derived by Adcorp through its tracking system, which tracked workers that they placed in permanent jobs. If this is the case, the estimates may not relate only to TES workers but rather to all Adcorp applicants, including those only interested in permanent employment.

Sharp observes that private employment agency sector or industry is dominated by small-scale enterprises, and that JSE-listed South African and unlisted multinational employment agencies manage only about 15.5 per cent of TES workers.

The subsequent monthly Adcorp Employment Index reports give periodic estimates of the number of TES workers. One of the early mentions was in March 2010 (Adcorp, 2010a), when the Index reported a total of 872,076 TES workers. This, it seems, was based at least in part on SSETA data.

The November 2010 Adcorp Employment Index (Adcorp, 2010b) announced a 10.6 per cent upwards revision of the number of "agency workers" (i.e. TES employed) from the 883,227 (or 879,134 recorded elsewhere in the report) to 976,418. If the increase is calculated against the number reported in Sharp's 2009 report, the increase falls to 8.2 per cent. The relatively large increase is reported as being based on new data made available by the National Association of Bargaining Councils (NABC). The NABC estimates led Sharp to believe that there were close on 100,000 more TES workers than previously estimated. This does, however, conflict with the simple calculation based on Adcorp's daily 800,000 workers and the statement that the company accounts for 10 or 11 per cent of the market.

The NABC estimates were derived from 14 of the then 51 active bargaining councils in the country. Sharp extrapolated from this information to arrive at an estimate of 976,418 TES workers in the country as a whole. (The report, seemingly incorrectly, states that this estimate

covers workers in the bargaining council system as a whole.) However, the NABC did not provide details as to which of the 14 councils provided estimates (Loane Sharp, personal communication, June 2013). The extrapolation could therefore not take into account the likely prevalence of labour broking in different sectors.

Using the new higher estimate, Sharp estimated that TES workers accounted for 6.8 per cent of total employment and 23.2 per cent of temporary workers. He stated further that TES work was the fastest-growing segment of the South African labour market. However, it is unclear how growth rates were derived if the previous estimates were incorrect.

In February 2011 (Adcorp, 2011), the Adcorp Employment Index reported that TES workers accounted for 7.6 per cent of the total “formal sector workforce”⁴ – rather than “total employment” as reported in the earlier Index.

In May 2013 (Adcorp, 2013), the Adcorp Employment Index reported that the TES sector was the only sector – apart from informal enterprises – that created jobs in the month. It stated that the number of TES workers now exceeded one million, accounting for 25.3 per cent of all temporary (or non-permanent) workers. The latter, in turn, accounted for 30.7 per cent of workers in formal enterprises. TES workers thus accounted for 7.8 per cent of “total employment” in South Africa.

Sharp has also used the data sources available to him to develop a profile of TES workers. In 2010, he reported – seemingly from Adcorp tracking data – that 93 per cent of TES workers were previously disadvantaged (i.e. they were not white), 83 per cent were aged less than 35, and 57 per cent had never previously been employed. In December 2012 (Adcorp, 2012), the Index reported that TES workers spend 90 days on average looking for work compared to 806 days for “the average South African job seeker”. The 90 days is derived from Adcorp’s own database while the 806 days is estimated from the QLFS question which asks how long unemployed people have been looking for work (Loane Sharp, personal communication, June 2013).

In May 2013, the Adcorp Index reported that 28 per cent of temporary workers obtained permanent work within 12 months and 37 per cent within three years. Again, these estimates relate to temporary workers as a whole. Over half of temporary workers are said to have this as their first job, with 81 per cent aged 18-35 years and 94 per cent “from previously disadvantaged backgrounds” (i.e. not white).

As noted above, the South African estimates for the **CIETT** publication were provided by CAPES, drawing on estimates produced by Sharp and Topline Research Solutions. The publication estimates that, internationally, private employment agencies employ 12.4 million agency workers if a full-time equivalent measure is used.

The estimates presented for South Africa, reflecting the situation as at 2011, include the following:

- 2,684 agencies of the 140,000 private employment agencies in the world, placing South Africa eighth out of 39 in terms of number of agencies;
- 4,827 branches of agencies of the 179,000 branches internationally, placing South African seventh as regards branches;

⁴ See previous footnote

- 31,500 internal staff of 863,000 world-wide, at seventh place;
- One of the top nine countries in terms of earnings of companies in the agency industry or sector;
- Daily average of 1,003,837 full-time equivalent workers, fifth highest of 43 countries;
- Total of 1,853,238 individuals who did TES work in 2011;
- Slightly more than 50 per cent of TES workers are female;
- 30 per cent of the TES workers have not completed secondary education, while about 6 per cent have completed tertiary education;
- About 12 per cent have contracts of more than three months, and about 43 per cent contracts of less than one month
- 60 per cent of people entering agency work in South Africa were previously unemployed, while after one year of agency work only 8 per cent returned to unemployment.

The CIETT report suggests that South Africa is an outlier on the following further measures:

- The CIETT publication records a penetration rate (calculated by dividing the total working population by the number of agency workers) of 7.2 per cent for South Africa in 2011. The next highest rate is recorded for the United Kingdom (3.6 per cent), followed by Australia (2.8 per cent) and Netherlands, Ireland and France. All other countries have estimates at or below 2.0 per cent. CIETT was reportedly reluctant to publish the South African penetration estimate because it was so different to those for other countries. A table showing the South African rate over the period 2005 to 2011 shows a sharp jump from 3.4 per cent in 2008 to 6.4 per cent in 2009. Sharp explains that the estimates before 2008 were derived by APSO, whereas those from 2008 onwards were derived by himself for the Adcorp Employment Index (Loane Sharp, personal communication, June 2013). The estimates for some of the other countries in the index show decreases in penetration over time, and some show increases. None shows the same sharp increase portrayed for South Africa.
- South Africa is also noted in the publication as an outlier in terms of age, with over 90 per cent of agency workers reported to be under 30 years of age. The graph suggests that 12 per cent of workers are under 21 years, and more than 50 per cent under 25 years. Other industry estimates referred to above differ from those shown in the CIETT publication.
- South Africa has the lowest percentage of all countries shown for temporary jobs reported as requiring low skills, at 8 per cent.
- Nearly two-fifths (39 per cent) of workers are reportedly placed in companies with 1-9 employees, a much bigger percentage than any other country shown.
- Four-fifths (81 per cent) of workers remain in employment after one year of agency work – higher than any other country.

The **Topline Research Solutions** research (2010) is described in this sub-section as, while it was commissioned by SSETA, the presentation on the report states that its purpose was to inform CAPES policy input at NEDLAC. The findings were based primarily on 110 interviews with members of three of the four CAPES affiliate associations. The fourth affiliate, ITA, did not provide a database so was not able to be included in the survey. Of interest in terms of reliability of the data used in preparing the estimates is the fact that while 90 per cent of contacts on the APSO, ANASA and CEA were found to be up-to-date, this was the case for only 60 per cent of the contacts on the SSETA database.

Four of the interviews conducted by Topline were qualitative, while the remaining 106 were conducted telephonically or through Survey Monkey. The majority (85 per cent) of responding

companies were said to be corporations with the remaining 15 per cent individually owned. Some of the respondents belonged to more than one of the four member associations. Overall, 81 per cent were APSO members, 29 per cent CEA members, 19 per cent ANASA members, and 2 per cent members of ITA.

Unfortunately, the director of Topline was on extended leave at the time the research for this report was conducted, and the questionnaire was therefore not accessible. The findings summarized below are thus derived from two presentations – one an executive summary, and one an extended presentation on the full findings (Topline, 2010a; 2010b). Lack of a questionnaire is unfortunate as findings as reported in bullet points can be ambiguous, especially when multiple choice questions are asked. For example, there is a difference between stating that X per cent of TES companies employ (some) temporary workers who are covered by bargaining councils and stating that X per cent of TES workers are covered by bargaining councils. Overall averages calculated from individual averages reported by different sized companies may also not be accurate if they were not weighted by the size of the workforce of each company.

Topline sent out 1,525 emails and hoped to receive 200 responses. However, the total sample achieved was 106 despite the associations sending reminders. Of the 106 received, some were not fully completed. Combined, those who responded accounted for 268,777 “assignees” (the term used to refer to TES employees) in a month. Elsewhere in the presentation, this is reported as “approximately 300,000”. Topline calculated this as representing 30 per cent of the 902,833 total national average that they found reported in interviews and desk-based research. If Sharp’s estimate of a million is used, the sample covered about 25 per cent of TES assignees.

