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Governing HIV/AIDS in South Africa

The Role of Firms

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Governing HIV/AIDS in South Africa. The Role of Firms

Anna Kristin Mueller-Debus/Christian R. Thauer/Tanja A. Börzel

Abstract

Firms relocating production to countries with lower social standards are regarded as driving force behind the regulatory 'race to the bottom'. However, there are numerous instances in which the behavior of firms reveals just the opposite: They adhere to self-regulatory standards (CSR) and even pressure governments to issue stricter public regulations. We intend to identify the conditions under which firms contribute to higher regulatory standards in states with weak regulatory capacities, thereby following a 'race to the top' rather than a 'race to the bottom'-logic. Theoretically, we set out to test in how far the existing literature can be utilized to answer this question. Empirically, the assessment concentrates on the textile and automotive industries in South Africa and HIV/AIDS abatement. Only limited state capacities have been involved in fighting HIV/AIDS in South Africa. Under which conditions do firms try to foster state capacities for the fight against the disease?

Zusammenfassung

Der Standortwechsel von Firmen in Länder mit niedrigen Sozialstandards wird in der Regel als treibende Kraft des abwärtsgerichteten regulativen Wettbewerbs zwischen Staaten angesehen. Es gibt allerdings eine Vielzahl von Fällen in denen genau das Gegenteil passiert: Firmen halten sich freiwillig an Sozialstandards (CSR) und üben sogar Druck auf Regierungen aus, um striktere Regulierung zu erwirken. In diesem Arbeitspapier zeigen wir, unter welchen Bedingungen Firmen zur Verwirklichung anspruchsvollerer Sozialstandards in Ländern mit geringer regulativer Kapazität beitragen. Zunächst stellen wir Hypothesen aus der bereits existierenden Literatur vor und arbeiten ihre Erklärungskraft für die hier diskutierte Problematik heraus. Das Arbeitspapier untersucht die Reaktion der südafrikanischen Textil- und Automobilindustrie auf die HIV Pandemie. Die südafrikanische Regierung hat nur begrenzte Kapazitäten aufgebracht, um sich gegen die Verbreitung des Virus zur Wehr zu setzen. Unter welchen Bedingungen versuchen Firmen den Staat im Kampf gegen HIV/AIDS zu unterstützen?

Abbreviations

AGOA	African Growth and Opportunities Act
AIDS	Acquired Immune Deficiency Syndrome
ARVs	Antiretrovirals
ARVT	Antiretroviral Therapy
BMW	Bayerische Motoren Werke AG
BUSA	Business Unity South Africa
CCC	Clean Clothes Campaign
CEO	Chief Executive Officer
CLOTRADE	Clothing Trade Council
CSR	Corporate Social Responsibility
DED	Deutscher Entwicklungsdienst
EAPA	Employee Assistance Professionals Association
EU	European Union
FDI	Foreign Direct Investment
GATT	General Agreement on Tariffs and Trades
GDP	Gross Domestic Product
GHI	Global Health Initiative
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
HIV	Human Immunodeficiency Virus
ILO	International Labor Organization
LAG	Local Action Group
MIDP	Motor Industry Development Program
NAACAM	National Association of Automotive Component & Allied Manufacturers
NAAMSA	National Association of Automobile Manufacturers of South Africa
NEDLAC	National Economic Development and Labour Council
NGO	Non-Governmental Organization
NUMSA	National Union for Metal Workers of South Africa
OEM	Original Equipment Manufacturer
PERCCI	Port Elizabeth Regional Chamber of Commerce and Industry
SA	South Africa
SABCOHA	South African Business Coalition on HIV/AIDS
SACTWU	South African Clothing and Textile Workers Union
SATIEC	South African Textile Industry Export Council
STD	Sexually Transmitted Disease
TEXFED	Textile Federation
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNEP	United Nations Environment Program
VW	Volkswagen
WTO	World Trade Organization
ZAR	South African Rand

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1. Introduction

In the debate about globalization in the 1970s and again since the 1990s, the behavior of multinational corporations has been an issue of controversy. The relocation of production to developing countries with lower social and environmental standards is regarded as driving force behind the regulatory 'race to the bottom': Global competition induces firms to invest in countries which provide incentives positively affecting the costs of production; regulatory constraints and taxes are absent. Likewise, firms will press governments of highly regulated countries to lower regulatory standards in order to avoid competitive disadvantages (cf. Bhagwati/Hudec 1996; Murphy 2000; Lofdahl 2002). While countries with high levels of regulation will respond by lowering their standards, countries with weak regulatory capacities are prevented from tightening regulation in order not to threaten foreign direct investments. Many observers and critics of globalization processes fear that the alleged 'race to the bottom' will end up in a systematic degradation of natural resources and a compromising of social standards for the sake of potential economic growth or the attraction of short-term foreign investment.[1] On a more general level, transnational corporations are even found to undermine the regulatory capacities of states resulting in the "retreat" (Strange 1996) or the even the "end" (Ohmae 1995) of the state as the main provider of governance functions (cf. Ruggie 1998).[2]

However, there are numerous instances in which we find firm behavior revealing just the opposite: Foreign Direct Investment (FDI) can impact on long-term growth by triggering "technology transfer, diffusion and spillover effects" (Nair-Reichert/Weinhold 2001: 154). Moreover, there can be an imposition of strict self-regulatory standards and even pressure on governments to issue stricter public regulations (cf. Vogel/Kagan 2004; Murphy 2000; Mol 2001; Flanagan 2006). Since the 1980s, for example, thousands of companies have committed themselves to codes of conduct, i.e. standards and goals defining their "Corporate Social Responsibility" (CSR)[3]. From the perspective of the 'race to the bottom'-hypothesis this seems counterintuitive. It means that firms sometimes have an interest in high standards. If this is true, does it not – by the same logic – imply that they can also contribute to a strengthening of regulatory capacities in developing countries?

To inquire if this phenomenon exists, to what extent it exists in selected industry sectors and to find ways to analyze it systematically, we ask: Under which conditions do multinational firms contribute to higher regulatory standards in states with limited or weak regulatory capacities, thereby following rather a 'race to the top' (Börzel et al. 2010) than a 'race to the bottom'-logic? By weak regulatory capacities we are referring to non-existing or weak regulation (laws, by-laws,

1 Cf. Chan/Ross (2003); Brühl et al. (2001); Kaufmann/Segura-Ubiergo (2001); Lofdahl (2002); Rudra (2002); Xing/Kolstad (2002); Andonova/Mansfield/Milner (2007).

2 For a more differentiated view regarding welfare state functions see Scharpf/Schmidt (2000).

3 According to the European Commission Communication, Corporate Social Responsibility (CSR) is "…a concept whereby companies integrate social and environmental concerns in their business operations and in their interactions with stakeholders on a voluntary basis." (Commission of the European Communities 2001)

directives and legal standards) and/or weak or non-existing implementation of regulation. The impact of corporate self-regulation on its immediate regulatory environment, let alone on its regulatory environment in states with weak regulatory capacity where regulatory standards are low, has not been studied systematically. Under which conditions and why do firms try to foster state capacities? By asking this question, we focus on two potential dimensions of regulation fostering. Fostering regulatory capacities can, firstly, mean that self-regulating firms seek to transfer their high standards into state regulation or secondly that firms help and assist the state to implement existing regulation.

In what follows, four hypotheses delineating the conditions under which firms are expected to foster state regulatory capacities are developed. Thereby, the aim is to find out to what extent the existing literature can contribute to an explanation of firms' fostering of regulation. This approach may be regarded as a kind of plausibility test. What theoretical propositions can be derived from the existing literature? Can they be plausibly applied to the empirical settings we find? In which areas do we find a need for further hypotheses-development?

Empirically, the assessment concentrates on the textile and automotive industries in South Africa and HIV/AIDS abatement. South Africa belongs to the countries with the highest HIV/AIDS rates. With a rising prevalence of HIV/AIDS, firms experience an increase in employee turnover. Employees remain absent from work either due to them being too sick to do their job or because family members have fallen ill and need to be looked after. Only limited state capacities have been available to comprehensively fight the disease. Why, under which conditions do firms try to foster state capacities for a more effective and extensive fight against HIV/AIDS?

We start by suggesting four hypotheses that specify the conditions under which firms push for public regulation. In the consecutive section, we ask if the hypotheses can be plausibly applied and conclude by raising issues for future research.

2. Hypotheses: Under Which Conditions and Why Should Firms Contribute to a Strengthening of State Capacities?

What theoretical propositions to explain firms' attempts to foster the regulatory capacities of states can be derived from the existing literature? For a first answer, we draw on the literature on private self-regulation and private authority in global governance (cf. Ronit/Schneider 2000). This strand of literature argues that collective organization in business associations is an important precondition for private self-regulation. Associations help to solve collective action problems among firms. In the market, the temptation for an individual firm to take advantage of its competitors complying to strict standards is considerable. This temptation is attenuated by the discipline imposed by associations (cf. Schneider/Ronit 1999). If international business associations mobilize advocacy support for corporate self-regulation, success is thus not only much more likely (cf. Kell/Ruggie 1999: 3). Associations may also help mitigate the free-rider problem. In the absence of associations that monitor adherence to corporate regulatory standards, however, firms seek public regulation resorting to legal enforcement mechanisms in order to force their competitors into compliance. From these considerations on associations and self-regulation we derive and empirically explore the following claims:

> *H1 "Associative Structure Hypothesis"*
> *In sectors with strong associations and high associative membership of firms at the international, national and sub-national level, firms will be less likely to push for state regulation that conforms to international standards.*

However, there may not only be sectoral variation, but also differences between firms within a sector with respect to their fostering of state regulatory capacities. The literature on multinational corporations and foreign direct investment teaches us that especially internationally operating firms are increasingly under pressure to maintain a high level of regulation. The strictness of regulation of a firm's country of origin may be crucial in accounting for its willingness to subject itself to strict self-regulation. International firms tend to transport their regulatory standards abroad if investing in foreign countries.[4] Using the same organizational production set-up as in the country of origin helps to save transaction costs. Thereby, these firms may also contribute to a strengthening of regulation in their host country in two ways: On the one hand, making their own high standards a legal requirement imposes costs on low-regulating competitors. Hence, firms from highly regulated countries have an incentive to actively push state agencies to apply stricter standards and draft more demanding regulation. On the other hand, a transfer of Know-How can take place between international firms operating on high standards and state regulatory agencies, leading to a strengthening of either regulatory requirements and/or implementation capacities on the side of state agencies. We therefore submit the following hypothesis:

> *H2 "Home-Country Regulation Hypothesis"*
> *If the firm is based in a home country with strict rules it will engage in a fostering of regulation.*

A third important aspect is that firms have become more conscious of their reputation. On the one hand, they no longer market their products on the basis of the country of origin, but on the basis of a globally promoted brand name. On the other hand, the global discourse on CSR – as embodied in initiatives such as the Global Compact or, more sector specifically, in the United Nation Environment Program (UNEP) Mobility Forum, the Global Health Initiative (GHI) or the Clean Clothes Campaign (CCC) – has created strong societal expectations about what constitutes appropriate business behavior. As a consequence, firms are increasingly aware of the need to establish and defend their corporate image in the eyes of customers, investors and stakeholders regarding global standards of CSR (cf. Kell/Ruggie 1999: 5). For firms, this means that non-governmental organizations (NGOs) have become strategically important (cf. Kolk/van Tulder 1999), as they can provide customers, investors and the media with information about

