

WIEGO Research – Collective Bargaining in the Informal Economy Street Vendors¹

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Collective Bargaining is usually understood as taking place between an employer(s) and employees. However, workers in the informal economy, including own account workers, are engaged in many different forms of collective negotiation with counterparts that are not employers. This paper builds on recent work done by WIEGO (Women in Informal Employment: Globalizing and Organizing) on collective bargaining in different sectors of the informal economy and by StreetNet International on collective bargaining in the street vending sector. Specifically, it explores the range of collective bargaining arrangements and experiences of street vendors in different countries, many of whom are affiliates of StreetNet International.

The action-research is a work in progress, and the report therefore documents and analyses findings to date. The author interviewed a number of StreetNet affiliates by telephone and Skype, and slotted in some one-off interviews during field visits to countries where other StreetNet affiliates were based. More detailed case studies were undertaken in South Africa where the author is based and was therefore able to work directly with the street vendors' organizations in Durban and (to a lesser extent) Johannesburg.

Following an overview obtained from those of StreetNet's affiliates around the world interviewed from June 2013 – December 2014, the paper looks at the two case studies: street traders in Durban and Johannesburg. It looks at the historical development and struggles around policies and regulations, negotiating forums, and street vendors organizations up to the present. It then goes on to analyse the current state of affairs, drawing on the case studies and information from other countries. Finally, it sets out plans for taking the work forward.

Introduction

In 2012, Debbie Budlender and Jeremy Grest conducted research for StreetNet on representational systems at a local government level³ with the participation of StreetNet affiliates such as LDFC⁴ (DRC – Democratic Republic of Congo), KENASVIT⁵ (Kenya), MUFIS⁶ (Malawi), CTCP⁷ (Nicaragua), UPTA⁸ (Spain) and CNTS⁹ (Senegal). From this research, they developed a document entitled "Towards a model framework for a local level collective bargaining forum for street traders" (See Annexure 1).

In 2013 and 2014, all of StreetNet's 48 affiliates were again engaged after circulating the Model Framework throughout the membership. It was requested that they use it as a guide in approaching their authorities to establish local-level negotiating forums, or to make reforms to already existing forums where applicable.

¹ This is an updated version of the WIEGO research report on "Collective Bargaining in the Informal Economy: Street Vendors" produced for the Solidarity Centre's Global Labour Programme at the end of 2013.

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³ Research report by Debbie Budlender and Jeremy Grest on statutory representational systems at a local government level, December 2012.

⁴ Ligue pour le Droit de la Femme Congolaise

⁵ Kenya National Alliance of Street Vendors and Informal Traders

⁶ Malawi Union for the Informal Sector

⁷ Confederación de los Trabajadores por su Cuenta Propia

⁸ Unión de Profesionales y Trabajadores Autónomos

⁹ Confédération Nationale des Travailleurs du Sénégal

The information gathered from StreetNet affiliates (and the organization SNVC¹⁰ in the Democratic Republic of Congo) is summarized in Annexure 2 at the end of this report in Table 2.1 (info collected in 2013) and Table 2.2 (info collected in 2014). In addition, the author worked more intensively on the two case studies in South Africa (Durban and Johannesburg) where there are municipal forums established by the municipality – originally as a mechanism for controlling street vendors – but this control has been contested by street vendors’ organizations, and there have been some shifts in the internal power dynamics. The overall observation thus far is that very few organizations are engaged in local-level negotiating forums, but most have nevertheless engaged authorities in *ad hoc* negotiations of different kinds with different degrees of success. All who responded expressed an interest in initiating approaches to their authorities about the establishment (or reform) of local-level negotiating forums using the Model Framework document guidelines.

In India, statutory Town Vending Committees have been established after years of struggle by NASVI (National Alliance of Street Vendors of India) and SEWA (Self-Employed Women’s Association) for more inclusive regulation of street vending and meaningful participation in negotiations, by the Street Vendors (Protection of Livelihoods and Regulation of Street Vending) Act of 2014. This contains some clear definition of the composition of these forums and well-defined Terms of Reference to guide how they work. This is the most advanced example we have identified.

In Sierra Leone, SLeTU (Sierra Leone Traders’ Union) is a well developed union which has had significant impact on the way the Municipal Trade Committees are structured and how they function. However, this work has taken a back seat in 2014 with the outbreak of the Ebola epidemic – prevention of the spread and treatment of which has had to take precedence over all other issues.

In Kinshasa DRC¹¹, the organization SNVC (Syndicat National des Vendeurs du Congo) is working through a combination of bilateral agreements signed between SNVC and municipal and market authorities. Also, they are participating in a provincial-level forum in which they are the principal representative of the primary stakeholder group of informal traders. This means that they are working at two levels which is frustrating for the organization but also gives them some degree of extra leverage.

In Kenya, where there has been recent restructuring of local government, the elected leadership of the urban alliances that are part of KENASVIT (Kenya National Alliance of Street Vendors & Informal Traders) are participating in county-level negotiations in most places except Kisumu, Nairobi and Mombasa, where negotiations are still taking place at city municipality level. In preparation, KENASVIT leadership (national and local-level) have been undergoing continuous negotiations training since these negotiations started at the time of local government decentralisation in 2009.

In Maseru, Lesotho, a multi-stakeholders’ negotiations forum dealing with informal trade was established after clashes between street vendors and Maseru municipality in 2012. National street vendors’ organisation Khathang Tema Baitso’okoli regards this forum as an effective method of formalised interaction between the authorities and informal traders, which has led to a reduction of the unease which previously existed. The municipality also uses this forum to bring to the table their infrastructure plans and discuss these with street vendors and informal traders – so there has been a major improvement in transparency regarding development plans, from the point of view of informal traders who feel they are finally being properly consulted.

However in Lesotho, as in Spain and South Africa (Durban and Johannesburg) organizations of informal traders have been participating in municipally-established forums which operate at the whim of municipal officials. The accountability of these officials to work according to mutually-

¹⁰ Syndicat National des Vendeurs du Congo

¹¹ Democratic Republic of Congo

agreed rules or timetables seems to vary depending on the strength of the informal traders' organizations in holding them accountable. Some of these examples give us the best indicators of the kinds and variations of power abuses which can arise if the Terms of Reference (i.e. a set of aims and rules as to how the forum should function) and statutory obligations of such forums are not really well developed. The Johannesburg and Durban cases (*see Annexures 3 and 4*) are in stark contrast with the KSD (King Sabata Dalindyebo) local municipality in the Eastern Cape Province of South Africa, consisting of the towns of Mthatha and Mqanduli – where direct bilateral negotiations between African Hawkers' Association AHA (affiliated to the Eastern Cape Street Vendors' Alliance) and the political head of the ruling ANC (African National Congress) have effectively resulted in compliance by the street traders in paying their monthly levies, which were agreed by negotiation, and the authorities using negotiations to resolve problems instead of resorting to harassment.

In Zambia, where there has been no emerging legislation on street trade policy since former President Michael Sata decreed that street vendors should not be removed from their workplaces on the streets, AZIEA (Alliance of Zambian Informal Economy Associations) initiated a public forum in Kitwe on the Zambian Copper Belt, involving street vendors and marketeers as well as workers in other informal economy sectors covered by AZIEA (i.e. carpenters, fisherpeople, poultry farmers, tailors, tinsmiths, visual arts) and other sectors such as freelance photographers – on self-regulation of street vendors in Kitwe. So far these forums seem to have some impact on authorities due to the large numbers of informal workers attending, and prominent media coverage they have received.

In Tanzania, TUICO (Tanzanian Union of Industrial & Commercial Workers) has submitted a proposal for a negotiating forum to the municipality of Dar Es Salaam and is waiting for a response. The Municipality is taking a really long time to respond, saying that they are getting legal opinions and researching best practices in other countries before developing their counter-proposal.

What this work shows us so far is how undeveloped the idea and practice of collective bargaining still is in the sector of street vendors and informal traders in most parts of the world. The idea of organizing *per se* is not so underdeveloped, as everywhere street vendors and informal traders are organizing to demand their rights. However, the lack of credible and accessible collective bargaining institutions in most instances causes an over-reliance on powerful political contacts and specialized high-level advocacy skills and string-pulling, which not every organization can easily access without falling prey to patronage networks.

General Overview

In the study done by Debbie Budlender for WIEGO (Women in Informal Employment: Globalizing & Organizing) on collective bargaining in five sectors of the informal economy¹², she analysed collective bargaining patterns in five different sectors, providing a thematic overview across the sectors. We will apply the same thematic analysis to this more detailed study of collective bargaining in the sector of street vendors and informal traders.

Defining collective bargaining

In the case of street vendors and informal traders, there is invariably no employment relationship. In this research we are talking principally about negotiations between street vendors as own account workers and authorities – usually municipal authorities where the streets and markets are under the control of the municipalities, or private market authorities where markets have been privatized (such as in the Eastern European countries considered in this research: Azerbaijan, Kyrgyzstan, Moldova and Ukraine). In some cases, more effective negotiations are taking place with government in provincial (e.g. Kinshasa DRC¹³) or national forums (e.g. Niger, Senegal, Spain).

¹² Debbie Budlender (2012) "Informal workers and collective bargaining: Five case studies"

¹³ Democratic Republic of Congo

Types of organization

Organization	Country	Description
UPTA ¹⁴	Spain	National trade union of professional and autonomous workers, with a sectoral structure of street vendors and informal market vendors
LDFC ¹⁵	DRC ¹⁶ (Kinshasa)	Membership-based organization of women informal traders active in 4 <i>communes</i> in the District of Tshangu, and 3 <i>communes</i> in the District of Mont Amba in Kinshasa
SLeTU ¹⁷	Sierra Leone	National trade union of informal traders – affiliated with Sierra Leone Labour Congress SLLC
FENASEIN ¹⁸	Niger	National federation of informal economy organizations consisting of 19 affiliated unions (from different national trade union centres) in the transport, construction, trade, security, garment, catering, mechanics, & allied sectors of the informal economy
MUFIS ¹⁹	Malawi	National trade union of workers in the informal economy – affiliated to Malawi Congress of Trade Unions MCTU
FTUEU ²⁰	Ukraine	National trade union of informal traders – affiliated with KVPU Confederation of Free Trade Unions of Ukraine
Moldova Business Sind	Moldova	National trade union of small business employees and informal traders – affiliated to CNSM National Trade Union Confederation
Xhidmat-ISH	Azerbaijan	National trade union of trade, public catering, cooperatives, health, tourism, sport, hotel, fishery and other services – affiliated to AHIK national trade union confederation of Azerbaijan
Kyrgyzstan Commerce Workers' Union	Kyrgyzstan	National trade union of workers in trade and commerce – affiliated to the Kyrgyzstan Federation of Trade Unions. 80% of membership of Commerce Workers Union is in informal economy
ASSOVACO ²¹	DRC (S. Kivu)	Regional alliance of associations of informal traders in the South Kivu province of the Democratic Republic of Congo. Due to persistent political instability in the region, many of the members are cross-border traders
SNVC ²²	DRC (Kinshasa)	Trade union of street vendors and informal traders active in the District of Kinshasa – affiliated to UNTC national trade union centre
NASVI ²³ /SEWA ²⁴	India	National alliance of street vendors' organizations, consisting of around 600 associations in different states of India, including SEWA (now registered as a national trade union centre of women in the informal economy)
IHVAG ²⁵	Ghana	National alliance of associations of street vendors and informal market vendors, associate member of the Trades Union Congress (TUC) of Ghana, and now part of UNIWA ²⁶ established by TUC Ghana in November 2014

¹⁴ Unión de Profesionales y Trabajadores Autónomos

¹⁵ Ligue pour le Droit de la Femme Congolaise

¹⁶ Democratic Republic of Congo

¹⁷ Sierra Leone Traders' Union

¹⁸ Fédération Nationale de Syndicats d'Economie Informelle du Niger

¹⁹ Malawi Union for the Informal Sector

²⁰ Free Trade Union of Entrepreneurs of Ukraine

²¹ Association des Vendeurs Ambulants du Congo

²² Syndicat National des Vendeurs du Congo

²³ National Alliance of Street Vendors of India

²⁴ Self-Employed Women's Association of India

²⁵ Informal Hawkers and Vendors Alliance of Ghana

²⁶ Union of Informal Workers' Associations

CNTS ²⁷	Senegal	National trade union confederation, which has the responsibility for coordinating organization of workers in the informal economy by all affiliates vested in Women's Committee
ZANAMA ²⁸	Zambia	National association of marketeers, de-registered by govt. of President Michael Sata in 2013 but nevertheless widely known and with presence around the country – associate member of Zambia Congress of Trade Unions ZCTU
AZIEA ²⁹	Zambia	National alliance of associations from different sectors of the informal economy, mainly active in Zambia's Copper Belt – associate member of Zambia Congress of Trade Unions ZCTU
KENASVIT ³⁰	Kenya	National alliance of urban alliances of associations of street vendors & informal traders – 16 urban alliances by end of 2014
Eastern Cape Street Vendors' Alliance	South Africa	Provincial alliance of street vendors covering towns of Mthatha, Mqanduli, Ngqeleni, Port St. Johns and Nelson Mandela Bay in the Eastern Cape province of South Africa
TUICO ³¹	Tanzania	Trade union of industrial, commercial & services workers, extended its organisation to market vendors and later street vendors – affiliated to Trade Union Congress of Tanzania TUCTA
<i>Khathang Tema Bait's'okoli</i>	Lesotho	National organisation of street vendors and informal traders, affiliated to Lesotho Trade Union Congress LTUC
Ubumbano Traders' Alliance	South Africa (Durban)	City-based alliance of informal traders' association consisting of 20 affiliated associations, street committees and other organizations.
Johannesburg informal traders' organizations	South Africa (Johannesburg)	Selection of associations which periodically continue to rise and fall, including: SAITF (<i>SA Informal Traders' Forum</i>) SANTRA (<i>SA National Traders Retail Association</i>) One Voice Traders' Association GIDA (<i>Gauteng Informal Development Association</i>) ACHIB (<i>African Co-op of Hawkers & Informal Businesses</i>) Common features of the above are male domination in leadership, personalized leadership styles and a lack of systems for democratic accountability to members

Bargaining counterparts

As Debbie Budlender explains³²

For every negotiation, there needs to be one or more bargaining counterparts. For formal workers, the obvious counterpart is the employer. The situation is more complicated for informal workers, for many of whom there is not an employer. Further, even when there is an employer, sub-contracting or other arrangements may mean that the legal employer does not have effective power to change what workers want changed. To a large extent, the counterpart is determined by the issues to be negotiated

In Spain, UPTA (*Unión de Profesionales y Trabajadores Autónomos*) is the principal trade union participating in the bargaining forum for autonomous workers at the national level. At the municipal level, their local leadership is participating in the more *ad hoc* "Mesas Locales de Comercio" (local

²⁷ Confédération Nationale des Travailleurs du Sénégal

²⁸ Zambia National Marketeers' Association

²⁹ Alliance of Zambian Informal Economy Associations

³⁰ Kenya National Alliance of Street Vendors & Informal Traders

³¹ Tanzanian Union of Industrial & Commercial Workers

³² Budlender 2012

trade forums) established by municipalities (*see Annexure 2*). This means that at the national level they are engaging directly with the Department of Social Economy of the Labour Ministry, and the bargaining counterparts at the local level are the municipal authorities. For better focus, in 2014 UPTA established a sub-structure FENCA-UPTA (*Federación Nacional de Comercio Ambulante-UPTA*) which is responsible for direct participation in the *Mesas Locales de Comercio*. FENCA is participating in these forums in municipalities where they have been recognised, i.e. Andalucia, Madrid, Cataluña. The Andalucian forum is the strongest and best-functioning.

In Kinshasa, in Democratic Republic of Congo, SNVC (*Syndicat National des Vendeurs du Congo*) is engaging formally with the *Bourgmestre* of Kinshasa, as well as at a more decentralized level with the local authorities in the commune of Kimbanseke, the commune of Maluku and also with the market authorities in Siwambaza Market in Kimbanseke. LDFC (*Ligue pour le Droit de la Femme Congolaise*) negotiate bilaterally with the municipal authorities in the districts of Kinshasa where they are representative (i.e. Tshangu – in 4 communes – and Mont Amba – in 3 communes).

In South Kivu, Democratic Republic of Congo, ASSOVACO (*Association des Vendeurs Ambulants du Congo*) negotiate bilaterally with those municipal authorities within South Kivu where they are representative (i.e. Uvira – city and district – and Bukavu).

In Sierra Leone, the bargaining partners in the Municipal Trade Committee of Freetown are all stakeholders tasked with “maintain(ing) order and regularity of petty trading issues in the City in conformity to existing bylaws” including the Municipal Trade Department and the Sierra Leone Police Force. We would assume that the equivalent stakeholders would also be involved in the Municipal Trade Committees in other towns too.

In Malawi, MUFIS (Malawi Union for the Informal Sector) members engage with municipal market authorities as bargaining partners in market committees established by the local government.

The Ghana TUC (Trades Union Congress) is in the process of engaging AMA (Accra Municipal Association) officials and customs officials as bargaining partners in the informal economy bargaining forum they are establishing with UNIWA (*see Annexure 2*).

In Senegal, CNTS (*Confédération Nationale des Travailleurs du Sénégal*) is one of the principal national trade union centres participating in the official tripartite bargaining forum at the national level. At the municipal level, the Women’s Committee is participating in more *ad hoc* engagements with municipal authorities as bargaining partners. A Dakar City Negotiation Forum has been established since November 2009 under the Division of Indoor and Outdoor Markets. The Forum covers all the arteries of the city of Dakar centre, such as: Sandaga Grand Market, Lamine Gueye Avenue, Avenue Georges Pompidou, walkways of Centennial, Rue Tolbiac, and includes table merchants and street vendors (altogether about 5400).

In Azerbaijan, Kyrgyzstan, and Moldova, where municipal markets have been commonly privatized, the bargaining partners that traders’ organizations have to deal with are private owners or, sometimes, with companies, but often with powerful, politically well-connected families or individuals. These kinds of bargaining partners are usually not accustomed to collective bargaining and are often more familiar with deal-making and patronage systems. As bargaining partners, they are not always ready to recognize freedom of association and bargaining rights. It is a challenge to get private owners to commit to collective bargaining processes, but in certain instances they can also be persuaded by strong organizations (such as the Dordoi Market Union in Bishkek, Kyrgyzstan).

