City Research Online

City, University of London Institutional Repository

Citation: Fox, P.G.J. (1993). Industrial conflict management in a developing country. (Unpublished Doctoral thesis, City University London)

This is the accepted version of the paper.

This version of the publication may differ from the final published version.

Permanent repository link: https://openaccess.city.ac.uk/id/eprint/7537/

Link to published version:

Copyright: City Research Online aims to make research outputs of City, University of London available to a wider audience. Copyright and Moral Rights remain with the author(s) and/or copyright holders. URLs from City Research Online may be freely distributed and linked to.

Reuse: Copies of full items can be used for personal research or study, educational, or not-for-profit purposes without prior permission or charge. Provided that the authors, title and full bibliographic details are credited, a hyperlink and/or URL is given for the original metadata page and the content is not changed in any way.

City Research Online: http://openaccess.city.ac.uk/ publications@city.ac.uk

INDUSTRIAL CONFLICT MANAGEMENT IN A DEVELOPING COUNTRY (APPENDICES)

PETER GEORGE JAMES FOX

Submitted for the degree of Doctor of Philosophy

City University - London
in the
Department of Systems Science

DECEMBER 1993

APPENDICES

(Vol. II)

		Page
1	Sugar Serves Swaziland (Including Map) :- Publicity Brochure issued by Swaziland Sugar Association February 1992	8
2	Masson J R - 'Swaziland's Changing Political Climate and the Role of the Investor Community' :- Talk delivered by the former (Colonial Government) Secretary for Finance of the half-yearly meeting of the Federation of Swaziland Employers - 30 April 1992	9
3	Comparative Wage Rates - 1989 :-Schedule of comparative pay rates and other benefits within Swaziland's major industries as at 1 April 1989. Prepared and circulated to industry executives by Secretary, Sugar Manufacturing and Refining Industry Employer' Association	23
4	'Your Union Organisation' - 'A Study Circle Material' :- A guide to Union organisation and policy issued (undated) by General Secretary, Swaziland Federation of Trade Unions for use by trade union organisers - circa 1983	25
5	Ground Rules for Union Negotiators Issued (undated) by General Secretary, Swaziland Federation of Trade Unions, as a guide to Union negotiators during Collective Bargaining meetings with employers - circa 1985	26
6	Statement of Intent - SFTU/FSE :- A general document of agreement for regulating the relationship between the Federation of Swaziland Employers	29

Page

and Swaziland Federation of Trade Unions - issued jointly by both organisations executive officers - 9 December 1986

7 Survey Statements - Personal Interviews 33
:- A schedule of statements used by the author for discussion during individual interviews with government and union officers and industry executives - October 1987/May 1988

8 Industrial Relations Questionnaire - survey document 37
:- Developed by the author and circulated to participants at the Annual General Meeting - Federation of Swaziland Employers - May 1988

9 Swaziland Agriculture and Plantation Workers' Union 40
- Constitution
:- Issued by General Secretary of SAPWU and sent to employers within the sugar industry after Labour Commissioner's registration of SAPWU - February 1983

10 Sugar Manufacturing and Refining Industry of Swaziland 60
Employers Association - Constitution
:- Issued by Secretary SSMRIE/A after approval/registration by the Labour Commissioner - December 1982

11 Schedule of Wages, Terms and Conditions of Service 77
:- Comparative wages rates and conditions of service within industrial, commercial and agriculture industries in Swaziland.
Issued to industry executives by Secretary SSMRIE/A - October 1991

		Page
12	Joint Industrial Council Constituting - Sugar Manufacturing and Refining Industry of Swaziland :- Constitution developed by SSMRIE/A and registered by Industrial Court of Swaziland - November 1983 Amended by joint employer/employee agreement - February 1988	79
13	Works Council Constitution :- Developed by the SSMRIE/A to regulate functioning of works councils within the sugar manufacturing and refining industry. Registered by Labour Commission December 1982	88
14	Letter - Chairman Sugar Millers Association, to Labour Commissioner - 23 September 1982 :- Letter advising the Labour Commissioner of the progress towards implementing the recently introduced (July 1982) Industrial Relations Act within the sugar manufacturing and refining industry	94
15	Position Paper - Employers' Association and Trade Union Relations :- A review by the thesis author, as Secretary, SSMRIE/A pertaining to SAPWU, and circulated to senior executives within the sugar manufacturing and refining industry - June 1983	95
16	Strategy Proposal - Industrial Relations :- Prepared by the thesis author for consideration by senior executives within sugar manufacturing and refining industry and intended to guide employer's industrial relations strategy. The document was circulated together with Appendix 15 - June 1993	103

Page

17 Index - Swaziland Sugar Association - Annual Report 1986/87 110
:- Extract from the Swaziland Sugar Associations Annual Report 1986/87 and circulated to all members of the Association viz growers, millers, investors including overseas governments and aid donors. It served as a publicity document. By omission, the extract illustrates the low priority given by association members to the human resources and industrial relations functions

18 Review of Industrial Relations Situation - 26 April 1984 111
:- Document recording the discussions which occurred during an informal meeting of Chief Executives of the sugar milling companies with the non-Executive Chairman of the Royal Swaziland Sugar Corporation. The purpose of the meeting was to establish employer's reaction to labour unrest in the event of a breakdown in employer/ employee negotiations over union recognition by employers

19 SSMRIE/A Letter to Labour Commissioner - 27 June 1984 114
:- Letter written to Labour Commissioner by the thesis author, as Secretary SSMRIE/A; the letter indicated the perception employers wished to project that union intransigence had caused deadlock over the recognition issue.