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4 See Murphy (2000); Skjaerseth/Skodvin (2003); Hall/Soskice (2001); Xing/Kolstad (2002).

business misbehavior and organize campaigns against individual firms. Hence, NGO pressure will give incentives to firms to engage in CSR activities. We expect NGO pressure to be also reflected in the extent to which firms push for stricter state regulation for two reasons: Firstly, those individual firms that are specifically targeted by NGOs will have a strong interest in collectively binding standards to avoid being disadvantaged vis-à-vis their competitors who are not targeted by NGOs. Secondly, strong state regulation and implementation of this regulation reduces uncertainty for firms regarding potential NGO campaigns. If the legally enforced standards are high, firms gain legitimacy and are protected against NGO campaigns. This reasoning leads us to the following hypothesis:

> *H3 "NGO Pressure Hypothesis"*
> *Firms are more likely to push for state regulation if a network of NGOs and/or a multi-stakeholder initiative is involved in the regulation of the issue area.*

Finally, we argue that the market environment, in particular the target market, will affect a firm's willingness to foster regulation. We submit that high end market firms have a stronger interest in engaging in fostering activities than firms serving a lower end of the market. Customers of high end market brands expect high quality of products and decent production conditions. At the same time, while the customers are flexible and can easily substitute one luxury firm for another if they are not satisfied, luxury firms are highly dependent on their customer group. Hence, high-end market firms invest in quality management and the implementation of production process standards, as the slightest problem with regard to such firms' products or production processes may have a large-scale impact on their sales.[5] Again, two arguments can be put forward as to why this specific constellation may give rise to a fostering of regulation through firms: Firstly, those firms targeting a high end market will have a strong interest in collectively binding standards to impose the costs of higher standards also on their lower and medium market competitors. Secondly, strong state regulation and implementation of this regulation allows firms to save the costs of further developing their own standards and helps them reduce the uncertainty inherent in self-regulation. If state regulation is strong, firms can rely on it in the sense that if they comply with it, they have obtained an appropriate level of standardization. Hence, we submit as our final hypothesis:

> *H4 "Target Market Hypothesis"*
> *If a buyer firm targets a high-end market, it will contribute to a strengthening of state regulatory capacities.*

We will now turn to an empirical investigation of these hypotheses to find out if they can be meaningfully applied to explain the phenomenon we are interested in: Firms' attempts to foster the regulatory capacities of the developing states they operate in.

5 For a more detailed version of this argument see Héritier/Mueller-Debus/Thauer (2009).

3. An Introduction to the Empirical Setting

3.1 HIV/AIDS in South Africa

Before we go on to operationalize and assess the hypotheses, we establish our research focus on HIV/AIDS in South Africa as well as on the South African textile and automotive industry. We chose to focus on HIV/AIDS abatement in South Africa since the country shows particularly weak regulatory capacities in this issue area. "In South Africa, the government is hugely constrained in its ability to deliver, for one of a whole host of reasons, you can go on: corruption, incompetence, poor leadership, incapacity, legacy of apartheid, you can carry on."[6] The first HIV/AIDS cases were diagnosed in the early 1980s and since the beginning of the 1990s the prevalence rate has increased rapidly. In 2004, it was believed to have well passed 10% of the total population (cf. von Soest/Weinel 2006). Thus, South Africa is one of the countries most heavily affected by HIV/AIDS.

At the same time, policy formulation and implementation have been insufficient to address the HIV/AIDS problem. After the democratic elections in 1994, HIV/AIDS was declared a "Presidential lead project" (Rosenbrock 1998). A few years later, however, still not much had been done. The prevalence rate had risen significantly. A fundamental problem was the general lack of financial as well as human resources and those financial resources available were not being spent appropriately. This was very much related to the difficulties in coordinating actions and defining responsibilities among the vertical governmental spheres (cf. Rosenbrock 1998). In addition, the government was unable to organize a more comprehensive approach towards fighting HIV/AIDS at the national level. Instead, the health sector continued to play the core role at the expense of a cross-sectoral approach which is generally advocated by international institutions. Overall the government's response can be described as sluggish (cf. Whiteside/Sunter 2000).

By the end of the 1990s the South African government revised its HIV/AIDS approach creating the 'HIV/AIDS/STD Strategic Plan for South Africa 2000-2005' (cf. Department of Health 2000). The plan attempted to correspond to two important international instruments: firstly, the 'Abuja Declaration on HIV, AIDS, Tuberculosis and Other Related Infectious Diseases' which was endorsed by African heads of state in April 2001 and, secondly, the 'UN Declaration of Commitment on HIV/AIDS', adopted by the UN Special General Assembly Session in June 2001 (cf. Hickey/Ndlovu/Guthrie 2003).

Significantly, this plan focused on prevention but lacked an explicit commitment to treatment such as antiretroviral therapy (ARVT)[7] (cf. Hickey/Ndlovu/Guthrie 2003). Moreover, the Plan did not include measurable plans and budgets for implementation of the formulated policies. Also, it did not address the particularly limited involvement and capacity of local government

6 Interview with Brad Mears, Johannesburg, Director of the South African Business Coalition on HIV/AIDS (SABCOHA), Johannesburg 2007.

7 The HIV treatment works by suppressing viral replication, thus allowing immune system recovery (cf. Mbali 2004).

(Hickey 2002) and women's particular vulnerability was not taken into account (Hickey/Ndlovu/Guthrie 2003).

In an attempt to improve the implementation of HIV/AIDS policies, inter-departmental and inter-ministerial HIV/AIDS committees were formed at the national and provincial level to manage governmental responses. Additionally, in order to foster cooperation with civil society, the 'Partnership Against Aids' was introduced and subsequently formalized as the 'South African National Aids Council' in 2000. Also, the 'South African Vaccine Initiative'[8], nine treatment guidelines for the management of opportunistic diseases, and the 'Beyond Awareness Campaign', a multi-media communication campaign, were launched (cf. Garbus 2003; Weinel 2005).[9] In 2001, an integrated plan for children and youth infected and affected by HIV/AIDS was developed. However, similar to the Strategic Plan, these initiatives did not include any commitment to the provision of treatment.

At this time, the provision of treatment had been ensured predominantly for holders of private health insurance as well as for those individuals supported by NGOs (cf. Stewart/Loveday 2005). In response to national as well as international critiques the government was forced to more explicitly place ARVT on the agenda. The government consulted the 'Joint Health and Treasury Treatment Costing Task Team' and came up with the decision to roll out a large scale ARVT program in August 2003. Building on the 'Strategic Plan for South Africa' but explicitly including the provision of ARVT the 'Operational Plan for Comprehensive HIV and AIDS Care, Management and Treatment for South Africa' was formulated in autumn 2003 (cf. Department of Health 2003). Its aim is to ensure universal, equitable and free access to ARVT. The provinces are to a large extent in charge of implementation but most of them lack the resources to fulfill this task. There continues to be a severe lack of medication and skilled personnel at the local level.[10] Most people are on public health insurance and this implies long waiting for access to treatment (resources). By 2005, there was only 23% drug coverage.

Neither has the South African government shown a comprehensive approach to fight HIV/AIDS in general, nor did it develop a clear piece of regulation which specifically governs the disease in the workplace (cf. Dickinson/Stevens 2005). It is necessary to read the 'Code of Good Practice on Key Aspects of HIV/AIDS and Employment' together with the constitution as well as numerous other legislation pieces. The code aims to ensure that individuals with HIV infection are not discriminated against in the workplace. The regulative framework generally driving corporate behavior is based on human rights legislation. Despite the fact that there has been a strong focus on human rights in South Africa, the workplace was not a major stage of this movement (cf. Dickinson/Stevens 2005). While South Africa has increasingly attracted investments by large corporations, few precise legal restrictions were imposed on their economic activities.

8 See below.

9 From 1999-2004, the government also substantially funded other communication initiatives, such as Khomanani, LoveLife and Soul City.

10 See Interviews with an automotive expert in Durban, October 2007.

The assertion of particularly weak state capacities also refers to the government's ideological stance towards HIV/AIDS: To date many high-ranking politicians in South Africa – among them the president and the health minister – have denied a relation between HIV and AIDS and refuse to take action against the disease based on scientific evidence. Hence, the case of HIV/AIDS in South Africa is a particularly complicated case for the evaluation of our hypotheses: Weak state capacities are not only indicated by a lack of policy formulation and implementation to address the problem, but also by unwillingness in parts of the political elite to find effective solutions.

3.2 The Automotive and Textile Industries in South Africa

This section first remarks on case selection and then goes on to substantiate this selection by elaborating on the two industry sectors examined in this paper. In hypothesis one (*H1 "Associative Structure Hypothesis"*), the unit of analysis is the industry sector. The two sectors differ. The automotive industry is marked by strong associational structures, whereas the textile industry is characterized by low degrees of organization within the sector. Thus, a selection of the two sectors allows for a sector comparison. A focus on these two sectors is also apt for an assessment of hypothesis two (*H2 "Home-Country Regulation Hypothesis"*), even though here the unit of analysis is the individual firm. The hypothesis can be assessed in both industry sectors separately; both sectors show variation with respect to the home-country regulation of firms. Were it to be confirmed in both sectors, this would mean strong support for the general relevance of the hypothesis, as both industry sectors are very different in nature: The textile industry is a rather low-tech, low-investment and labor intensive industry, driven by short product cycles and a seemingly endless fragmentation of production, while the automotive industry is a highly productive high-tech industry marked by high investments, driven by long-term product-cycles and a relatively strict organization in production. Finally, the two industry sectors also allow an evaluation of hypotheses three (*H3 "NGO Pressure Hypothesis"*) and four (*H4 "Target Market Hypothesis"*). Some South African textile firms feel strong NGO pressure. And in the automotive industry, we find variation regarding the market firms' target. These considerations concerning the case selection will now be further substantiated by a descriptive overview about HIV/AIDS in South Africa and the two industry sectors and their main characteristics.

3.3 The Automotive Industry in South Africa

Before the apartheid regime – and the trade-sanctions imposed on South Africa – ended in 1994, the South African automotive industry was a highly protected industry kept in isolation from the global automotive industry market (see for the following Black 2001; Black/Mitchell 2002; Lorentzen/Robbins/Barnes 2004; Meyn 2004).[11] From the very start in the 1920s, car producers in

11 See also http://autocluster.co.za/sahistory/index.htm (accessed 12.09.2006) for a database on the history of the automotive industry in SA.

South Africa were strongly protected by tariffs and trade barriers. At that time, this was not too unusual. Countries generally kept their markets closed for the development of a national car industry. However, South Africa still pursued this strategy when a full-fledged industry had long been established in the country and when other countries had already opened up their markets. The reasons for this prolonged protectionism were ideologically motivated: The isolated apartheid regime, on which trade sanctions were imposed, strove for self-sufficiency during the 1970s and 1980s. A largely autonomous South African car industry was a result of this – mainly in the hands of the five large conglomerates that controlled more than 80% of all companies listed at the South African stock exchange in the early 1980s (cf. Kaplinsky/Morris/Readman 2002; Meyn 2004). Great inefficiencies were the consequence, resulting in the highest consumer prices per car in the world (cf. Black/Mitchell 2002; Lorentzen/Robbins/Barnes 2004).