In India, the bargaining partners in the new statutory Town Vending Committees are “*nominated by the appropriate Government, representing the local authority, local medical officer of the local authority, the planning authority, traffic police, local police, association of street vendors, market associations, traders associations, non-government organizations, community based organizations,*

resident welfare organizations, banks and other such interests as it deems proper".³³ The authorities in this list make up 50% of the bargaining partners as the following composition specifies: NGOs and community-based organizations are not less than 10%, street vendors "*who shall be elected by the street vendors themselves in such manner as may be prescribed*" are not less than 40%.

In Johannesburg, the bargaining partner, interestingly, has changed since successful Constitutional Court litigation by the street traders against the municipality (see *Annexure 3*). Initially negotiations were done through ITF (Informal Traders' Forum) chaired by a representative of the wholly-owned entity of the municipality, MTC (Metro Trading Company), which then morphed into the JPC (Johannesburg Property Company) – whose lack of actual authority was unceremoniously exposed when the MMC (Mayoral Committee) bypassed all the work done by these structures. After the legal challenge, the bargaining partner became the COO (Chief Operating Officer) under the instruction of the City Manager.

In Durban, the municipal official who initially ran the EMIEF (eThekweni Municipality Informal Economy Forum) – i.e. the Head of BSU (Business Support Unit) – was deposed by the street vendors and informal traders after the legitimacy of the entire forum was questioned in 2007, and since then the EMIEF has been chaired by different elected Councillors (see *Annexure 4*). However, the fact that the City Manager of Durban reached certain agreements with the Ubumbano Traders' Alliance in October 2012, which were still not in *sync* with the proceedings of the EMIEF during the course of 2013 and 2014, gives the impression of some internal inconsistency regarding which part of the municipality is really the bargaining partner in relation to street vendors and informal traders.

Issues negotiated

With municipal (or national government) authorities, the following issues are commonly negotiated: Organizational recognition, negotiating forums, participation in decision-making, consultation with street vendors, operating norms, policy and law, Social Security and Social Protection, registration systems, trading sites, land for trading sites, access to market sites, public space and authorization for vending, less congested space for vending in the inner city and Site and Service.

Negotiations to put an end to the following issues are also common:

General evictions, or eviction during modernisation programmes or mega-events, harassment, loss of goods, no implementation of laws (or no laws), political interference, bribes and fines relating to demands for proper receipts.

A key challenge is how to achieve inclusive space allocation after infrastructure developments, to avoid development always necessarily being at the expense of the livelihoods of the most vulnerable and marginal vendors as they are edged out by the constraints of affordability, unattainable new entry requirements, etc. The current negotiations by KENASVIT leaders in different towns of Kenya undergoing infrastructure development has shown that collective negotiations by democratically elected representatives are a vital means of ensuring inclusive outcomes.

With both municipal authorities and private owners, the following issues are commonly negotiated: taxes/levies, provision of services, cleanliness and security, income-generation training and economic empowerment schemes.

With regard to the negotiations about taxes and levies, street vendors have to bear many costs – both legitimate costs like permit or licence payments; regular daily, weekly, monthly or annual payments to national or local government for their sites; payment for certain services like storage space, use of water or sometimes even toilets, etc.; and illegitimate costs like middlemen's fees for various legal or illegal services which cannot be independently accessed, or protection money, etc.

³³ The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Bill, 2013

Many of the legitimate costs form part of the revenue of national or local governments – which means that they are taxes. But despite this, street vendors (like other workers in the informal economy) continue to be regarded as people who do not pay taxes and who avoid having to do so. This contradicts the reality in many countries. Many street vendors, when asked, will affirm that they are willing to pay the relevant authority whatever revenue is required because this affords them recognition and legal status. They usually object, not to the payment of taxes as such, but to excessive amounts which they have to pay, or to taxes which they pay in exchange for which they do not receive the services they have been promised.

In a progressive taxation system, the levies and remittances paid by street vendors need to be recognized. Whether revenue collected from street vendors is paid as a tax to the national government, or a fee or levy to the local government, or both (as is often the case), this should be regularized as part of the recognized tax system. All taxes and charges should be streamlined so that vendors are not subjected to many overlapping charges by different government departments that result in inflated total costs. Often the failure of government departments to co-ordinate results in street vendors bearing very high costs as they pay different fees and levies to different departments just in order to be recognized and legal.

AZIEA, ZANAMA and the Zambian Cross Border Trader's Associations developed a system of annual market levy tracking in 2009, with support of researchers and consultants, to enhance accountability in public markets and as a means of doing internal audits for markets.³⁴

However, in the CEE and CIS (Eastern European and Central Asian) countries which adopted a "flat tax" system instead of a progressive taxation system, taxes are usually low for the corporate and the wealthy but high for the poorest own account workers in the informal economy. This has resulted in wide-spread struggles by informal traders in these countries against cash register machines³⁵, often misinterpreted as own account workers not being willing to pay taxes. The source problem to be confronted would therefore be to demand tax reform and go from the "flat tax" system to a progressive taxation system³⁶.

In Johannesburg, the first four issues for negotiation listed on the second page of the case study (see *Annexure 3*) are urgent demands relating to the unconstitutional eviction. The other demands presented by consensus among all the different organizations during the crisis are in line with the general international trends mentioned above, and include the following:

- “5) The city should open up unrestricted and prohibited areas, should provide demarcated areas and build stalls;
- 6) The MMC shall (*sic*) chair the Informal Traders Forum (not the current DED – Dept. of Economic Development – official);
- 7) The city should negotiate all issues concerning street traders in the Forum in order to address outstanding issues (e.g. issuing smart cards);
- 8) The city should provide an office for the Forum at the city's expense;
- 9) The city should train committees on bylaws enforcement informal bylaw booklet (*sic*);
- 10) The city should review special development including the city accord and role of hawkers;
- 11) Region ABCD must have its own forum including in other areas such as Soweto.”

³⁴ Saul Banda Jr & William Chilufya (Chovani/Train Tracks Consultancy) “*Road to Transparency and Accountability: Market Levy Tracking and Expenditure Monitoring – a Comparative case of Luburma Market (Lusaka) and New Site Market (Mansa)*” March 2009. <http://www.actionaid.dk/sw132172.asp?usepf=true> (viewed on 5/1/2015)

³⁵ Portable pre-programmed cash registers which traders are obliged to have in their market stalls.

³⁶ In a progressive taxation system, people are taxed at a higher rate according to their income bracket, and in a flat tax system everybody pays the same tax rate.

In Durban, the Platform of Demands developed by the different organizations when they started to work together to present common demands in 2007 is reflected in Annexure 4.1 of the case study (see Annexure 4). As the municipality has continued to stall, the consolidated demands (which have been agreed upon but have yet to be implemented) are now the following (referred to on p.10):

1. Establishment of a data-base of street vendors in the eThekweni Metro.
2. Update Terms of Reference of EMIEF (eThekweni Municipality Informal Economy Forum).
3. Implementation of extensive 2006 Informal Economy Policy Review Recommendations.
4. Review of Street Trading Bylaws, started by IWG (Implementation Working Group) pre-2005.
5. Recognition Agreement or MoU (Memorandum of Understanding) between Municipality and Ubumbano Traders' Alliance.

From informal to formal

All the abovementioned issues for negotiation amount to demands for some measure of formalization. Ever since the “discovery” of the “informal sector” in the 1970s, there has been a popularly-held belief in ILO circles that those found in this sector preferred informality to formal recognition and legal protection. However, when informal workers joined organizations where they were able to exercise democratic rights and achieve direct representation, the negotiating demands that emerged proved the opposite. This outcome should serve as a guideline for the kinds of step-by-step (staged) formalization issues and processes they need and are willing to cooperate with.

It is now assumed that informal work is unlikely to completely disappear, and that many informal economic activities will remain informal or semi-formal in the foreseeable future. There is no single, easy, one-step way to formalize informal employment. Rather, it should be understood as a gradual, ongoing process of incrementally incorporating informal workers and economic units into the formal economy through strengthening them and extending their rights, protection and benefits.³⁷

There is, as of yet, no clear agreed definition of what is meant by formalization, and this is the subject of a standard setting discussion to take place at the 103rd Session of the International Labour Conference, June 2014 and 2015. However, elements of formalization identified by workers from different sectors of the informal economy³⁸ as the kind of formalization they would like to attain are as follows:

- (a) Recognition in law of workers in the informal economy;
- (b) Integration of indirect taxes and other revenues already paid by informal workers into official tax systems (in accordance with the principle of progressive taxation);
- (c) Extension of social security to all;
- (d) Statutory negotiating forums, including at local government levels;
- (e) Participatory budgeting at both national and local government levels;
- (f) Formalisation into genuine worker-controlled cooperatives;
- (g) Transformation of the informal economy into a social solidarity economy.

This has now become incorporated into the “formalisation platform” of StreetNet and WIEGO³⁹ being promoted in the committee on “transitioning from the informal to the formal economy” at the 103rd and 104th sessions of the International Labour Conference in Geneva in June 2014 and 2015.

³⁷ “WIEGO Network Platform on Transitioning from the Informal to the Formal Economy in the interests of workers in the informal economy” – document circulated at 103rd session of ILO’s International Labour Conference in June 2014 for the promotion of the position of WIEGO and StreetNet on the Agenda item on “transitioning from informal to formal economy”, 2014.

³⁸ Participants (from different sectors of the informal economy) at an ILO workshop on Decent Work & the Informal Economy in Pretoria, South Africa in October 2010.

³⁹ “WIEGO Network Platform on Transitioning from the Informal to the Formal Economy in the interests of workers in the informal economy”, 2014.

Strategies

Debbie Budlender has correctly pointed out that “a strike is not as readily available as a weapon for self-employed workers as for employees. Indeed, in the case of the Liberian street traders, the MCC and police wanted the traders to stop working.”⁴⁰ This situation is faced by all own account workers and, consequently, most of the sector of street vendors and informal traders. However, the equivalent of a strike by employees is the boycott by informal traders of payment of levies and taxes. In the case of African municipalities, this is usually one of the most important sources of local government revenue after property rates and taxes and exerts sufficient pressure on municipalities to get them to the negotiating table pretty fast. Municipalities are often also sensitive to public opinion, and negative publicity can be used very effectively by organized street vendors and informal traders as a form of pressure.

In the privatized markets of Eastern Europe, where the owners are primarily concerned about their profits, a “strike” by traders would also affect the market owners if it takes the form of non-payment of the levies the owners rely on to make their profits. The case of the Dordoi Market Vendors’ Union being able to negotiate for the scrapping of cash machines in favour of a flat-rate tax for all was argued and won by the Union having the capacity to collect taxes from their members and satisfy the profit motive of the owners (*see in story of Kyrgyz Commerce Union in Annexure 2 Table 2.1*).

The strategy of litigation has been effectively used in India by NASVI (National Alliance of Street Vendors of India) in the years between the adoption of the National Policy on Urban Street Vendors in 2004 and the passing of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act in 2014. Many cases were brought forward in different states and municipalities around the country, creating continuous pressure on the authorities. The introduction of the Town Vending Committees as a statutory negotiating system could be seen as a way of pre-empting further such litigation.

In Johannesburg, successful constitutional court litigation of December 2013 also proved to be the decisive blow which brought the COO (Chief Operating Officer) to the negotiating table with the street vendors’ organizations. In Durban, Ubumbano Traders’ Alliance has also developed a strategy which includes litigation activism as a pressure tactic to bring the municipality to the negotiating table in good faith for the implementation of negotiated agreements.

In the South African cases of Johannesburg and Durban, the lack of effective administration systems put in place by local governments for the systematic collection of levies and taxes means that they are not systematically or efficiently collecting collectable revenue. This administrative deficiency also renders the option of boycotting levies payments unviable as a strategy. (This is in contrast with the KSD municipality of the Eastern Cape where the agreed levies are paid willingly by vendors in the secure knowledge that such payment protects them from harassment by the authorities – using popular and efficient mobile phone payment methods).

Gender

In the street vending sector, there is a noticeable gender division of labour. This division is dependent on the product or service which is being sold, the income level which that activity brings in (i.e. women predominate in lower income-earning activities) or the sale of lower income-earning goods and services. There are also certain occupational divisions which follow the gendered roles of men and women in society: e.g. women predominate in the sale of cooked foods while men predominate in the shoe-repair and motor mechanics sectors. A census done of street vendors in Johannesburg by CASE (Community Agency for Social Enquiry) in 1995⁴¹ showed this in detail.

⁴⁰ Budlender 2012

⁴¹ CASE, 1995: Jennings, R., Segal, K., Hirschowitz, R., and Orkin, M. *Our daily bread: earning a living on the pavements of Johannesburg. Part 2: The Survey. Johannesburg: Community Agency for Social Enquiry, 1995.*

In Karumbidza’s SERI report⁴², his Table 4.1 on p.22 details the following occupational divisions on the streets of Durban:

“Muti” trade – largely older traders (mostly men, but also women), dominated by South Africans. Migrant traders in the muti trade sell different products to those of the local muti traders, such as sorcery, magic and exotic potions. The muti trade is mainly carried out at the Warwick Junction market, although there are some who trade in smaller quantities in the CBD.

-Vegetable trade – mostly women. Transport nodes.

-Fruit trade – mostly young men. Transport nodes and CBD streets, although traders tend to be mobile.

-Fast food trade (including boiled and roasted maize cobs, cooked and roasted beef/chicken, boiled bovine heads, vetkoek, etc) – mostly women. Usually in transport nodes such as taxi ranks. Some trade from door to door, while others use portable “braai” stands on busy corners or close to commercial areas.

-Trade in drums and cultural items – mostly Zulu men, mainly supplying cultural functions. Dalton Market.

-Beading – mostly women. On streets and in designated markets.

-Shoe polishing, making and repairing – mostly men. On streets and in spaza⁴³ shops

-Watch repairing – mostly men. On streets and in “spaza” shops.

-Mr Phones⁴⁴, phone dealing, airtime vending and phone repairing – mostly foreign men. On streets and in phone shops.

(quotation marks inserted by author of this report. PH)

Women predominate in this sector in Sub-Saharan African countries⁴⁵, Andean and Central American countries, and some Asian countries (e.g. Vietnam⁴⁶ – but not India). However, the proportion of women in leadership positions in organizations of street vendors and informal traders does not always reflect the proportion of women in the sector. Due to the patriarchal dynamics in most societies today, there is often a higher proportion of male leadership in the organization – except in instances where there is a robust dynamic of internal democracy, in which cases we see women leadership emerging more strongly in line with the proportion of women in the organization.

In the organizations surveyed in this study, the following organizations have strong women’s leadership – as evidenced in the case of NAPETUL in Liberia⁴⁷:

Organization	Country	Description
LDFC ⁴⁸	DRC ⁴⁹ (Kinshasa)	Women-only organization
FENASEIN ⁵⁰	Niger	Woman General Secretary
FTUEU ⁵¹	Ukraine	Woman President in charge
Moldova Business Sind	Moldova	Woman President in charge
Kyrgyzstan Commerce Workers' Union	Kyrgyzstan	Mainly women in Executive
SEWA ⁵²	India	Women-only organization
IHVAG ⁵³	Ghana	Mainly women in Executive
CNTS ⁵⁴	Senegal	Women’s Committee in charge
Ubumbano Traders’ Alliance	South Africa (Durban)	Woman Chairperson in charge

⁴² Blessing Karumbidza “Criminalising the Livelihoods of the Poor: The impact of formalising informal trading on female and migrant traders in Durban” SERI Research Report, February 2011.

⁴³ Spaza shops are shops operating from township homes

⁴⁴ Pavement telephone cabins or tables are commonly referred to as “Mr Phone.”

⁴⁵ As in the case of street vendors in Liberia where women make up 60% is typical (see Budlender 2012).

⁴⁶ Rolf Jensen, Donald M. Peppard Jr, Vu Thi Minh Thang “Women on the Move – Hanoi’s migrant roving street vendors”, Women’s Publishing House, Vietnam, 2013.

⁴⁷ Budlender 2012

⁴⁸ Ligue pour le Droit de la Femme Congolaise

⁴⁹ Democratic Republic of Congo

⁵⁰ Fédération Nationale de Syndicats d’Economie Informelle du Niger

⁵¹ Free Trade Union of Entrepreneurs of Ukraine

⁵² Self-Employed Women’s Association

⁵³ Informal Hawkers & Vendors’ Alliance of Ghana

⁵⁴ Confédération Nationale des Travailleurs du Sénégal

Interestingly, this is a significant proportion of the total sample. The other organizations surveyed in this study have the more typical male-dominated mixed negotiations structures and practices, similar to those which characterize most of the traditional trade union movement.

With regard to gender visibility in policy and legislation, in India the gender composition of the Town Vending Committees has been given some attention. Clause 22(1)(d) of the Street Vendor (Protection of Livelihood and Regulation of Street Vending) Bill 2013 states “provided that one-third of members representing the street vendors shall be from among women vendors”.

Forums established

For those organizations which are currently participating in established forums, see (below):

Organizations	Country	Local Forum details
UPTA ⁵⁵	Spain	" <i>Mesas Locales de Comercio</i> " established by municipalities – provide an opportunity for informal traders to have a voice, and unions are also part of such forums. But there are no proper terms of reference, meetings are irregular, and system depends on the goodwill of local government authorities. For better focus UPTA established a sub-structure FENCA-UPTA for direct participation in the <i>Mesas Locales de Comercio</i> .
SLeTU ⁵⁶	Sierra Leone	SLeTU participates in market committees in Freetown and other towns.
SNVC ⁵⁷	DRC ⁵⁸ (Kinshasa)	Provincial market committees, of between 11-40 members, depending on the size of market and number of sections. These committees meet regularly, based on necessity. Provincial Government controls certain markets through the provincial Finance Minister – and gives SNVC 5% of revenue in these markets in recognition of provision of services in regulation of market trade.
NASVI ⁵⁹ /SEWA ⁶⁰	India	Town Vending Committees became statutory once the Street Vendors (Protection of Livelihoods and Street Vendor Regulation) Act was passed by Parliament in 2014. Municipalities can no longer bypass committees & do things unilaterally. Composition is as follows: 40% street vendors organizations (33% women) 10% voluntary organizations and NGOs; 50% municipality, transport, police, health & sanitation and bankers.
Ubumbano Traders' Alliance	South Africa (Durban)	EMIEF – eThekweni informal Economy Forum <i>(defended in 2014 by organised street vendors)</i>
KENASVIT ⁶¹	Kenya	KENASVIT leaders are participating in county-level negotiations in most places except Kisumu, Nairobi and Mombasa, where negotiations taking place at city level
<i>Khathang Tema Baits'okoli</i>	Lesotho	Multi-stakeholders' negotiations forum dealing with informal trade established after clashes between street vendors and Maseru municipality in 2012

⁵⁵ Unión de Profesionales y Trabajadores Autónomos

⁵⁶ Sierra Leone Traders' Union

⁵⁷ Syndicat National des Vendeurs du Congo

⁵⁸ Democratic Republic of Congo

⁵⁹ National Alliance of Street Vendors of India

⁶⁰ Self-Employed Women's Association of India

⁶¹ Kenya National Alliance of Street Vendors & Informal Traders

Accountability

All the abovementioned street vendors' organizations are expected to consult their members as widely as possible, both for collection of mandates and for reporting back on progress in the negotiations. But all of these organizations experience challenges in achieving sufficient levels of reporting back. Often the initial mandate is clear enough, especially if it arises from collective action, such as the 1000-member meeting after a march in Liberia⁶². But getting mandates to know how far to compromise once negotiations start and certain offers are made is much more of a challenge, and often leaders try to gauge by themselves how far they can compromise, or to persuade the members to accept an offer they feel they should accept on their behalf. This works better with organizations whose leaders have their ears close to the ground – which means the process is rather reliant on the personal sensitivities and/or charisma of the leaders.