20 Considerations in Present Industrial Relations Situation 118
:- A review paper prepared by the thesis author and circulated to Chief and senior executives of Royal Swaziland Sugar Corporation as a guide to options available to employers for dealing with the 1984 employees' wages review. - July 1984

Page

21 Letter - SSMRIE/A - Trade Union Recognition - December 1984 121
:- Letter from the Secretary SSMRIE/A to General Secretary SAPWU confirming agreement to the union's withdrawal of complaints to the Industrial Court and joint employer/ employee counting of union membership during January 1985

22 Schedule - Union Membership Count as at end 1984 123
:- Document issued to General Secretary SAPWO and circulated to senior sugar industry executives, by the Secretary SSMRIE/A recording results of the first joint counting of union membership at the 3 major sugar estates. - February 1985

23 Revised Draft Recognition Agreement 124
:- Agreement for Union recognition by employers drafted at a joint SSMRIE/A/SAPWU meeting and to be finalised as a complete Recognition Agreement for next joint meeting - 31 August 1985

24 Union 'Legality' - Interpretation 138
:- Document prepared by the thesis author, to clarify for the reader the difficulty of interpreting the definition of 'industry' given in the Industrial Relations Act (1980) - November 1985

25 Letters SSMRIE/A to SAPWU 27 Nov 1985 142
:- Letter from Secretary SSMRIE/A to General Secretary SAPWU rejecting the Union application for recognition because the Union was considered by the employer's to be an 'illegal' organisation in terms of the Industrial Relations Act (1980) (see Appendix 24)

Page

26 Letter SAPWU to SSMRIE/A - 27 December 1985 144
:- Letter from General Secretary SAPWU to Secretary SSMRIE/A responding to letter of 27 November 1985 from employers and agreeing to amend the Union Constitution (see Appendix 25)

27 Union Compromise 146
:- Document prepared by the thesis author to clarify for the reader the employers' and union executives' concern with the apparent illegality of the Union's existence.

28 Definition of Industry 148
:- Explanatory document prepared by the thesis author clarifying further the issue of Union 'illegality' as perceived by the employers. In fact the issue was used by employers to delay Union recognition (See Appendix 25). The Union was unaware in May 1984 that this might happen.

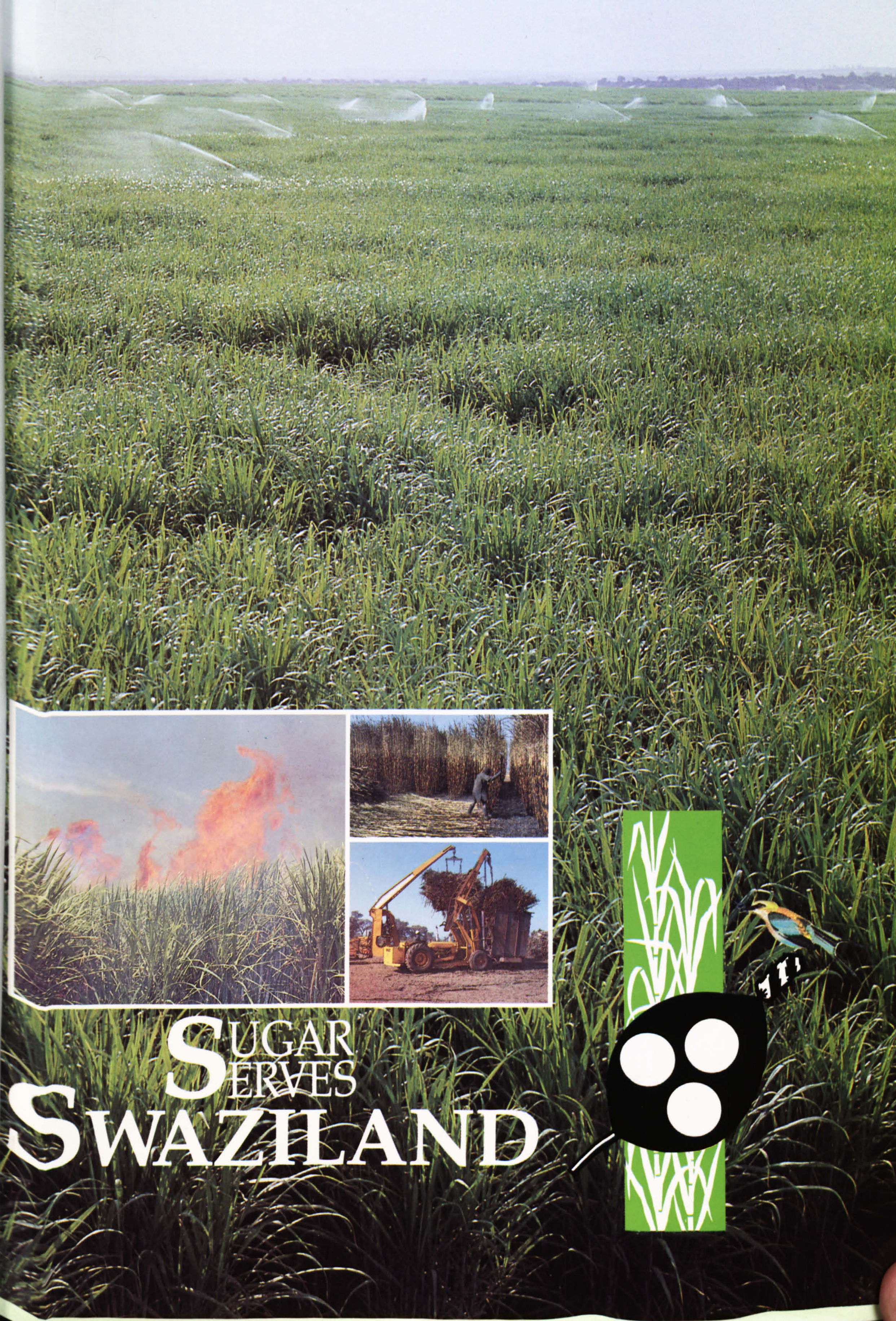
29 Grievance Procedure 149
:- A 'model' Grievance Procedure document as used by Royal Swaziland Sugar Corporation (July 1992). Such a procedure is in widespread use in industry, in Swaziland and South Africa. It can form one of the appendices to formal Union Recognition documents.

30 United Nations Development Programme - Mission Report of Mr David Tojgman - Ref: PRO 303 - ILO 18 July 1990 155
:- Extract from report of ILO Regional Adviser for Africa to Director-General ILO on prevailing attitudes to trade unions in Swaziland

APPENDIX 1

APPENDIX 1

MAP OF SWAZILAND - SUGAR SERVES SWAZILAND


SUGAR
SERVES
SWAZILAND

Aerial view of a storage dam and cane estates (top) and the Ubombo mill in the Big Bend area in the South East of Swaziland.