Some of the key findings of the research were as follows:

- For half the companies, 60 per cent of assignees were first-time work-seekers. However, the presentation also notes that for 57 per cent of companies more than 20 per cent of workers were first timers, implying that for 43 per cent of companies 20 per cent or fewer were first timers.
- Trade union membership averaged 5 per cent, except in nursing, where the percentage was much higher.
- More than half of TES said bargaining councils or forums were in place in (some) of the industries in which they placed assignees. Where this was not the case, wages were decided either on the basis of the market, or in agreement with clients. Almost equal numbers of agencies reported that wages were determined in agreement with the client (46 per cent) or on the basis of the market (44 per cent). Fifteen per cent reported that wages were set through industry negotiations, while 2 per cent said this was done through “experience”. This response suggests that fewer than 15 per cent of workers would probably have had their wage rates set by bargaining councils.
- All (100 per cent) of the companies said that they made contributions in respect of the Unemployment Insurance Fund (UIF) and granted leave to TES workers, while 15 per cent said that (some of) their workers had access to savings and retirement funds, and 12 per cent were said to have access to medical aid. These relatively low numbers are again suggestive in terms of the overall percentage of workers who might have been covered by bargaining councils, as most bargaining councils would provide some form of retirement fund.
- For average length of contract, the presentation reports 32 per cent being for 1-3 months, 22 per cent for 4-6 months, and 26 per cent for 13 or more months. However, it is not clear how this would be calculated if each individual agency has a spread of contracts of differing duration.

- When asked for all the reasons why they assigned temporary workers in a typical month, 70 per cent reported that this was done for contingency reasons such as replacing a worker on leave, 66 per cent said it was for projects such as the FIFA World Cup (held in South Africa in 2010) or stocktaking, 64 per cent said it was to deal with seasonal increases in labour requirements, 61 per cent attributed to the client's desire to outsource, 49 per cent to shift work requirements (especially for nurses) and 9 per cent for other reasons. The report also records that 62 per cent said that temporary workers were assigned because someone wanted to work part time, for example while studying. However, this reason relates to the worker motivation, while the remainder reflect why the client company might have approached the TES.
- When outsourcing was perceived to be the motivation for using a TES, the length of the contract tended to be longer than when other reasons were the motivation.
- Of the total number of estimated placements, 191,217 were reported to be in manufacturing (71 per cent), 21,832 in wholesale and retail trade (8 per cent), 18,745 in nursing (7 per cent), 9,163 in construction (3 per cent), and 6,177 in mining (2 per cent).

In terms of company profile:

- Close on half (48 per cent) reported between six and 20 internal workers;
- Less than a tenth (9 per cent) had been operating for less than five years, 18 per cent for 6-10 years, and 38 per cent for 16 years or longer. This suggests a relatively well-established industry as this type of question brings with it the bias that previously existing companies that have closed will not be reported.

Trade unions

COSATU's most recent organizational report (COSATU, 2012) cites QLFS statistics from the first quarter of 2012 which suggests that 95 of union members have permanent contracts, compared to half of non-members.

The organizational report notes that the COSATU Workers' Survey conducted in the same year similarly indicated that, overall, 92 per cent of COSATU members had permanent contracts. However, the table below shows that the percentage of members in non-permanent positions was substantially lower in some of the unions, namely the South African Commercial, Catering and Allied Workers Union (SACCAWU) which includes retail and wholesale trade in its scope, SATAWU and FAWU.

The survey included the question: "Are you paid by the employer or enterprise where you actually work or by someone else, such as a labour broker or another company, that is not at your place of work?" Response options for those not paid by the employer/enterprise where they worked were labour broker/TES; cleaning, security or other outsourced service company; and subcontractor. The table below shows that 12 per cent of SATAWU members were reported to be employed through third parties, reflecting the fact that the union organizes in the cleaning and security industries. FAWU, at 6 per cent, had the next highest percentage of members employed by third parties. All the percentages except those for mining and the government-dominated SAMWU and NEHAWU are relatively high given that workers employed by third parties are less likely than other workers to be unionized.

Table 1. Prevalence of non-permanent and third party employment by union, 2012 (per cent)

Affiliate	Non-permanent	Employed through third party
Non-unionized workers	39	12
Total COSATU	8	4
South African Transport & Allied Workers Union	11	12
Food & Allied Workers Union	11	6
SA Commercial, Catering & Allied Workers Union	17	4
Southern African Clothing & Textile Workers Union	16	4
National Union of Metal & Allied Workers Union	8	4
National Education, Health & Allied Workers Union	5	2
National Union of Mineworkers	9	1
South African Municipal Workers Union	10	0

Source: COSATU, 2012, p. 15.

The data from the Workers' Survey allow for further exploration of the profile of TES workers. The survey was conducted among primarily urban respondents who were employed in formal enterprises. The sample consisted of two sub-samples – one of union members (whether of COSATU affiliates or of other unions) and one of non-members. The unweighted sample sizes were 2,293 and 737 respectively. Overall, 2 per cent of the unionized workers were reported to be employed by labour brokers, and 9 per cent of the non-unionized workers. These numbers are small, and findings must be treated with caution.

Of the unionized labour broker workers, 30 per cent were female, as against 42 per cent of the full sub-sample of unionized workers. Among the non-unionized, 32 per cent of the labour broker workers were female as against 41 per cent of the full sub-sample. These data therefore suggest that women are less likely than men to be employed by labour brokers.

The mean age of unionized labour broker workers was 35.9 years, somewhat younger than the 40.6 years for all unionized workers, but not as young as suggested by other estimates. Non-unionized workers were slightly younger, but with a smaller age gap between labour broker workers and all non-unionized workers combined, at 31.4 years and 35.9 years respectively.

Table 2 gives the reported earnings category among TES and non-TES workers among unionized and non-unionized workers. Among both unionized and non-unionized, TES workers were more likely to report monthly earnings of less than R2,500 per month. Conversely, TES workers were less likely to report monthly earnings of more than R8,000 per month.

Table 2. Monthly earnings by unionization for TES and non-TES workers, 2012 (per cent)

Monthly earnings before tax	Unionized		Non-unionized	
	TES	Non-TES	TES	Non-TES
Less than R1500 per month	9	4	33	21
More than R1500 but less than R2500	30	13	39	36
More than R2500 but less than R5000	35	24	9	26
More than R5000 but less than R8000	9	21	0	4
More than R8000 but under R15 000	6	19	0	5
More than R15 000 per month	3	10	0	0
Refuse	7	10	19	8
Don't know	0	0	0	0
Total	100	100	100	100

Source: Own analysis of COSATU worker survey data

Table 3 shows responses to a question as to how wage increases of the worker were determined. As expected, this was done far more often through negotiations between the union and employer for unionized than for non-unionized workers. This means was also more common for non-TES than TES workers, but was nevertheless reported by about half of TES workers. Among both unionized and non-unionized TES workers were more likely than others to say that their wage increases were fixed by sectoral determination or other laws. None of the non-unionized TES workers said that their increases were negotiated in a bargaining council. Finally, among both unionized and non-unionized, TES workers were more likely than others to say that they had not had a wage increase in the last five years.

Table 3. Means by which wage increases determined, 2012 (per cent)

Means by which wage increases determined	Union		Non-union	
	TES	Non-TES	TES	Non-TES
Negotiated by the union with your employer	51	73	6	10
Negotiated by the union in a bargaining council	15	13	-	3
Decided by employer or negotiated by you (not union)	-	9	61	61
Regulated by sectoral determination or other law	21	3	15	9
I have not had a wage increase in the last 5 years	4	1	15	7
Don't know or no answer	10	2	2	11
Total	100	100	100	100

Source: Own analysis of COSATU worker survey data

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Theron et al. (2005) undertook what is probably the earliest focused national survey on TES. The survey was done within a larger research exercise commissioned by the Department of Labour as part of the Department's exploration of different aspects of vulnerable work.

In the absence of a comprehensive database of all TES, Theron et al. compiled a sample on the basis of three different databases. The first database was one which the research team compiled itself using searches of the Internet and telephone directory, reading of all labour cases involving TESs, previous research, interviews and personal contacts. These sources yielded a database of 92 firms. In addition, the researchers accessed the MEIBC database of 342 firms, and the SSETA database of 2,300 firms.

The SSETA database should, in theory, have included all TES, as all employers engaged in “labour recruitment and provision of staff” are required to register with the appropriate SETA in terms of the Skills Development Levies Act of 1999, whether or not their payroll is large enough to require that they pay contributions. (Theron et al. note in respect of levies that it is not clear how the number of employees of TES is calculated and, in particular, if it includes the temporary workers it places.)

In practice, Theron et al. found that many of the TES on the MEIBC list were not on the SSETA list, and some of those on the self-compiled list were also not on the SSETA list. When the researchers later (after sampling) obtained a copy of APSO’s database, they found that 268 (44 per cent) of the 609 companies on the APSO database were on neither the SSETA or MEIBC databases. An MEIBC informant suggested that this could be due to a high rate of attrition, or cases in which a TES stopped operating under one name and recommenced under another name. The lack of reliability of the SSETA database matches the experience of Topline reported above.