In Kenya, where KENASVIT leaders in different cities are involve in county-level and/or city-level negotiations, national leadership are monitoring report-backs to members in the different towns. However, this is a part of the collective bargaining process which most of the organizations still need to strengthen.

Politics

The most common political problem in nearly all countries is the divide and contradictions which usually exist between the national and local structures of government. In democratic countries, it is common to have well-crafted constitutions with guaranteed universal human rights. In some cases (such as in India and South Africa), these even specify fundamental socio-economic rights, including the right to trade. Local government legislation, however, systematically criminalizes the exercise of such rights. In countries which do not have democratic constitutions, the limits to the rights of informal traders take on a more overtly authoritarian character; however, the effect for informal traders ends up being the same. The lack of capacity (or political will) to bring local government laws and practices in line with national legislation or constitutional rights is one of the major hurdles faced by informal traders when they are attempting to negotiate with local government authorities. However, the Johannesburg case study describes how street vendors were able to turn to the constitution to get a legal judgement against the City in the constitutional court to defend their rights.

Occasionally, it can work in the short-term interests of informal traders when national government rides roughshod over controls put in place by local government authorities and issues decrees or provisions which open the way for informal trade to freely take place (most commonly this happens during election campaigning time), but such relief is usually temporary and easily reversed when the political situation changes.

In Kenya, informal traders have learnt to make use of such periods, so street vendors flock to the cities in larger numbers than usual – particularly the capital city, Nairobi – in the months before elections to take advantage of the politicians' instructions to municipal officials to look the other way. They know that the post-election period is completely unpredictable, not only because of politicians breaking their promises, but also because the threat of post-election violence (as happened in Kenya in 2008). Therefore, one of their survival strategies is to try to do as much business as possible during the political lull periods.

The particular political situation in a country is often an important factor in understanding the more specific dynamics of collective negotiations, even at local government levels.

Spain – During the regime of the Socialist Party in Spain under the leadership of Zapatero, very progressive inclusive “social economy” legislation was adopted. The Social Economy department

⁶² p.37 of Budlender 2012

falls under the Ministry of Labour and encompasses cooperatives, work-controlled enterprises and autonomous workers. In July 2007, after the rise of UPTA (Union of Professional and Autonomous Workers), one of the fastest growing unions (affiliated to the UGT national trade union centre), the Government came under pressure from UPTA, and the Autonomous Workers' Act⁶³ was passed.

The importance of this Act was that it provided an inclusive legislative framework within which irregular and informal autonomous workers (including migrants and other marginalized groups) could either gather collectively into cooperatives and be covered by the Cooperatives legislation⁶⁴ or register individually as autonomous workers in accordance with the Autonomous Workers Act 20/2007. Once registered as an autonomous worker, s/he would, as established by this legislation, have access to social protection as well as representation by the Council for Autonomous Work.

This legislative framework is more progressive than that found in any other European country where, typically, the legislative frameworks are more bureaucratic and exclusionary – in effect criminalizing instead of including own account workers, both in Western and Eastern Europe. However, since the Socialist Party lost its position as the ruling party, and since the Spanish government moved to the right, this framework is no longer promoted or strongly defended by the national government. This is now left to the trade union movement in the reactionary political tide sweeping Western Europe.

So, while the "*Mesas Locales de Comercio*" established by municipalities do provide an opportunity for informal traders to have a voice – and unions are also part of such forums – the rightwards shift in national politics is not exactly helpful in getting these forums to be more genuinely representative and effective for street vendors and informal traders, many of whom are migrants.

Democratic Republic of Congo – this is a very vast country which has recently emerged from protracted civil war following the authoritarian regime of Mobutu Sese Seko. There is a history of international interference in the internal affairs of this country which continue to this day, largely because of its wealth of natural resources. Even today, although the country has “normalized,” rebel warfare continues in the Eastern provinces of the country, including South Kivu where ASSOVACO (*Association des Vendeurs Ambulants du Congo*) is based.

Informal trade is very widespread in the post-war economy of the country (as well as the war economy of the Eastern provinces where cross-border trade is highly prevalent), and management is done at both the provincial and district level as well as the municipal and *commune* level. Hence, an organization like LDFC, which only has members in three districts of the capital province of Kinshasa, is not able to be very influential in collective negotiations. SNVC (*Syndicat National des Vendeurs du Congo*) signed a protocol with the *Bourgmestre* of Kinshasa, which enables their negotiations to cover all the districts of Kinshaha. In addition, they also have some localized agreements with particular markets in different *communes*. However, SNVC are frustrated with the lack of progress in their negotiations at this level and see the provincial level as one where they are able to make more progress. This extreme level of decentralisation is a factor which isolates the effects and positive outcomes of negotiation activities by representative organizations of street vendors and informal traders.

Azerbaijan, Kyrgyzstan, Moldova and Ukraine – these are all former Soviet Union countries. In the traditional national trade union centres, commerce and cooperative workers' unions organized public sector employees. These unions had to adapt to organizing workers in the private sector following the collapse of the Soviet Union. After the economic changes in these countries, many small business unions were formed to organize the workers employed by new emerging small

⁶³ Estatuto del Trabajo Autonomo, Act 20/2007 of 11 July

⁶⁴ Ley de Cooperativas 27 – 1999

businesses. Although countries in this region (especially Eastern Europe) now want to join the European Union (EU) and transform their economies in line with EU policies and standards, this is a region with traditional markets (called bazaars in the Turkish tradition) in all towns and cities. So the commerce and small business unions have had to organize the vendors in the bazaars who are experiencing the same regulation problems and inconsistencies which characterize this sector of the informal economy world-wide.

A common problem in all these countries is a certain system of cash register machine that governments have made compulsory for informal traders. This system replaced previous systems of "patents" – a simple system which covers basic registration and standard tax payments by the patent holder and gives access to basic levels of social protection. However, the cash register machine is expensive to buy. It requires the owner to hire an accountant, provide receipts for every purchase (even individual cigarettes) and levies large penalties whenever there is an error in cash reconciliation – no matter how minor. The system is not only expensive to maintain but also complicated to manage and brings unexpected expenses which make it hard for informal traders to calculate their expenses. These countries all have flat tax systems instead of the progressive taxation systems which have introduced more economic justice in most democratic countries.

StreetNet has found widespread resistance to cash register machines in visits to these countries. However, the demands to replace the cash register machine with a simple system of flat-rate taxation, or a reintroduction of patents, have fallen on deaf ears; the businesspeople holding the tenders for the cash register machines are known to have strong ties of friendship to government authorities, and this is a lucrative business for them.

The markets, however, are all privatized. Market owners also have to pay levies to their governments, and they have to make their profits over and above this. It is usually easier for market owners to avoid complying with their legal obligations to the market traders than their obligations to the state – and therefore the rights of the traders are fairly low on their list of priorities when it comes to meeting legal obligations.

Malawi – in 2006 the government of Malawi was imitating the Zimbabwe government's "*Operation Murambatsvina*" – a clean-up operation directed against workers in the informal economy – and conducting a drastic clearance and forced relocation of street vendors. MUFIS (Malawi Union for the Informal Sector) spent most of their time fighting defensive battles to try to discourage relocations all over the country. This resulted in MUFIS joining forces with civil society groupings which gathered momentum and led to nation-wide demonstrations in 2011. In April 2012, after the unexpected death of the State President in office, the second woman President, Joyce Banda, was inaugurated. She introduced many political changes and anti-corruption measures and seemed to be more willing to alienate vested political interests than her predecessors. She was also more accessible to street vendors and informal traders and had a particular interest in the women in the sector. The era of increased political tolerance to civil society which she introduced has also provided MUFIS with more space to achieve recognition of street vendors and informal traders in collective negotiations. As a result, street vendors worked in a harassment-free environment and felt themselves to be officially recognized.

However, Joyce Banda was voted out of office again in 2014 – and street vendors are watching vigilantly to see what is going to happen next.

Zambia – In 2011 President Michael Sata's Patriotic Front swept to victory in Zambian national elections on a pro-poor ticket. President Sata decreed that street vendors were to be recognised as workers earning their livelihoods on the streets, and that they were not to be evicted from their workplaces. He even went so far as to dismiss the Minister of Local Government when she ignored

is decree. In 2014 President Sata died – and street vendors are watching vigilantly to see what is going to happen next.

Niger and Senegal – these two countries are both in the francophone West African region and are members of the West African Economic and Monetary Union (known by its French acronym *UEMOA*). Senegal is characterized by a democratic regime; in the last national elections in 2012, long-time President Abdoulaye Wade was defeated at the polls in a victory for the democratic forces in the country. On the other hand, in Niger, a military coup took place in February 2010 when President Mamadou Tandja attempted to extend his mandate beyond December 2009. A democratic election in 2011 restored the country to civilian rule. Both these countries have decentralized municipal governance systems which were introduced in all former French colonies, but these are rather weak and subservient to the national governments. Therefore, street vendors and informal traders see it as more worthwhile to negotiate with national governments than with local government authorities.

Local collective negotiating forums have not yet been tried in Niger. In Senegal, however, a Dakar City Negotiation Forum has been established since November 2009 under the Division of Indoor and Outdoor Markets to discuss issues such as evictions of vendors and proposals for relocation in targeted sites.

Sierra Leone and Ghana – these two countries are both in Anglophone West Africa but do not have an Anglophone equivalent of *UEMOA*. In Sierra Leone, after the end of many years of civil war, governance structures have stabilized, and SLeTU (Sierra Leone Traders' Union) affiliated to the SLLC (Sierra Leone Labour Congress) has found itself in a strong position to be an influential partner in establishing the structures of the market committees in Freetown and other towns. In Ghana, the first African country to achieve independence from colonialism in 1957, the trade union movement fought for and established its independence from the state in the 1970s. In Ghana, there is a high level of organization of workers in the informal economy into many different associations, as well as in the trade union movement where many trade unions have integrated sectoral associations of workers in the informal economy into their structures. Collective bargaining is a well-established right and practice in Ghana; however, the challenge faced by organizations of workers in the informal economy is how to combine their forces to improve their broad representivity for more effective impact in collective negotiations.

The TUC of Ghana started admitting associations of informal workers as associate members of the TUC, and then created a Coalition of Informal Workers' Associations (CIWA). In November 2014 this structure launched itself as a trade union UNIWA (Union of Informal Workers' Associations) which is under consideration as a new incoming affiliate of the TUC of Ghana.

India – the federal political structure of India, with each state having their own socio-economic legislation, dilutes the efforts of popular organizations in collective negotiations. At a de-centralized level, there is a well-established practice of very localized negotiations directly with community members in village *panchayats* which often yield significant results which community members own and are able to defend. In the cities of India, street vendors' associations were lobbying and negotiating with their municipal authorities all over the country, but success rates were uneven and did not make an overall impact on urban policies or on the socio-economic rights of street vendors and informal traders. NASVI (National Alliance of Street Vendors of India) and SEWA (Self-Employed Women's Association) therefore lobbied for a National Street Vendors' Policy that was adopted in 2004 after the World Social Forum in Mumbai attracted the presence of the ILO Director-General Juan Somavia. The task of trying to get all the states of India to adopt laws and policies in conformity with the National Policy followed.

In contrast to some of the neighbouring countries in the South Asian region, India is a democratic secular state, and this is an important factor which strengthens civil society and its prospects to be able to achieve objectives through popular struggle. The high population of India also means that all the politicians are interested in numbers of votes which gives some bargaining power to the otherwise very powerless poor. This has meant that the sustained struggles of SEWA and NASVI have yielded results: firstly, the improvement of the National Street Vendors' Policy in 2009, secondly, the introduction of a federal bill and thirdly, the Street Vendors (Protection of Livelihoods and Street Vendor Regulation) Act of 2014 – which was passed just before 2014 national elections.

Because the high poverty levels in India are a drag on the country's development as a major global power, the Indian government has a vested interest in developing policies and legislation which could result in workers in the informal economy (who make up 93 per cent of the country's labour force) improving their incomes and access to social protection. As a result, the Indian government is often a valuable ally (irrespective of which political party is in power at the time) in negotiations about the rights of workers in the informal economy in international forums such as the ILO.

South Africa – the political background to the current situation facing street vendors in South Africa has been described in detail in the Johannesburg and Durban case studies which were elaborated on earlier in this report. The same contradictions which resulted in 44 members of a mineworkers' community being mowed down and killed by the police of the post-Apartheid state at Marikana in August 2012 have played out in relation to street vendors and informal traders in South Africa; these traders thought that, after the end of Apartheid, their socio-economic rights would be secure, but instead have regularly found themselves at the receiving end of evictions from their workplaces that are reminiscent of the Apartheid-era forced removals. On Tuesday, 7 January 2014, street vendor Jan Rivombo became another casualty when he was shot dead after refusing to hand over his stock of bananas to the Pretoria Metro Police.

Street vendors' regulation in the post-Apartheid South African state is characterized by contradictory government practices, no consistency between the different levels of government or even departments within the same municipality – as seen in the case of Johannesburg – and no sustainable political commitment when good practices are introduced – as seen in the case of Durban. In contrast with these two metropolitan councils, the King Sabata Dalindyebo (KSD) municipality in the Eastern Cape seems to have reached a mutual understanding with street vendors and informal traders, at least in the medium term, on the basis of an inclusive approach and an as yet unbroken commitment to social dialogue. However, with no statutory arrangements in place, the livelihoods of these street vendors is as precarious as those abovementioned in Malawi and Zambia.

General – Debbie Budlender has quoted Chris Bonner's references to the challenges of corruption, political manipulation and interference⁶⁵ in relation to workers in the informal economy.

In the Johannesburg and Durban cases described above, these challenges are very clear – and are shown to be key elements obstructing the proper functioning of the collective negotiations forums.

In all the countries, street vendors and informal traders are regarded by politicians as voting fodder. Due to the fact that historically they have come from the less legally literate and more uneducated part of the population, in democratic countries politicians have abused these social inequalities and taken many liberties in the constant breach of laws and regulations governing this sector. In the Eastern European countries, where many members of the sector of self-employed market vendors are highly educated professionals – thanks to the universal access to education enjoyed during the

⁶⁵ Bonner Chris. 2009. Collective Negotiations for Informal Workers. Organising in the Informal Economy: Resource Books for Organisers Number 4. WIEGO and StreetNet: Johannesburg

Soviet days – their lack of direct experience of a democratic culture creates the same conditions of impunity for authorities to ignore laws and regulations at will.

It is therefore more in the interests of authorities who have no vested interest in promoting popular participation and social inclusion to put in place systems of patronage for the control and regulation of street vendors and informal traders – not systems of collective bargaining.

As a result, any organizations of street vendors and informal traders have to overcome these political obstacles in order to secure the simple basic right to collective representation. In Kenya, KENASVIT has developed an impressive level of resistance to such political interference – and famously stopped an election for the leadership of one of their urban alliances in September 2012 and again in October 2012 when the leadership noticed that the process was being highjacked by political interests in preparation for upcoming national elections in March 2013⁶⁶.

Learning from others

Spreading the word among the members of an organization has always been a challenge for workers, especially as organizations grow and expand, increasing the logistical and geographical challenges of reaching members far and wide. However, there has always been the element of information about victories and defeats spreading by word of mouth, and even more so where there is an organized drive to get information out as part of a larger organizational strategy. Debbie Budlender has pointed to this in different sectors of the informal economy she researched in Georgia, India and Brazil.⁶⁷

Workers in the informal economy are now using the new tools of social media to publicize their victories. UPTA⁶⁸, NASVI⁶⁹, SEWA⁷⁰, CNTS⁷¹ all have their own organizational websites, and KENASVIT⁷² has an organisational blog site. Other StreetNet affiliates rely on the StreetNet International website⁷³ for internet exposure. However, the use of social media has, to a much greater extent, empowered street vendors and informal traders as many of them interact regularly on Facebook in particular and to some extent on Twitter and other social media. Furthermore, through increasing use of more sophisticated hand-held instruments, more street vendors have developed more regular access to websites and internet information. The Facebook pages of StreetNet⁷⁴ and of the Asian Regional Focal Point⁷⁵ are regularly visited by members of StreetNet's affiliated organizations; many of StreetNet's affiliates have set up Facebook pages⁷⁶ – even at the level of local branches of the organization. This medium is showing real promise in spreading information so that street vendors and informal traders learn from each other.

⁶⁶ The Star (Wednesday, Sept 26, 2012) “Hawkers polls in Embu abort over graft claims” by Reuben Githinji
The Star (Thursday, October 18, 2012) “Hawkers elections cancelled” by Reuben Githinji

⁶⁷ p.39, Budlender 2012

⁶⁸ <http://www.upta.es/>

⁶⁹ <http://nasvinet.org/newsite/>

⁷⁰ <http://www.sewa.org/>

⁷¹ <http://www.cnts.sn/>

⁷² <http://kenasvit.wordpress.com>

⁷³ <http://www.streetnet.org.za/>

⁷⁴ <https://www.facebook.com/pages/StreetNet/175851405831761>

⁷⁵ <https://www.facebook.com/StreetNetAsia>

⁷⁶ <https://www.facebook.com/federacion.fentravig>, <https://www.facebook.com/kenya.kenasvit>,
<https://www.facebook.com/nasvi.india.7>, <https://www.facebook.com/ugti.cut>,

Going forward in 2015

After this initial overview of the state of collective bargaining, particularly of the street vendors and informal traders sector of the informal economy which is predominantly a sector of own account workers, it is clear that a lot of work needs to be done on promoting the understanding of new ways of collective bargaining. There is political ground which needs to be laid to break the habits of political patronage and replace these with genuine representation through collective negotiations.