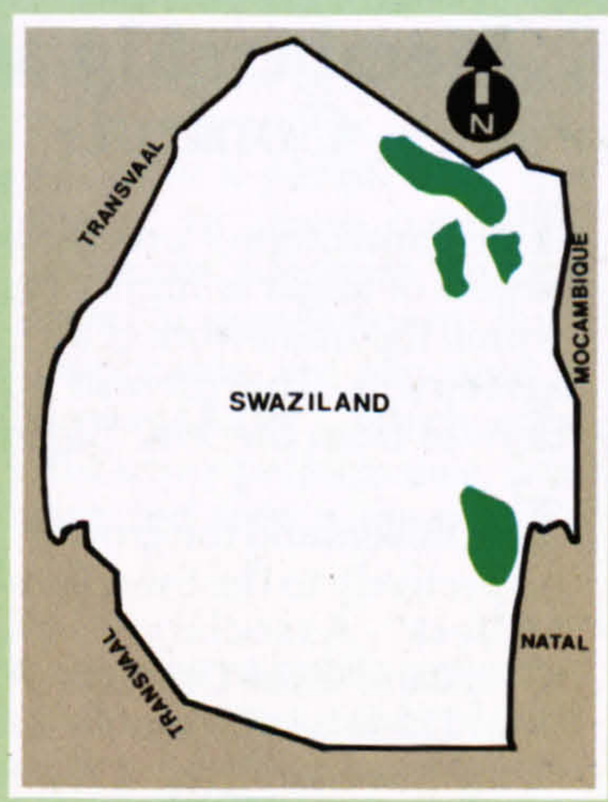
EASTERN SWAZILAND

The Swaziland sugar industry has its origins in the 1950s when the lowveld on the south-eastern side of the country was "opened up" through the development of irrigation. Prior to this the principal economic activity in this region had been a small amount of cattle ranching, because limited supplies of surface water and malarial infestation had deterred settlement.

Steady growth

Sugar production increased rapidly from 5 641 tonnes in 1958/59 to 100 000 tonnes in 1964/65 and 200 000 tonnes in 1975/76.

The level of production increased to over 400 000 tonnes by the latter half of the eighties.



In the north-east the Mhlume and Simunye areas are contiguous, while in the south-east the Ubombo mill draws its cane from the Big Bend and Nsoko areas.

Marketing

At first all Swaziland's sugar was marketed by arrangement with the South African Sugar Association and the industry's sugar was exported to South Africa where some of it was included in South Africa's quota under the Commonwealth Sugar Agreement (CSA).

When South Africa lost its CSA quota on leaving the Commonwealth in 1964, Swaziland was allocated its own quota. The Swaziland Sugar Association, which had been formed in October 1964, joined the Commonwealth Sugar Agreement on 1st January 1965 and from then on assumed responsibility for all sugar sales both within Swaziland and on the world market.

Swaziland's initial quota of 86 364 tonnes under the CSA became the basis of the industry's economy at a time when prices on the free world market were very low and often even below the cost of production.

The CSA was terminated on 31st December 1974 when Britain entered the European Economic Community and on 28th February 1975 Swaziland signed the convention of Lome between 46 nations of Africa, the Caribbean and the Pacific and the 9 member states of the European Economic Community. The provisions of the Sugar Protocol of the Convention entitle Swaziland to supply about 120 000 tonnes of raw sugar per annum to the Community on preferential terms over an extended period.

Aerial View of Vuvulane Irrigated Farms, which involves over 250 smallholders

THE SUGAR INDUSTRY ORGANISATION

Membership and Control

The cultivation, processing and export of sugar is highly regulated within the framework of an industry agreement. The present structure derives from the 1967 Sugar Act.

The millers and the growers belong respectively to the Swaziland Sugar Millers' Association and the Swaziland Cane Growers' Association. These two bodies are members of the Swaziland Sugar Association, the Council of which comprises an equal number of miller and grower members under an independent Chairman.

The Swaziland Sugar Associatio

As well as being responsible fo sugar sales and marketing, Association co-ordinates su research through its extension co mittee and undertakes cane test at mills under the supervision o Cane Testing Services Techn Committee.

Once produced, the sugar comes the property of the Asso tion which arranges its stora transport and sale. The proce from sales are distributed efficie ly within the industry so that p ducers receive payment soon a delivery of their crop.

Payment for production is made the Association to the three mill who are in turn responsible for ward payment to the growers, w produced the cane from which sugar has been made.

Aerial View of Vuvulane Irrigated Farms, which involves over 250 smallholders.

THE SUGAR INDUSTRY ORGANISATION

Membership and Control

The cultivation, processing and export of sugar is highly regulated within the framework of an industry agreement. The present structure derives from the 1967 Sugar Act.

The millers and the growers belong respectively to the Swaziland Sugar Millers' Association and the Swaziland Cane Growers' Association. These two bodies are members of the Swaziland Sugar Association, the Council of which comprises an equal number of miller and grower members under an independent Chairman.

The Swaziland Sugar Association

As well as being responsible for sugar sales and marketing, t Association co-ordinates sug research through its extension co mittee and undertakes cane testi at mills under the supervision of Cane Testing Services Techni Committee.

Once produced, the sugar b comes the property of the Assoc tion which arranges its storag transport and sale. The procee from sales are distributed efficien ly within the industry so that pr ducers receive payment soon aft delivery of their crop.

Payment for production is made b the Association to the three mille who are in turn responsible for o ward payment to the growers, wh produced the cane from which th sugar has been made.

A field of young cane.

The Cane Prices Review Committee

The value of the factors entering into the distribution of proceeds between millers and growers is established annually by an independent "Cane Prices Review Committee". This Committee, made up of financial experts in sugar, calculates the production costs for growers and millers based on audited reported costs and then recommends the formula to be used in the final distribution of the sales revenue between the two groups for the previous season.

An aerial view of the mill at Ubombo Ranches.

The Quota Board

The Swaziland Sugar Industry Quota Board is also chaired by an independent member. Membership includes millers and growers from within the industry and independent members who must have no interests in the sugar industry.

Voting is heavily in favour of the independent members. The Quota Board allocates and reviews sucrose quotas among the participants. If a cane producer consistently under-delivers to his annual quota, he faces partial forfeiture of that quota. If he overproduces, it is at the risk of a reduced payment per tonne.