Given the disparities, the researchers sampled from all three databases, while avoiding duplicates. The resultant targeted sample was 235 interviews from the SSETA list, 62 from the MEIBC list, and 92 from their own list, giving a total of 389 from the combined non-duplicated total of 2,739. The realized sample was 115 of 137 traceable from the SSETA database, 38 of 38 traceable for MEIBC and 51 of 63 traceable for the researchers’ own database. This gave a response rate of 84 per cent (204 of 238) for those that were traceable.

Of companies that answered the relevant question, 15 per cent said that they supplied only permanent employees, 10 per cent supplied only temporary employees, and 75 per cent supplied both temporary and permanent employees.

Over half (57 per cent) reported that they belong to an employers’ organization, with 37 per cent reporting membership of APSO. Across the sample, the mean number of internal permanent employees was 27, and the mean number of workers currently placed with clients was 1,024. This was estimated to be equivalent to 35 per cent of workers available for placement, for which the mean number of workers was 3,959.

Across those who responded, the mean percentage of current placements which would end in less than three months was 40 per cent, while the median was 25 per cent. The mean number of clients per TES was 35, with a median of ten. One per cent of companies said that they had no current clients, and a further 7 per cent had only one current client. Close on a quarter had between two and four clients.

Theron et al. found that TES were operating across all sectors, but were particularly common in the broadly defined services sectors. Activities in the latter category included accounting, administration, business management, day-care, domestic, financial, health-care, nursing, insurance, IT, beauty, medical and call centres.

Less than half (56) of the TES said that they provided training and 64 said they did not.

Centre for Development and Enterprise

In 2012 the Centre for Development Enterprise commissioned research into private employment agencies (Rankin, 2011) to inform an investigation into public and private assistance to young work-seekers (Altbeker et al, 2012). The sources for the research into

private employment agencies included a survey which sampled workers from a database of one of Adcorp's branches, analysis of QLFS data, and findings from the longitudinal Cape Area Panel Study. Unfortunately, while the report refers repeatedly to TES, it seems that the analysis may sometimes have used data related to permanent placements. In addition, the comparisons of the TES profile with QLFS data are not restricted to workers in similar occupations and industries and the findings on this and other aspects of the profile must thus be treated with caution.

The analysis of earnings suggests that workers placed by Adcorp were younger and had slightly lower earnings on average than the average worker in the QLFS. There were also other ways in which workers placed by Adcorp were in less desirable positions than those of other workers. These included the shorter period of employment. The study concludes nevertheless that TES provides "a significant entry point into work for young, inexperienced people."

The commissioned research (Rankin, 2011) cites findings from the Investment Climate Assessment conducted by the World Bank in 2007/8. This survey, which focused primarily on manufacturing in the metropolitan areas of Gauteng, Eastern Cape, KwaZulu-Natal and Western Cape, found that user firms that employed temporary workers were likely to be older, foreign-owned and unionized, and also more likely to export and use foreign inputs than firms that did not use temporary workers. Unfortunately, the study did not distinguish between temporary workers employed through TES and those employed directly. It is thus of limited use for our purposes.

When asked about recruitment, user firms in which more than a third of the workforce consisted of relatively unskilled production workers were more likely than others to use the services of private employment agencies.

Analysis of Cape Area Panel Study data, which focuses on youth, found that only 5 per cent of employed youth reported using a private employment agency to find their current job, compared to 22 per cent who used a friend, 11 per cent who used a relative, 9 per cent who used a household member, and 13 per cent who submitted a curriculum vitae.

Government

As noted above, the Skills Development Act requires that all individuals and companies wishing to provide employment services "for gain" must apply for registration with the Department of Labour. All companies are also required to register with the relevant sector education and training authority, which in the case of private employment agencies is the SSETA. The Department of Labour and the SSETA thus provide further potential sources of estimates on private employment agencies.

Bamu (2009) reports that in 2009 there were over 3,500 recruitment firms registered with the Services SETA, as well as some who were unregistered. Of those 3,500 firms, over 2,000 were temporary employment services/agencies.

As at June 2013, there were 2,777 companies registered on the SSETA database in the category of labour recruitment services (SSETA, 2013). This is noticeably less than were reported by Bamu to be registered in 2009. Of the 2,777, 2,674 had payrolls of sufficient size to qualify to pay levies, which are calculated as 1 per cent of the value of the payroll. In the 2012/13 financial year, companies in this category paid a total of R128,8 million in levies. This is substantially less than the R450 million reported on the CAPES database and in Sharp's paper of 2009.

In July 2013, the Department of Labour had 976 companies on its database of registered private employment agencies. This is only about a third of the number registered on the SSETA database. Table 4 shows the distribution of the registered agencies across the nine provinces. Gauteng and Western Cape each account for more than a third of the total.

Table 4. Private employment agencies registered with the Department of Labour, July 2013

Province	Number
Eastern Cape	55
Free State	21
Gauteng	373
KwaZulu-Natal	161
Limpopo	3
Mpumalanga	7
Northern Cape	7
North West	19
Western Cape	330
Total	976

Source: Nelia Pretorius, Department of Labour

Online survey

CAPES agreed to ask members of all its affiliates to complete a short online survey developed for this research. The request coincided with the parliamentary discussions on the Employment Services Bill, which almost certainly increased the response rate. The survey also consisted of only ten questions, and companies were told that it should not take more than five minutes to complete. One disadvantage of wanting to minimize the time burden was that the survey included no instructions and explanations as to the definition of different terms. The results must thus be interpreted with this caveat in mind.

APSO sent the request to complete the survey to the 1,273 individuals on its emailing list, and ANASA did the same in respect of about 20 members. The remaining two organizations are unlikely, between them, to have accounted for more than 180 addressees, and probably account for far fewer, especially given the overlaps in membership. The total possible sample was a maximum of less than 1,500.

A total of 211 non-duplicate responses were received, implying a response rate of 14 per cent or higher. This was a pleasing result when compared with other survey investigations. The majority of respondents completed all “content” questions and 153 provided the name of the company. Examination of the latter revealed that for several of the larger companies, different branches responded separately. In the case of one company alone, there were 57 different responses. This affects the calculation of mean and maximum number of workers placed, as reported below. It could also affect the profile of types of workers placed if branches specialized in offering different types of services.

Table 5 reflects the responses in terms of types of services offered, showing both the number of companies reporting a particular type of service and the percentage this constitutes of all respondents. The questionnaire distinguished between recruitment and placement services on the one hand, and TES supply on the other and, within each of these, differentiated between permanent and temporary placements. Outsourcing was the fifth service option offered. The

table reveals that over four-fifths of agencies reported that they did recruitment and placement, while two-thirds reported that they supplied temporary TES workers and just over two-fifths reported supplying permanent TES workers. Just over two-fifths reported offering outsourced services.

Table 5. Types of services provided, 2013

Recruitment & placement of permanent employees	170	81%
Recruitment & placement of temporary employees	172	82%
Supply (as TES) of permanent employees	88	42%
Supply (as TES) of temporary employees	142	67%
Provision of outsourced services	88	42%

Source: Online survey

Overall, 130 of the companies (62 per cent of the total) reported providing both recruitment and TES services, 64 (30 per cent of the total) provided recruitment but not TES, and 16 (8 per cent of the total) provided TES but not recruitment. The remaining companies provided only outsourced services. Expressed differently, 92 per cent provided some sort of recruitment and placement and 78 per cent provided some sort of TES.

Respondents were asked for which industries they had provided services in the past 12 months. Unfortunately, manufacturing was omitted from the list of industries in the questionnaire in respect of recruitment and placement. This should, however, not have affected the responses for the other categories. Table 6 gives the number responding positively for each industry as well as the percentage this constitutes of the full sample of 2011. The table shows financial and business services, retail/wholesale trade and transport and related as the main client industries for recruitment. The same industries dominate – although at lower percentages – for TES services, but are joined by manufacturing. Domestic work and agriculture are the least commonly served industries. Across all industries the percentage is higher for recruitment than for TES. The relative gap is largest for agriculture and smallest for government. Expressed differently, government is almost as likely to be a client in respect of TES services as it is to be a client in respect of recruitment and placement. Hospitality was the most common response among the relatively few respondents who specified an “other” industry.

Table 6. Industries for which services provided in past 12 months, 2013

Industry	Recruit		TES	
	Number	%	Number	%
Agriculture	26	12%	12	6%
Mining	65	31%	44	21%
Manufacturing	--	--	90	43%
Utilities	59	28%	49	23%
Construction	79	37%	57	27%
Wholesale & retail trade	129	61%	95	45%
Transport, storage & communication	125	59%	99	47%
Financial, insurance, real estate & business services	134	64%	91	43%
Government	69	33%	61	29%
Other community, social & personal services	56	27%	38	18%
Private households (domestic workers)	9	4%	10	5%

Source: Online survey

Most companies provided services to more than one industry. Only 43 provided recruitment to only one industry while 46 provided TES to only one industry.