During the continuation of the project there are plans to:

1. Collect information from more StreetNet affiliates about whether they are participating in local-level negotiating forums and, if so, how these are functioning. StreetNet has 48 affiliates in 44 countries – so we have a lot of information outstanding.
2. StreetNet Organisers will encourage and guide its affiliates in a process of approaching authorities regarding the establishment of local-level negotiations forums where these are not yet in place. They underwent negotiations skills training in March 2014 to equip them to provide informed guidance to StreetNet affiliates in their interactions with authorities and local-level negotiations forums. In particular, this will be with regard to the following:
 - how to approach the authorities;
 - agreeing on Terms of Reference for negotiating forums;
 - regular reporting back to members on progress;
 - preparing demands for negotiation in forums;
 - keeping the process going while regularly reporting to members;
 - signing agreements once agreement has been reached;
 - advertising agreements and involving members in monitoring implementation.
3. All these processes will be monitored using the questionnaire in Annexure 5.
4. The information collected on local-level negotiations will also be compiled into case studies to guide the discussions at the 104th session of the International Labour Conference on formalisation of collective bargaining to ensure the full direct participation of street vendors and informal traders and other workers in the informal economy through their own elected representatives.

*Compiled by Pat Horn
for WIEGO, January 2015*

ANNEXURE 1

Towards a model framework for a local level collective bargaining system for street traders. StreetNet International, 2013

Introduction

In many towns and cities across the world street trading is an important source of work and income for many poor people. In many towns and cities street traders have come together in unions, associations and other organisations to fight for better working conditions. In doing this, street traders are similar to many other types of workers who join unions to fight for better working conditions and wages.

For other workers, the unions often form part of established collective bargaining systems where worker representative meet on a regular basis with employers to negotiate about the demands. For many street traders there are no employers with whom to negotiate. Instead street traders will usually need to negotiate with local government (municipalities) because local government has the power to make decisions in respect of many of the issues that affect street traders. These issues include who can trade, where they can trade, if they must pay a fee, and what services they can expect to get from government.

Some street traders and their organisations have managed to negotiate with local government. However, usually this bargaining happens on a one-off basis only when there is a crisis. The local government may agree to negotiate after workers protest or make their voice heard in another way. But after the crisis has passed, the meetings end and in many cases what was agreed is not implemented.

This document sets out ideas on the type of collective bargaining system that street traders and their organisations should fight for. The ideas in the document come from research that was commissioned by Streetnet into collective bargaining experiences of street traders and their organisations in Brazil, Democratic Republic of Congo (DRC), India, Kenya, Malawi, Nicaragua, Senegal and Spain. The reports on the research can be downloaded from www.streetnet.org.za under "Resources".

The ideas in the document are *ideas* rather than *rules*. The ideas are offered as a set of principles aimed at establishing maximum accountability and transparency.

There are several reasons why you may not follow all the ideas.

- Firstly, a particular idea may not fit the particular situation of street traders in your city or country. Any collective bargaining system needs to fit in with the law, policies, politics and way things work in a particular place.
- Secondly, the ideas show what you may want to work towards. You will not achieve everything you want immediately. The important thing is to get a bargaining system or forum established. You must decide which of the ideas below are non-negotiable as a starting point. Once the forum is in place on the basis of the non-negotiable aspects, you can use it to negotiate further improvements in the way the forum operates.
- Third, the ideas are based on a forum that is set up especially for street traders. In some cases there may be reasons why a separate forum for street traders may not be possible or desirable. For example, in some places there may not be enough street traders for the local government to have a separate forum. In some places street traders may feel that they will be stronger if they negotiate in the same forum as other informal or formal workers.

- Fourth, in some cases the street traders will want to negotiate with other parties instead of, or together with, the local government. This will depend, among others, on the responsibilities of local government and other levels and parts of government in your country and city.

These and other reasons mean that the ideas in this document must be adapted to suit your situation.

Before you consider the detailed ideas...

Before you consider the detailed ideas for how the collective bargaining and forum should work, you need to get the local government to agree to discuss either:

- (1) setting up a forum with your organisation OR
- (2) improving an existing forum to make it work more effectively.

For StreetNet affiliates, this can also be done as part of the New Manifesto Campaign, in terms of which street traders are developing lists of demands to present to the municipality and other authorities. Setting up a negotiating forum is one such demand that is relevant in many cases. It will be the responsibility of each StreetNet affiliate to determine how best to fight for the negotiations forum they want.

You will need arguments to persuade the municipality that setting up a forum is a good idea. Some ideas for persuading local government are:

- Presenting evidence that shows that **street traders are an important constituency**, for example because of their big numbers. In some countries, there are enough traders for them to be an important voting bloc in elections. Evidence can include the number of members. If there is a survey of street traders, you can also show your members as a percentage of the traders.
- Presenting evidence of the democratic way in which your organisation works. You can use this evidence to show that the organisation speaks with the true **“voice” of street traders**.
- Emphasizing that street traders are **hardworking people** who are trying their best to provide for themselves and their families.
- Highlighting that street traders deliver an important, convenient and affordable service to other people living in the city.
- Countering the perception that street traders are a nuisance, or even criminals, and pointing out that street traders’ presence on the streets means that there are many extra eyes to discourage other people from committing crime.
- Emphasizing that street traders are **citizens and residents who need services** (such as waste removal, water, child care facilities), including services that help them to be successful in earning money.
- Pointing out that providing for street traders in an organized way that meets street traders’ needs will assist with achieving better, more participatory, **urban planning**.
- Noting that when street traders’ business improves, this can increase the **local government’s revenue**, for example through fees charged.
- Noting that working with street traders and their organisations in a regulated way will **reduce corruption** because everyone will know what the rules are and how they are meant to operate. This will, among others, free up police to spend time on other tasks rather than on harassing street traders. It can also reduce likelihood of violence among street traders.
- Arguing that an established bargaining forum that operates according to good rules will result in local government having a **reliable counterpart that provides an effective channel of communication**. An established bargaining forum will increase **participatory democracy**.

Your case with the local government will be stronger if you have strategic allies.

- The **first** set of allies is other organisations that represent or are working with street traders. This can include unions and other membership organisations as well as non-governmental organisations that assist street traders.
- The **second** set of potential allies is municipal workers and their allies. One argument you can use with municipal workers is that if the municipality agrees to provide more services for street traders, this may create more municipal jobs.
- The **third** set of allies is people who can support you on technical issues. This can include academics, lawyers and people and organisations that know about human rights.

When you have convinced the municipality...

Once the municipality has agreed to establish a new forum or improve an existing forum, you need to negotiate on what the forum will look like. As discussed above, the following are *ideas* to consider when drawing up a proposal for the municipality. You do not need to follow all the ideas when you first set up the forum.

- The negotiation forum should have clear written terms of reference. The scope of the forum's discussions should include laws and by-laws, rules for registration, nature and duration of licenses, location of markets and sites, allocation of sites and duration of tenure, fees and rentals, policing, hygiene, other services and infrastructure to be provided by the local authority, the responsibilities and rights of traders and the local authority, policy in respect of fines and penalties and elimination of all forms of discrimination against particular categories of traders, such as foreigners, young people or women. Parties to the forum must also be able to put additional items on the agenda as they arise.
- The forum should, wherever possible, have decision-making and not only advisory powers. Its main purpose should not be confined to information sharing.
- The status, powers and decisions of the forum must be made known to other relevant actors. In particular, the police must be informed about decisions taken and must face penalties if they act in a way that goes against the forum's decisions.
- The forum should be as inclusive as possible of ALL the street traders who are selling goods and services in the municipality's public space. It is never desirable for such forums to represent an "in-group" (for example, only those with permits, or only those who have official registration) at the expense of those who are more marginalized in the sector. Such practices can create elitism and increase divisions between street traders on the ground. The street traders' representatives in the forum can then become compromised by being used by the municipality in divide-and-rule tactics.
- The negotiating forum should have a regular schedule of meetings, with dates and times agreed in advance. There should also be provision for any of the negotiating partners to request additional meetings when urgent issues arise.
- Meetings should be held at a time and venue that are convenient and safe for all categories of street traders, including women with domestic responsibilities.
- If the chairperson of the forum is a representative of the local authority, the deputy chairperson should be a trader representative, and vice versa.
- Forum members should receive a request at least three weeks before each meeting asking them what items should be put on the agenda of the meeting.
- Representatives should receive an agenda and related papers at least two weeks before each meeting so that they have time to consult and discuss the issues with members.
- Written minutes should be recorded for each meeting of the forum, and approved at the following meeting. The party responsible for producing the minutes should be required to circulate draft minutes for comment and suggested revisions within one week after the meeting happens.

- Adequate time must be allowed between meetings to allow for report backs and mandate-seeking by representatives among those they represent.
- All agreements reached should be written and signed by all parties to the agreement. Copies of the agreement should be provided to all parties.
- The forum should receive regular written and oral reports on implementation of all agreements.
- The forum should submit regular written reports to the elected municipal councillors.
- Street traders' representatives should be provided with facilities for reporting back to their members. Such facilities could, for example, include a meeting venue or use of public space, loud hailers, and use of notice-boards.
- Membership of the forum should include, at the least, the local authority and the traders. Other relevant parties, such as formal businesses, transport operators, private security firms and trade unions may also attend for particular meetings of sessions depending on the scope of issues discussed in the forum.
- The local authority should be represented by officials who are sufficiently senior to commit the local authority to agreements and who are properly mandated to enter into binding agreements on behalf of the municipality. The local authority should also be represented by officials with the necessary technical expertise and knowledge of the situation and system in respect of traders. The latter could include the police and/or other officials responsible for safety and security, labour department officials, urban planners, and officials who deal with traffic and health.
- Traders should be represented on the negotiation forum by independent organisations that they themselves establish.
- Both parties should have the right to bring along technical advisors when specific issues on which the advisors have knowledge are being discussed. These advisors should have speaking powers, but not voting powers.
- The trader organisations should ideally be registered. However, this should only be required if the registration system for organisations is not unnecessarily onerous in terms of cost, information requirements, other requirements, and duration of the process. The system should not exclude credible representative organisations.
- Trader organisations represented on the forum should be membership-based, have a constitution, enforce the constitution, and have a specified geographical area of operation based on its membership.
- Representation of traders in the forum could take various forms, depending on the nature of trader organisation in the area. If there is a limited number of organisations and the membership size of the organisations does not differ substantially, each organisation should be entitled to one representative. If there are many organisations, the system of choosing representatives needs to be democratic. This could happen through all organisations agreeing to form a coalition in which representatives to the forum are chosen. A similar system of choosing representatives will be needed if some of the organisations focus on union-like issues while others focus primarily on other issues, such as savings schemes, and do not have the necessary skills for negotiation. In designing the system of representation, thought must be given as to whether all groups – especially marginalized ones – will have a voice. Such groups could include women, youth, undocumented traders, foreigners, particular religions, particular ethnicities, particular castes, and people with disabilities.
- Each year, each organisation represented on the forum must provide proof of their credentials according to criteria agreed on by the forum.
- Each year the parties to the forum should reconfirm who will represent them in the forum.
- Representatives should not be paid for attending forum meetings, but may have costs such as transport covered. Serving as a representative should not bring any personal financial benefit.

Monitoring and enforcing implementation of agreements after establishing the forum...

Once you have reached agreement on the form of the forum and how it should work, you need to monitor to ensure that it works well, and according to what was agreed.

There are two levels to what must be monitored.

- **Firstly**, you must monitor whether the agreed operating rules of the forum are being followed. For example, you need to ensure that the forum meets regularly, that the representatives of local government and traders all attend regularly, that agendas are prepared and distributed on time, and that minutes are properly kept.
- **Secondly**, you must monitor whether agreements are being reached in the forum (on issues such as licenses, sites, fees, services and so on) and if the agreements are being implemented.

For the second level of monitoring, all traders covered by the agreement should be encouraged to be part of the monitoring. To allow this to happen, all stakeholders – including all traders – must have a copy of the signed agreement. If necessary the agreement should be translated into the languages spoken by the street traders. If the agreement is very long and in difficult legal language, a shorter simpler version should be developed that contains all the most important clauses. The municipality should pay for the translation and for making enough copies of the agreement so that all traders can have one.

If all traders have copies of the agreement, they can then monitor that the agreement is respected by being properly implemented. As soon as somebody suspects that the agreement is not being properly implemented, they can report this to the street trader leaders or the street traders' forum representatives. If the problem is not resolved within one or two days, a special meeting of the forum should be called to correct the problem before it gets worse. In each regular meeting of the forum there should also be an item on the agenda where representatives can report on the cases of non-implementation that have been reported since the last meeting.

Finally...

This document presents ideas on how you can establish or improve a collective bargaining forum for street traders. It is up to you to decide how you use and change these ideas. But in all cases there are likely to be five important steps in achieving a well-functioning collective bargaining forum, namely:

1. Build strong and democratic organisation among street traders
2. Convince the municipality to establish a forum
3. Negotiate the rules of how the forum will function
4. Engage in collective bargaining
5. Monitor and enforce implementation.

These steps will not follow neatly one after the other. In particular, you are likely to move backwards and forwards between 3, 4 and 5 as you try to improve how the forum functions and as you bargain for new agreements on key issues facing street traders.

Collective bargaining for street traders is relatively new, and it is important that street trader organisations around the world learn from each other. Please keep StreetNet informed about what you and your organisation are doing. Tell us about both the achievements and the challenges by emailing coordinator@streetnet.org.za

ANNEXURE 2

2.1 Information gathered from street vendors' organizations during 2013

Affiliate	Country	Response
UPTA – <i>Unión Profesional de Trabajadores Autónomos</i>	Spain	At the European regional workshop in Bishkek, Natalia Cera Brea reported that UPTA is participating in "Mesas Locales de Comercio" (local trade forums) established by municipalities. These forums provide a good opportunity for informal traders to have a voice, and unions are also part of such forums. But there are no proper terms of reference, meetings are irregular and the system depends on the goodwill of local governments. Their needs include a legal framework with established terms of reference and requirement of regular meetings of the forums.
LDFC – <i>Ligue pour le Droit de la Femme Congolaise</i>	DRC (Kinshasa)	When LDFC needs to negotiate on the conditions of vendors, they negotiate bilaterally with those municipal authorities within Kinshasa where they are representative, i.e. Tshangu (in 4 communes) and Mont Amba (in 3 communes). They intend to look at the Model Framework document and approach SNVC (who are recognized by the <i>Bourgmestre</i> of Kinshasa consisting of 24 communes) about the possibility of approaching the Kinshasa Municipality about jointly establishing a collective negotiations forum.
SLeTU – <i>Sierra Leone Traders' Union</i>	Sierra Leone	SLeTU is participating in market committees in Freetown and other towns. They intend to look at the Model Framework document and discuss the possibility of approaching selected municipalities about improvements to the market committees to make them more effective.
FENASEIN – <i>Fédération Nationale de Syndicats d'Economie Informelle du Niger</i>	Niger	<p>Currently, there are tripartite negotiations with the national government in which FENASEIN participates through the national trade union centre USTN. When FENASEIN needs to negotiate on the conditions of vendors, they negotiate bilaterally with the Market Management authorities.</p> <p>In Niger, StreetNet also has another affiliate, UGSEIN. UGSEIN has not responded to the correspondence on this project, but is in the same situation as FENASEIN regarding negotiations at the local level.</p> <p>FENASEIN intend to do the following:</p> <ul style="list-style-type: none"> - Discuss with USTN that FENASEIN wants to approach the Mayor of Niamey about initiating a local negotiations forum for street and market vendors. - Involve UGSEIN in this initiative. - Approach the Mayor to initiate discussion about about this and report to the StreetNet Coordinator on the progress and results of this.
MUFIS – <i>Malawi Uion for the Informal Sector</i>	Malawi	When MUFIS needs to negotiate on the conditions of vendors, they do so bilaterally with the Municipalities with varying degrees of success. They intend to look at the Model Framework document and discuss the possibility of approaching selected municipalities about establishing collective negotiations forums.
FTUEU – <i>Free Trade Union of Entrepreneurs of Ukraine</i>	Ukraine	<p>At the European regional workshop in Bishkek, Valentyna Korobkha reported that in Kiev they have participated in bilateral negotiations.</p> <p>In Lviv, authorities took land from vendors, so Union had to go there to</p>

		<p>start negotiations with authorities (who are thugs, according to Union). Union made one shipping container into union space for meetings about urgent problems – then established a market committee to monitor conditions and started negotiations with the Mayor's office about getting the land back.</p> <p>Follow-up is now needed about how these market committees are structured and how they work.</p>
Moldova Business Sind	Moldova	At the European regional workshop in Bishkek, Dumitru Dubasaru reported that there are no local-level forums. The union relies on the national tripartite negotiations in which their national trade union centre, CNSM, represents their members' interests.
Xhidmat-ISH	Azerbaijan	At the European regional workshop in Bishkek, Jamal Ismayilov reported that there are no local-level forums. The union relies on the national tripartite negotiations in which their national trade union centre, AHIK, represents their members' interests.
Kyrgyzstan Commerce Workers' Union	Kyrgyzstan	There are no local-level forums, but direct negotiations with market authorities (which are mostly private owners). At the biggest market, Dordoi in Bishkek, there has been a high level of success in the bilateral negotiations due to the strength of the Traders' Union at Dordoi Market in Bishkek, Kyrgyzstan. They proved that when the cash register machines were scrapped and taxes were kept lower, more traders were willing to pay their taxes and higher total revenue was collected. After this, cash register machines were discarded ⁷⁷ according to their demand.
ASSOVACO – <i>Association des Vendeurs Ambulants du Congo</i>	DRC (South Kivu)	<p>When ASSOVACO needs to negotiate on the conditions of vendors, they negotiate bilaterally with those municipal authorities within South Kivu where they are representative, i.e. Uvira (city and district) and Bukavu. They will now look at the Model Framework document and will need to approach the market vendors' associations in these municipalities about the possibility of approaching the municipalities regarding the prospect of establishing collective negotiations forums as ASSOVACO is not yet very representative of the sector in either of these municipalities.</p> <p>ASSOVACO has an interest in establishing negotiations forums for cross-border traders, as many of their members are crossing the Burundi border daily and trading in the Bujumbura Market. Their members were affected by a fire which destroyed part of the Bujumbura Market.</p>
SNVC – <i>Syndicat National des Vendeurs du Congo</i> ⁷⁸	DRC (Kinshasa)	<p>SNVC participates in a provincial negotiations forum in the Province of Kinshasa, which includes representatives of the following:</p> <ul style="list-style-type: none"> - Police - Central Bank

⁷⁷ As a result of the fact that all the CEE and CIS countries adopted a "flat tax" system instead of a progressive taxation system, taxes are very low for corporate and the wealthy but rather high for the poorest own account workers in the informal economy. This has resulted in wide-spread struggles against cash register machines, often misinterpreted as informal economy workers not being willing to pay taxes. However, in countries where there is a progressive taxation system, there is not the same resistance to paying taxes by workers in the informal economy, and, in some highly informal economies (in West Africa, for example), large revenues are raised from the taxes/levies paid by informal traders who pay taxes in line with their average earned incomes. The source problem to be confronted therefore would be to demand tax reform – from the "flat tax" system to a progressive taxation system.