With political liberalization in the 1990s the government changed its economic strategy fundamentally; indeed, one could say that it was turned upside down. The goal was now to integrate the domestic automotive industry into the global market in order to rationalize, modernize and develop the overall economy, organize economic growth, attract foreign direct investment and create a competitive job market for a middle class (cf. Meyn 2004). The strategy by which these goals were planned to be achieved was an export maximization strategy. First steps for an implementation of this strategy were taken in 1989. Among other measures, trade barriers were relieved and the local content requirements were reduced to 50% (cf. Black/Mitchell 2002). Dissatisfaction with the results of this first implementation program (as well as the general political developments in 1994) however led to a thorough revision of these measures resulting in the introduction of the 'Motor Industry Development Programme' (MIDP). This program effectively liberalized the market; it will be in place until 2012. Key features of it were/are:

- the immediate reduction of import tariffs from 115% to 65% (cf. Lorentzen/Barnes 2004) and a phase-down of tariffs which is faster than required by WTO obligations;
- the gradual abolishment of all local content requirements;
- certain general duty free allowances;
- the invention of an import/export complementation scheme by which rebate credits can be earned on exports of vehicles and components; these can then be used for duty free import of vehicles and components (for an overview see Black/Mitchell 2002; Meyn 2004).[12]

As intended, the result of the MIDP was that exports exploded: When the MIDP started in 1995, total exports of the automotive industry were worth less than 5 billion South African Rand (ZAR); in 2000 they already amounted to ZAR 14 billion (cf. Financial Mail 2005). Another five years later total exports grew to ZAR 45 billion, and the data indicates that this growth in exports

12 The principle is that for every Rand exported, a percentage determined by the value of export performance of automotives may be imported duty free. The effect of these duty rebate credits is that the real import tariffs are much lower than the nominal ones. Black and Mitchell (2002: 1281-1282) calculate that already in 2000 95% of the value of imported components came in duty free.

continues (cf. DTI 2006). In terms of exported vehicles, total aggregated exports of Original Equipment Manufacturers (OEMs) (including cars, light, medium and heavy commercial vehicles) grew from roughly 16.000 in 1995 to 241.000 in 2005;[13] car exports grew from circa 9.000 in 1995 to 58.000 in 2000 and to 114.000 in 2005 (cf. NAAMSA 2005).

Today, the automotive industry is the third largest economic sector (after mining and agriculture) and the largest of all manufacturing sectors in South Africa, accounting for approximately 28% of the country's manufacturing output (cf. U.S.-Department of Commerce 2005: 1). In 2005, the industry contributed 7% to the Gross Domestic Product (GDP) and 13,5% to the total exports; revenue generated by it was in excess ZAR 195 billion, including sales of new cars estimated at ZAR 92 billion (cf. NAACAM 2006: 1-2). The aggregate industry (that is OEMs like Volkswagen or General Motors) employed 36.000 persons, whilst the car producing industry in general (including suppliers of OEMs) employed 100.000 persons (cf. Lorentzen/Barnes 2004: 473; Meyn 2004: 13). Total direct employment in the trade area – including vehicle sales and after-sales services like maintenance and replacement of parts – amounts to about 195.000 persons (cf. NAACAM 2006: 2); and if one also includes indirect employment (for example insurance agents which sell car insurances or consultants which focus on the car industry) 270.000 - 300.000 people hold jobs created by and depending on the automotive industry (cf. Meyn 2004: 12 FN 27). This means that the automotive sector contributes circa 1,5-2,0% to total employment – if one assumes that the number of persons employed in South Africa is roughly 12 million (this is the official number published by the Department of Trade and Industry; see DTI 2004: v).[14]

In terms of sector structure, the automotive industry can be divided into two major subsectors (cf. Black/Mitchell 2002; Meyn 2004; Lorentzen 2006). The most important subsector that drives the overall development of the industry manufactures fully built vehicles. Companies of this subsector – OEMs – supply the end-consumer market. The OEM subsector is characterized by a high degree of concentration: There are seven OEMs active in South Africa operating assembly plants and all of them are branches of huge multinational corporations: BMW, Daimler AG, Ford, General Motors, Nissan, Toyota, Volkswagen.

The second subsector within the automotive industry supplies OEMs with parts and components. It is highly dependent on the OEM sector, but accounts for roughly two thirds of the whole industry's annual turnover. This subsector can be further decomposed into first-tier, second-tier and third-tier suppliers (cf. Meyn 2004; U.S.-Department of Commerce 2005). Within the first tier, companies supply OEMs directly, often delivering technically complex components. Second-tier suppliers supply first-tier suppliers, and third-tier suppliers deliver to second-tier suppliers. The supplier-sector is characterized by high fragmentation: There are

13 Which also means that the contribution of the automotive industry to total exports almost tripled since 1994 and that its contribution to the GDP doubled (cf. NAAMSA 2006a and 2006b).

14 The share of the automotive industry employment in total manufacturing employment is 6-7%. Considering that its contribution to total manufacturing output is more than 28%, this means that productivity in the automotive industry is way above average.

500 suppliers active on the SA automotive market. Roughly 200 of them are first-tier suppliers, 300 are second- and third-tier suppliers (cf. NAACAM 2006).[15]

3.4 The Textile Industry in South Africa

The inward focus of the South African government before 1994 went hand in hand with the creation of inefficiencies in the textile sector and its failure to be internationally competitive. With the general trend towards liberalization the protection levels for the textile industry experienced a phase-down and forced the industry into adaptation. From the late 1990s onwards the Rand depreciated which, in combination with the export incentives of the Duty Credit Certificate Scheme, encouraged an increase in exports while allowing the industry to be competitive against imports (cf. Vlok 2006). This trend was considerably strengthened by the US and the EU providing South Africa's textile products with preferential access to their markets.[16] However, the substantial appreciation of the Rand in 2002 has had a negative impact on export performance and triggered an import surge which resulted in the textile and clothing industry recently experiencing considerable difficulties.

Statistics South Africa (2006a) estimates that the textiles, clothing, leather and footwear industries contribute approximately 4.6% to the total value of manufacturing sales[17] with textiles amounting to 2.1% and clothing to 1.7%.[18] In 2005, the textiles, clothing, leather and footwear sectors accounted for sales of approximately ZAR 38.7 billion, with clothing contributing ZAR 12.8 billion and textiles ZAR 18.9 billion (cf. Statistics South Africa 2006a). Looking at figures from 1998 to 2004 one can point out that total textile and clothing output has not expanded but tended to remain constant. At the same time, Statistics South Africa[19] (cf. Statistics South Africa 2006b; Vlok 2006) shows that retail sales have considerably increased. For example, sales of men's clothing rose by 55% and footwear by 38% from 1999 to 2003. This indicates that although the local industry still enjoys a degree of protection clothing and textile manufacturers seem to have difficulties in competing with imports (cf. Gibbon 2002).

From 2000 to 2004, South Africa's total imports of clothing and textile measured in nominal Rand value rose (cf. TIPS 2005). Particularly noteworthy is that in 2003/2004 apparel imports grew by 57%. Total imports of clothing and textile accounted for ZAR 8.2 billion in 2003 and

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15 A third subsector includes services and after-sales. It will not be part of the following investigation and will therefore not be considered further.

16 This happened through the African Growth and Opportunities Act (AGOA) and the SA-EU trade agreement. Looking at the global arena, one can point out that, since 2005, the textiles and apparel sector has been subject to the general rules of the General Agreement on Tariffs and Trade (GATT).

17 At current prices.

18 In the second quarter of 2005.

19 It should be noted that there is variation in figures in different official government sources. Statistics SA tends to use SIC and DTI HS code data – both not systematically. SIC sector definition is broader than HS. Taking this into account one can emphasize that there is no consistent variation (see Gibbon 2002 and, for example, WESGRO 2002).

ZAR 10.1 billion in 2004. A large and dramatically increasing part of total imports comes from China (cf. TIPS 2005). In addition, large amounts of illegal imports usually not taken into account by official data have an impact on the sector. The import surge can not only be explained by liberalization and the Rand appreciation, but also by a general continued lack of capital investment and technological innovation of the South African textile industry which reduces the attractiveness of the supplied products (cf. Vlok 2006).

The loss of market share at home has resulted in greater interest to export in order to become less dependent on the domestic market (cf. Roberts/Thoburn 2002). While the preparedness might have grown, the actual export performance recently declined. From 1995 to 2002 textile exports increased by 60%. With the appreciation of the Rand export sales fell by 35.6% in 2003/2004. Of total clothing and textile sales[20], only 9.4% of the former and 18.7% of the latter went abroad in 2004. This implies that the domestic market continues to generate the sales majority (cf. Vlok 2006).

It is difficult to determine the number of clothing and textile companies operating within the sector. This is mainly due to the informal character of, in particular, the apparel industry. In a survey conducted by Statistics South Africa in 2001 more than 3000 textile, clothing, footwear and leather manufacturers were covered, while the 'Clothing, Textile, Footwear and Leather Sector Education and Training Authority' lists roughly 2000 companies of which 1600 are textile and apparel enterprises (cf. Vlok 2006). Another source talks about 1300 apparel manufacturers operating in the formal sector (cf. Research Report 2006). Most of the clothing and textile enterprises employ only 20 to 200 mostly female operators and can hence be considered small or medium in size (cf. Vlok 2006).

The vertical production structure of the textile and clothing sector has its starting point at the various fibers sources. Acrylic and viscose fibers as well as the chemicals needed for production are generally imported, whereas polyester, polypropylene, nylon, wool, mohair and cotton are locally produced. Looking at the international stage South Africa is the largest mohair as well as the fifth largest wool producer and supplies as much as approximately 40000 tons of cotton per year with above world average lint, thus allowing the industry to become increasingly export-oriented (cf. SouthAfrica.info 2006).

With the exception of non-wovens, fibers move on via the spinning stage to weaving, knitting etc., thus being turned into fabrics and garments. This is followed by the finishing process (for example printing and dying). Weaving, spinning and finishing constitute the most capital-intensive as well as, in terms of employment, the largest textiles subsector (cf. Roberts/Thoburn 2002). Spinning and weaving contributes nearly half of total textiles output. After the fabrics have passed through the finishing process they reach the final production structure stage. Here, the following different groupings of finished products can be distinguished: clothing (men's, women's and children's wear, sports wear, lingerie etc.), households (bed linen etc.), technicals

20 ZAR 34 billion.

(automotive etc.) and others (for example footwear and furniture). Clothing manufacturers generate approximately one third of total textiles demand and predominantly sell their products on to retailers. The construction, mining and motor vehicle sectors also constitute important textiles buyers (cf. Roberts/Thoburn 2002).

Clothing and textile retailing in South Africa is to a large extent similar to retailing in the countries of the Northern Hemisphere. There are various kinds of retail operations, retailers often undertake non-retail-functions, and types of product as well as outlet offering are broadly distributed among market segments (cf. Gibbon 2002). However, there is a very high level of concentration. A market share of circa 70% is accounted for by seven retailers: Edcon, Woolworths, Truworths, Pick'n Pay, Mr. Price, Pep Stores and Foschini. This is approximately double the concentration level identified in the UK (cf. Gibbon 2001). Correspondingly, buying power is strong.

Having introduced the automotive and textile industry sectors, the task is now to operationalize the dependent variable of inquiry: the fostering of public regulation.

4. Case Selection, Operationalization and Empirical Assessment

This section specifies, operationalizes and empirically assesses the hypotheses developed above. Data collection included 66 interviews with automotive and textile companies, retailers, government agencies, trade unions, associations, NGOs and experts in South Africa and Germany. Of those 65 interviews 43 serve within the context of this article as background information. We directly refer to 24 in the following analysis. 11 are relevant for the automotive sector and 13 for the textile sector. The interviews were conducted in the period between February 2007 and October 2008 and transcribed as well as coded according to the empirical indicators of the independent and dependent variables developed in the next section. The total number of cases assessed below is 14. We begin by an oprationalization of the dependent variable and then turn to the empirical assessment.