When assigning new quotas, either because of an increase in the global quota or, more likely, through the re-allocation of shortfalls, the Board must be satisfied that those requesting quotas, own suitable land, have a permit from the Government to draw irrigation water and have adequate finance and competent management. Successful applicants are allocated a "Contingency Quota", which, subject to satisfactory performance, is in time converted into a permanent quota.

This arrangement puts a powerful incentive on growers not to reduce their sugar production in response to a short-term fall in prices. It also ensures that production does not exceed the industry's view of potential demand.

An aerial view of the Swazi nation's cane farm at Sihoya, in the Mhlume area, which was established at the outset of the industry's development. Also in this area is the Vuvulane Irrigated Farms project where Swazi farmers hold individual leasehold farms.

SUGAR FOR THE NATION

Although the sugar industry had its origins in foreign interests, the Swazi Nation is now the largest equity holder. Through its holdings in the 3 mills and independent estates, it accounts for around two thirds of the total ownership.

Tibiyo Taka Ngwane

On Swazi nation land at Sihoya and Sivunga, sugar estates are run by Tibiyo Taka Ngwane, which is a development corporation controlled by the Swazi nation.

Tibiyo Taka Ngwane also has a major shareholding in the Inyoni Yami Swaziland Irrigation Scheme in north-eastern Swaziland.

LAND PREPARATION AND CANE PLANTING

Cane planting using a tractor-drawn Waletz planter.

Land has to be carefully prepared to meet irrigation and harvesting requirements. Drainage is an essential part of land preparation under the intensive irrigation system applied in Swaziland.

Land preparation at Tambakulu.

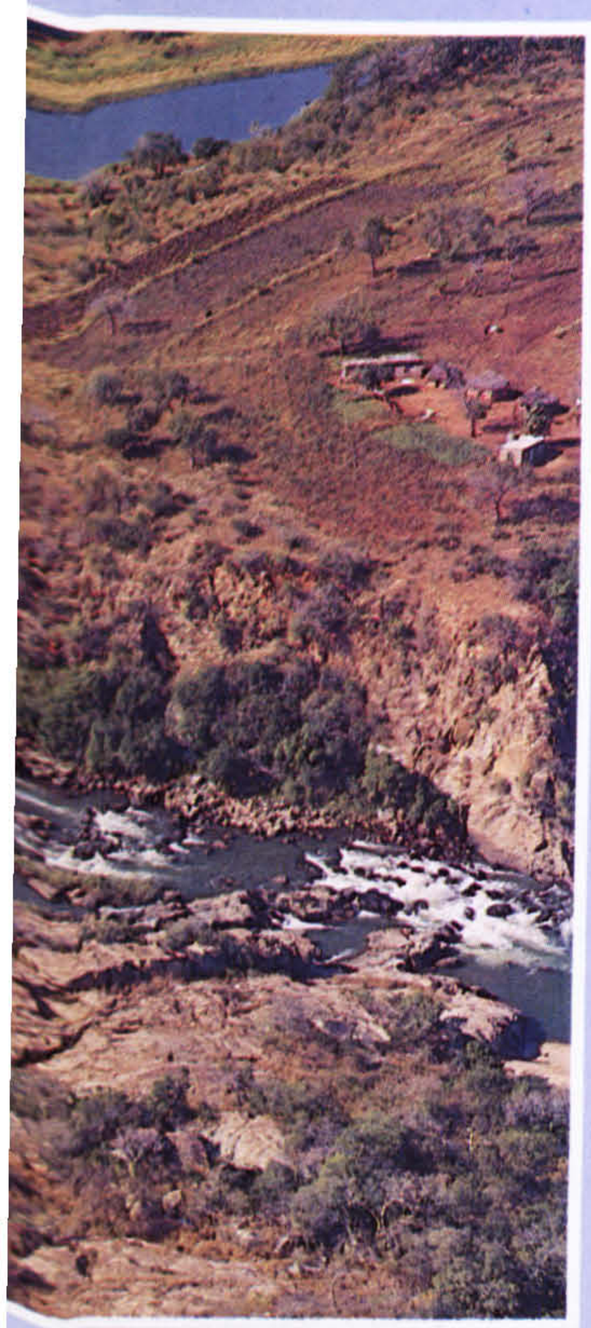
Heavy earth-moving machines preparing land for cane planting with a drainage ditch in the foreground.