⁷⁸ Not a StreetNet affiliate, but engaged with StreetNet affiliates in a national alliance process in DRC.

		<ul style="list-style-type: none"> - Department of Justice - (Provincial) Ministry of Finance - Union (SNVC) - Employers - Customs department (sometimes) <p>This forum regulates vendors and what taxes they pay. SNVC expressed satisfaction with the functioning of this negotiations forum, saying that although it does not have a fixed schedule of meetings, it is easy to convene meetings whenever there is the necessity.</p> <p>In the Municipality of Kinshasa, SNVC conducts bilateral negotiations and concluded an agreement (<i>Protocol</i>) with the <i>Bourgmestre</i> of Kinshasa in 2002, covering all 24 communes of Kinshasa. Ostensibly, this is a recognition agreement with SNVC as the <i>Bourgmestre</i> also engages SNVC in a service contract to keep the markets clean – in terms of which 20% of revenue generated goes towards SNVC’s operations and functioning. This also gives SNVC the union rights of regulation of informal trade. In terms of this, further localized agreements have been concluded with specific markets or communes (e.g. in 2012: with the commune of Kimbanseke, followed by a <i>Protocol</i> with Siwambaza market in that commune, and the commune of Maluki).</p> <p>However, SNVC reports many problems with these agreements as the authorities do not respect them and do not sustain what they have agreed to for very long. There are no regular meetings, and sometimes the authorities establish their own market committees to create divisions among vendors. SNVC went on strike against the municipal market committees, and the Municipality put in <i>agent provocateurs</i>. They used the tactic of engaging foreigners to create xenophobic reactions to divide and side-track SNVC’s members.</p> <p>There are provincial market committees, consisting of between 11-40 members, depending on the size of the market and number of sections, in which SNVC also participates. These committees meet more regularly, based on necessity. The Provincial Government controls certain markets through the provincial Finance Minister, and gives SNVC 5% of revenue in these markets in recognition of their provision of services in regulation of market trade.</p>
<p>NASVI/SEWA – National Alliance of Street Vendors of India (and its affiliate, Self- Employed Women’s Association)</p>	<p>India</p>	<p>NASVI and SEWA have been participating in Market Committees as well as Town Vending Committees, for the past 2-3 years.</p> <p>Town Vending Committees will become statutory once the Street Vendors (Protection of Livelihoods and Street Vendor Regulation) Act has been passed by the Upper House of Parliament – it has already been passed by the Lower House (<i>Lok Sabha</i>). This will make it illegal for municipalities to bypass the committees and do things unilaterally. The new law also entrenches the principle of natural markets as a cornerstone of planning and policy.</p> <p>Composition of Town Vending Committees is as follows: 40% street vendors organizations (33% of whom have to be women) 10% voluntary organizations and NGOs; 50% municipality, transport, police, health & sanitation, bankers. So far only 10% of municipalities have Town Vending Committees.</p>

		<p>The experience so far is positive, even though there have not been regular meetings. The fixed percentage of vendors’ representatives makes the committees both representative and a tool which gives vendors adequate rights for the first time.</p> <p>Problems with the current forums are the following:</p> <ol style="list-style-type: none"> 1. There is a lack of capacity in many municipalities for proper implementation and enforcement; 2. Many municipalities are still failing to consult on planning issues and relocations; 3. Collection of taxes from vendors by middle-men; 4. Delaying tactics after agreeing to vendors’ demands.
IHVAG (<i>former Ghana StreetNet Alliance</i>) – <i>Informal Hawkers and Vendors’ Association of Ghana</i>	Ghana	<p>Since 2012, IHVAG has been participating via CIWA (Coalition of Informal Workers’ Associations) established by the Ghana TUC, in negotiations with the AMA (Accra Municipal Authority) about establishing (a) negotiating forum(s). The name of this initiative is something like “Forging Informal Economy Common Platform” and covers all sectors of the informal economy including street vendors, informal market vendors, transport, food, waste pickers and domestic workers (self-employed as well as salaried workers). Other stakeholders involved are AMA officials, customs officials, etc. It is not clear whether TORs have been developed yet.</p> <p>It is clear that IHVAG has to work within the CIWA context. Alone, they are not sufficiently representative even of the sector of street vendors and informal market vendors. IHVAG has applied to become an associate member of the Ghana TUC – and if accepted, would automatically become a member of the CIWA Coalition.</p> <p>Follow-up on this negotiations forum will be done directly with CIWA.</p>
CNTS – <i>Confédération Nationale des Travailleurs du Sénégal</i>	Senegal	<p>CNTS negotiates on a bilateral basis with municipalities when their members in the informal economy have problems. They are not sufficiently representative of this sector, however, as there are many groups and associations.</p> <p>However, signed agreements have been concluded after negotiations with municipalities, particularly Dakar. The problem is that the national state does not respect agreements reached at the local level, and so they are often not implemented properly and consistently.</p> <p>The chief problem is relocations of vendors (without compensation) and space allocations. Consultation and communications are not adequate.</p> <p>They intend to look at the Model Framework document and discuss the possibility of approaching selected municipalities about establishing collective negotiations forums jointly with the various representative groups and associations in the sector.</p>

2.2 Information gathered from street vendors' organizations during 2014

Affiliate	Country	Response
ZANAMA – <i>Zambia National Marketeers' Association</i>	Zambia	<p>Government is now trying to establish a new negotiations forum covering marketers and market security workers, and refusing to recognise ZANAMA. ZANAMA sees this as a further attempt to sideline them, so they are not cooperating with this strategy as they continue to contest their de-registration.</p> <p>On the ground ZANAMA BEC members nevertheless continue to engage local authorities in <i>ad hoc</i> negotiations and local committees – because ZANAMA members are still active in most of the markets in the country. They are engaging local governments on questions of health, sanitation and security in the markets – but due to the political <i>impasse</i>, implementation of any improvements to the markets is extremely slow. They are also using the structures on the ground to increase income through collecting levies and electricity payments.</p>
AZIEA – <i>Alliance of Zambian Informal Economy Organisations</i>	Zambia	<p>AZIEA is still not in agreement with the Markets & Bus Stations Act of 2007 which was enacted in 2008, as government abandoned their engagement regarding this legislation and went ahead and enacted it without considering the concerns which they had raised. There is also no emerging legislation on street trade policy.</p> <p>AZIEA initiated a public forum on self-regulation of street vendors in Kitwe, involving the following:</p> <ul style="list-style-type: none"> - Street vendors and marketers - Workers in other informal economy sectors covered by AZIEA (i.e. carpenters, fisherpeople, poultry farmers, tailors, tinsmiths, visual arts) as well as other sectors such as freelance photographers - Media - Police - Local authorities - Bank representatives - Church representatives <p>Three meetings of this forum have been held, on 24th April 2012, on 7th September 2013 and 13th August 2014. All AZIEA affiliates were invited, and the attendance was around 220 in the meetings held thus far. ZANAMA also attended the first meeting of the forum, even though government does not recognise them.</p> <p>So far these forums seem to have some influence because of the numbers of informal workers attending, and the prominent media coverage they have received. After the first meeting of the forum, AZIEA received calls from the Deputy Minister of Local Government. The second forum was not as well publicised as the first.</p> <p>A weakness is that effectiveness of the forums depends on media coverage. Procedural problems include:</p> <ol style="list-style-type: none"> 1. Permission has to be applied for, making it difficult to plan surprise tactics to use in forum; 2. Difficult to get Government reps to attend. <p>Substantive issues dealt with in these forums include:</p> <ul style="list-style-type: none"> - Regulation of trade - Cleaning of streets and markets

		<ul style="list-style-type: none"> - Registration and de-registration of organisations - Police and crime prevention
Eastern Cape Street Vendors' Alliance	South Africa	<p>There is no negotiations forum, but they conduct direct bilateral negotiations with the political head of the ANC (African National Congress) who is also the Municipal Speaker of the KSD (King Sabata Dalindyebo) local municipality, consisting of the towns of Mthatha and Mqanduli.</p> <p>The current negotiations cover all informal workers in the streets and public space of the KSD municipality. They exclude the police from these negotiations because they are viewed as too corrupt to negotiate with in good faith. They reached agreement in May/June 2014 that there will be no arrests of street vendors or confiscations of their goods at least until the end of the current mandate in 2016.</p> <p>Leader Jalile is using the principles in StreetNet's model framework for a local level collective bargaining system for street traders as his guide in these negotiations. Now the Transport Department of the Municipality want a meeting with him to find out more about the SEWA Bank.</p> <p>The negotiations are effective, because they have resulted in compliance by the street traders in paying their monthly levies, which were agreed by negotiation, and the authorities in using negotiations to resolve problems instead of resorting to harrassment. Procedural problems usually arise from accusations by the police that informal traders are dealing in drugs.</p>
UPTA – <i>Unión Profesional de Trabajadores Autónomos</i>	Spain	<p><u>2014 update</u> – UPTA established a sub-structure FENCA-UPTA (<i>Federación Nacional de Comercio Ambulante-UPTA</i>) which is responsible for direct participation in the <i>Mesas Locales de Comercio</i>. FENCA is participating in these forums in municipalities where they have been recognised, i.e. Andalusia, Madrid, Cataluña. The Andalusian forum is the strongest and best-functioning.</p> <p>The scope of these forums covers all work sectors operating in public space, mainly food and flower markets and temporary markets. Others involved the forums (in addition to the representatives of the vendors) are consumers, Chambers of Commerce, municipal police, health, hygiene and environmental officers. These forums also represent interests of excluded social groups in the informal economy, such as migrants and gypsies.</p> <p>FENCA has been participating for approx. 6 months of 2014 in these forums which provide means of resolving problems by consensus, as well as means of conflict-resolution. They do not meet regularly, only about once per year – or more often if there are problems. FENCA can request meetings when necessary, and the authorities usually comply.</p> <p>Procedural problems experienced are mainly to do with the slow and tedious way public administrations operate. Substantive problems dealt with by the <i>Mesas Locales de Comercio</i> include the lack of trading space for informal traders, and rates of taxation. When they reach deadlock in negotiations, FENCA mobilise for public demonstrations.</p>
KENASVIT – <i>Kenya National Alliance of Street Vendors & Informal Traders</i>	Kenya	<p>KENASVIT has been participating in negotiations with county governments in Nakuru, Kisumu, Mombasa, Thika (near Nairobi) and Kakamega (Western Region) – also in Nairobi, although Nairobi municipality avoiding responding to KENASVIT's latest meeting request.</p> <p>These negotiations started in 2009 with local government decentralisation, and cover all informal traders, along with County government representatives</p>

	<p>and the formal business sector. However, there are no Terms of Reference and the negotiations take place on <i>ad hoc</i> basis. Main problem is junior officials sent to negotiate without any authority.</p> <p>KENASVIT's negotiating teams consist of following (who are elected) :</p> <ul style="list-style-type: none"> - local urban alliance leadership - somebody from national leadership and/or National Coordinator - representatives of women, youth and vendors with disabilities <p>Negotiations training is done regularly with the negotiating teams. Training is needed especially in Nairobi.</p> <p>Negotiations forums are not consistently effective, due to use of the following tactics by the authorities:</p> <ol style="list-style-type: none"> 1. Initially refusing to meet at all 2. Junior officials with no powers or authority to negotiate ; 3. Lack of commitment to negotiate 4. Fobbing off KENASVIT's arguments and demands ; 5. Divide-and-rule tactics ; 6. Bringing in other informal traders' orgs to undermine KENASVIT ; 7. Arrogance on part of authorities ; 8. Lack of documentation ; 9. Hidden agendas and dragging out negotiations ; 10. Decisions made unilaterally in advance. <p>Major problem in most of the negotiations revolves around the lack of land. Other specific problems around which negotiations have taken place are :</p> <ol style="list-style-type: none"> 1. New market in Takamega ; 2. Demolition of kiosks in Nakuru, and new market site allocation ; 3. Relocation of bus park in Kisumu ; 4. Rent increases near Mombasa ferry ; 5. Thika establishment of vending regulation ; 6. Harrassment (especially women and youth) in Nairobi ; 7. Revenue increments in various counties. <p><u>City-by-city negotiations:</u> County-level negotiations are now taking place in all places except Kisumu, Nairobi and Mombasa, where negotiations are still taking place at City level. Negotiations in Nairobi need to be reorganised.</p> <p>ELDORET After receiving training in negotiations skills, KENASVIT started negotiations in Eldoret (Uasin Gichu county) against tribal reorganisations in the Eldoret Municipal Market. They negotiated the following issues in relation to the municipal market with the county government :</p> <ul style="list-style-type: none"> - infrasructure ; - toilets ; - revenue and taxes. <p>Now a forum has been established, including the Ward Representative and County Enterprise Development Officer. The national leadership of KENASVIT was initially involved in the establishment of the forum, but now KENASVIT negotiations are carried out by the leadership of the Eldoret Urban Alliance, ELASVIT.</p> <p>MIGORI The issue here was to counter political space allocations in the new market. Now KENASVIT is dealing with this at County level. The Secretary General of the local urban alliance, Peter Okello, has now been engaged by the county in</p>
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		<p>negotiations for the formulation of a new policy.</p> <p>KAKAMEGA Here the issue was the allocation of space in the new market. Negotiations were started with the Municipality, but continued with the County Government regarding the following issues :</p> <ul style="list-style-type: none"> - access for street vendors and informal traders to the UWEZO revolving loan fund ; - development of another site for those who did not get places in market. <p>EMBU KENASVIT’s new county alliance ECOASVIT (Embu County Alliance of Street Vendors & Informal Traders) is partnering with the County Government to organise other urban centres in the county, apart from Embu. Negotiations about space allocations in the Mitumba Market, as well as policy formulation, are also in progress.</p> <p>NAKURU There is now a re-negotiation of the earlier Memorandum of Understanding negotiated between KENASVIT and the Nakuru Municipality, after the demolition of stalls by the municipality. Modern stalls are being built to replace those that were demolished, and the negotiations are about trying to ensure that all the street vendors and informal traders are accommodated in the new system.</p> <p>KISUMU After the demolition of stalls in Owile Park for the construction of the highway into Kisumu from Nairobi, negotiations are taking place about reallocations to new sites with infrastructure. The negotiations have been complicated by different positions held between different groups of street vendors and informal traders. Some traders were willing to relocate as long as they would be accommodated in the new arrangements, and others were opposed to any negotiations for changes or re-structuring. In the interim, negotiations have been ongoing for interim reallocation to other spaces during construction – and there are ongoing reallocations to ensure that nobody loses their livelihoods.</p> <p>MOMBASA Street vendors trading next to the road in the Kongowea Market were told to go away. After negotiations, they were brought back and shelters were provided. Then they faced a problem of high market levies – but after negotiations a proposed increase was stopped. Traders in the CBD (central business district) were chased from their sites by the authorities, and are now accommodated in back streets.</p>
<p>TUICO – <i>Tanzanian Union of Industrial & Commercial Workers</i></p>	<p>Tanzania</p>	<p>TUICO has submitted a proposal for a negotiating forum to the municipality of Dar Es Salaam. Municipality taking long time without responding, saying that they are getting legal opinions and researching best practices in other countries before developing their counter-proposal.</p> <p>Intention is to establish a negotiations forum known as DIWNF (Dar es Salaam Informal Workers Negotiation Forum) to cover following sectors:</p> <ul style="list-style-type: none"> - Street vendors - Informal market vendors - Bottle collectors <p>The substantive problems TUICO intends to address in forum are:</p> <ul style="list-style-type: none"> - Vending spaces

		<ul style="list-style-type: none"> - Harrassment by City Police - High taxation - Facilities (toilets, water, etc.) - Develop appropriate regulatory municipal bylaws <p>TUICO negotiating committee is composed as follows:</p> <ul style="list-style-type: none"> - 2 representatives from TUICO HQ - 5 representatives from branch level - 2 regional secretaries <p>Negotiating Committee have been trained in preparation for starting negotiations, and will get further training to look at the counter-proposal from the municipality once it is received.</p> <p>Intention is to get the negotiations forum established before the next national elections in Tanzania (October 2015) while the politicians are campaigning and trying to please ordinary voters. Once a forum is established in Dar Es Salaam, the idea is to initiate forums in other municipalities based on what has been learnt from the Dar Es Salaam experience.</p>
<i>Khathang Tema Baits'okoli</i>	Lesotho	<p>There is a multi-stakeholders' negotiations forum dealing with informal trade in Maseru, established after clashes between the authorities and Maseru municipality in 2012.</p> <p>This forum is not formally constituted and does not have Terms of Reference. It consists of informal traders from different zones, both those represented by Khathang Tema and others loosely grouped from particular zones, as well as consumers and citizens of the city, and other stakeholders such as big industry, the microfinance sector, Council representatives, police, researchers from the University of Lesotho, and the Ministry of Trade used to be involved (but has not been very involved more recently).</p> <p>The issues that are dealt with are regulation of trade in the city of Maseru, security, cleanliness and conflict-resolution.</p> <p>This forum is effective as a method of formalised interaction between the authorities and informal traders. It has led to a reduction of the unease which used to exist when there was no platform for them to hear each other. It has also made it possible to regulate informal trade in areas where trade was previously prohibited. The municipality also uses this forum to bring to the table their infrastructure plans and discuss these with street vendors and informal traders – so there has been a major improvement in transparency regarding development plans, from the point of view of informal traders who are now being properly consulted.</p> <p>Procedural problems are the lack of official structure or requirements regarding regularity of meetings. Although it is genuinely possible for both sides to initiate meetings of the forum, Khathang Tema sometimes finds that their requests for urgent meetings take time to be met – while the municipality sometimes calls many meetings when there are projects they want to tell the informal traders about, and when there are too many meetings this is not convenient to the traders. The municipality also sometimes uses divide-and-rule tactics, which Khathang Tema is fortunately able to counter. Overall the forum has reduced the level of hostility between the authorities and informal traders.</p>
ASSOVACO – <i>Association des Vendeurs Ambulants</i>	DRC	<p><u>2014 update</u> – Negotiation Forum since 2012</p> <p>Small Cross-Border Traders Exchange & Consultation Network "REC-PCT" DRC – Burundi</p>