4.1 The Dependent Variable: Public Regulation

Fostering of regulation takes place if a firm lobbies national or local governments for the formulation of regulation and/or assists in the government's implementation efforts. Thus, new, stronger public regulation constitutes the dependent variable. Following the distinction between policy formulation and implementation in policy analysis we not only assess the rules put in place (formulation), but also evaluate the resources allocated in order to practically implement these rules. The empirical indicators used for the stringency of formulated regulations are

- *the degree of obligation of rules,*
- *their degree of precision,*
- *demandingness and*
- *scope.*

The degree of obligation concerns the prescriptive status of rules. It asks whether they resemble a permission, recommendation or requirement. The degree of precision refers to the extent of task specification. Hence, it refers to who has to do what, how and within what time span. Demandingness refers to the level standards prescribed. Scope concerns the number of regulatory issues addressed by a governance rule, such as asking for recycling and the reduction of affluent waste as compared to asking for recycling only. If requirements are specific, mandatory, demanding and wide in scope, and, thus, policy formulation is strict, fostering of regulation has taken place at the formulation level.

The empirical indicators used for the assessment of implementation of policies and regulations refer to the resources and compliance mechanisms employed to realize the objectives formulated and is measured in terms of

- *the personnel and the financial budget of agencies to which the task of implementation is assigned and*
- *compliance mechanisms, i.e. monitoring and sanctioning or positive incentives.*

If a new regulatory requirement scores high in both dimensions, strong regulation has been developed. By contrast, a hypothesis expecting public regulation is disconfirmed if there are neither newly formulated rules nor a corresponding implementation as well as monitoring and sanctioning mechanisms.

4.2 Associative Structure Hypothesis (H1)

As argued above associations can help mitigate the free-rider problem. In the absence of associations monitoring compliance with corporate regulatory standards, firms seek public regulation resorting to legal enforcement mechanisms. H1 stated that in sectors with strong associations and high associative membership, firms will not push for social state regulation. The strength of the associative structures of an industry sector is measured with the following indicators:

- *Indicator 1: the percentage of firms of an industry that are members of an association;*
- *Indicator 2: the organizational strength of associations - number of staff, organizational division of labor such as independent committees or local branches, material resources such as offices, budget, Know-How (cf. Schmitter/Streeck 1981);*
- *Indicator 3: the number of sectoral associations.*

The unit of analysis implied by the hypothesis is the industry sector. We compare the automotive and the textile industries to empirically assess the hypothesis. More precisely, we compare, on the one hand, the automotive component sector with the clothing and textile production sector and, on the other hand, the automotive OEM sector with the textile and clothing retail sector.

4.2.1 Automotive Components vs. Textile and Clothing Production

The automotive component sector is similar to the clothing and textile production sector in many important respects. For example, in the two manufacturing sectors we find a plethora of different firms ranging from small businesses employing around 50 employees to medium sized and large companies with more than a thousand workers. Another important similarity is that the firms in both industry subsectors supply to bigger and much more powerful companies, OEMs and retailers respectively. Of course, the overall productivity and skills-level within the automotive components sector is much higher than in the textile and clothing sector. Therefore, concerning the "problem pressure" the two sectors confront one could argue that HIV/AIDS is a bigger problem for the auto industry than for the textile and clothing industry. HIV/AIDS causes turnover, loss of skills and lowers productivity. The more a sector relies on skills and productivity the more it will be negatively affected by the disease. The argument that the problem pressure is higher in the automotive industry than in the textile and clothing industry does therefore have some leverage. However, given the much higher prevalence rates in the textile sector, a strong interest in tackling HIV/AIDS can also be assumed there. And the point is not to assess how strong the interest in tackling HIV/AIDS is, but to investigate what strategies firms with an interest in mitigating risks the disease poses choose to pursue. In this respect, an important difference is that the sectors differ considerably in their associative structures. Hence, they are apt for an assessment of hypothesis one on the role of associative structures. The prediction is that in industries with weak associative structures firms will try to foster public regulation, whereas in industries with strong associative structures self-regulation will be the preferred option.

Automotive Components Supplier Sector

Generally, the automotive industry – in all its subsectors, OEM and component suppliers – is marked by particularly strong associative structures. Firstly, there is the National Association of Automobile Manufacturers of South Africa (NAAMSA), an association that gathers 100% of all large or multinational OEMs such as BMW, Daimler AG, Ford, General Motors, Nissan, Toyota and VW (Indicator 1). NAAMSA employs between ten and fifteen persons full-time, has a central head-office in Pretoria and an independent budget, a Chief Executive Officer (CEO) who is entitled to make authoritative decisions on issues that concern NAAMSA as an organization and a vast number of committees and subcommittees, both issue specific and regional (Indicator 2).[21]

Secondly, there is the National Association of Automobile Components Manufacturers of South Africa (NAACAM), which gathers around 200 companies of this subsector. Given that many of the 500 component manufacturers supply to more than one industry sector (for example, textile firms that manufacture parts of auto seats or chemical firms supplying to a wide range of sectors), it seems fair to say that the association represents more than 40% of the industry. In fact, according to the CEOs of NAACAM and NAAMSA as well as according to what interview partners of firms manufacturing components told us, almost 100% of all firms predominantly producing automotive parts are members of NAACAM (Indicator 1). In terms of organizational strength (Indicator 2), NAACAM is not as well established and strong as NAAMSA. Still, it is quite strong when compared with other South African industry sectors. NAACAM has 3-6 full-time staff members, a central office nearby Johannesburg, an independent budget and a CEO that has some decision-making authority in certain issue areas. NAACAM also shows some functional differentiation as the association installed some committees on selective issues such as the revision of the MIDP.[22] Locally, the association has four official offices by which so-called Local Action Groups (LAGs) are organized. There are all in all eleven LAGs, virtually everywhere in the country where there is automotive production. These LAGs have a chairperson as well as their own administration and meet twice per month to address what are pressing issues in the industry's perspective.[23]

Apart from NAAMSA and NAACAM, which organize the two subsectors – OEMs and component manufacturers – horizontally, another characteristic of the components sector is that there are also organizational structures linking component manufacturers to OEMs. Most of the big auto brands in the OEM sector engage in some form of supply chain development and regulation (cf. Héritier/Müller-Debus/Thauer 2008). To this end, they found supplier schools, benchmarking clubs, automotive clusters and engage in projects with local Chambers of Commerce or International Organizations as well as the South African state to upgrade suppliers. For example, VW has founded a supplier school in Uitenhaage aiming at training and upgrading of local suppliers to Western efficiency and quality standards. Once a week a selected number of suppliers of South African origin come to this school to learn what production on a global standards level requires from them. In Durban, Toyota engages in an automotive cluster, which is partly financed by the municipality. Ford and BMW also operate supplier schools. Not all

21 Interviews with the CEO of NAAMSA, Pretoria, February 2007; with the CEO of NAACAM, Johannesburg September 2008; and with environmental-, health- and corporate affairs managers of various OEMs, Rosslyn, Uitenhaage, East London and Port Elizabeth, February and September 2007; and with an automotive expert, Durban, October 2007. See also www.naamsa.co.za for reports.

22 For the liberalization program integrating the industry in the global market see 3.3 Introduction to the Automotive Industry in South Africa above.

23 Interviews with the CEO of NAAMSA, Pretoria, February 2007; with the CEO of NAACAM, Johannesburg, September 2008; with CEOs and production managers of various suppliers, Rosslyn, Brits and Bellville, March and September 2007; and with an automotive expert, Durban, October 2007. See also www.naamsa.co.za for reports.

suppliers are member of such supplier schools. Among the first-tier suppliers of South African origin, the participation rate is high (60-70%), while it is approximately 30-40% among second-tier suppliers originating from South Africa (Indicator 1). The organizational structures of these associations that link the suppliers to the OEMs may often not be as formally established as the ones of the horizontal associations NAAMSA and NAACAM (Indicator 2). For example, supplier schools rarely have a CEO (sometimes, however, they do as in case of the Durban cluster) and an independent budget. However, all of these supplier initiatives by OEMs require the allocation of substantial resources in terms of personnel, Know-How and finance. VW, for example, has a whole team of 10-15 middle managers to which the exclusive task of supplier development is assigned. In case of BMW, Ford, the Daimler AG and Toyota the situation is similar.[24] Finally, the industry engages in cross-sectoral associations. Thus NAAMSA participates actively in Business Unity South Africa (BUSA) and other strong cross-sector associations on behalf of the whole industry.

In conclusion, the automotive component industry is embedded in a sophisticated web of strong associational structures. Hence, the expectation that the component manufacturers will not seek to foster state regulatory capacities, but will rather opt for organizing a collective response to the threat the disease poses to the industry through the associational structures available to them. And indeed, that is what we find empirically.

Firstly, while NAAMSA is largely inactive on the HIV/AIDS subject (this is discussed in the next section), NAACAM has addressed the issue.[25] As many members are concerned about the threat the disease poses, NAACAM has made HIV/AIDS a constitutive part of its LAGs. Information sessions are organized within these LAGs to inform all local suppliers about the problems HIV/AIDS may cause for firms and about the necessary steps for the development of a workplace program. The LAGs also refer firms to experienced consultants on HIV/AIDS workplace programs and have negotiated special prices for their members. They also contact local clinics to organize preferential treatment for the employees working for firms that participate in the LAGs.

Secondly, the organizational structures that link up the OEM with the component sector have started to add the fight against HIV/AIDS to their agenda. Within the context of the supplier school VW, for example, has launched a project in cooperation with the International Labor Organization (ILO) to implement HIV/AIDS workplace programs in the supply chain of VW. In the Toyota-related Durban automotive cluster an HIV/AIDS workplace program section has

24 Interviews with the CEO of NAAMSA, Pretoria, February 2007; with the CEO of NAACAM, Johannesburg, September 2008; and with environmental-, health- and corporate affairs managers of various OEMs, Rosslyn, East London and Port Elizabeth, February and September 2007; and with an automotive expert, Durban, October 2007.

25 Interviews with the CEO of NAAMSA, Pretoria, February 2007; with the CEO of NAACAM, Johannesburg, September 2008; and with environmental-, health- and corporate affairs managers of various OEMs, Rosslyn, Uitenhaage, East London and Port Elizabeth, February and September 2007; with CEOs and production manager of various suppliers, Rosslyn, Brits and Bellville, March and September 2007; and with an automotive expert, Durban, October 2007.

been included in the activities of the cluster as well. In East London, the Daimler Health Trust has engaged within the context of the supply chain development activities of the Daimler AG with the German development agencies 'Gesellschaft für Technische Zusammenarbeit' (GTZ) and 'Deutscher Entwicklungsdienst' (DED) as well as the Border Kai Chamber of Commerce and Industry in a project in which HIV/AIDS workplace projects are implemented in the supply chain. Similar activities were also found in the supply chain activities of BMW, though to a slightly lesser extent.