Table 7 provides the responses to a similar question in respect of TES workers' occupation. For recruitment, the dominant occupations are clerical, followed by the three higher-skilled/status occupations of managers, professionals and semi-professionals and technicians. Placement of service and sales workers is next most common. The concentration is thus more on white collar than on blue collar workers. For TES placements, in contrast, clerical workers are most common. Placements of non-agricultural skilled workers and machine operators are less common than for some other categories. However, the percentage differences between the occupational categories are much smaller than for recruitment and placement. Call centre agents was the most common response among the relatively few respondents who specified an "other" occupation.

Table 7. Occupations of workers recruited and place in past 12 months, 2013

	Recruitment		TES	
	Number	%	Number	%
Managers	134	64%	85	40%
Professionals	135	64%	98	46%
Semi-professionals & technicians	138	65%	103	49%
Clerical workers	149	71%	119	56%
Sales workers	109	52%	70	33%
Service workers	113	54%	97	46%
Skilled agricultural workers	17	8%	13	6%
Other skilled workers	71	34%	78	37%
Machine operators & related	74	35%	72	34%
Unskilled workers	86	41%	85	40%

Source: Online survey

Almost all companies that provided TES did so in respect of more than one occupation. Only 16 companies recruited workers within only one occupational group, while 21 placed TES workers from only one occupational group.

Respondents were asked for an estimate of the number of workers that they had recruited and placed in employment over the past 12 months. All but 21 companies provided a non-zero response. Combined, their responses gave a total of 97,895 workers, with a mean of 515 workers and a median of 75 workers. The large difference between the mean and median suggests that responses were clustered at the lower end, with a few large responses pulling up the mean. This is confirmed by the fact that 25 per cent of respondents reported placing 30 or fewer workers, while one reported placing as many as 20,000. If we use the conservative estimate of the response rate of 14 per cent and apply it to the total, we get an annual number of workers recruited and placed in employment of 1,379,214.

A total of 164 respondents provided a non-zero response in respect of the number of TES workers employed in the past month. The responses here summed to a total of 193,090 workers, more than the number of placements reported over the past 12 months. The mean was 1,177 and the median 80. This again suggests clustering at the lower end. A quarter of respondents reported 30 or fewer TES workers, while one reported 88,409. If we again use the

conservative estimate of the response rate of 14 per cent and apply it to the total, this gives a total of 699,250 TES workers on a monthly basis, and presumably fewer on a daily basis.

Finally, respondents were asked how the number of workers recruited and employed as TES had changed over the past five years.

Table 8 shows the number that chose each option as well as the percentage this represents of the total respondents for each of recruitment and TES. Overall, for both types of service there were more respondents who said that the number of workers increased than who said that it had decreased. Companies offering TES services were more likely than those offering recruitment to say that it had increased substantially, but were also more likely to say that the number had decreased a lot. This could indicate more volatility in TES than in recruitment services of agencies. One caution in interpreting this table is that the survey did not include those companies who might have been operating at some point in the past five years but had gone out of business. The table could thus exaggerate the extent to which the private employment industry has grown.

Table 8. Change in number of workers over past five years, 2013

Change	Recruitment		TES	
	Number	%	Number	%
Increased a lot	63	32%	65	36%
Increased a little	40	20%	31	17%
Stayed more or less the same	42	21%	30	16%
Decreased a little	34	17%	29	16%
Decreased a lot	18	9%	28	15%
Total	197	100%	183	100%

Source: Online survey

Concluding remarks on statistics

Overall, statistics on TES are scarce. Where they exist, they are based on possibly biased samples, on assumptions that are sometimes “heroic”, and on databases that are almost certainly incomplete and not well up-dated both to include new actors and to remove non-active actors. While we can be fairly confident that the extent of TES in South Africa is high in international terms, it is not at all certain that South Africa’s “exceptionalism” is as stark as the estimates recorded in the CIETT publication suggest. Our own estimates based on information provided by the industry (Adcorp individually and the online questionnaire) suggest that the commonly quoted estimates could be 40 per cent or more higher than the reality. It also seems that the number of agencies has fallen over time. This could reflect both the ongoing impact of the global economic crisis and increasing domination of the bigger companies.

Available statistics on non-TES recruitment and placement are even scarcer than statistics on TES.

The research was intended to cover indicators of the gender profile of workers assisted through private employment agencies. However, the limited available information suggests little more than that, overall, women probably account for half or more of such workers. If they account for more than half, the extent to which they predominate is probably relatively small.

5. Key sectors

The previous section reported on available quantitative estimates in respect of private employment agencies. This section provides a selection of brief qualitative snapshots of TES users in particular industries. The selection is not a representative sample. As noted above, Sharp (2009) observes that the studies commissioned by the Department of Labour in the mid-2000s excluded sectors such as nursing, education, information technology, financial services, sales, market research and airlines, where TES and other forms of atypical employment is also common. The selection presented below similarly excludes many user sectors and types of work. It is nevertheless offered to provide examples of what is recorded in the literature or was revealed through this research. The relative dearth of material in respect of the other sectors and types of work might, in part, reflect the fact that many of these are areas in which workers are less likely to be unionized. Despite these gaps, the information in this section is offered as a basis for assessing the extent to which there would be compliance with Convention No. 181 if the Convention had been ratified by South Africa.

Almost all the examples focus on TES, as there is very limited information available on ordinary recruitment and placement of workers. The mining example below is an exception in this respect.

Chemicals

Rees (2011) explores a case study of collective bargaining in respect of TES workers at African Explosives Limited (AEL) in Gauteng that went beyond a narrow reading of the law as to who constitutes the employer. AEL first started using workers supplied through TES in 1992. These workers, employed on short-term contracts, were often recruited from among former AEL retrenchees. As from 2000 AEL began using only young workers who had grade 12 in maths and science, who were supplied by Capacity Outsourcing, but who were “permanently placed” at AEL. In order to manage this, Capacity established an office not far from the Modderfontein factory. By 2010, Capacity supplied 500 TES workers into a factory totalling about 3,000 workers.

TES workers at AEL were doing the same work and working the same hours as the permanent workers. However, while the wage rates of permanent AEL workers were set by the National Bargaining Council for the Chemical Industries, the TES workers were paid at a lower hourly rate set by Capacity. Capacity workers were also paid lower shift allowances, did not receive a thirteenth month’s pay per year and were not covered for any of the benefits. Their situation was thus worse than the temporary workers’ previously employed by AEL who had received the same wages, shift allowance and thirteenth month’s pay as permanent workers, but were not entitled to benefits such as medical aid, provident fund, and life insurance.

The South African Chemical Workers Union (SACWU), which was the majority union at the Modderfontein plant, had apparently not objected to the company’s planned use of TES on the grounds that it would increase employment. Another union, the General Industries Workers Union of South Africa (GIWUSA), engaged with management during 2006 and also convinced SACWU to join the demand that TES workers be permanently employed. AEL accepted GIWUSA as a representative of the workers even though they legally fell under another employer. Negotiations that began formally in 2006 resulted in a settlement in August 2008. AEL did not agree to permanent employment of the Capacity workers as they said they had

plans for automation that would result in fewer workers being needed. However, the company agree that a Capacity worker who had worked at AEL for two years would receive a temporary employee contract from AEL.

A total of 185 workers were transferred to become AEL workers in October 2008 and a further 165 by mid-2010. The contracts of all workers were extended until the end of 2011. The company also agreed that if workers were retrenched, they would receive severance pay in line with the BCEA. In addition, the wages of the temporary workers concerned increased by R900 per month or more, as did their shift allowances, so as to be in line with the bargaining council agreement. However, they remained excluded from the provident and medical funds and life insurance.

Clothing and textiles

The collective bargaining agreements reached within the National Textile Bargaining Council have, over the years, included some provisions in respect of labour broking. The extension of the main collective bargaining agreement gazetted in 2007 (no 29578) outlaws employment of workers through labour brokers in both the Carpet Subsector and Blanket Section (Government Gazette 29578: 43; 73). These clauses have remained in place since then. The new agreement that has been submitted for 2013 provides for regulation of employment of labour brokers in the Woven and Crochet Subsector. Discussions on similar provisions for other subsectors are ongoing.

The Southern African Clothing and Textile Workers Union (SACTWU), which is the union party to the textiles agreement, is also taking up the issue of labour broking in other sectors in which it organizes. A snap survey conducted by the union found that distribution was the most affected by labour broking, followed by textiles and leather. Labour broking was less common within the clothing sector. Geographically, KwaZulu-Natal appeared to have the highest incidence of labour broking, followed by Gauteng and Western Cape. In KwaZulu-Natal, of the companies in which labour broking was reported by workers, approximately two-thirds of workers were reported to be employed by labour brokers. In Western Cape, more than a third were reported to be employed by labour brokers.

Union members reported that those employed by TES were required to sign contracts on a monthly basis, were not guaranteed work for each day of the week, did not receive benefits such as provident fund contributions, bonus and annual leave pay, received wages that were sometimes substantially less than those received by directly employed workers, and were the first to lose their work when production fell.