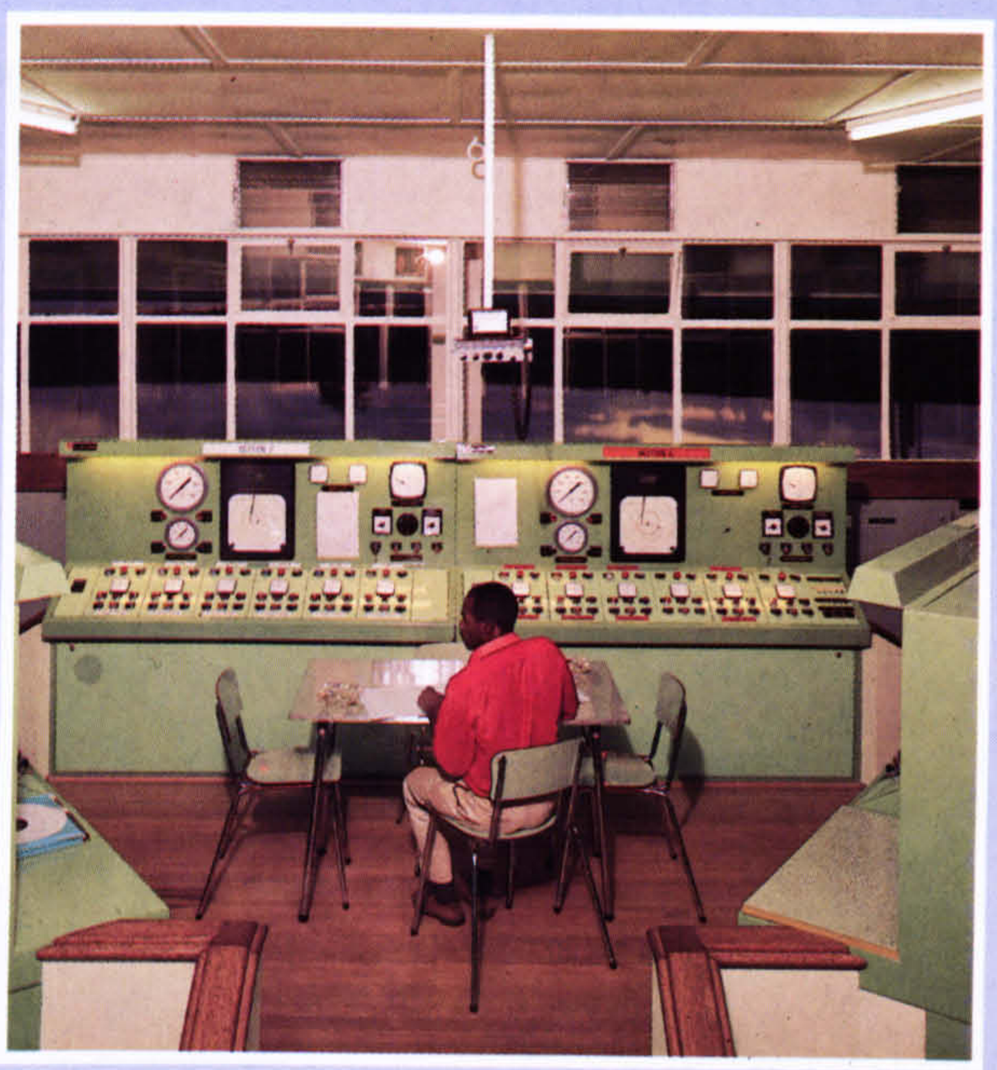
The diversion weir on the Komati River and the beginning of the Mhlume Water irrigation canal which extends for 68 kms through the northern sugar area.

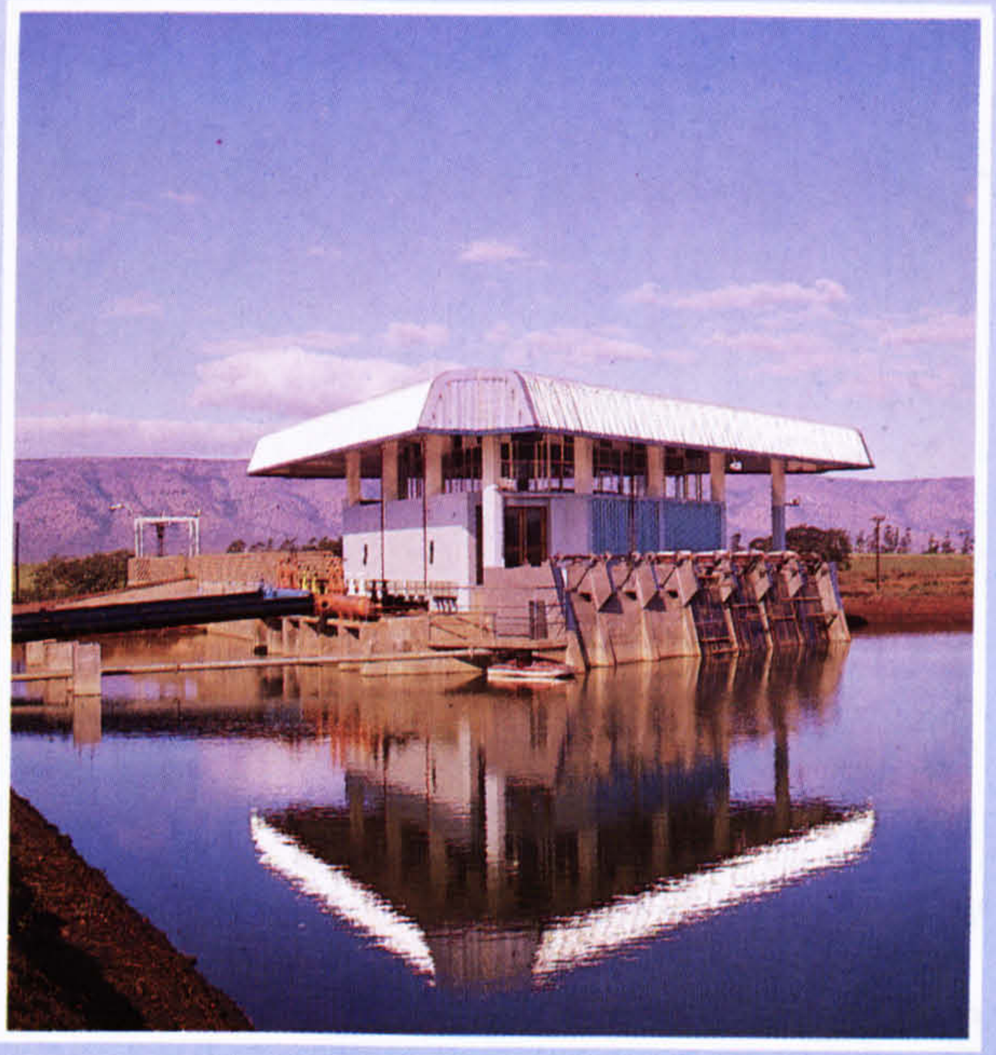
IRRIGATION

Because of inadequate rainfall in the lowveld, cane must be grown under irrigation throughout the year. This results in higher production per hectare than under dry land conditions, but there is a correspondingly higher cost factor. Originally based largely on surface irrigation, over the years the emphasis has changed to overhead irrigation.