Thirdly, the OEMs cooperate closely with SABCOHA, the South African Business Coalition on HIV/AIDS, and have distributed the SABCOHA tool kit for HIV/AIDS workplace program development to many of their component suppliers. In addition to that, SABCOHA makes itself available to smaller automotive firms to assist them in their workplace program implementation activities. In conclusion, one could say that component manufacturers – if they regard HIV/AIDS as a problem for their business and thus decide to get active on it – organize information and support for the development of HIV/AIDS workplace programs rather from self-organizational and associational structures than from state institutions. Hence, there is no need for them to engage in activities aiming at a fostering of state regulatory capacities. Indeed, NAACAM and NAAMSA as well as virtually all component manufacturers interviewed said that they would never even have considered approaching the government on the issue or helping public institutions implementing state policies. As will be seen further below, the situation is different in the OEM sector. But for component manufacturers, it seems much easier and more efficient to draw on associational structures for their attempts to tackle the problem of HIV/AIDS at the workplace than to cooperate with state institutions.

The Textile Sector[26]

In contrast to the automotive component sector, textile firms are not represented by strong associative structures. The associative landscape is highly fragmented. Firstly, there is the Clothing Trade Council (CLOTRADE) which claims to be the collective voice of the industry to government and all other stakeholders, on all issues that relate to the domestic trade environment, including supply chain matters. Secondly, the (specific) Textile Federation (TEXFED) is an association very similar to CLOTRADE in terms of tasks. However, TEXFED only works with specific textiles manufacturers, while CLOTRADE focuses on the clothing industry. Thirdly, there is the Export Council for the Clothing Industry and, fourthly, the South African (specific) Textile Industry Export Council (SATIEC). Finally, labor issues are dealt with by two separate associations which, moreover, have provincial sub-divisions (Indicator 3).[27]

26 The textile sector comprises both specific textile (e.g. cotton, knitting, industrials) and clothing manufacturing.

27 Interview with head of the Clothing Export Council and CLOTRADE, Cape Town, March 2007; interview with head of TEXFED, Johannesburg, March 2007.

The organisational strength of each of these associations is weak. There is only one member of staff taking care of both CLOTRADE as well as the Export Council for the Clothing Industry (Indicator 2). It does not have an additional expert employed for the development of new strategies.[28] From an organizational perspective, TEXFED is slightly stronger. It has two members of staff: an executive director and an economist. Hence, more Know-How is involved. SATIEC and the South African Textile Employers Association are organized and represented on a rotating basis by individual firms. All associations collect membership fees and, hence, have their own independent budget. However, none of them has independent committees. Only CLOTRADE has informal "sub-associations in each of the regions in the Western Cape and in KwaZulu-Natal which have a lot of small companies and we let them represent themselves collectively as one member" (Indicator 2).

Not all of the firms operating in the textile industry are represented in an association. Thus, CLOTRADE represents, in company terms, about 50% and in formal employment terms approximately 65%. TEXFED is the voice of 98.5% of the cotton industry, 100% of the wool sector and about 65% of the fabric/knitting industry. Also, the Clothing Export Council as well as SATIEC do not cover all firms. This is mainly due to the fact that only about 10% of the specific textile production is being exported and also the clothing industry is largely oriented towards the local market. Some firms are neither a member of any export nor of any internal trade associations. By contrast, most firms are members of an employers' association. Such associations are focused on labor and wage negotiations as well as industrial council activities. In addition to the formal industry, there is also a large informal textile sector. Informally operating textile firms do not belong to any associations (Indicator 1).

In the absence of strong associative structures monitoring compliance with corporate regulatory standards, it is expected that textile firms seek public regulation in the HIV/AIDS area. This is indeed the case. Most fundamentally, the textile industry fostered an HIV/AIDS policy through bargaining councils. The bargaining council constitutes tripartite regulation. All members of the employers association are legally bound to contributing to a bargaining council health fund. This is clearly spelled out, for example in the bargaining council constitution or in general regulation on labor and employer relations (precision). By deciding to make HIV/AIDS abatement part of its employee health pillar the bargaining council integrated this issue into the realm of public regulation.

The employers are *obliged* to support the HIV/AIDS fund.[29] Textile firms pay approximately ZAR 0.30 per employee per week.[30] Also employees contribute. The income of financial contributions are *monitored* by administrative staff. Only those that contribute can access the service. With the money from employers and employees, eight clinics have been established and 80-100 staff are

28 Interview with Department for Trade and Industry, Section for Industrial Development, Pretoria, September 2008.

29 While the funds are separate for clothing and specific textiles, the ways they are organized do not differ much.

30 Interview with textile firm F, Durban, September 2007.

employed – a combination of doctors, dentists, oral hygienists, social workers, peer educators and nursing staff (*resources*). The clinics provide a variety of services in the HIV/AIDS area. They are involved in prevention activities, voluntary testing and counselling and plans to also provide treatment (*scope*). The latter is to be achieved through cooperation with the provincial government. The clinic and the provincial government already engage in strong interaction. The clinic director highlights: "There is no way the public sector in this country can provide all care all the time in the next 50 years. You've got to look at creative ways of doing it."[31]

In addition, via their respective associations, textile firms have been represented by the general association BUSA which heads the business coalition in the tripartite National Economic Development and Labour Council (NEDLAC). "The textile (and clothing) sector is not a member of Business Unity South Africa, but the representative(s) of the textile sector of South Africa becomes part of the delegation and is invited to be part of the delegation at NEDLAC".[32] Thus, via its associations the textile sector was, for example, able to take part in negotiating and commenting upon the NEDLAC Code of Good Practice on HIV and AIDS which does, however, "not impose any legal *obligation* in addition to those in the Employment Equity Act and Labour Relations Act, or in any other legislation referred to in the Code".[33] It constitutes a recommendation. For example, employers and trade unions should develop and carry out impact assessments, employers should make sure they deal with HIV testing confidentially and provide equitable employee benefits and the Department of Labour should make the code available to everybody. It is also clearly spelled out what an HIV/AIDS policy should cover. Thus, *precision* is high. The level of standards recommended in the Code corresponds to international declarations such as the UN Declaration of Commitment on HIV/AIDS 2001, and can, hence, be viewed as *demanding*. However, the *scope* is limited. The code mainly formulates standards in relation to discrimination while, for example, treatment is not an issue. Thus, as far as the output dimension is concerned, this piece of regulation can be considered as being of medium strength.

Moreover, employer and trade union should invest in counsellors, peer educators as well as in education and training programs for employees. Also, the government needs to provide information on HIV/AIDS in the workplace (*staff, information*). The code recommends specific procedures to be followed, for example occupational accidents should be reported and monitoring of occupational exposure to HIV should take place. Moreover, employer and trade union should have a cooperative relationship, advise each other (*monitoring*). Hence, also compliance mechanisms are part of the code.

Thus, hypothesis one is supported by empirical data. As expected a fostering of regulation takes place. Textile firms get involved in order to develop and firmly establish agreements within the realm of public regulation. It is of interest to note that while their weak associative structures

31 Interview with Clothing Industry Bargaining Council Clinic, Cape Town, March 2007.

32 Interview with textile firm S, Cape Town, March 2007.

33 Department of Labour, 2000. Code of Good Practice on Key Aspects of HIV/AIDS and Employment. Employment Equity Act, Act No. 55 of 1998.

are, as expected, not used for self-regulation, they do help textile firms to foster regulation. More often than not, the resulting type is tripartite regulation.

4.2.2 OEMs vs. Retailers

The automotive OEM sector is similar to the textile retailing sector in that both are constituted by a small number of large competing firms with massive resources. In the automotive sector, BMW, Daimler AG, Ford, General Motors, Nissan, Toyota and VW have between 3.000 and 6.500 employees. All of them are branches of multinationals with German, US American or Japanese origins and turnovers exceeding one billion Euros per annum. In the retailing sector, the companies we look at – such as Woolworths, EDCON, Mr. Price and Foschini – employ 10.000 to 20.000 operators. Some of these companies are foreign owned, too, and their respective turnovers do exceed one billion Euros. Hence, both sectors seem apt for a comparison. The prediction is, again, that in industries with weak associative structures firms will try to foster state regulatory capacities, whereas in industries with strong associative structures self-regulation will be the preferred option.

OEM sector

As mentioned above, the automotive sector is characterized by strong associative structures. All South African OEMs are members of NAAMSA (Indicator 1), though membership is not obligatory (see NAAMSA 2005; 2006). In addition, the following features of NAAMSA indicate that it embodies a strong associative structure (Indicator 2): NAAMSA has an established institutional order including specifications of leaders who can speak and contract for the organization as a whole, permanent staff carrying out organizational activities, a budgetary process and a specified set of criteria for the definition of eligible members. Moreover, NAAMSA requires members to pay regular membership-fees and offers them various services. "I think this industry is very organized. NAAMSA represents the consensus view of all the motor vehicle manufacturers."[34] It has various sub-committees and working groups dealing with all issues of relevance for the industry, for example local content requirements, vehicle crime and safety legislation, industrial relations and export issues.[35] Based on this assessment the expectation is that automotive firms do not seek public regulation in the HIV/AIDS area, as the presence of a strong business association (NAAMSA) renders collective action problems irrelevant and, thus, facilitates self-regulation. But how does our hypothesis fare in reality?

At first sight, the analysis seems to be in line with the expectation: The automotive industry as a collective, that is in form of NAAMSA, has not made any attempts to push for public regulation in the HIV/AIDS area. However, one needs to take a closer look to fully understand the activities

34 Interview with CEO of NAAMSA, Pretoria, February 2007.

35 NAAMSA website (www.naamsa.co.za); interview with automotive expert, Durban, October 2007.

of the OEM sector. Firstly, through the cross-sectoral association, SABCOHA automotive firms exert influence on government activity. All large OEMs are members. SABCOHA represents its members in both NEDLAC and the South African National Aids Council (SANAC) where advice is given and possible regulation is debated on a regular basis. Brad Mears, head of SABCOHA, states: "Since early 2000 business has contributed to a plethora of documents and policies. For example, in 2003 there was a draft agreement in NEDLAC on what business, government and labour would do in respect to responding to HIV. At that time, the parties actually walked away from that agreement and did not sign it. Now we're back at the table."[36] The regulation directly influenced by SABCOHA appears to have recommendatory character (*low obligation*), while it is usually spelled out clearly what role business and other actors involved have to play (*precision*). The formulated policies can be viewed as *demanding* since they generally correspond to two important international instruments: Firstly, the 'Abuja Declaration on HIV, AIDS, Tuberculosis and Other Related Infectious Diseases' which was endorsed by African heads of state in April 2001 and, secondly, the 'UN Declaration of Commitment on HIV/AIDS', adopted by the UN Special General Assembly Session in June 2001. In addition to these activities directed towards stronger state programs, a variety of implementation measures are taken by SABCOHA. Drawing on a pool of employees and financial means coming from member contributions and donations SABCOHA engages in self-regulation and service provision (*resources*). For example, those firms being particularly successful in developing and implementing HIV/AIDS policies are awarded at an annual event (*monitoring, positive incentives*). Several projects for supply chain development have been initiated, too. An example is the BizAIDS micro-enterprise development program, established to specifically assist small and medium-sized businesses in the automotive supply chain delivering effective HIV/AIDS programs.[37]

In conclusion, the activities of SABCOHA are twofold: It is a lobbying organization trying to bring about a stronger response of the state to the spread of the disease. At the same time, it is supporting the automotive and other industry sectors' supply chains in their attempts to develop and implement HIV/AIDS workplace programs. So on the one hand, the hypothesis seems to be supported by the SABCOHA activities as the business association facilitates corporate self-regulation. On the other hand, however, one has to acknowledge that SABCOHA tried to lobby the government to develop a better response to the spreading disease. Hence, contrary to what is predicted, the association also facilitated the attempt to foster state regulatory capacities. In the end, the attempt was not overly successful. Nonetheless, the attempt alone contradicts the prediction put forward by our hypothesis.