Communications

Elsley & Petersen (2013) report that while the union concerned has recruited workers employed in call centres for the cellular networks, the TES concerned refused to recognize the union, to permit union information to be posted on notice boards, and did not allow for meetings to be held on the premises.

Construction

Bamu's (2009) detailed study is one of the few available focused studies on TES. Bamu's approach was largely qualitative. This approach was chosen after the research was unable to get a comprehensive list of TES agencies operating within the construction industry. A total of 30 TES firms that appeared to operate in construction were approached, for interviews. Eight said they did not operate in construction, and of the remaining 21, 11 participated in the survey. Interviews were also conducted with 16 building subcontractors on three building sites. Of the 16, seven provided materials, while nine were labour-only subcontractors. None of the 16 was considered to be a labour broker. The research focused on labour brokers that complied with some or all of the relevant legislation, and did not investigate what is commonly referred to as the "bakkie brigade".

Key informants reported that, in the past, most construction workers were employed on a full-time, permanent basis, and that widespread short-term and precarious employment was a relatively recent phenomenon. One informant said that three of the largest national firms each employed less than 500 permanent staff who worked on construction sites. Workers provided by labour brokers ranged from unskilled labourers to skilled workers and artisans.

One of the surveyed companies had provided labour to only one client since it was first established. The owner of the labour broking firm was a close relation of the owner of the client firm. The client firm, which was a project management company, serviced several construction companies. All the TES firms said that they also provided some permanent placements. All said that they would replace any worker at the request of the client.

Two informants provided the researcher with their standard contract of employment. Both of these contracts stated that the contract of employment would end when placement with the client ended. They also stated that termination at this point could not be seen as dismissal or retrenchment.

In the past, there were regional bargaining councils for the building industry that covered much of the country. However, over the years four of the ten bargaining councils had collapsed, and only four of the remaining six – North and West Boland, Kimberley, Bloemfontein and Western Cape - had collective agreements in place. The four agreements have been extended to non-parties i.e. they covered employers and workers regardless of whether they belong to the member employer associations and trade unions. All of the bargaining councils required labour brokers to register as employers with the councils and comply with the collective agreements.

Representatives from three of the bargaining councils with agreements said that the relatively few labour brokers operating in the industry were registered and operated in line with the law. One council had four brokers registered, one had two brokers, and one council had only one. They were not aware of other brokers operating in the industry.

Western Cape, in contrast, reported a large number of labour brokers, but said that few had registered, and only five – an estimated 10 per cent of all those operating in the region – were compliant. In 2008, 50 complaints were brought against labour brokers, most of which related to the non-payment of benefit contributions. Trade union representatives also reported widespread non-compliance, but some said compliance improved where there was a collective bargaining agreement because there were then enforcement measures.

One of the larger unions operating in the Western Cape and Boland reported that 5-10 per cent of their members were employed through labour brokers. Some of the brokers, including both

big and small, recognized the union and granted organizational rights such as deductions for trade union subscriptions. However, turnover among labour broker workers made organizing them difficult. Another union that organized in the Western Cape said that about a third of their members were employed through labour brokers. Three labour brokers recognized the union and granted it organizational rights, but large labour broking companies required that the union prove representativeness for each project separately before being recognized. The Western Cape co-ordinator for a third union estimated that a quarter of their members were employed through labour brokers, and said that five brokers had recognized the union. He said that it was often difficult for the union organizer to distinguish which workers were employed by the client company and which by a labour broker. It was also often difficult to track down labour brokers if they were unregistered and without a fixed address.

In contrast to the situation in Western Cape, the largest unions in Gauteng could not give estimates of the number of labour broker workers that they had organized.

Bamu reports that some labour brokers defined the duration of the contract according to the completion of a specific task or project, rather than a date. He observes that this contravenes section 29(1)(m) of the BCEA, which requires that the date of termination be specified.

Health

A recent report by the National Education, Health and Welfare Union (NEHAWU) describes the union's efforts to bring an end to externalized employment (NEHAWU, 2012). The report focuses on efforts to insource currently outsourced services at two regional hospitals in Bloemfontein. None of the services covered in this campaign was delivered by TES workers. The example is therefore interesting primarily for the fact that the campaign built on a commitment by the Premier of the province that workers would be insourced. The report is also relevant because the union tends to use the term "labour broking" to refer to all forms of externalization, including outsourcing.

The Free State Premier's commitment arose from the 2009 policy conference of the African National Council having committed to decent work. Subsequent to this, there was reportedly tacit acknowledgement in the Public Service Bargaining Council that work should be insourced. The Council subsequently commissioned research on the topic, but did not take it further.

The Free State campaign had impact beyond the two hospitals. By the time the report was written, a total of 1,270 workers across 28 institutions had been insourced, with a further 777 workers from 32 additional institutions to be insourced by June 2012.

In relation to TES, NEHAWU's concerns include the fact that full-time employed public sector nurses obtain "moonlighting" work at private institutions and are then unable to perform their public sector work effectively.

Local government

Rees's (2009) Masters dissertation describes how the South African Municipal Workers' Union (SAMWU) organized labour broker workers in the Tshwane municipality, and succeeded in having many workers transferred from the employ(ment) of the labour broking companies to the employ of Tshwane municipality. However, the union encountered resistance

when it tried to expand these gains beyond Tshwane in negotiations with the South African Local Government Association in the South African Local Government Bargaining Council.

SAMWU first became aware of labour broking in what was later renamed the Tshwane metropole in 1993, in the water department. The use of labour broking expanded substantially after that date. Labour broker workers fell into two categories, namely (a) office employees and (b) artisans and others workers in units such as public works and infrastructure. By late 2006 many of the workers had been employed by labour brokers for more than four years. At that date they accounted for 37 per cent of the total of 3,732 employees in basic service delivery. In housing, city planning and the environment they accounted for nearly half of total employment.

By 2008 labour broker workers had contracts with several different companies, but at least some of these companies shared the same UIF reference number. There were also allegations that some of the councillors had links with the broking companies. The wages of labour broker workers were calculated on the basis of a daily rate and they did not have the medical and provident fund coverage that the municipal employees had. Their wages were also less than half of those of municipal employees. After SAMWU organized the labour brokers, the council agreed to employ nearly 3,500 of the labour broker employees on two-year contracts and employed a further 600 on a permanent basis. The wages of the contract workers increased to the minimum rates in the South African Local Government Bargaining Council agreement, but they still were not covered by the provident and medical funds.

Metal and engineering

Theron et al. (2005) describe how in 2003 the Metal and Engineering Industry Bargaining Council (MEIBC) introduced a requirement into their main agreement that TESs operating in the industry must register with it. At the time their research was conducted, 16,116 workers – 6.8 per cent of all workers – were recorded as working for TES. The authors note that a representative of the MEIBC had said that some TES registered for fewer workers than they employed so as to be liable for lower benefit and other statutory payments. The 6.8 per cent was thus likely an underestimate.

The MEIBC agreement has remained in place. It prohibits the use of TES who are not registered with the Department of Labour and the MEIBC. Client companies using TES are required to notify the MEIBC and keep records of workers obtained in this way. The agreement further requires that where TES workers are employed in the “direct production process”, a company that plans to use TES workers is required to give 30 days prior written notice to the MEIBC and representative trade unions. The notice must give reasons for using TES workers, as well as details of the TES concerned. The company must then engage in “meaningful joint consultation” to try to reach consensus on the use of TES workers. The consultation must include conditions of employment, compliance with MEIBC agreements, and organizational rights of workers (Elsley & Petersen, 2013). The Agreement requires that the client company (referred to in the agreement as the “employer”) ensure that the TES comply with the MEIBC agreement. The agreement also limits the use of TES workers to a continuous period of twelve months.

The CEA website notes that in about 2005, the Labour Broking Division of the CEA negotiated with unions in the bargaining council for the “flat rate” principle (which is not allowed in the main agreement) to be used for TES work on construction sites. The bargaining council subsequently attempted to ensure compliance by brokers who used this system in the workshop setting.

The correct term for the “flat rate” principle is the “package rate exemption”. This system requires a separate application for each site on which TES companies wish to use it. The application form requires that the TES specify the duration of the contract, the number of employees affected and the type of work to be done. The system provides for all monies to which the worker is entitled to be combined into a single hourly wage. The combined hourly wage is calculated to include the minimum hourly rate prescribed for the given category of work in the main agreement plus extra amounts for leave pay, leave enhancement pay, public holidays, sick leave, family responsibility and subsistence allowance. There is also an option – if the worker so chooses – for an amount to be added in lieu of the usual provident fund contributions for workers whose contract is four months or less (Louis Breckenridge, personal communication, June 2013). Where workers work on Sundays or public holidays, they must be paid a premium on the package rate. Further, the TES must make standard contributions in respect of levies and benefit funds administered by the MEIBC.