<p><i>du Congo</i></p>		<p>An elected Committee is in place. REPRESENTIVITY – Committee members elected by Network POWERS – defending interests of small Cross-Border Traders EFFICIENCY – Action is organised in order, not scattered VOICE of UNITED WORKERS? Yes, majority REGULATORY ISSUES – Tax harrassment at borders PHYSICAL PROBLEMS – arbitrary taxes & tariffs OTHER – body-searches regardless of gender</p>
<p>CNTS – <i>Confédération Nationale des Travailleurs du Sénégal</i></p>	<p>Senegal</p>	<p><u>2014 update</u> – Negotiation Forums since November 2009 DAKAR CITY – Division of Indoor and Outdoor Markets Issues under discussion are: evictions of vendors – proposals for relocation in targeted sites.</p> <ul style="list-style-type: none"> • covers all the arteries of the city of Dakar centre, such as: SANDAGA Grand Market, Lamine Gueye Avenue, Avenue Georges Pompidou, the walkways of CENTENNIAL, Rue Tolbiac • includes table merchants and street vendors, altogether about 5400 <p>Municipality convenes meetings by telephone or by letter addressed to associations who appoint their representatives to the forum. Municipality is represented by heads of technical divisions and their allies, such as Prefect or Governor who come with their proposals, recommendations and decisions, which are often irrevocable.</p> <p>Vendors do not always have the opportunity to oppose the decisions of the Municipality, but some proposals of Municipality are often rejected by vendors because they are too restrictive. In some situations Municipality uses inclusive methods before making decisions and shows respect for vendors, but not always. These forums are spaces of negotiation between the municipality and street vendors and markets, but it is sometimes difficult to find a consensus between the two parties. Discussions are often very contentious and stormy between sellers and Municipal authorities.</p> <p>REPRESENTIVITY – vendors well represented in these forums. POWERS – local govt. often lacks vision and understanding. EFFICIENCY – Forums could be more effective in addressing the problems of both parties, but this is not the case. VOICE of UNITED WORKERS? Vendors do not always speak with the same voice. REGULATORY ISSUES – legal and normative non-recognition of informal traders is a limiting factor. PHYSICAL PROBLEMS – lack of adequate infrastructure to exercise their trade is a serious problem. OTHER – lack of consideration by the authorities; inability of vendors to find a lasting solution to their problems; lack of strong leadership in the area of street vendors.</p>

ANNEXURE 3

Johannesburg Case Study

In South Africa, street vending and informal trade have become a major way of life for approximately 2 million people since the national liberation struggles saw the first democratic election in 1994. Although the informal economy in South Africa does not yet make up over 50 per cent of the workforce - as is the case in most other African countries - it is growing, particularly in the retail and commercial sectors, as jobless economic growth squeezes more workers out of the formal labour market.

With the advent of liberalization in South Africa, the Licensing Act was replaced by the Businesses Act in 1991, which eliminated the need for licences for street vendors and informal traders. The Act allowed municipalities to pass bylaws to regulate street trade. The provisions of the Act were designed to ensure that street trade bylaws were enacted to regulate, not to prohibit, street trade, which had happened under the Licensing Act of Apartheid South Africa. Guidelines were provided for municipalities to follow in their drafting and adoption of street trade bylaws. Allowance was made for certain densely-traded areas to be declared limited trading areas following a procedure where all stakeholders would be given fair opportunity to challenge such a proclamation along the way. There is also an obligation to consult with all interested parties, including the street traders themselves. In such areas, after proclaiming a limited trading area, the municipality would then have to engage in a procedure to distribute the limited spaces among those traders wishing to trade there. This necessitated the allocation of permits to trade in such specific areas.

After the first free national elections in South Africa in April 1994, there was a two-year legitimacy vacuum at the local government level as the first free local government elections only took place in 1996. This meant that municipal authorities, in the last two years of their tenure, lacked the political will, the courage and/or the competence to tackle the mine-field of street vendors and informal traders' regulation.

In the 1980s, a former mineworker, Lawrence Mavundla, landed in Johannesburg and began selling cosmetics on trains and in the streets. In response to police brutality, he was able to negotiate with the Johannesburg Municipality and achieve some level of recognition of the rights of vendors to trade on the streets. This was a breakthrough in Apartheid South Africa where black people were not allowed to be in cities without a job or a trading licence and a duly-stamped reference book (known as a *dompas*). This led to the formation of the African Council of Hawkers and Informal Businesses (ACHIB). In Johannesburg, there was an influx of street traders in 1994, including foreign nationals coming in from the DRC (Democratic Republic of Congo) as refugees and passport-holders from other African countries – all of whom were seeking their fortunes in the newly-liberated South Africa. Many competitors to ACHIB emerged and offered their patronage to street vendors. The xenophobic stance of ACHIB and many of the other associations drove foreign nationals underground or into the arms of corrupt authorities.

Johannesburg policy initiatives for informal trading

The Johannesburg municipality developed a number of policy documents for the regulation of informal trade on the streets during the 20 years from 1990 - 2010. There were many clashes on the streets during this time between street vendors and the JMPD (Johannesburg Metro Police Division – “Metro Police”). The municipality formed a wholly-owned municipal company, MTC (Metro Trading Company), to manage urban planning and infrastructure development of street markets. As the municipality struggled with the challenges of their constitutional responsibility for managing public space, they, instead of developing effective administrative structures for doing this, effectively passed on this responsibility to the MTC, a technical structure entirely unsuited to this task. Jointly,

the MTC and the municipality proceeded to manage the street vendors and informal traders by exploiting the already existing divisions between factions and organizations of street vendors and entrenching an elaborate system of divide-and-rule.

Establishment of Johannesburg Informal Trading Forum

In preparation for the 2010 FIFA World Cup in South Africa, the Municipality established the Informal Traders' Forum (ITF) in order to be able to conduct negotiations with different organizations of street vendors and informal traders. The Terms of Reference were very inclusive (see Annexure 1), and the minutes of one of the first meetings held on 10 March 2010, chaired by the Executive Director of the Department of Economic Development, Jason Ngobeni, recorded a detailed discussion with 174 participants (over 100 of whom represented various street vendors' committees and organizations around Johannesburg and Soweto) about the Municipality's plans for the 2010 FIFA World Cup matches at stadiums and Fan Parks.

After the 2010 FIFA World Cup, minutes from the ITF meetings indicate declining attendance at irregularly held meetings. The chairing of the ITF meetings was at some stage taken over by Xolani Nxumalo, a municipal official working for MTC (Metro Trading Company). Nxumalo was widely and repeatedly accused by street vendors from all organizations of manipulating the ITF structure to suit his own plans for the regulation of informal trade in the streets. The minutes from ITF meetings held in 2012 reflect unresolved discussions about human rights abuses in the management of street trade, particularly regarding the confiscation of their goods, and allegations of corruption on the part of MTC. Minutes from an ITF meeting in February 2013 reflect a continuation of these discussions and input by Xolani Nxumalo about the "integration" of MTC into a new structure, namely, JPC (Johannesburg Property Company), which he himself was representing by then on the ITF, thus perpetuating the impression of his personal control of the ITF through his position as chairperson. During 2012 and 2013, it seems that problems had indeed been uncovered in the MTC resulting in some sort of structural changes being unilaterally undertaken by the municipality, which did not make much difference to street traders who only observed the same unchanged behaviour by officials of the municipality, MTC and JPC.

Mayoral Committee's Operation Clean Sweep – bypassing the Informal Traders Forum

During the Third International Conference of the Union of Cities and Local Governments in Rabat, Morocco, in a closing plenary held on 3 October 2013, the Mayor of Johannesburg made a commitment to "Local economic development with a focus on pro-poor policies and decent job creation in a green urban economy which promotes sustainable consumption and production"⁷⁹. Less than two weeks later, Johannesburg street vendors and informal traders were unceremoniously evicted in an operation of the Mayoral Committee (MMC) named Operation Clean Sweep. This operation was undertaken in terms of a strategy developed by the Mayoral Committee, making no attempt whatsoever to consult the street vendors through the ITF and bypassing the Johannesburg Department of Economic Development, the MTC (Metro Trading Company) and the JPC (Johannesburg Property Company). Although the Operation Clean Sweep strategy appeared to be directed at many different groups of Johannesburg citizens, those who bore the brunt of the attacks were street vendors and informal traders, including foreign nationals⁸⁰.

Urgent meetings were convened between street vendors, anti-xenophobia groups and the MMC (Mayoral Committee) where the following demands were tabled⁸¹:

"1) Return of all legal traders: those with smart cards⁸² and those in demarcated areas should be

⁷⁹ Source: UCLG – Local and Regional Governments: Partners for the Global Agenda

⁸⁰ <http://www.urbanjoburg.com/tanya-zacks-open-letter-to-the-city-of-johannesburg/>,
<http://www.ann7.com/videos/national/operation-clean-sweep-remove-hawkers-from-johannesburg-streets-233/>

⁸¹ COSATU press release 28 October 2013

⁸² A new kind of micro-chip card issued to vendors by the municipality.

- given permission to go back to trade within 24 hours;
- 2) Confiscated goods by the JMPD (Johannesburg Metro Police) should be given back to hawkers and compensation should be given in respect of missing goods and loss of income;
 - 3) Alternative trading areas should be allocated whilst the operation is continuing;
 - 4) JMPD should stop violence toward street traders when executing their operation;
 - 5) The city should open up unrestricted and prohibited areas, should provide demarcated areas and build stalls;
 - 6) The MMC (Mayoral Committee) shall (*sic*) chair the Informal Traders Forum (not the current DED – Department of Economic Development – official);
 - 7) The city should negotiate all issues concerning street traders in the Forum in order to address outstanding issues e.g. issuing smart cards;
 - 8) The city should provide an office for the Forum at the city's expense;
 - 9) The city should train committees on bylaws enforcement informal bylaw booklet (*sic*);
 - 10) The city should review special development including the city accord and role of hawkers;
 - 11) Region ABCD must have its own forum including in other areas such as Soweto.”

Constitutional Court victory for street vendors

The MMC (Mayoral Committee) was somewhat embarrassed that a confidential strategy document had leaked to the street vendors, but were unrepentant and insistent that the operation had to continue. After some attempts at cooperation with the municipality in a verification of registration process and an unsuccessful High Court litigation, two organizations referred the matter to the Constitutional Court, where it was ruled on 5 December 2013 that the Municipality of Johannesburg was not entitled to stop the evicted street vendors and informal traders from returning to their places of work.

Back to the negotiating table

The successful Constitutional Court action forced the MMC to the negotiating table where a new process of negotiation, chaired by the COO (Chief Operating Officer) immediately below the level of City Manager, was started. The ITF (Informal Traders Forum) appeared to have been abandoned and the MTC (Metro Trading Company) and JPC (Johannesburg Property Company) no longer had a role because the leadership of the City had been forced to take direct responsibility for the regulation of the problem created by Operation Clean Sweep. There is an intention to establish an inclusive Task Team early in 2014 to harmonize the development objectives of Operation Clean Sweep with the regulation of street vending and informal trade in line with the Constitutional Court judgment. Street vendors and informal traders are expressing cautious optimism about the negotiating process which followed the Constitutional Court victory as this is the first time that the City's leadership is directing the process of regulation of street vending and informal trade.

ANNEXURE 4

Durban Case Study

Urban migration to Durban was exceptionally high during the 1980s and early 1990s due to rural people being displaced through floods, droughts and political violence. Informal settlements mushroomed due to the lack of housing while the streets became congested with street vendors and informal traders. Under these circumstances, the outgoing municipal authorities had no appetite to apply Apartheid-style forced removals of informal traders off the streets.

In July 1994, the Self-Employed Women's Union (SEWU) was launched in Durban. Soon after the launch, SEWU started to engage the Durban (eThekweni) Municipality through the Department of Informal Trade and Small Business Opportunities (DITSBO) – a unit within the municipality's Department of Economic Development – in negotiations about the rights of street vendors with a special focus on women vendors. At this stage, the Durban Metro was divided into 6 relatively autonomous sub-regions. SEWU engaged mainly with the North Central and South Central sub-regions on a joint basis, but also engaged to a lesser extent with the Durban South sub-region in Isipingo and the Inner West sub-region in Pinetown.

It was agreed that the negotiations with DITSBO (Department of Informal Trade & Small Business Opportunities) would take place on a regular monthly basis, and resulted in at least two short written Memorandums of Understanding being concluded between SEWU (Self-Employed Women's Union) and DITSBO.

In 1995, the eThekweni Municipality passed new street trade bylaws without sufficient consultation⁸³ with street traders. Realizing that they would face problems getting street vendors and informal traders to cooperate in the implementation of these bylaws, the head of DITSBO initiated the formation of an umbrella body of street vendors' organizations which was called the Informal Traders' Management Board (ITMB).

At the same time, a multi-stakeholder forum was being established to tackle the many problems of regulating street vending and informal trade. The forum consisted of DITSBO (Dept. of Informal Trade & Small Business Opportunities), street vendors, formal businesses in the eThekweni CBD (Central Business District), City Police and elected Councillors from different political parties. The formation of the ITMB (Informal Traders' Management Board) made it easier for street vendors' representatives on this forum to represent the range of organizations in the ITMB and report back to them. DITSBO gave ITMB certain office and administrative facilities to aid this process. However, the head of DITSBO also thought that this gave him the right to control street vendors and informal traders through DITSBO.

SEWU (Self-Employed Women's Union) made a strategic decision to participate in the ITMB (Informal Traders' Management Board) in parallel with their monthly bilateral negotiations with DITSBO (Dept. of Informal Trade & Small Business Opportunities) to strengthen their influence in relation to municipal policy and implementation of bylaws in collaboration with other organizations of street vendors and informal traders. The capacity of SEWU's women leadership helped to strengthen ITMB as they struggled for their autonomy and independence from DITSBO, resulting in competent women leaders (mainly from SEWU) being more prominent in these struggles than in the other South African cities where male leadership dominated.

⁸³ One poorly-attended meeting had been held beforehand where hand-picked representatives were presented with a *fait accompli* draft - on which street vendors had had no prior input - and invited to comment on it.

The municipal multi-stakeholders' forums functioned reasonably effectively and met every two months. Street vendors, informal traders and the formal business sector discovered more areas of common interest than either had anticipated, and the small successes of the forum seemed to vindicate the general belief in social dialogue and direct participation in the regulation of informal trade and implementation of the bylaws.

Inexplicably, however, after the first free local government elections in 1996, the municipal multi-stakeholders' forums were discontinued in an atmosphere of mutual suspicion between the rival African National Congress (ANC) and Inkatha Freedom Party (IFP) political parties, their elected Councillors and all municipal officials. Attempts by the street vendors and informal traders to advocate for the reinstatement of the meetings of this forum were met by the new political leaders with the suspicion that such requests were motivated by a hidden agenda from the rival political party.

The casualties of this political stalemate were, once again, the street vendors and informal traders as the politicians reverted back to the age-old strategy of trying to please the middle classes by evicting street vendors and informal traders from their workplaces in the public space.

New Informal Economy Policy

When the head of DITSBO (Dept. of Informal Trade & Small Business Opportunities) found that ITMB (Informal Traders' Management Board) would not jump to this tune, he attempted to disband the ITMB. However, by this time the organizations in the ITMB had taken their own independent initiative to get the General Secretary of SEWU (incorrectly perceived as an African National Congress-aligned organization) and the organizer of an Inkatha Freedom Party-aligned beachfront traders' association to jointly draft a constitution for ITMB to strengthen itself as an independent organization of street vendors and informal traders. This led DITSBO to withdraw the facilities they had made available to the ITMB, but it did not cause the collapse of the ITMB which continued to limp along, wracked by internal divisions, but nevertheless retaining some level of credibility among street vendors and informal traders.

In 1998/1999, the eThekweni Municipality started to turn around. It engaged Durban-based WIEGO (Women in Informal Employment: Globalizing & Organizing) researchers to work with them to develop a more pro-poor policy for the regulation of work in the informal economy. This resulted in the adoption of a new Informal Economy Policy by the North Central and South Central sub-regions of the municipality in 2001.

Inclusive new approach to regulation of informal trade

As the municipality was in the process of restructuring into a more centrally-controlled Unicity, the Informal Economy Policy was adopted by the whole Durban Unicity in 2002. An Implementation Working Group (IWG) was established to bring the municipal officials from all six sub-structures of the Unicity on board in the active implementation of the new Informal Economy Policy. Members of WIEGO, StreetNet and the Legal Resources Centre (LRC) were also invited to serve on the IWG as advisors in their areas of expertise. Street vendors' organizations were represented on the IWG through the ITMB (Informal Traders' Management Board).

From 2002 - 2004, the municipality adopted a consistently more inclusive approach to the regulation of street vending and informal trade, as well as giving attention to other sectors of informal work, such as home-based workers. However, even during this time, the previously active multi-stakeholders' forum was not revived, nor was there any other form of active social dialogue in place to deal with the accumulating day-to-day problems on the streets.

SEWU (Self-Employed Women's Union) and StreetNet International (launched in Durban on 14 November 2002) attempted to engage the DITSBO (Dept. of Informal Trade & Small Business

Opportunities) municipal officials (no longer the same ones SEWU had been negotiating with in the 1990s) about getting direct negotiations with the representatives of street vendors and informal traders going again, on either a bilateral or multi-lateral level, or on both levels. But the new officials in charge appeared to have reverted back to the earlier, previously abandoned mindset in relation to their interactions with street vendors and informal traders.