Secondly, the reason why NAAMSA is refraining from fostering attempts in the field of HIV/AIDS is certainly not that the industry prefers self-regulation organized by NAAMSA over state regulation. NAAMSA does not engage in HIV/AIDS governance at all. The causal logic underlying the hypothesis – that in industry sectors with strong associations firms will opt for self-regulation and consequently not for state regulation – does therefore not hold in this case.

36 Interview with SABCOHA, Johannesburg, March 2007.

37 See www.sabcoha.org.

Thirdly, we find that individual OEMs have done a lot to influence the government, on all levels and in different constellations. For example, there have been attempts to influence government behind closed doors within the context of the President's International Investment Council. This body has been established to allow the president to draw on the advice and expertise of business leaders such as the former Daimler AG CEO Jürgen Schrempp as regards foreign investment issues. In this council it was also highlighted by automotive industry leaders that the controversy over HIV/AIDS treatment in South Africa and the questionable stance the government takes on the issue could divert foreign investment from South Africa (cf. von Soest/Weinel 2006). Thus, business – more precisely, individual firms such as the Daimler AG – might have had a positive influence on the government's decision of 2003 to provide ARVT as set out by the Operational Plan, one of the large regulatory measures undertaken by the national government to combat HIV/AIDS. It should, however, be noted that while business might have had some influence the major push for the formulation of the Operational Plan came from the NGO treatment action campaign and from the trade unions. Nonetheless, the lobbying activities within the council contradict our hypothesis. Without doubt, they qualify as attempts by the industry to foster regulatory capacities – despite the presence of strong associative structures.

Finally, at the provincial and local level individual automotive firms contribute significantly to the provision of services and thereby foster the implementation capacities of local governments and state agencies: BMW, for example, engages in a public private partnership establishing a clinic for persons living with HIV in the outskirts of Pretoria. In this public private partnership, the Gauteng provincial government and SEQUA, a German development agency, are involved as public partners. Also Mercedes-Benz is involved in a public private partnership in the Eastern Cape, where state capacities are particularly weak. It partners with the National Ministry of Health, the local health agencies, the DED, the local SABCOHA chapter and the Port Elizabeth Regional Chamber of Commerce and Industry (PERCCI) to support small and medium-sized businesses in their efforts to draft and implement HIV/AIDS workplace policies. In addition to that, the public private partnership also trains nurses and doctors in local clinics on HIV/AIDS issues. Besides, all OEMs partner up individually with local public schools, kindergartens and clinics in their fight against HIV/AIDS: This partnering includes awareness raising measures and education to school children as well as large-scale training of nurses and doctors on HIV/AIDS issues in clinics and hospitals. These trainings usually also involve the local and/or provincial Departments of Health and are probably much more relevant than the above mentioned creation of clinics. In many areas in South Africa, medication is available by now – at least since the roll out in 2003. The problem is, however, that there are too few AIDS clinics with trained personnel so that the medication is very often never made available to patients. Hence, trainings are crucial to transform regular clinics (that are not licensed to distribute ARV medication) into AIDS-clinics (that can distribute ARVs). In some cities like East London (with Mercedes Benz), Port Elizabeth and Uitenhage (with VW, General Motors and Ford), the OEMs' activities to upgrade local clinics and hospitals are much more effective and present than the activities of the provincial and local government in this respect. Hence, on a local level, OEMs really do close gaps in governance and partly take over the functions of public authorities, thereby partnering with those authorities in the hope that someday they will be able to fulfill these tasks themselves. It should also be noted that usually the OEMs coordinate their training and education activities within the context of local Chambers of Commerce (such as PERCCI) or associations. So OEMs engage extensively in fostering activities on the local level despite the existence of the strong association NAAMSA.

In conclusion, OEMs individually and with firms from other sectors through SABCOHA engage in fostering activities despite the existence of their strong association NAAMSA. Hence, contrary to the prediction spelled out in the hypothesis, a (cross-sectoral) association (SABCOHA) has facilitated attempts to foster public regulation by industry. At the same time, OEMs engage extensively in fostering activities on the local level. It seems fair to say that for the automotive OEM sector the hypothesis is disconfirmed.

Textile Retailing Sector

As far as associative structures are concerned, the textile retailing sector and the OEM sector differ considerably. Retailers have not been collectively organized until lately.[38] Recently, they have set up the Retailers Association. Thus, with only one association, the sector is not characterized by fragmentation (Indicator 3).[39] There has been a lot of bargaining around whether or not to establish and/or join this association. Of the seven large retailers only four are members, that is less than 60%. Woolworths, Foschini and Pep Stores decided not to join (Indicator 1). An external consultant is the appointed representative financed with membership fees. Independent committees or local branches have not been formed (Indicator 2). Since empirical data indicates that associative structures are weak it can be expected that textile retailers push for public regulation. However, this is not the case. Retailers have traditionally not been interested in engaging in interaction with the government.[40]

The socially responsible retailer Woolworths is the major exception. It is a member of SABCOHA.[41] SABCOHA has been established to inter alia foster public HIV/AIDS regulation. This body and the regulation it helped develop have already been discussed in the section on automotive OEMs. Also Edcon can be viewed as potentially getting involved in regulation development. Edcon is a member of the Employee Assistance Professionals Association (EAPA) which engages in HIV/AIDS-related information sharing.[42] The association also involves government representatives and can, hence, be viewed as having an influence on public regulation. However, no specific regulation has been pushed for as a result of its meetings. If existent at all, the influ-

38 There has been the Consumer Goods Council which is, however, not limited to textile retailing but a cross-sectoral body involving firms such as Woolworths, British American Tobacco SA, Unilever and Nestlé. Several textile retailers are not members.

39 Interviews with CLOTRADE, Cape Town, April 2007; with TEXFED, Johannesburg, March 2007; with manager of Edcon, Johannesburg, September 2008.

40 Interview with manager of Edcon, Johannesburg, September 2008.

41 Interview with managers of Woolworths, Cape Town, September 2007.

42 Interview with manager of Edcon, Johannesburg, March 2007.

ence of firms is indirect and diffuse. Other retailers also get involved in activities on HIV/AIDS. However, these activities do not aim at new public regulation. Most retailers have an HIV/AIDS policy in place on the individual company level. Foschini and Woolworths are parties to an informal organization dealing with HIV/AIDS testing.[43]

An Inductive Approach

Two separate comparisons have been carried out in this section 4.2. On the one hand, we looked at the automotive component industry and the textile sector, on the other hand, the automotive original equipment industry and the textile retailing sector were examined. The role of the strength of associative structures was assessed. Hypothesis one was shown to hold in the case of component manufacturers and textile firms. It was not supported by empirical evidence when OEMs and retailers were compared; here, OEMs engage in fostering activities despite strong associative structures while textile retailers refrain from such activities – even though strong associative structures that could facilitate corporate self-regulation are not available to them. How can this be explained?

Answering this question, we follow largely an inductive logic, as the deductively derived hypothesis does not hold and thus does not provide us with a satisfactory account. Re-evaluating the data, we suggest two additional factors as explaining the disconfirming outcome just delineated. The first one is firm size. The second one is an exit threat-option for firms. Firm size makes a difference in the sense that large firms have the capacities and resources to tackle the problem of HIV/AIDS at the workplace – if they conceive of it as a problem. Small firms, by contrast, lack precisely this problem solving option and thus need to rely on external support if they want to address the problem. An exit threat-option means that firms have access to the government and can exercise pressure on the government. Given the way and extent the South African government decided to liberalize its market and integrate it into the global economy and the WTO/GATT system, it relies heavily on foreign direct investment that transfers high-tech and Know-How to the country. Foreign firms investing or intending to invest in South Africa can thus be expected to have access to the government and to be able to make their regulatory demands heard and considered. Re-considering the comparisons above by giving special consideration to these two factors, the cases can be interpreted as follows:

The component manufacturer sector is clearly marked by small to medium sized companies (thus, the factor firm size taken into account takes on the value "small to medium"). Besides, component manufacturers usually do not have an exit option. Many are South African owned. In such instances, the firms have simply nowhere to go to as their core business is in the country. Others are foreign owned, but have nonetheless no exit threat-option. Generally, the automotive industry is dominated by the OEMs. Component manufacturers follow the in-

43 Interviews with managers of Woolworths, Cape Town, September 2007; with Foschini, Cape Town, September 2008.

vestment decision of OEMs, because the OEMs are their customers. Thus, as long as VW, Ford, General Motors, Mercedes-Benz, BMW, Nissan and Toyota are in South Africa, the component manufacturers will be there, too. A component manufacturer thus has no credible exit threat-option when approaching the government. This leads to two consequences. Firstly, the average firm size, which is small, does not allow the majority of component manufacturers to develop sufficient in-house HIV/AIDS policies to adequately address the problem of HIV/AIDS at the workplace. These firms are in need of some external support for an organization of a response to the threat the disease poses to their business. Secondly, approaching the government is not really a viable strategy as these firms cannot credibly threaten the government with re-locating production. It is this context in which NAACAM and the other associative structures of the automotive industry attain their meaning as facilitators of self-regulation.

Now let us compare this to the situation in the textile and clothing manufacturer sector. Regarding firm size and exit threat-option, the situation very much resembles the one of the component manufacturer sector. The firms are small to medium in size and are predominantly South African owned and therefore lack a credible exit threat-option. However, textile and clothing manufacturers cannot rely on strong associative structures for the development of a response to the disease as the associative structures in this industry sector are weak. Historically, this initially meant that the sector remained largely inactive on the HIV/AIDS issue. Yet, from a certain point on the unions decided in light of this passiveness that the sector should become more active. In fact, it is predominantly through the activism of the South African Clothing and Textile Workers Union (SACTWU) that finally HIV/AIDS as an issue was made part of the tripartite negotiations within the context of the Bargaining Councils. After the union had brought it up, the firms recognized that it would also be in their good interest to build up a health infrastructure through the Bargaining Councils, as the involvement of the unions de facto means that the firms are provided with HIV/AIDS clinics and awareness campaigns at almost no or only very little costs. What is interesting is that in the automotive industry the National Union for Metal Workers of South Africa (NUMSA) remained largely inactive on the issue. The reason for this is probably that the dominant players in the union are not the representatives of the small component manufacturers, but of the big OEMs and mining firms. These firms were the forerunners regarding HIV/AIDS policies in South Africa. Thus, NUMSA never managed to amass sufficient internal support to put HIV/AIDS on top of their agenda. Re-considered like this, the two cases of the component manufacturer and textile and clothing manufacturer sectors seem to indicate that associative structures play a different role than it appeared at first. Associative structures do not seem to stand alone as causal factors in the sense that they alone would determine fostering or non-fostering of regulation. Nonetheless, they are important. But instead of a thoroughly independent variable, associative structures are rather part of the opportunity structure firms confront. It depends on the exact constellation of the institutional choices available to firms what meaning associative structures attain for them. It seems that the additional factors firm size and exit option (and potentially union activism) are decisive in this respect. This impression is re-enforced if we look at the OEM and large textile retailer sectors, thereby giving special consideration to the two additional factors firm size and exit option.