The CEA has made further proposals, including for a system of accreditation of brokers and extension of the package rate approach to workshops. The unions have strongly opposed the latter. The provisions for regulation of labour broking have not been agreed to by the unions, which have demanded that a worker become the employee of the client after three months of work, and that the client be responsible for all statutory deductions and payment of these to the council.

While the CEA has made relatively slow progress in resolving disputes, it is recognized by the bargaining council and unions, and has formulated a code of ethics and a pro forma contract of employment. For its members, it serves as a source of information on labour and tax legislation.

Over the years, the association has negotiated with one of the trade union federations on a system which provides for trade union subscriptions by members. Negotiations were also successfully concluded around the rules for allowing TES workers to choose whether or not to belong to the industry provident fund.

Table 9 provides summary information on TES companies registered on the MEIBC database as at mid-2010. The table provides information on both the number of companies and the number of workers for which they are registered. The information on the number of workers is very incomplete as the information is available for only 172 of the 756 companies. For two regions – Cape and KwaZulu-Natal – there is no information at all on employees. The number of companies is more than double the 342 reported by Theron et al. (2005) at the time they undertook their research five years earlier.

Table 9. TES companies registered on MEIBC database as at 30 June 2010

	Number of companies	Number of reported employees	Companies reporting non-zero employees
Gauteng	382	1919	109
Tshwane	90	630	13
Free State	18	242	17
Cape	104	-	-
KwaZulu-Natal	125	-	-
Border	3	91	2
Midland	34	1060	31
Total	756	3942	172

Source: Vice Ngonyama, MEIBC

Mining⁵

Approximately 80 per cent of employees on South Africa's gold and platinum mines are recruited by The Employment Bureau of Africa (TEBA), which also recruits employees for coal mines. TEBA acts as a recruitment agency in respect of these workers rather than as a labour broker, but does take responsibility for some of the administrative work for which the employers would otherwise be responsible. In particular, TEBA organizes the work permits that are required before foreign workers can work in South Africa.

The workers recruited by TEBA fall into the lower-skilled categories, namely Paterson grades 3-8 within the A and B bands. All TEBA contracts are for a maximum of 12 months, after which foreign workers must return home. However, an estimated 95 per cent of contracts are subsequently renewed.

Since the coming into effect of the Immigration Act of 2002, the mines may no longer recruit novices. As a result, the percentage of TEBA recruits on South African gold, platinum and coal mines fell from 32 per cent in 2006 to 22 per cent in 2012. Lesotho's share fell from 14 per cent to 11 per cent over the period, while Mozambique's fell from 15 per cent to 11 per cent. Over this same period the percentage of TEBA recruits employed by the mines themselves, rather than by sub-contractors, ranged between 69 per cent (2007 and 2008) and 76 per cent (2009). In 2002, the percentage stood at 75 per cent.

TEBA is not the only official recruiting agency. In Lesotho, for example, three others were licensed in the late 1990s – ER Ramsden Bleskop, Ribaneng Recruiting Agency and Anglo-Colliery Recruiting Organization Lesotho. TEBA was the main recruiting agency for gold mines, while the other three agencies recruited workers for specialized tasks in gold mines, such as shaft sinking. Algos is a major recruiter in respect of workers from Mozambique and does recruitment for both the mines and agriculture.

⁵ Budlender, 2013, for the information in this sub-section, unless otherwise specified.

Motor industry

In the 2012 round of collective bargaining in the Motor Industry Bargaining Council, the parties agreed that all employees – including those employed through labour brokers – must be on at least minimum conditions. The parties also agreed that by 2013 no employer would have a workforce in which more than 35 per cent of employees were employed through labour brokers and that where labour broking occurred, there would be joint and several liability across the client and labour broking companies. Labour broking employees would also be entitled to all benefits. For the fuel sector, none of the companies would use labour brokers for any core staff (Grawitzky, 2011).

In the 2013 round of collective bargaining, the National Union of Metalworkers of South Africa (NUMSA) has submitted demands that include a complete ban on labour brokers. In doing so, the union is building on its experience of controlling TES in the metal and engineering industry after previously reaching an agreement that TES work should be phased out.

Printing and packaging

Elsley & Petersen (2013) describes union organization of TES workers at Nampak, a major company in the printing and packaging industry. CEPPWAWU, which is the union concerned, represented virtually all permanent workers at the company. The union and the company had been engaged for some time in a dispute around the company's plan to reduce the wages of entry-level employees from R8,000 to R4,500 per month or, alternatively, to retrench existing workers. Eventually a compromise was reached whereby voluntary severance packages were offered to workers near pensionable age. All new workers were employed through labour brokers. Workers employed by the TES did the same work as permanent workers but earned between R1,700 and R2,400 pm and received none of the benefits enjoyed by the permanent staff.

Retail trade

Pick 'n Pay is one of the largest South African supermarket chains. It owns and operates many stores itself, but also has franchises with other companies which run further stores. In the recent past the company has utilized TES workers for some of the core functions in company-owned stores. This was done as the company had halted all new recruitment while undergoing a process in terms of section 189 of the LRA to deal with the fact that some stores and departments were seen to be over-staffed while others were under-staffed. Going forward, the company does not plan to utilize TES workers in areas that are the core business. It will only use TES workers in circumstances such as stock-taking, stay-aways, excessive absenteeism or industrial and protest actions (Bakar Jakoet, personal communication, June 2013).

From the union side, SACCAWU's gender committee has played a lead role in establishing mall committees in commercial shopping malls. These committees are elected by workers across the different companies operating in any particular mall. The committee is not a constitutional structure of the union, but assists in servicing workers with different forms of employment, different employers and different conditions of employment. It provides protection to workers in workplaces which are not well organized and in which there are no shop-stewards.

The union has found that labour broker workers are difficult to organize because they fear they may lose their jobs if they join a union, or that they may be scheduled to work less often. The mall committees have, however, been able to profile and publicize labour broking. The larger retail companies have also allowed the union to organize labour broker workers, and the issue is on the collective bargaining agenda. The union has not, however, engaged with the labour broking companies themselves, and it also encounters resistance from many of the smaller companies that use labour broker workers. The extent to which labour broker workers are represented by mall committees thus depends, among others, on the nature of particular malls and the commercial companies that operate in the mall (Patricia Appollis, personal communication, July 2013).

Road freight

Clauses 66 and 67 of the 2010 collective agreement for the Road Freight and Logistics Industry, as agreed by the bargaining council, provides that a worker who has worked for more than two months for one or more employers will be regarded as an “ordinary” employee and covered by all clauses of the agreement. After two months, the contract is deemed to be weekly for all workers except those of TES, for whom the contract is deemed to be daily. Companies in the industry may only use TES that are registered with the Council, and must notify the Council in writing within a month of doing so. The TES must prove that they have complied with requirements in terms of UIF, Compensation for Occupational Injuries and Diseases Act and tax. Where the agreement is flouted, the client company can be held liable. TES workers may not account for more than 30 per cent of an employer’s workforce.

Transport (Rail, ports and pipelines)

The 2010 agreement of the Transnet Bargaining Council provided for 1,000 contract workers to be employed on a permanent basis, and a process to be put in motion for placement of the remaining contract workers (Grawitzky, 2011).

6. Comparison of South African practice on agency work with Convention No. 181

The research brief required that this paper investigate the extent to which the situation in South Africa is in line with ILO Convention No. 181. This section of the paper reviews what the evidence discussed above reveals in respect of each of the aspects specified in article 11 of ILO Convention No. 181.

Article 11 of ILO Convention No. 181

Freedom of association

The LRA is the main legislation governing trade union rights, which relate to workplace-related rights in respect of freedom of association. Section 12 of the LRA provides that trade unions that are sufficiently representative can have access to the employer's workplace to recruit and service members. Benjamin et al. (2010) note that this assumes that the employer controls the workplace. This is not usually correct in the case of TES, where the client (the user enterprise) controls the workplace. This provision is thus potentially meaningless in terms of organization by trade unions and freedom of association.

A further problem arises in respect of how representativeness is determined. For a union to gain organizational rights in respect of a TES company, must it achieve sufficient representativeness across all the workers employed by the TES company concerned? This is clearly a huge, near impossible task where the agency employs mainly temporary workers, scattered across many distant workplaces, in different companies, operating in various sectors/industries. Alternatively, if the TES workers are to be represented in bargaining with the client (who is not, in fact, their legal employer), must the union that represents the client's workers show representativeness for the full workforce including both sets of workers?

The problem is exacerbated by the fact that COSATU, the largest federation, was established as a federation of "industrial" unions. Its motto "One industry, one union" envisaged each union focusing on a particular industry. This is not appropriate where there are TES workers who are, in legal terms, employed by the private employment agency industry or the financial and business services industry, whereas other workers, alongside whom they work, are employed by another industry.

Collective bargaining

Theron et al. (2005) point to the difficulties TES workers will experience in bargaining for higher wages, as these will be part of the contract between the client and the TES. They note that for the most part the amount would "obviously" be less than what permanent workers would receive because the client would also be paying a fee in respect of each TES worker. Collective bargaining would only be successful if the client were prepared to increase the fee paid to the TES.