Sprinkler irrigation

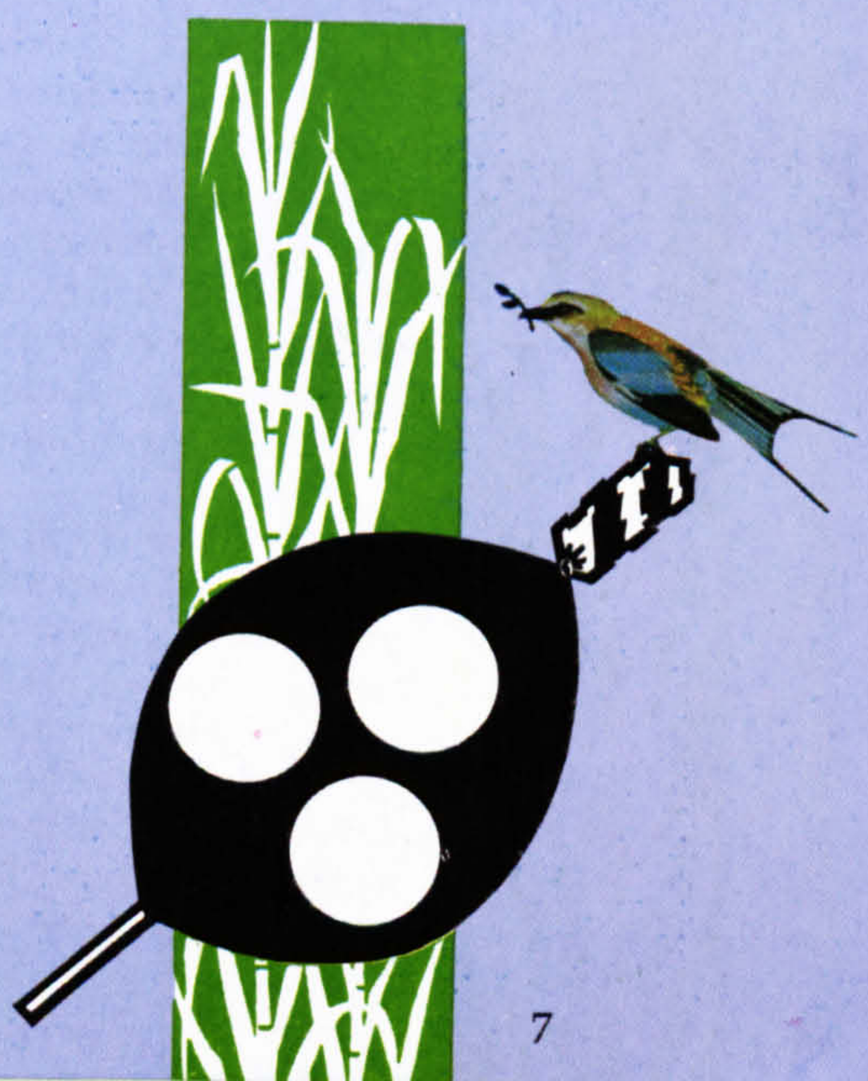






The pump-house (left) and control panel (above) at Big Bend Sugar Estate, which has one of the most modern estate irrigation systems.

Furrow irrigation using siphons to draw water from an estate step canal.



Burning cane leaves prior to cutting.

CANE GROWTH AND HARVESTING

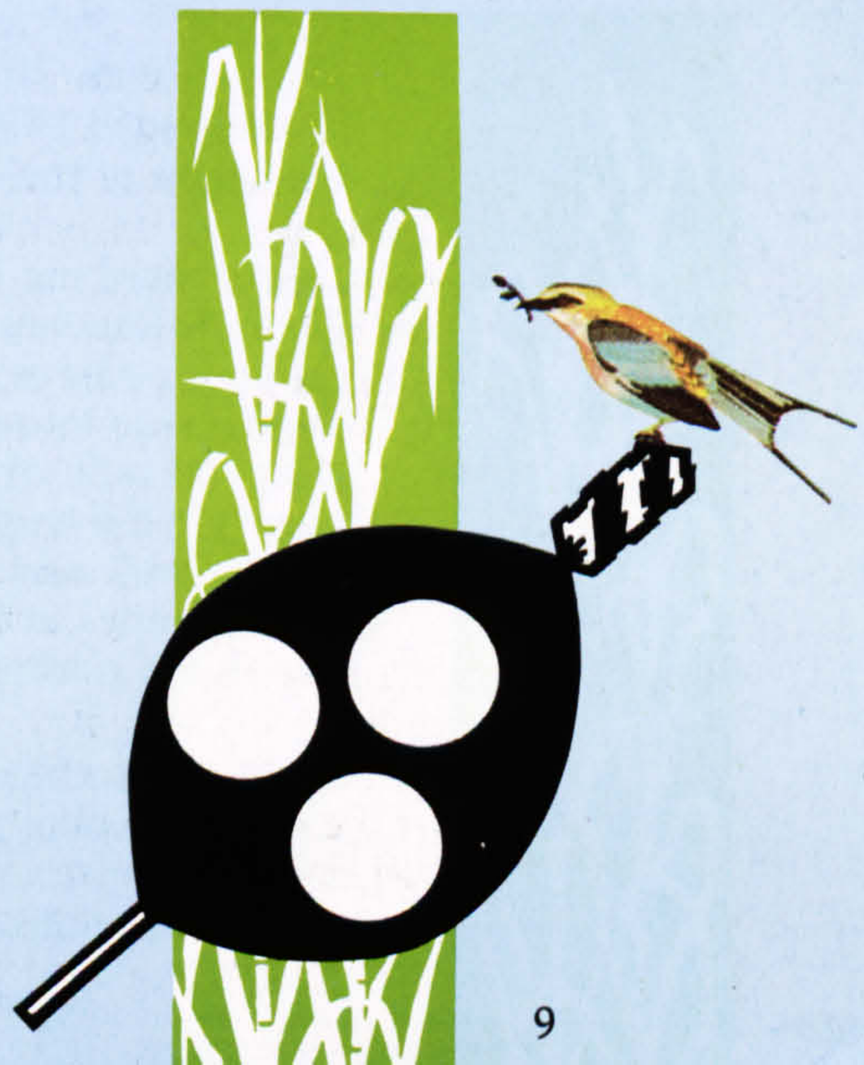
Sugar-cane is grown under a variety of conditions, from large mill estates, through large and medium-size independent farms, to small-holdings. There are over 300 cane growers, though over 250 are small-holders involved in the Vuvulane Irrigated Farms Scheme.
(See photograph on page 2.)

All cane is burned before harvesting and until recently, harvesting and loading were done by hand. Despite mechnical cane harvesting, cutting by hand remains the principal method and the cane cutter is a skilled and important member of the argicultural labour force. Mechanical loading of cane for transport to the mill is now widespread.