The OEM sector and the textile retailer sector are composed of large firms. Large firms do not need external support for setting up HIV/AIDS workplace programs if they think this may be beneficial. Instead, they can organize this in-house. They may nonetheless have an interest in programs fighting the disease that go beyond their companies, as HIV/AIDS is in the first place a social disease. In-house HIV/AIDS programs can lower business risks related to HIV/AIDS. But total risk mitigation requires programs that go beyond the factory gate. So one can assume that both sectors – OEM and large textile retailers – have an interest in a stronger public, that is, state response to the disease. However, while both sectors are similar in this regard, they are different with respect to the degree they can credibly threaten the government to exit the country. The textile retailer sector in South Africa is dominated by South African companies only: Woolworths, Trueworth, Foschini, the Edgar Group, Mr. Price and others are truly South African firms. Some of them have expanded their business to some other African states but their core business remains in South Africa. Thus, the textile retailers do not have an exit option. This may explain why they cannot and do not actively approach the government on the issue – which is politically sensitive; thus raising the issue bears the risk of alienating the government.

In comparison, the situation is very different for OEMs. All seven OEMs with manufacturing operations in the country – BMW, Ford, General Motors, Mercedes-Benz, Nissan, Toyota, VW – are branches of large multinationals, whose core business is outside South Africa. As a matter of fact, the whole African continent accounts for only 0.8 percent of the total new car sales worldwide. The bulk of cars these firms sell goes to Europe, the US, East Asia (China, Japan and Korea) as well as the Pacific Rim (Australia, New Zealand, Indonesia and the Philippines), and it should be mentioned that India and Russia are becoming important markets, too. Thus, if OEMs find the conditions for investing in South Africa unfavorable, this could very well mean that they disinvest and relocate to some other country offering a better production spot. This difference with respect to an exit threat-option could explain why the OEMs actively lobby the government with respect to its HIV/AIDS policy while the large textile retailers do not. Looking at the factor associative structure, it is again this context of interests and opportunity structures available to the firms in the different sectors where the factor associative structures attains specific meaning. Obviously, the OEMs regard associational structures (SABCOHA) as one means by which they can access and pressurize the government. But why would they choose SABCOHA – an associational structure specifically built up for addressing HIV/AIDS in South Africa – for this and not NAAMSA? SABCOHA is a cross-sector association and thus allows industry as such to speak with one voice. This avoids

a. the impression that some particularistic interests are at stake with the issue and

b. the impression that "Western" firms promote the "Western" idea that HIV causes AIDS (this relation is medically proven beyond any doubt; nonetheless there is the widespread belief in the country that the relation is just one "interpretation" of what causes AIDS and AIDS deaths).

Thus, contrary to our deductive reasoning leading to hypothesis 1, firms do not see associations as alternative means to state regulation. Instead, associative structures are opportunity structures and it is the context that defines the role these structures will play for firms in the political process. For small to medium-sized component manufacturers, associative structures facilitate corporate self-regulation. For OEMs, by contrast, they are a means for lobbying the government. In short, associations matter. But under which conditions and in what way is still theoretically unclear. The four cases presented above indicate that firm size, an exit threat-option and, potentially, union activism may help us specifying these conditions.

4.3 Home-Country Regulation Hypothesis (H2)

Since the degree to which firms are under expectation of compliance with certain rules varies across different political contexts, firm behavior is expected to differ as far as the development of social regulation is concerned. As already formulated above, the "*Home-Country Regulation Hypothesis*" H2 states: *If a firm is based in a home country with strict political rules it will engage in a fostering of regulation.* The level of regulation in a firm's home country is specified in terms of legal requirements and implementation. Firms are expected to fulfill the legal requirements of their home country in the country of operation, that is in South Africa. Distinguishing between the output and outcome phases of our dependent variable, we operationalize the requirements here:

- strict policy formulation: obligation, precision, demandingness, scope (output);
- high resource allocation: financial resources, staff, information (outcome);
- monitoring and sanctioning.

In order to empirically assess our homeland regulation hypothesis we separately compare cases of the textile and automotive industries. Each case is constituted by a firm.

4.3.1 The Textile Sector

This paper examines three cases from the textile industry. Firms of two countries are compared: Germany and South Africa. Germany is classified as a highly regulated country. It is a democratic and social federal state, in which basic rights are guaranteed. The Basic Law implements the separation of powers and binds the executive and judiciary powers by law and justice. Employment relationships are dealt with, for example, in the Employment Protection Act and in the Protection against Dismissal Act. Matters of occupational health and safety and working conditions are, for example, covered by the Maternity Protection Act and the Working Time Act. These acts are all characterized by high *obligation, precision* and *demandingness*. The *scope* of each act is limited but taken together they constitute comprehensive legislation. "There is not one consolidated labour code; labour standards are laid down in separate Acts on various labour related issues, which are supplemented by the government's ordinances".[44] Nevertheless, for decades, German labor law has been among the most advanced in the world. Furthermore, due to German membership in the EU, labor law is strongly influenced by EU legislation and case law. On the one hand, the implementation of public regulation is ensured by the court. On the other hand, the national and provincial level invests *staff, financial resources* as well as *information* and *monitors* the implementation of policies.

South Africa, too, is a constitutional democracy with a federal governmental system and an independent judiciary. The importance of human rights is reflected in the whole legislative body. Matters of employment, for example, are covered by the Labour Relations Act, the Employment Equity Act and the Occupational Health and Safety Act, which are *obligatory, precise* and *demanding.* The labor and health legislation also covers a wide variety of issues (scope). While the implementation of public regulation is ensured by the court, the national and provincial level is supposed to invest in *staff, financial resources* as well as *information* and to *monitor* the implementation of policies. The provincial level often appears to be overburdened with its tasks. Provincial government is faced with a lack of *expertise* and *staff*.[45] Similarly, some of the bargaining councils dealing with labor relations are unable to provide services. Thus, as stated above, "there are similar bargaining council structures for healthcare in other provinces, but the benefit structures are very different. This is related to the strength of a specific industry in a province and to the strength of the province in general."[46]

Based on the above data it is expected that a German firm in South Africa engages in a fostering of public regulation, while a South African firm does not. The behavior of firms B (German), F (South African) and S (South African) is analyzed. A variation of activity is found to be absent. All of them are members of the bargaining councils discussed above and, thus, contribute to some extent to a fostering of regulation in the HIV/AIDS area, whereas none of them can be said to have individually fostered any regulatory developments.[47] On the one hand, a firm has to contribute to the AIDS fund as a bargaining council member. This aspect has been discussed in the context of the associative structure hypothesis. On the other hand, since the South African textile sector has been in decline for several years, not only these three but most companies do not have the resources to engage in extra-business activities.

In addition, it is important to note that South Africa is more heavily affected by HIV/AIDS than most other countries. In Germany, the epidemic does not constitute a problem firms would need to tackle. In fact, countries with strong regulatory capacity are almost by definition unlikely to face such a crisis. Where are those standards regarding HIV/AIDS supposed to come

44 ILO 2006. National Labour Law Profile: Federal Republic of Germany. Available from: http://www.ilo.org/public/english/dialogue/ifpdial/info/national/ger.htm (accessed July 2008).

45 Interviews with government officials, environmental department and industrial development department, Western Cape, September 2008; with automotive and textile expert, Durban, October 2007.

46 Interview with head of the Clothing Bargaining Council Clinic, Cape Town, March 2007.

47 Interview with textile firm B, Durban, September 2007; interview with textile firm F, Durban, October 2007; interview with textile firm S, Belville, March 2007.

from? Why should a German firm have such standards in place despite the fact that its mother company has not been confronted with this problem at home? Therefore, it is suggested that in order to allow a meaningful evaluation of the home country hypothesis a look at a different policy field, for example environmental protection, is necessary.

4.3.2 The Automotive Sector

For an assessment of the hypothesis we choose to analyze four automotive suppliers. Automotive suppliers AL and BA are companies with headquarters in Germany and the US. They come from countries with particularly strict legislation and implementation. By contrast, the country of origin of the two suppliers V and SF is South Africa, where regulatory programs and implementation capacities are weak. This is in line with the expert interviews conducted in South Africa and with information disclosed by local chambers of commerce (Interviews 17, 20, 21, 26, 28, 29).[48] Besides this variance, the cases are similar in all other potentially relevant aspects. Therefore the expectation is that suppliers F and SF will engage less in fostering activities than AL and V. But how does our hypothesis *if a firm is based in a home country with strict political rules it will engage in a fostering of regulation* fare in light of the empirical evidence?

The case studies do not support the hypothesis. All four suppliers investigated do not engage in any lobbying activities with respect to health policies, disregarding their country of origin. Also, no engagement in public private partnerships or multi-stakeholder initiatives was observed. In fact, these companies even struggle to have a functioning and sound HIV/AIDS workplace policy implemented in-house. They simply lack the capacities to go beyond that level and get involved in the general provision of health care. And this is not only true for the four companies specifically selected for the assessment of hypothesis two (in accordance with a *ceteris paribus*-clause). Generally, suppliers in the automotive industry – except for rare cases such as Robert Bosch South Africa, the biggest automotive supplier in the world, almost as big as an OEM who additionally managed to gain substantial support by the GTZ for their HIV-related activities – do not try to foster regulatory capacities of state agencies in the issue area HIV/AIDS. Usually, they lack the resources for that and struggle with their own in-house policies.

4.4 NGO Pressure Hypothesis (H3)

NGOs play an important part in monitoring compliance with corporate regulatory standards and (potentially) targeted firms may suffer competitive disadvantages. As argued above, *firms are more likely to push for state regulation, if targeted by NGOs and/or a multi-stakeholder initiative* – and vice versa. Indicators for potential or actual pressure by NGOs are as follows:

48 The provinces and municipalities mentioned are those in which the firms assessed in this paper are located.

- *Indicator 1: Branding – the firm sells branded products to end-consumers and invests in marketing to ensure visibility and*
- *Indicator 2: NGO Campaign – the firm is currently facing an NGO campaign or has been confronted with a campaign in the past.*

In order to empirically assess the hypothesis, we focus on firms that can be viewed as being located between classic textile manufacturing and retailing. On the one hand, they are labor intensive and hence prone to be affected by HIV/AIDS; on the other hand, they are close to the consumer of the end product. In general, the textile sector is characterized by a very limited number of brand name firms. Brand name and production usually do not come together. The production is outsourced. The two brand name firms L and F discussed in this section are exceptions. In addition, the behavior of the large non-brand name firm P is analyzed. These three firms do not differ in terms of the level of regulation in their respective mother countries but vary as far as (potential) NGO impact is concerned.

The jeans manufacturer L is a classic example of a firm (potentially) targeted by NGOs. L aspires to be one of the leading marketers of casual clothing in the world. The company employs staff specifically for consumer/public relations. Moreover, advertising campaigns play an essential role in the company's marketing strategy. For example, L invests in general product advertising, TV advertising and banners. It also has a website informing about current activities, lifestyle, music events and awards (Indicator 1).[49] L is an internationally operating textile firm and these characteristics make it highly prone to NGO monitoring. Organizations such as the Clean Clothes Campaign (CCC) discuss the company on their websites. On the one hand, L is praised, for example, for having developed social responsibility guidelines much earlier than other companies. On the other hand, it is emphasized. In 1998, the CCC highlighted that "L should upgrade their code to meet ILO standards and should adopt a program of independent monitoring to ensure that the standards they claim to support are indeed implemented and regularly verified" (Indicator 2).[50] The 1998 report is still available through the campaign's website and new information on L has been added in the last years.