SEWU was forced to liquidate in 2004⁸⁴, which weakened the negotiating capacity of the Durban street vendors and informal traders and created a democratic leadership gap in the ITMB (Informal Traders' Management Board). This development played into the hands of new municipal officials who created the impression that street vendors and informal traders did not have the collective capacity to represent themselves in negotiations and that they (municipal officials) had to manage the vendors' processes of choosing representatives. They started to impose street committee structures on street vendors and informal traders, "re-structured" the divided ITMB from an independent umbrella body of associations (as per the ITMB constitution) into an umbrella body of municipal-controlled street committees and reinstated their municipal office and meeting facilities. In the course of this re-structuring, some women leadership was lost. The main leaders recognized by the Municipality were men. However, there were some women, notably former SEWU leaders, who retained a presence and the respect of street vendors on the ground and who were often in the front lines of protests about the Municipality's unjust regulation of street vendors.

About-turn, establishment of EMIEF and Crackdown!

StreetNet noticed that things were changing. The first post-Apartheid City Manager, Felix Dlamini, died in 2004 and was replaced by Michael Sutcliffe, a high-profile political appointee who had little interest in the implementation of the Durban Informal Economy Policy. The Economic Development Department was restructured and split into two parts: Economic Development and Business Support. The new Business Support Unit (BSU) absorbed the DITSBO (Dept. of informal Trade & Small Business Opportunities) and was created as a parallel structure to (instead of reporting to) the Economic Development Department that was responsible for the regulation of informal trade. The new heads of both Business Support and the BSU appeared more interested in the new City Manager's new Public Realm Management Plan (PRMP) than the continued implementation of the Informal Economy Policy. The IWG (Implementation Working Group) ceased to function, and there was no transparency about what was happening.

Attempts to convene further meetings with municipal officials to clarify the contradictions between the PRMP (Public Realm Management Plan) and the Informal Economy Policy were in vain. Attempts to appeal to elected Councillors exposed high levels of distrust and political suspicion between Councillors of different political parties, between Councillors and municipal officials and about the political agenda of the new City Manager. It appeared as though the city manager was protecting the very officials who were failing to implement the Durban Informal Economy Policy while the senior official responsible for the coordination of the IWG (Implementation Working Group) was moved sideways to head another department.

StreetNet's recommendations to the Municipality were ignored, and indeed there was no opportunity to negotiate or even discuss these. In the course of collecting information on the political direction taken by the Municipal Executive Committee (ExCo), StreetNet discovered that the City Manager had presented a proposal for the implementation of the PRMP (Public Realm Management Plan) to the ExCo for adoption before it had been discussed in the relevant Council Portfolio Committee. Elected Councillors, who were still reassuring StreetNet that such decisions could not go through without the agreement of their Portfolio Committees, complained that the City Manager had bypassed them.

⁸⁴ The story of what led to this was recorded in the South African Labour Bulletin (SALB), Volume 28 no.4 (August/September 2004), and in subsequent writings about SEWU by Caroline Skinner and others.

Street vendors and informal traders could see that a full-scale crackdown was looming as the BSU (Business Support Unit) started a system of creating divisions between those with permits and those without permits – an action that was in complete contravention of the letter and spirit of the inclusive Durban Informal Economy Policy. The work of the IWG (Implementation Working Group) in creating an inclusive regulation system was eliminated in a few months as no further meetings were convened, and the BSU discontinued any further consultation with members of the IWG⁸⁵.

While the temperature was becoming heated, the City Manager announced the establishment of the eThekweni Municipality Informal Economy Forum (EMIEF) *“that allow both Council and Stakeholders to engage in a constructive dialogue on the planning and implementation of the Informal Economy processes”* but at the same time also stated that the *“Forum does not deal with management or operational issues to specific trading sites”*⁸⁶. StreetNet was invited to send comments in advance of the launch of this forum, and did so. However, there was no response, and nor was there any opportunity to engage on these concerns. The EMIEF was established in March 2005 with the ITMB (Informal Traders’ Management Forum – now consisting of the Business Support Unit-controlled street committees) being the only representative of street vendors and informal traders, and this despite the fact that a number of independent organizations of street vendors and informal traders were emerging⁸⁷.

The feared crackdown against street vendors and informal traders without permits came in May 2005. By this time, with an estimated 25,000 street vendors in Durban, the BSU had issued traders’ permits to fewer than 1,000 informal traders.

The next months saw demonstrations by street vendors and informal traders which became bloody when traders without permits attacked traders with permits and *vice versa*. Litigation action was taken against the municipality with mixed results. Interestingly, a study of the views of the private business sector also showed dissatisfaction in this sector about the crackdown⁸⁸.

The BSU (Business Support Unit) continued to force its systems unilaterally on street vendors and informal traders. They maintained a system of divide-and-rule through EMIEF (eThekweni Municipality Informal Economy Forum) making it effectively a closed shop which excluded the representatives of independent organizations of street vendors and informal traders⁸⁹ and made no attempts to address the problems of those to whom they did not grant street vending permits. They eventually found themselves in disagreement even with the ITMB (Informal Traders’ Management Board) when they tried to take away the special incentives they had provided to ITMB leaders to gain their compliance in relation to the unilateral implementation of spatial regulation measures for the few street vendors and informal traders to whom they had granted permits.

BSU commissioned a review of the implementation of the Informal Economy Policy in late 2006. However, the report, its findings and impressively detailed recommendations were never tabled for discussion.

Tensions boiled and finally erupted in June 2007. The Warwick Junction market precinct became like a war zone for two days as street vendors and informal traders retaliated with violence when

⁸⁵ Such as StreetNet International, WIEGO and the Legal Resources Centre

⁸⁶ Terms of Reference of EMIEF

⁸⁷ e.g. Phoenix Plaza Traders’ Association, which had refused to affiliate to ITMB when the leadership demanded R2000 for membership; The Eye Traders’ Association for the growing numbers of vendors without permits; Siyagunda Association of street barbers (mainly foreign nationals experiencing xenophobic discrimination at the hands of BSU officials).

⁸⁸ Marriott, Anna. “Informal Street Traders and the Public Realm Management Project: Perspectives of Formal Businesses in the Durban CBD.” School of Development Studies, University of KwaZulu-Natal, July 24th 2005

⁸⁹ See p.30 of Karumbidza’s SERI report.

approached by Metro Police asking them to produce street trading permits, and large numbers were arrested.

eThekwini Municipality Informal Economy Forum forced to open its doors to representative organizations

The June 2007 near-insurrection in the streets blew open and exposed the BSU's facade of appearing to have street vendor regulation under control as political leaders demanded to know from the City Manager why the eThekwini municipality was using Apartheid-style methods of street vendor regulation in post-Apartheid South Africa. In addition to this political pressure, as they had now lost the loyalty even of the ITMB (Informal Traders' Management Board), the City was forced to open the doors of the EMIEF (eThekwini Municipality Informal Economy Forum) to representative organizations of street vendors and informal traders which they had been keeping out to try to save the reputation of EMIEF and give it some legitimacy.

The opportunity was seized by the organizations who subsequently entered EMIEF and started to reform it from within. They submitted a platform of substantive and procedural demands which they had been developing in negotiations skills workshops and meetings with their members in preparation for the day they would be able to face the municipality in negotiations of one sort or another (*See Annexure 4.1 – Platform of Street Vendors' Demands*).

The new representative organizations forced the Head of BSU – who had been chairing the EMIEF – out of his seat. EMIEF decided that meetings would be chaired by an elected Councillor with a street vendor representative as the Vice-Chairperson.

The organizations were able to get the meetings to accept agenda items put forward by themselves at the beginning of meetings before the adoption of the agenda and insisted on amending minutes of previous meetings before adopting them - all normal practice in democratic meeting procedures, but previously unheard of in EMIEF meetings which had served as a conveyor belt for the BSU's unilateral instructions to street vendors.

The provision of the EMIEF (eThekwini Municipality Informal Economy Forum) Terms of Reference, namely, "*The Forum will not deal with the day to day operational issues relating to specific informal markets or street trading sites. It will not override the mandate of the existing market or street committees*", which was so offensive to street vendors and informal traders, was effectively ignored as the EMIEF could not refuse to deal with such issues without risking a breakdown in social dialogue and a return to war on the streets.

As the EMIEF became more inconvenient for the BSU (Business Support Unit), which could no longer use it for the control of street vendors and informal traders, the BSU started talking about dissolving EMIEF. The BSU appointed a Unicity Committee to replace ITMB (Informal Traders' Management Board) as their "official representative" of street vendors and informal traders, and to sideline the representative organizations they were now forced to interact with at the EMIEF meetings. They approached the office of the ILO (International Labour Organization) in Pretoria about assisting them to develop a new informal economy policy and a new informal traders' forum, but this attempt did not get far.

Most of the demands contained in the Platform of Street Vendors' Demands were agreed to in principle by the BSU (Business Support Unit), which, under pressure, had little option but to agree to the demands. However, the political will to implement any of the agreements made in EMIEF (eThekwini Municipality Informal Economy Forum) was totally lacking, and EMIEF meetings were called so irregularly that it was difficult to effectively hold the responsible officials accountable. This was extremely frustrating for street vendors and their representatives in the EMIEF.

A good account of how street vending and informal trade was managed in Durban during the decade from 2000 - 2010 can be found in a research report done for SERI (Socio-Economic Rights Institute) in 2011.⁹⁰

Street vendors get better organized

After the 2010 FIFA (Federation of International Football Associations) World Cup, street vendors and informal traders, who had been evicted with the promise that they would be able to return to their sites after the World Cup, found that they had been permanently removed and their sites had been earmarked for new developments. Street vendors and informal traders became more interested in organizing and uniting against the eThekweni municipality and formed the Ubumbano Traders' Alliance, which comprised both street committees and organizations of informal traders, in November 2011.

New City leadership for eThekweni

Early in 2012, the contract of the eThekweni City Manager expired under the shadow of allegations about procurement irregularities and corruption; the Council appointed a new City Manager who was willing to meet the Executive Council of the Ubumbano Traders' Alliance. The following issues, which had not been resolved at EMIEF (eThekweni Municipality Informal Economy Forum), were agreed on with the new City Manager on 26 October 2012 and confirmed in e-mail correspondence:

1. Establishment of a data-base of street vendors in the eThekweni Metro.
2. Update Terms of Reference of EMIEF.
3. Implementation of extensive 2006 Informal Economy Policy Review Recommendations.
4. Review of Street Trading Bylaws started by IWG (Implementation Working Group) pre-2005.
5. Recognition Agreement or MoU (Memorandum of Understanding) between Municipality and Ubumbano Traders' Alliance.

Sidelining street vendors' unity

Despite the agreement with the City Manager, municipal officials of eThekweni and the BSU (Business Support Unit) refused to recognize the Ubumbano Traders' Alliance as a democratic representative of a significant number of the street vendors and informal traders of Durban, preferring to confine their engagement to the committee of individuals from the small business sector they had unilaterally set up to speak on behalf of street vendors and informal traders.

At the EMIEF (eThekweni Municipality Informal Economy Informal Economy Forum), Ubumbano leaders from the constituent organizations of the Ubumbano Traders' Alliance continued to use the space to challenge the municipality. Ubumbano and the ITMB (Informal Traders' Management Board) united around many of their demands – the principal one being a demand for the dissolution of the Business Support Unit's appointed committee. This resulted in an *impasse* such that the position of Deputy Chairperson (which has to be filled by a representative of the informal traders) had remained vacant since the death of the first incumbent, former ITMB leader Emmanuel Dlamini, well before 2010.

While being evasive in EMIEF meetings with the representatives of street vendors and informal traders, BSU officials asked the Pretoria office of the ILO (International Labour Organization) to work with them to develop an informal economy policy and structures for social dialogue – not mentioning the existence of the Informal Economy Policy adopted in 2002 and the EMIEF as a structure of social dialogue – in what appears to have been an attempt to sideline and abandon the existing policy and structures.

⁹⁰ Blessing Karumbidza. "Criminalising the Livelihoods of the Poor: The impact of formalising informal trading on female and migrant traders in Durban." SERI Research Report, February 2011.

The ILO devoted much energy to obtaining commitments from the BSU (Business Support Unit) to being inclusive of democratic organizations of workers in the informal economy in their work together. However, preparatory meetings about a project to “*Evaluat(e) the Implementation of Recommendations emanating from the 2006 Review of the eThekweni Informal Economy Policy and assessing alignment of the Policy to broader Provincial and National Development Frameworks and Policies*” have been dogged by the unwillingness of the BSU officials and the ANC (African National Congress) Councillors involved in the EMIEF (eThekweni Municipality Informal Economy Forum) to agree to scrutinize EMIEF as a structure of social dialogue or to engage with the Ubumbano Traders’ Alliance or any democratic organization of any other sector of workers in the informal economy.

Where to for eThekweni negotiations?

As part of the action-research project, a strategy workshop was held with members of the Ubumbano Traders’ Alliance Council on 2 July 2013 about how to reform the EMIEF to work better in the interests of street vendors and informal traders. The following strategy was developed:

- (a) Write to Mayor James Nxumalo reminding him that the 14 days he had been given in a memorandum of demands presented to him at a street vendors’ march on 26 June 2013 was due to expire on 11 July 2013;
- (b) Write to City Manager S’bu Sithole about the non-implementation of the matters agreed upon at their meeting on 26 October, and to request a follow-up meeting to discuss this;
- (c) Prioritize the reform of the EMIEF (eThekweni Municipality Informal Economy Forum).

The BSU (Business Support Unit) officials reacted defensively when they saw the letter to the City Manager and wrote to StreetNet (not to Ubumbano Traders’ Alliance, interestingly) in an attempt to create the impression that they had taken sufficient action to follow up the points agreed with the City Manager. The City Manager’s office, however, wrote back agreeing to the meeting which had been requested. There have since been long delays while attempts were made to secure a date on which both the City Manager and the new Deputy City Manager responsible for informal trade regulation could be available.

At the end of the last meeting of the EMIEF (eThekweni Municipality Informal Economy Forum) in December 2013, the EMIEF Chairperson unilaterally announced the disbanding of the Forum, apparently in favour of a project working group of the ILO Project or an unspecified business chamber, neither of which are structures of social dialogue.

The 8-year struggles between the municipal officials and the street vendors and informal traders of eThekweni were far from over. The persistent attempts by municipal officials to impose an imbalanced forum in which they hold the position of both player and referee also did not succeed in gaining legitimacy.

The Ubumbano Traders’ Alliance leadership had to review their strategy in the light of the lack of progress since the workshop in July, and devised their plan for 2014 as follows:

- (a) Engage in litigation activism to place pressure on the Municipality. To this end, a case has been registered in the High Court against the Municipality for the unilateral increase of monthly street vendors’ levies without reaching prior agreement at EMIEF (eThekweni Municipality Informal Economy Forum);
- (b) A workshop about litigation was scheduled for 21 January 2014. Members of Ubumbano Traders Alliance and ITSS⁹¹ street vendors’ organization in another KwaZulu-Natal town called Ladysmith (with an equally adversarial Municipality) were to meet with the public interest legal organization, “ProBono.Org,” to discuss the establishment of a weekly legal

⁹¹ Informal Trade Support Services

clinic where street vendors can seek legal advice and initiate litigation against their municipalities;

- (c) Get a new date for the meeting with the City Manager and Deputy City Manager since the postponement of the previous date due to the Nelson Mandela Memorial Service in Durban;
- (d) Use the ILO Project to “*Evaluat(e) the Implementation of Recommendations emanating from the 2006 Review of the eThekweni Informal Economy Policy and assessing alignment of the Policy to broader Provincial and National Development Frameworks and Policies*” – which has already commenced – and to continue to raise the issue of the establishment of a suitable negotiations forum (or a reformation of EMIEF if this was not disbanded).

Further deterioration in 2014

The first meeting between Ubumbano Traders’ Alliance of Durban, ITSS⁹² informal traders’ organization of Ladysmith (both in KwaZulu-Natal province) and ProBono.Org took place on 21 January 2014 and was followed by setting up a weekly legal clinic for street vendors and informal traders in Durban on Thursdays as well as assistance in taking up litigation on a *pro-bono* basis.

On 12 March 2014, members of the Pretoria office of the ILO attended a meeting of the EMIEF (eThekweni Municipality Informal Economy Forum) to introduce to representatives of workers in the informal economy the above-mentioned ILO project to “*Evaluat(e) the Implementation of Recommendations emanating from the 2006 Review of the eThekweni Informal Economy Policy and assessing alignment of the Policy to broader Provincial and National Development Frameworks and Policies*”. At that meeting it was noted that other identified sectors of workers in the informal economy (informal fisher-people, home-based workers, waste pickers, minibus taxi drivers and conductors) had not been invited to this presentation as previously agreed – and consequently the selection of a Working Group for the project, to be comprised of all these work sectors as well as other stakeholders such as municipal councillors, could not be finalised in the presence of the ILO representatives as agreed.

Also, the Business Support Unit (BSU) of eThekweni Municipality had undertaken to introduce the ILO representatives to Deputy Mayor Nomvuzo Shabalala, who also chairs the ECOD (Economic Development portfolio committee of the municipality) which would be overseeing this project – and this was not arranged either. It was agreed to convene a special meeting of the EMIEF on the 23rd April in order to complete these processes. However, that never happened. Instead, when IMIEF members arrived for the next meeting on the 23rd April, they were surprised to be told that the meeting was no longer an EMIEF meeting, but a general *imbizo* to be addressed by Provincial MEC Mike Mabuyakhulu – with a general agenda that had nothing to do with the ILO project. None of the informal traders had been informed in advance about this change.

BSU officials lost all interest in the ILO project as they lobbied for the ruling ANC (African National Congress) in national elections on 7 May 2014. However after this, they convened an EMIEF meeting on 4th June, and EMIEF members assumed that the previously unfinished business would be continued. Instead, when they arrived for the meeting, most members were refused entry by BSU officials, who unilaterally announced that the EMIEF had now been reduced to 2 representatives per region (making a total of 12 from 6 regions) and only those representatives whose names were provided by themselves would be permitted to attend the meeting. They led EMIEF members to believe that this was a requirement of the ILO project.