Loading cane.

A Cameco mechanical harvester in action.

A cane cutter at work.



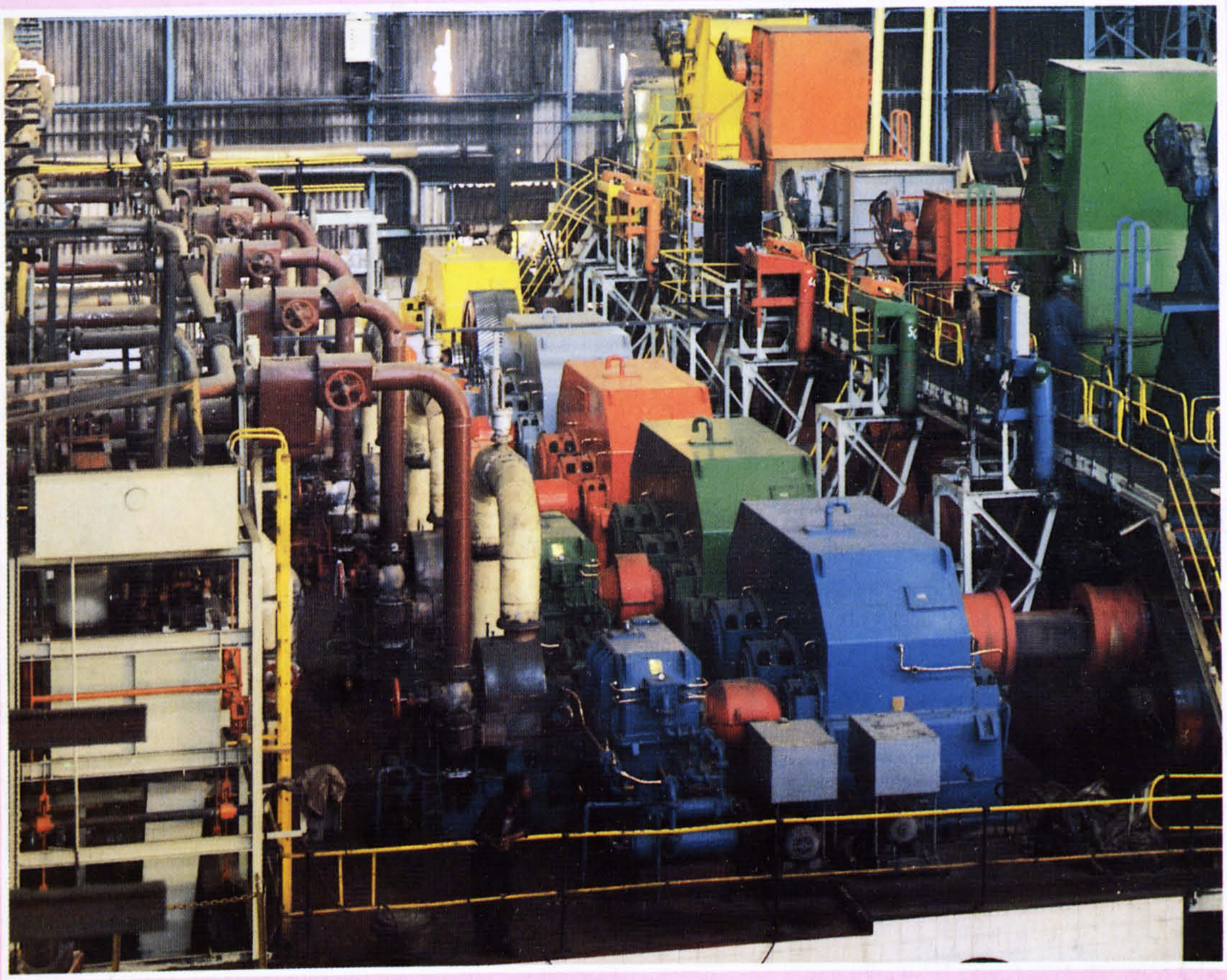
A view of the Simunye Sugar Mill with the Simunye Sugar Estate in the background. The huge store in the left belongs to the Sugar Association and is used in times of necessity as a strategic store for sugar if the railway lines to the ports are not able to move the sugar as quickly as it is produced. Hence in an ideal situation it would always be empty.

SUGAR MILLS

Sugar was first produced in Swaziland in 1958 at a small mill on the banks of the Usutu River.

Now there are three sugar mills: Ubombo Ranches Ltd, the oldest, in the south-east of the country at Big Bend, came into operation in 1960; a second mill, of the same generation, is in the north-east at Mhlume. A third mill was established in the late seventies at Simunye which is also in the north-east.