The socks producer F can also be considered a (potential) target of NGOs but not to the same extent L is. This is because they sell their products only partly under their own brand. "A huge buyer of our product is W. However, W only sells under its own brand. This retailer would put its own brand on our product". In addition, F sells its own two brands to several other retailers. F also employs staff focusing on product marketing. Furthermore, advertising is an integral part of the company's marketing strategy. F advertises using various communication channels, for example events and print media. Leading lifestyle journals referring to the brand are Elle,

49 See website www.levis.co.za.

50 Clean Clothes Campaign, International Forum on Clean Clothes: Workers' and Consumers' Rights in the Garment Industry, Brussels, 30 April to 5 May 1998. Available from: http://www.cleanclothes.org/companies/levi5-5-98.htm (accessed July 2008).

Marie Claire and Men's Health (Indicator 1). Despite its visibility F does not feel targeted by NGOs. Indeed, NGOs such as the CCC do not mention F on their website (Indicator 2).[51]

According to the criteria formulated above the textile manufacturer P cannot be viewed as a (potential) NGO target. P's products do not have a label. The manufacturer produces at a low stage of the value chain. Its product is sold to other firms using it to produce something new which is then sold to retailers (Indicator 1). Also, P has not faced an NGO campaign.[52] Only once it interacted with a civil society group. This interaction was, however, not characterized as (potentially) threatening. "These people were from NGOs or something like that operating in the area here. They are going to schools and factories. Those are the people that we've come across. Very worthwhile people with very good programs that they put together. But it's not been coordinated much" (Indicator 2).

Thus, our NGO pressure hypothesis expects that L strongly fosters public regulation, while F is also engaged but only to a very limited extent and P does not show any activity in this regard. Indeed, the jeans manufacturer L and the government have formulated an agreement on HIV/AIDS service provision in which the parties committed themselves (*limited obligation*) to a contribution for a well-planned and precisely formulated project. *Scope* is, however, limited since the project only deals with counselling and testing but not with treatment. *Demandingness* is difficult to measure. The Red for Life campaign was planned to and did, indeed, offer HIV testing together with an independent testing service sponsored by the South African and US governments (*financial resources, staff*). Six mobile voluntary counselling and testing units move around the country promoting and offering free HIV testing. Individuals can sms their location and receive a response detailing the closest testing facilities to them. The manufacturer's sponsoring allows the sms to be charged at standard rate (*information*).[53] Every month the number of people tested is calculated. Moreover, the service provider and the jeans manufacturer jointly coordinate the campaign (*staff, monitoring*). Free HIV testing for more than 47.000 South Africans has been facilitated so far. Thus, along both the output and the outcome dimensions this type of regulation can be considered to be of medium strength.

In contrast to L, F only contributed to bargaining council regulation and regulation pushed for by the textile industry as a whole. P cannot be related to any new public regulation. P is not even a member of a bargaining council. Hence, the data supports the NGO pressure hypothesis: *Firms tend to push for state regulation if targeted by NGOs and/or a multi-stakeholder initiative.*

51 Interviews with managers of the socks manufacturer F, Cape Town, April and September 2007.

52 Interview with the textile manufacturer B in Durban, September 2007.

53 Levi's press statement, 2007. Top Denim Brand Test Almost Fifty Thousand for HIV. Available from: http://www.levi.co.za/Press/PressDetail.aspx?id=614 (accessed July 2008).

4.5 Target Market Hypothesis (H4)

The target market hypothesis argues that *If a buyer firm targets a high-end market, it will contribute to a strengthening of state capacities.* We measure the values of the independent variable, a high- or low-end target market of a firm, by using

- *product price of buyer* and
- *customer control* as empirical indicators. In addition, we turn to the
- *perceived competitors as a proxy*. Those firms that perceive themselves as competitors operate in the same market.

In order to empirically assess our target market hypothesis we compare 3 automotive cases. More specifically we look at OEMs. As mentioned in section 3.3, the sector is dominated by seven international brands that operate production sites in South Africa: BMW, Ford, General Motors, Nissan-Renault, Mercedes Benz, Toyota and VW. Generally speaking, two to three of these seven brands – BMW, Mercedes Benz and Toyota – are brands targeting a premium segment of the automotive market. Ford, General Motors, Nissan-Renault, VW and Toyota produce cars for a middle class mass segment. Toyota is in many ways an exception, as its strategy is the most comprehensive of all automotive producers. The company strives for market dominance in all market segments and is thus listed as a mass and as a premium segment producer.

To validate our claim, we compare two firms targeting a premium segment of the consumer market to a firm which focuses on the mass market with respect to average prices, consumer control and perception of competitors in the same reference market. The difference in the target market is reflected in the fact that the firms aiming at the premium market sell their products at higher average prices than the one firm targeting a mass market (cf. Kirmani/Sood/Bridges 1999). Managers of the two high-end market firms stated that they rely less on economies of scale than other automotive firms targeting low-end markets, and are able to add mark-ups to end-prices.[54] The difference in the target market is further reflected in the importance of consumer control. The latter plays a more important role in the case of the two luxury brands, less so in the case of the mass-market firm. Especially as regards quality, the two high-end market firms are faced with much higher consumer expectations than the mass-market firm. Hence, they are more vulnerable in this respect. Moreover, the high-end market producers stated that they do not perceive of themselves as competitors of the low-end market firm.[55] That is, they do not operate in the same consumer markets.

54 Interviews with Corporate Affairs Manager and Public Communications Manager of high-end automotive firm 1, Munich, August 2007; telephone interview with Director of Public Affairs and Policy of high-end automotive firm 2, August 2007.

55 Interviews with Environmental Manager and Corporate Planning Manager of high-end automotive firm 1, Rosslyn, February 2007; interview with Occupational Health and Corporate Social Responsibility Manager of high-end automotive firm 3, East London, February 2007.

How do these differences in target markets impact on the engagement of these OEMs in fostering activities? Contrary to our expectations, we do not find any significant differences comparing the interactions of the selected firms with public actors. All three of them cooperate with the national government within the framework of SABCOHA (see hypothesis one). Besides, all of them run extensive public private partnerships with schools, kindergartens, clinics and health agencies on a local level. In addition to that, all three of them gained the support of a German development agency (in one case SEQUA, in another one DED and GTZ) to set up public private partnerships that are specifically dedicated to strengthening state capacities in the field of HIV/AIDS. One firm is currently setting up a clinic for AIDS patients in cooperation with SEQUA in the outskirts of Pretoria. The other two have extensive GTZ/DED-supported projects going on in collaboration with local Chambers of Commerce, local SABCOHA chapters, the ILO and local government agencies to implement HIV/AIDS workplace policies in the supply chain, to strengthen HIV/AIDS policies in small and medium sized companies and to train local clinics and hospitals on HIV/AIDS-related issues. Hence, all three evaluated firms show a particularly strong engagement with the government on the issue and contribute exceptionally to a strengthening of state capacities. The hypothesis is disconfirmed. Why does the hypothesis not hold? Unfortunately, if we re-consider the three cases inductively, an answer is difficult to infer. It may simply be that all three firms are so large and technologically advanced that they

a. have the necessary resources and capacities to install full-fledged in-house HIV/AIDS workplace programs and to cooperate with state agencies, as HIV/AIDS is a general social problem that cannot be solved only by programs that take place within the factory gates, and/or

b. have a particularly strong interest in addressing the problem, as any technical or quality problems due to the disease may lead to costly recalls and interruptions of production processes.

5. Conclusions

Under which conditions do firms decide to push for public regulation in the HIV/AIDS area? Drawing on existing theoretical explanations, the paper developed and assessed four hypotheses. They were only partially confirmed by our empirical case studies. Hypothesis 1 assessed the role of the strength of associative sector structures. The hypothesis seemed to hold in the comparison between component textile and automotive manufacturers. It is not supported by empirical evidence in the case of OEMs vs. retailers. Consequently, we re-considered the role of associative structures. An in-depth case analysis revealed that they can play very different roles for firms' attempts to tackle problems related to HIV/AIDS, depending on the overall opportunity structure of firms and their interest. We find that firm size and exit threat-option may be fruitfully applied to specify the conditions under which associative structures are effective in fostering public regulation and in what way.

Hypothesis 2 on the country of origin is entirely disconfirmed – for both automotive as well as textile firms. The reason may be that South Africa is more heavily affected by HIV/AIDS than most other countries. Countries with strong regulatory capacity are almost by definition unlikely to face such a crisis. Being interested in the transmission of standards from developed to developing countries one may ask: Where are those standards regarding HIV/AIDS supposed to come from? Why should a German firm based in South Africa have such standards in place despite the fact that its mother company has not been confronted with this problem at home? In order to allow a meaningful evaluation of the home country hypothesis, a look at a different policy field, where home and host country face similar problem pressure (e.g. environmental protection) might be necessary (cf. Börzel et al. 2010).

The NGO pressure hypothesis 3 was supported by empirical evidence. NGOs seem to play a role in monitoring compliance with corporate regulatory standards. This is due to (potentially) targeted firms fearing competitive disadvantages if their inactive behavior is publicly denounced. Finally, the target market hypothesis 4 was disconfirmed. All firms considered showed a strong engagement with the government in strengthening the regulatory capacity of the state irrespective of the market they targeted.

Overall, our hypotheses show mixed results. The empirical case studies, however, clearly indicate that firms do not only foster public regulation in areas where the state is weak; they also engage in corporate self-regulation to help provide collective goods.

Interviews

No.	Date	Location/Type	Type of Actor
1	20-Feb-2007	Rosslyn, South Africa	OEM
2	26-Feb-2007	East London, South Africa	OEM
3	13-Sept-2007	Rosslyn, South Africa	1st tier automotive supplier
4	19-Sept-2007	Brits, South Africa	1st tier automotive supplier
5	30-Mar-2007	Bellville, South Africa	lower tier automotive supplier
6	12-Sep-2007	Pretoria, South Africa	South African Bureau of Standards
7	06-Aug-2007	Telephone, Germany	OEM
8	02-Aug-2007	Telephone, Germany	OEM
9	14-Feb-2007	Rosslyn, South Africa	OEM
10	20-Sep-2007	Cape Town, South Africa	textile firm
11	13-Sep-2007	Garankuwa, outside Pretoria, South Africa	textile firm
12	21-Sep-2007	Cape Town, South Africa	retailer
13	12-Sep-2007	Bellville, South Africa	textile firm
14	20-Sep-2007	Cape Town, South Africa	retailer
15	25-Sep-2007	Uitenhaage, South Africa	OEM
16	23-Feb-2007	Port Elizabeth, South Africa	OEM

No.	Date	Location/Type	Type of Actor
17	01-Oct-2007	Durban, South Africa	expert
18	29-Mar-2007	Cape Town, South Africa	expert
19	20-Feb-2007	Rosslyn, South Africa	NAAMSA 1, Chair Person Fuel and Emmissions Committee
20	13-Feb-2007	Pretoria, South Africa	NAAMSA 2
21	21-Mar-2007	Johannesburg, South Africa	TEXFED
22	22-Mar-2007	Johannesburg, South Africa	retailer with clothing production
23	30-Sep-2007	Durban, South Africa	textile firm
24	Mar-2007	Cape Town, South Africa	textile firm
25	Sep-2007	Durban, South Africa	textile firm
26	27-Sep-2007	East London, South Africa	Border Kai Chamber of Commerce
27		Buffalo City, South Africa	retailer with clothing production
28	26-Sep-207	Port Elizabeth, South Africa	PERCCI
29	15-Sep-2007	Johannesburg, South Africa	African Institute of Corporate Citizenship, AICC
30	29-Sep-2008	Johannesburg, South Africa	NAACAM
31	30-Jun-2006 and 3-Jul-2006	Johannesburg, South Africa (information received via email)	TEXFED

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