Early in 2014, StreetNet had been made aware by local NGO Asiye eTafuleni (AeT) that a decision had been approved in the ExCo of the eThekweni Municipality for a high-profile development project on the site of Berea Station, very close to the Warwick Market precinct where approximately 7 000 to 10 000 informal traders are working. AeT were frustrated because they had been trying to get

⁹² Informal Traders’ Support Services

information about the proposed development, and were receiving no cooperation from anybody. On investigating among the street committees and independent organisations which make up the Ubumbano Traders' Alliance, nobody had been able to get proper information. There seemed to be a complete information black-out. Remembering the massive struggle over the proposed demolition of the Warwick Market precinct in 2010, this seemed like a *déjà vu* experience.

On 4th June 2014, at the meeting of the unilaterally restructured EMIEF with a unilaterally-prepared agenda, a Project Manager from PRASA made a presentation to the less than 12 representatives who had been allowed into the meeting (as some of the 12 appointees were not present) about the proposed development, as a *fait accompli* which is to be commenced in August 2014. There was no opportunity to interrogate the development proposal and no arrangements for follow-up discussions with affected stakeholders. The representatives in the meeting felt that they were being set up by the Municipality who would want to claim that informal traders had been consulted about the development, once they were about to proceed.

On 11th June 2014, Ubumbano Traders' Alliance leaders held a report-back meeting to which they invited all informal traders in Durban, to discuss the following agenda:

1. Upcoming meeting with Durban City Manager and Deputy City Manager regarding implementation of agreements reached on 26th October 2012;
2. Efforts to find out more about the proposed Berea Station development;
3. What is going on with EMIEF;
4. ILO Project on Decent Work in eThekweni Municipality;
5. Legal case against Municipality challenging unilateral 2013 levy increases;
6. Launch of SAITA (South African Informal Traders' Alliance) in May 2013.

The mass meeting was effective in uniting different groups of street vendors and informal traders, who resolved to unite and work together on all the above-mentioned issues. Their demand in relation to the ILO Project is for the ILO representatives from the Pretoria office to meet their representatives in the "old EMIEF", i.e. the informal traders' representatives elected to represent their street committees and independent organisations in the un-restructured EMIEF, with representatives from the identified organisations of informal fisher-people, home-based workers, waste pickers, minibus taxi drivers and conductors to be invited to that meeting.

A query regarding the unilateral re-structuring of the EMIEF was raised at the next meeting of the interim working group of the ILO project on the 12th June 2014. After stating that this query was off the point, BSU officials responded that the unilateral reduction of the EMIEF was in fact an ECOD resolution. They later forwarded a copy of a resolution passed by ECOD (chaired by Deputy Mayor Nomvuzo Shabalala) on 13th November 2013, referring to a decision by the EMIEF to reduce their numbers at a meeting held on 1st March 2013.

Informal trader members of EMIEF were adamant that they had not at any stage made any such decision. They were outraged at the interference of municipal officials in their only instrument of social dialogue where both street committees and independent informal traders' organisations were represented – and now demanded an immediate end to the unilateral micro-management of street traders by BSU officials.

Furious members of the EMIEF (both the "old EMIEF" and some those included in the unilaterally downsized EMIEF) approached the Mayor's office to demand a venue for a self-convened meeting where all the EMIEF street vendor representatives would consider the unilateral re-structuring done by BSU officials and to decide on their response to this. They did not invite the BSU officials to the meeting, but they did invite elected Councillors who had been participating in EMIEF meetings. They informed the Mayors' office that they would merely notify the BSU officials of their decisions after the meeting.

The Mayor's office was understandably reluctant to become involved in this confused situation – but a threat by the street vendors that they would approach a militant political party (EFF or Economic Freedom Front) opposed to the ruling ANC for assistance if necessary, had the desired effect – as the EFF had been successfully recruiting street vendor membership in Pretoria and other sub-regions of Gauteng who had lost confidence in the ruling ANC who was not showing interest in the problems of street vendors in the cities they administer in these regions.

A broadly representative meeting of 34 EMIEF street vendor representatives from different areas of the eThekweni Metro met on the 26th June 2014 with an independent minute-taker and a neutral chairperson provided by the Mayor's office. The Councillors who had been invited did not turn up. BSU officials attempted to sabotage the meeting by organising a walk-about of certain trading areas and inviting EMIEF street vendor representatives (at the very last minute) to attend at the same time the meeting was due to be in session – but this tactic did not succeed. The EMIEF street vendor representatives in the meeting (including members of the controversial Unicity Committee which had been established by BSU officials) finally disbanded the Unicity Committee, and elected a new 15-person committee consisting of a spread of representatives from different areas, committees and organisations (including Ubumbano Traders' Alliance and its affiliates).

In addition, due to the persistent failure of social dialogue processes to resolve any of the collective problems of any of the workers in the informal economy, as their only remaining resort, litigation now loomed against the Municipality in relation to at least two burning issues, i.e.

- levy increases in July 2013 imposed unilaterally after EMIEF had not agreed;
- proposed Berea Station development without proper consultation with those potentially affected.

ILO intervention

Due to the discussion on transitions from the informal to the formal economy which started at the 103rd session of the International Labour Conference (ILC) the ILO's project in Durban was by now categorised as an ACI (Area of Critical Importance). In the light of the above, it is clearly not possible for the ILO to maintain its mandate while working in close collaboration with the Municipal officials in the BSU but failing to engage at the same time with the independent organisations and street committees of the workers in the informal economy. The approach of the ILO to the rights of workers in the informal economy to genuine and democratic representation in social dialogue could not afford to continue to be driven *de facto* through the ongoing manipulation by Municipal officials employed in the BSU which had been identified as the Secretariat of the Decent Work Project. The necessity arose for the ILO to re-position itself for the continuation of the eThekweni local government project, and they raised their concerns about the highly contested social dialogue process in Durban. The BSU then requested the assistance of the ILO in dealing with this problem, and following this request being made in writing, the ILO appointed a Social Dialogue Specialist to become involved.

Even the process of bringing in a Social Dialogue Specialist to start consulting stakeholders became a highly contested issue. BSU officials set up two days of meetings, including a meeting with EMIEF street vendor representatives of their choice. In the light of the independent initiatives recently taken by organised informal traders, they approached StreetNet to assist them to coordinate their meetings with the ILO Social Dialogue Specialist, as they did not trust BSU-initiated process. On becoming aware of this, BSU officials came to the next ILO Project meeting on the 25th July 2014 and pleaded ignorance about the dates which they had previously agreed for the scoping exercise which was to start the process of consultations between the Social Dialogue Specialist and all stakeholders. They attempted to stall the process. However, the street vendor representatives in the EMIEF and Ubumbano Traders' Alliance were prepared for their consultations with the Social Dialogue Specialist as planned on the 31st July, and it was agreed that these consultations should go ahead as planned. BSU officials and elected Councillors cancelled their consultations with the Social Dialogue

Specialist on the 30th May and were advised that their consultations could proceed once they were ready. This (unexpectedly) gave the street vendors the opportunity to have the first say in the scoping process.

After a full day's consultations with the ILO Social Dialogue Specialist on 31st July 2014, street vendors were upbeat about the fact that they were finally being listened to and heard by high-level officials of the ILO, and this was discussed with excitement in the minibus taxis that evening.

The next day, SATWO (South African Taxi Workers' Organisation, known as *Qina Mshayeli*) contacted StreetNet to request a working relationship and advice on how they too could meet with ILO representatives to discuss the concerns of the drivers and conductors employed in the highly exploitative minibus taxi sector in Durban. After meeting *Qina Mshayeli* at their offices in Durban, StreetNet discovered that this sector was even worse off than the street vendors' sector, as there was no department of the Municipality which had been willing to engage with them thus far on any level in any discussions at all. They had certainly never received any invitation to join the EMIEF as agreed in the discussions about the ILO project.

Two weeks later, representatives of the ILO (including the Social Dialogue Specialist) attended a meeting of the BSU's unilaterally re-structured EMIEF, where the Deputy Mayor (and Chairperson of ECOD) made a brief appearance and officially welcomed them when the meeting opened. The ILO used the opportunity to explain something about social dialogue to all present. This was an opportunity to explain to BSU officials and elected Councillors in the presence of street vendors and informal traders that social dialogue needs to be conducted with all parties being free to participate on an equal basis through their elected organisational representatives, and that it does not function as a feudal system controlled by the authorities in any other country and would also not work like that in Durban.

After this, BSU officials stopped their interactions with the ILO again.

The 2014 year came to an end without any further progress in the ILO project to "*Evaluat(e) the Implementation of Recommendations emanating from the 2006 Review of the eThekweni Informal Economy Policy and assessing alignment of the Policy to broader Provincial and National Development Frameworks and Policies*".

On the side of the street vendors, they engaged directly with the mayor and the Deputy Mayor to explain to them why they insist on the continued recognition of the full EMIEF as a reasonably representative negotiations forum through which social dialogue should continue to be conducted. By the end of 2014 street vendors' representatives were reasonably satisfied that both the Mayor and the Deputy Mayor were at least hearing them.

WE WAIT EAGERLY TO SEE WHAT WILL HAPPEN NEXT

ANNEXURE 4.1

PLATFORM OF STREET VENDORS' DEMANDS

Substantive demands to the Durban Metro

1. Establish an independent Commission of Enquiry into all Facets of Corruption around the issue of street trade permits – Terms of Reference to be approved by street vendors and their democratically-elected representatives.
2. Develop a data-base of all the street vendors (with and without permits) operating in different areas of Durban in co-operation with street vendors and their democratically-elected representatives and indicating the following information:
 - i. name and gender of vendor;
 - ii. description of type of work;
 - iii. area of operation;
 - iv. whether the vendor holds a valid permit, until what date;
 - v. any special considerations which may apply.
3. Integrate our organizations in the Ethekewini Informal Economy Forum (EMIEF):
 - (i) Send us the minutes of all previous meetings;
 - (ii) Send us a schedule of the dates of the meetings for 2007;
 - (iii) Invite us to all meetings of the Forum.
4. Involve street vendors and their democratically elected representatives in negotiations regarding increases of all fees (including permit fees) payable by street vendors – any unilaterally adopted increases to be suspended until the completion of negotiations.
5. Urgent implementation, with the full participation of street vendors and their democratically elected representatives, of the “Section 4 – Implementation Framework” of the Review of Informal Economy Policy developed by Gabhisa Planning and Investments and Urban-Econ: Development Economists in 2006.
6. Adopt and commit to the WCCA Campaign demands of StreetNet International.

Procedural demands: Changes to the Terms of Reference of the EMIEF

1. The position of Chair should rotate between the different stakeholder groupings.
2. The stakeholder groupings must always include the Metro Police.
3. Representation by Organisation/Associations to be THREE per organization, of whom not less than one must be a woman representative.
4. DELETE the following: *“The Forum will not deal with the day to day operational issues relating to specific informal markets or street trading sites. It will not override the mandate of the existing market or street committees.”* (N.B. In August 2006 we were informed that the authority of the street committees to undertake this function for the Metro Council expired in September 2006.)
5. Information for clarity on the number of “Trader Representatives” outside of the representation by “Legitimate Trader Organizations/Associations” and a list of their names and which areas they represent.
6. Information for clarity on what is meant by *“the Regional Trader Representatives (or Organisation/Association) should represent traders that operate their businesses according to the by-laws of the Council”* – which bylaws are being referred to, and does this clause have anything to do with the holding of permits ?

(Presented to Durban Metro on 4 June 2007 by Phoenix Plaza Street Traders Association, Siyagunda Association and The Eye Traders Association)

ANNEXURE 5

Towards a model framework for a local level collective bargaining system for street traders

QUESTIONNAIRE

1. Are you participating in any local-level negotiating forums already?
YES / NO

2. **If yes**, please supply name, structure, scope of Forum(s)

NAME

- COVERING which work sectors

-

- INCLUDING which stakeholders

-

3. Does the forum have TORs?
YES / NO

4. Can you get a copy of the TORs?
YES / NO
WHEN

5. When did you start participating in these forum(s)?
.....

6. How is the forum working for you and your members?
.....

-

7. What are the problems?
REPRESENTATIVITY.....

-

- POWERS.....

-

- EFFECTIVENESS.....

-

- UNITED TRADERS VOICE?

-

- PROCEDURAL PROBLEMS.....

-

- SUBSTANTIVE PROBLEMS.....

.....

OTHER.....

.....

- 8. Do you think you can make proposals to reform the forum(s)?
YES / NO
- 9. **If no**, do you think you can approach the authorities in any town about establishing a negotiating forum, using StreetNet's guidelines?
YES / NO
- 10. Think of a step-by-step strategic approach to contact local government about establishing or reforming a negotiating forum:
 - The **first** set of **allies** is other organisations that represent or are working with street traders. This can include unions and other membership organisations as well as non-governmental organisations that assist street traders.

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- The **second** set of **potential allies** is municipal workers and their allies. One argument you can use with municipal workers is that, if the municipality agrees to provide more services for street traders, this may create more municipal jobs.

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- The **third** set of **allies** is people who can support you on technical issues. This can include academics, lawyers and people and organisations that know about human rights.

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APPROACH – time-frame

APPROACH – official letter

APPROACH – if no response by deadline

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REPORTING to MEMBERS

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When you have convinced the municipality...

- The negotiation forum should have clear written terms of reference. The scope of the forum’s discussions should include laws and by-laws, rules for registration, nature and duration of licenses, location of markets and sites, allocation of sites and duration of tenure, fees and rentals, policing, hygiene, other services and infrastructure to be provided by the local authority, the responsibilities

and rights of traders and the local authority, policy in respect of fines and penalties and elimination of all forms of discrimination against particular categories of traders, such as foreigners, young people or women. Parties to the forum must also be able to put additional items on the agenda as they arise.

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- The forum should, wherever possible, have decision-making and not only advisory powers. Its main purpose should not be confined to information sharing.

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- The status, powers and decisions of the forum must be made known to other relevant actors. In particular, the police must be informed about decisions taken and must face penalties if they act in a way that goes against the forum's decisions.

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- The forum should be as inclusive as possible of ALL the street traders who are selling goods and services in the municipality's public space. It is never desirable for such forums to represent an "in-group" at the expense of those who are more marginalized in the sector.

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- The negotiating forum should have a regular schedule of meetings with dates and times agreed in advance. There should also be provision for any of the negotiating partners to request additional meetings when urgent issues arise.

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- Meetings should be held at a time and venue that are convenient and safe for all categories of street traders, including women with domestic responsibilities.

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- If the chairperson of the forum is a representative of the local authority, the deputy chairperson should be a trader representative, and vice versa.

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- Forum members should receive a request at least three weeks before each meeting asking them what items should be put on the agenda of the meeting.

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- Representatives should receive an agenda and related papers at least two weeks before each meeting so that they have time to consult and discuss the issues with members.

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- Written minutes should be recorded for each meeting of the forum, and approved at the following meeting. The party responsible for producing the minutes should be required to circulate draft minutes for comment and suggested revisions within one week after the meeting happens.

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- Adequate time must be allowed between meetings to allow for report backs and mandate-seeking by representatives among those they represent.

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- All agreements reached should be written and signed by all parties to the agreement. Copies of the agreement should be provided to all parties.

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- The forum should receive regular written and oral reports on implementation of all agreements.

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- The forum should submit regular written reports to the elected municipal councillors.

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- Street traders' representatives should be provided with facilities for reporting back to their members. Such facilities could, for example, include a meeting venue or use of public space, loud hailer, and use of notice-boards.

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- Membership of the forum should include, at the very least, the local authority and the traders. Other relevant parties, such as formal businesses, transport operators, private security firms and trade unions may also attend for particular meetings of sessions depending on the scope of issues discussed in the forum.
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- The local authority should be represented by officials who are sufficiently senior to commit the local authority to agreements and who are properly mandated to enter into binding agreements on behalf of the municipality. The local authority should also be represented by officials with the necessary technical expertise and knowledge of the situation and system in respect of traders. The latter could include the police and/or other officials responsible for safety and security, labour department officials, urban planners, and officials who deal with traffic and health.
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- Traders should be represented on the negotiation forum by independent organisations that they themselves establish.
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- Both parties should have the right to bring along technical advisors when specific issues on which the advisors have knowledge are being discussed. These advisors should have speaking powers, but not voting powers.
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- The trader organisations should ideally be registered. However, this should only be required if the registration system for organisations is not unnecessarily onerous in terms of cost, information requirements, other requirements, and duration of the process. The system should not exclude credible representative organisations.
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- Trader organisations represented on the forum should be membership-based, have a constitution, enforce the constitution, and have a specified geographical area of operation based on its membership.
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- Representation of traders in the forum could take various forms, depending on the nature of trader organisation in the area. If there is a limited number of organisations and the membership size of the organisations does not differ substantially, each organisation should be entitled to one representative. If there are many organisations, the system of choosing representatives needs to be democratic. This could happen through all organisations agreeing to form a coalition in which representatives to the forum are chosen. A similar system of choosing representatives will be needed if some of the organisations focus on union-like issues while others focus primarily on other issues, such as savings schemes, and do not have the necessary skills for negotiation. In designing the system of representation, thought must be given as to whether all groups – especially marginalized ones – will have a voice. Such groups could include women, youth, undocumented traders, foreigners, particular religions, particular ethnicities, particular castes, and people with disabilities.
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- Each year, each organisation represented on the forum must provide proof of their credentials according to criteria agreed on by the forum.
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- Each year the parties to the forum should reconfirm who will represent them in the forum.
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- Representatives should not be paid for attending forum meetings but may have costs such as transport covered. Serving as a representative should not bring any personal financial benefit.
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Monitoring and enforcing implementation of agreements after establishing the forum...

- Monitor whether the agreed operating rules of the forum are being followed. For example, you need to ensure that the forum meets regularly, that the representatives of local government and traders all attend regularly, that agendas are prepared and distributed on time, and that minutes are properly kept.

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- Monitor whether agreements are being reached in the forum and if the agreements are being implemented.

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- All stakeholders should have a copy of the signed agreement.

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- If necessary, agreements should be translated into the languages spoken by the street traders.

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- If agreements are very long and in difficult legal language, a shorter simpler version containing the most important clauses should be developed.

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On suspicion that the agreement is not being properly implemented, members can report this to the street trader leaders or the street traders’ forum representatives. If the problem is not resolved within one or two days, a special meeting of the forum should be called to correct the problem before it gets worse. In each regular meeting of the forum there should also be an item on the agenda where representatives can report on the cases of non-implementation that have been reported since the last meeting.