The authors note further that TES workers will not necessarily be covered by a bargaining council agreement unless it is extended to non-parties or unless – as is the case in the metal and engineering and road freight industries – labour brokers are required to register with the Council.

For the most part, TES workers are dependent on the collective bargaining strength of others, in particular the workers alongside whom they work. As discussed above, some bargaining councils now place restrictions on the use of TES workers, or even outlaw it completely. Restrictions might include the percentage of workers who can be employed by a TES, the wages and conditions of TES workers, and the length of time for which a worker can be employed through a TES. Similar provisions are found in some agreements at the enterprise level (Trenton Elsley, personal communication, June 2013).

Minimum wages

Several of the qualitative case studies illustrate the extent to which TES workers are likely to receive lower pay than other workers doing similar work, often in the same workplace. This is unsurprising as, in the first place, cost-cutting is often a motivation for employing TES services. Further, even if the client company is prepared to incur the same expenditure as it would with directly employed workers, some part of the money paid for TES workers will go to the TES company.

A representative of a TES company who completed the online questionnaire phoned to discuss the meaning of both TES and “worker”. The representative was adamant that while her agency supplied workers to whom they paid salaries to other companies, it was not involved in “labour broking”. She said that the latter term related to the practice in respect of lower-skilled workers in which agencies supplied workers at a low rate of pay determined by the client. In contrast, her agency supplied higher-skilled and higher-paid “staff” (rather than “workers”) and it was her agency that stipulated the necessary earnings rather than the client company. Her observations suggest that it is lower-paid and lower-skilled TES workers in particular who lack adequate protection in respect of minimum wages.

Working time and other working conditions

Many of the observations above in respect of minimum wages would apply equally to working conditions.

Theron et al. (2005) reports that the contract of one TES included the statement, to be signed by the worker, that “in the event of my services being provided to any client on a temporary basis and thereafter to a different client or clients, I fully understand and accept that the conditions of employment will vary from client to client and that such variation will be beyond the control of [the TES] and will not constitute an unfair labour practice.”

In the application form, one TES asked to sign acceptance of the statement: “Due to the nature of our business, you will have to work long shifts.” Another TES noted that, if the application was successful, R18 (3.26 USD at 2005 exchange rate) would be deducted from their first payment to cover the costs of a check for a criminal record.

The nursing agencies have, since 2005, been successful in applying for a ministerial determination that provides for a variation of section 50 of the Basic Conditions of Employment Act in respect of annual and sick leave. The variation provides that, instead of

granting annual leave, the agency can pay the worker the equivalent of one hour's pay for every 17 hours worked. Further, entitlement to sick leave can be calculated on the basis of one day's paid sick leave for every 26 days worked for the duration of the 36-month cycle (Leigh-Ann George, personal communication, June 2013).

Statutory social security benefits

The qualitative case studies reveal that it is especially in the area of benefits such as retirement (provident or pension) funds and medical cover that TES workers are likely to be disadvantaged compared to directly employed workers. Where a TES worker is in an industry that has a collective bargaining agreement that provides for such funds, the worker will not necessarily be covered unless the agreement has been explicitly extended to cover such workers.

CAPES has tried to address this problem through providing a provident fund for TES workers, and Kelly provides access to a medical aid scheme. The small number of workers who have taken up these opportunities suggest that these are not viable solutions for many TES workers. Firstly, in both cases the TES employer does not make matching contributions as is the case for workers who are directly employed by client companies. Secondly, these funds rely on regular monthly contributions through deductions from earnings. This is not possible for workers who are employed on erratic short-term contracts.

Access to training

Training is rarely mentioned in the literature. To the extent it is mentioned, it relates to the ability of private employment agencies to provide workers who have been pre-screened to ensure that they have the requisite education and skills. Further, as mentioned in passing above, some of the larger TES companies appear to be increasing their involvement in learnerships. This form of practical-cum-theoretical training has potential advantages for all parties. The TES companies can access the tax breaks available for companies that take responsibility for learnerships, the client companies can access workers with the requisite training, and the learner-workers are assisted to find an employer where they can do the practical part of the learnership and perhaps subsequently be taken into permanent employment. This growing area of engagement by the private employment agencies merits further research.

Occupational safety and health

There are very few mentions of safety and health in the discussion above. The Occupational Health and Safety Act has a definition of workplace that is more favourable for TES workers than the definitions in other legislation. However, it is unlikely that TES workers participate in the health and safety committees required by the legislation, especially if they are at a workplace for a relatively short period of time.

Compensation in case of occupational accidents or diseases

TES companies are required to make contributions in respect of TES workers in terms of the Compensation of Occupational Injuries and Diseases Act. The literature and interviews did not reveal anything in this respect apart from the fact that the CAPES web-site alerts member companies to their responsibilities in this respect.

Compensation in case of insolvency and protection of workers' claims

The fact that the contracts of TES workers are short-term makes it unlikely that they would ever qualify for severance pay, which is the primary way in which workers are protected in cases of insolvency.

Theron et al (2005), in their survey of TES agencies, asked interviewees about the contracts of employment that they entered into with TES workers. The majority (87 per cent) of the TES said that they had standard contracts of employment, but 59 per cent explicitly refused to provide a copy of the contract and only five actually provided the contracts.

These difficulties exist despite the fact that some TES workers are employed on a relatively long-term basis. Thus Benjamin et al. (2010) note that while the term TES included the word “temporary”, in reality it covered what was sometimes indefinite-period employment relationships. They cite the case of East Rand Proprietary Mines where, in 2002, almost the entire workforce of 4,000 was employed by a TES. They also cite problematic cases in which employers transferred their employees to TES, as well as cases in which workers were unaware that they were employed by a TES.

Maternity protection and benefits, and parental protection and benefits

The Basic Conditions of Employment Act provides for four months of maternity leave. Employers are not required to pay workers during this period, but are also not permitted to dismiss or otherwise discriminate against workers on the basis of pregnancy. The challenge in respect of TES workers is that a worker who is pregnant may not be appointed in the first place, and it would then be difficult to prove that pregnancy was the reason for the decision not to employ her.

TES companies are required to register workers with the Unemployment Insurance Fund, which provides payment of part of the wage when workers are on maternity leave if workers have made sufficient contributions to have the necessary credit, in the form of more than four months' of contributions to the Fund. One challenge in this respect is the relatively low wages of TES workers. These would result in workers who qualified receiving even smaller amounts while on maternity leave. A second challenge is that many TES workers will not have sufficient credits to qualify for maternity leave pay.

TES agencies could play a role in protecting permanent workers who take maternity leave as the TES agency could provide the replacement worker for the period that the worker is on leave. The replacement worker could also be directly employed by the employer, but in some cases it may be easier for a TES agency to recruit a temporary worker with the required skills. (Similar reasoning would apply in respect of replacement workers while specialized workers are on annual, sick or other forms of leave – although sick leave cannot be covered by TES workers in the same way as planned annual or maternity leave.)

7. Other issues

This section considers other aspects of temporary agency work in South Africa that were included in its terms of reference or that emerged through the research.

Security of employment

One of the most disadvantageous aspects of TES work for workers relates to the lack of employment security. This is found, firstly, in the fact that many of the contracts are fixed-term, sometimes for very short periods. It is found, secondly, in the relative ease with which the employment contract can be terminated. This is one of the attractions of TES for employers in a context in which they perceive that South Africa places restrictions that are too onerous on hiring and firing. Conversely, it is one of the most unattractive features for the workers concerned.

Theron et al. (2005) refer to a study of 39 CCMA awards in respect of TES over the period 1997-2001. All cases related to unfair dismissal in the context of the triangular relationship. The study found that arbitrators adopted differing approaches and reached different decisions in similar cases. The conceptual challenges that resulted in these conflicting findings included difficulties in identifying who was the employer, identifying the correct procedure, defining dismissal, and determining the reason for dismissal.

Benjamin et al. (2010) also point to the lower level of protection enjoyed by TES workers against dismissal and termination of employment, in that when a client requests an agency to remove a worker, this is done as part of the commercial contract. The worker then does not have the remedies – including protection against victimization and severance pay – that they would have in terms of employment law.

Drivers of agency work

The research brief required discussion of the “main drivers of the dynamics of agency work”. Employer publications, including the Adcorp Employment Index, listed companies’ annual reports, and the Topline Research report all provide indications as to the reasons why TES work happens, and why it is attractive to user enterprises.

For example, the Adcorp annual report for 2002 notes the difficulty of dismissing permanent employees for poor performance, the fact that minimum wage agreements reached through collective bargaining have “had the effect of pricing labour out of the market”, and the perception that “South Africa’s labour force has become increasingly unreliable, prone to militant strike action”. In these circumstances, companies “are opting to automate, mechanize, outsource, off-shore, sub-contract and utilize contract labour as an alternative to the hiring of permanent employees.” The Adcorp Employment Index of May 2013 cites two main reasons for the fact that temporary work is more common in South Africa than in other countries. The first is that companies with 50-500 employees that do not have specialized human resources capacity prefer to avoid the hassle related to ensuring the labour laws and regulations are observed. The second is that collective bargaining agreements do not always apply to temporary workers. This, among others, means that temporary workers do not need to be given annual wage increases.

A representative of CAPES suggested that the unusually high penetration rate of TES in South Africa might reflect unusually high levels of unemployment, the poor quality of education, and the “very restrictive employment policies” which would make companies operating in cyclical or otherwise volatile sectors reluctant to employ workers directly and permanently.

The Topline research cited above found that 64 per cent of TES companies said that clients used their services to deal with seasonal increases in labour requirements, 49 per cent for shift work requirements, and 61 per cent because they wanted to outsource. The latter percentage probably refers primarily to those who choose outsourcing as a way of either avoiding the administrative and other burdens of labour legislation and/or not having to meet the wage, benefit and other requirements.

Rogue agencies

The research brief required discussion of the role of “rogue” agencies in the private employment industry. Within South Africa, these agencies are generally referred to as the “bakkie brigade”. Theron et al. (2005) describe these as “brokers whose primary assets are a bakkie [pick-up truck] and a cell phone, and who procure labour from street corners and outside informal settlements. In their case the intention is to evade all forms of regulation.”

A CAPES representative estimated that the bakkie brigade would account for about 100,000 employees at any time. Perhaps surprisingly, the research uncovered very few references to rogue agencies. As is evident from the discussion of sectors above, the unions have focused their attention on use of TES workers in formal enterprises, and for the most part it seems that these companies use formal TES agencies.

Social dialogue

Finally, the research brief required discussion on how workers, employers (presumably both TES and clients/user enterprises), government and others can work together to improve working conditions and social dialogue in respect of private employment agencies. It is very difficult to know what to suggest here at the national level. Business, labour and government representatives have probably spent more time and energy on discussing TES than has happened in most other countries. The parties still seem relatively far apart in what they would like to see, but there is perhaps an emerging compromise position on regulation of the extent of TES. It is less clear if attention has been paid to addressing all the aspects of TES employment that make it so unattractive to labour and that in some cases are out of line with Convention No. 181.

At the sectoral and company level, there has been more progress. As the above sectoral case illustrate, employers and unions in different industries have been able to reach agreement on either outlawing labour broking completely, placing limits on the practice in terms of the number or percentage of workers involved or the length of time for which they are employed, and/or ensuring that the earnings and conditions of work of people employed through labour brokers satisfy the same minimum standards as those of people employed directly. Less commonly, agreements have provided that workers employed through labour brokers enjoy the same benefits as workers employed directly. What is noteworthy, is that these agreements have almost all been reached with the main user enterprise employer rather than with the TES companies.

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Rahab Zulu, Services SETA

Sectoral working papers ⁶

	<i>Year</i>	<i>Reference</i>
ILO Database on export processing zones (J.P. Singa Boyenge)	2007	WP.251
The use of contract teachers in developing countries: Trends and impact (Alec Fyfe)	2007	WP.252
Le recours aux enseignants contractuels dans les pays en développement: tendances et impact (extraits) (Alec Fyfe)	2007	WP.253
Promoting good industrial relations in the oil and gas industries in Indonesia (Mengembangkan Hubungan Industrial yang Baik di Industri Minyak dan Gas Indonesia) (Ratih Pratiwi Anwar & Muyanja Ssenyonga)	2007	WP.254
Participatory approaches for planning and construction- related assistance in settlement upgrading and expansion – The roles of tripartite actors and other stakeholders (David G. Williams)	2007	WP.255
Social dialogue in the education sector: An overview Le dialogue social dans le secteur de l'éducation: Tour d'horizon (Anamaria Vere)	2007	WP.256
Freedom of association and staff participation in higher education decision-making: An overview <i>and</i> Liberté syndicale et participation du personnel à la prise de décisions dans l'enseignement supérieur: Un aperçu (Anamaria Vere)	2007	WP.257
Social dialogue perspectives in Romanian road transport (Roxana Radu)(PDF ONLY)	2008	WP.258
Hacia el trabajo decente en el sector del azúcar, Mexico (Leonard Mertens)	2008	WP.259

⁶ Working Papers Nos. 1-250 are not included on this list for reasons of space, but may be requested from the Sectoral Activities Department.

Coffee in Kenya: Some challenges for decent work (Leopold M. Mureithi)	2008	WP.260
Hacia el trabajo decente en el Perú: la mujer en la industria pesquera (Gerardo Pejerrez Piedra)	2008	WP.261
Alimentación, bebidas, tabaco – El banano en Costa Rica y sus retos laborales (Ernesto Quirós)	2008	WP.262
The Kretek cigarette industry, Indonesia – challenges and opportunities for decent work (Ratih Pratiwi Anwar)	2008	WP.263
Safety and health in the European forestry sector. The impact of more open markets and of increased regulation (Malcolm Gifford)	2008	WP.264
Guide for social dialogue in the tourism industry (Dain Bolwell and Wolfgang Weinz)	2008	WP.265
Reducing poverty through tourism (Dain Bolwell and Wolfgang Weinz)	2008	WP.266
Review of socially responsible HR and labour relations practice in international hotel chains (Jacqui Boardman and Candida Barbato)	2008	WP.267
Reducir la pobreza a través del turismo (Dain Bolwell and Wolfgang Weinz)	2008	WP.268
Industrial relations and social dialogue in the oil and gas industries in Indonesia (based on a field study) (Ratih Pratiwi Anwar and Muyanja Ssenyonga)	2009	WP.269
The role of worker representation and consultation in managing health and safety in the construction industry (David Walters)	2010	WP.270
Sectoral Coverage of the Global Economic Crisis, Trends in Employment and Working Conditions by Economic Activity, Statistical Update, Third Quarter 2009	2010	WP.271
Strengthening social dialogue in the utilities sector in Nigeria (Professor Sola Fajana)	2010	WP.272
Strengthening social dialogue in the utilities sector in Malawi (Winford H. Masanjala)	2010	WP.273

The Global Economic Crisis: Trends in Employment and Working Conditions by Economic Activity, Statistical Update, Fourth Quarter 2009 (Erick Zeballos and Stefanie Garry)	2010	WP.274
Green Jobs Creation through Sustainable Refurbishment in Developing Countries (Ramin Kievani, Joseph H.M. Tah, Esra Kurul and Henry Abanda)	2010	WP.275
Working Conditions of Contract Workers in the Oil and Gas Industries (Ian Graham)	2010	WP.276
Dispute Prevention and Resolution in Public Services Labour Relations: Good Policy and Practice (Clive Thompson)	2010	WP.277
Automotive Industry: Trends and Reflections The global Economic Crisis – Sectoral Coverage (Ian Graham)	2010	WP.278
Job Crisis Recovery: A Global Overview of Employment Trends and Working Conditions by Economic Activity Statistical Update, First Semester 2010 (Erick Zeballos and Stefanie Garry)	2010	WP.279
Labour-oriented Participation in Municipalities: How decentralized social dialogue can benefit the urban economy and its sectors (Carlien van Empel and Edmundo Werna)	2010	WP.280
Situation of Social Dialogue in the Philippines Water Supply (Marie Beth Lorenzo)	2011	WP.281
Responsible contracting: An approach aimed at improving social and labour practices in the property services sector (Andrew Bibby)	2011	WP.282
Private Employment Agencies in Morocco (Ghada Ahmed)	2011	WP.283
Restructuring and social dialogue in the chemical industry in India (National Safety Council of India-NSCI)	2011	WP.284
Restructuring and social dialogue in the chemical industry In China (Xiangquan Zeng, Xiaoman Li and Liwen Chen)	2011	WP.285
Restructuring and social dialogue in the chemical industry in Brazil (Nilton Benedito Branco Freitas and Thomaz Ferreira Jensen)	2012	WP.286
The Digital Labour Challenge: Work in the Age of New Media (Aidan White)	2012	WP.287

The Health of Workers in Selected Sectors of the Urban Economy Challenges and perspectives (Francisco Comaru and Edmundo Werna)	2012	WP.288
International Perspectives on Women and Work in Hotels, Catering and Tourism (Thomas Baum)	2013	WP.289
Private Employment Agencies in the Netherlands, Spain and Sweden (Gijsbert van Liemt)	2013	WP.290
Private employment agencies in South Africa (Debbie Budlender)	2013	WP.291
Law and practice of private employment agency work in South Africa (Paul Benjamin)	2013	WP.292
Private Employment Agencies and Labour Dispatch in China (Liu Genghua)	2014	WP.293
Las agencias de empleo privadas en Argentina, Chile y Uruguay (Sandra Goldflus Wasser)	2014	WP.294