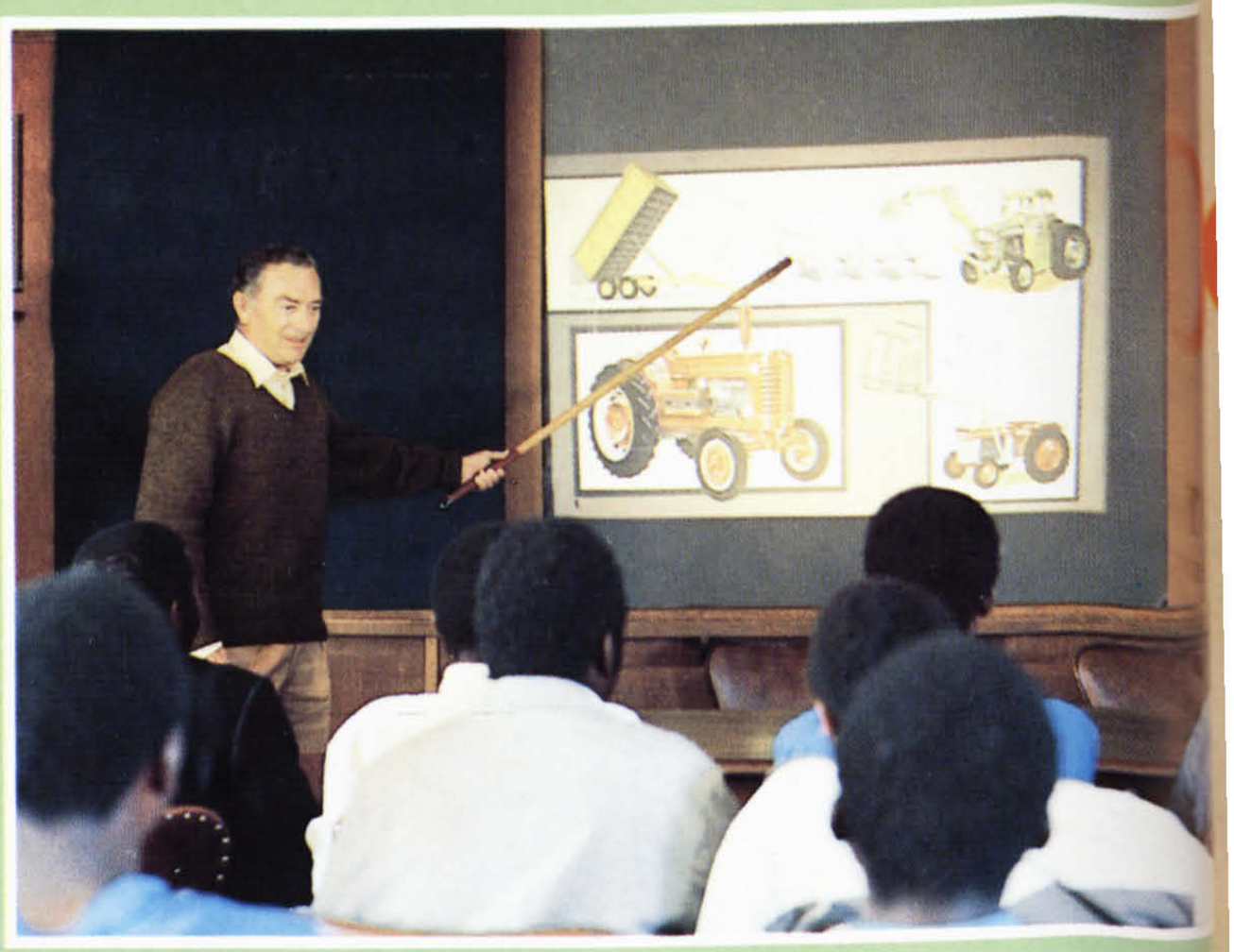
Tibiyo Taka Ngwane is the largest overall member of the industry by virtue of substantial shareholdings in all three mills.



The mill train at Mhlume.

A view of the mill yard at Mhlume.

TRAINING AND EDUCATION



The sugar industry is a major employer of labour with about 11% of the resident Swazi population directly dependent on it. New industries have been attracted to Swaziland through the availability of a secure supply of high quality sugar; thus ancillary industries could add another 5% of the resident Swazi population as being indirectly dependent on the sugar industry for their livelihood.

The many training centres and schools established by members of the industry have a very important effect on the advancement of skills and knowledge in Swaziland.

A lecture in progress at Mananga Agricul Management Centre.

Junior primary classroom scene at Simunye.

SKILLED OCCUPATIONS

The sugar industry calls for a wide range of skilled occupations, not only in the industrial and agricultural sectors, but also in management and administration.

Skilled artisans are employed in mill and estate workshops.

Highly trained medical staff.

Accounts management and staff make extensive use of computer systems.

Laboratory staff analyse the quality of the cane delivered to the mill.

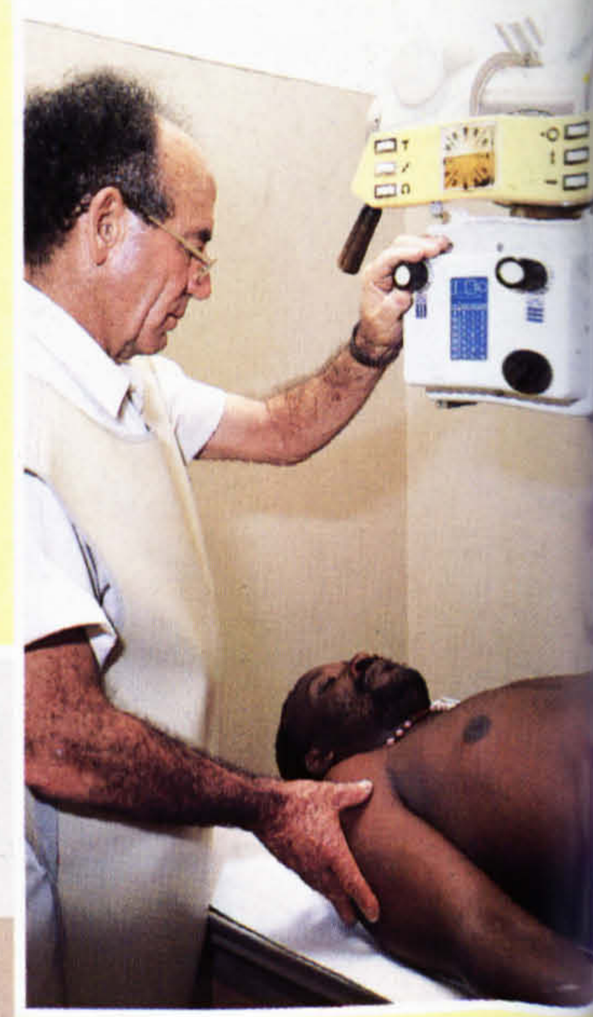
This aerial view of Hambanathi village at Mhlu shows the well-laid out housing and the spo stadium illustrating the advances being made w housing and recreational facilities.

HEALTH AND HOUSING

The mills and the larger estates have clinics at which they employ doctors, sisters and nursing assistants to provide a 24-hour medical service. Over 250 000 patient visits are handled annually.

Particular emphasis is placed on community health: sub-clinics for tuberculosis, nutrition, child welfare and family planning are held on a regular basis. There is an ongoing community education programme to improve the general health of the local population.

Housing standards, already high, are constantly being improved. Modern towns, with tarred roads and electricity and water to each house, have been created to house the employees of the mills and many of the estates.



Advanced nursing facilities and training.

Sophisticated medical equip

Sibaca dancing retains its traditional popularity and keen competition between rival teams has produced a high standard of performance throughout the sugar areas.

Goshe Szokolay floodlit soccer stadium.

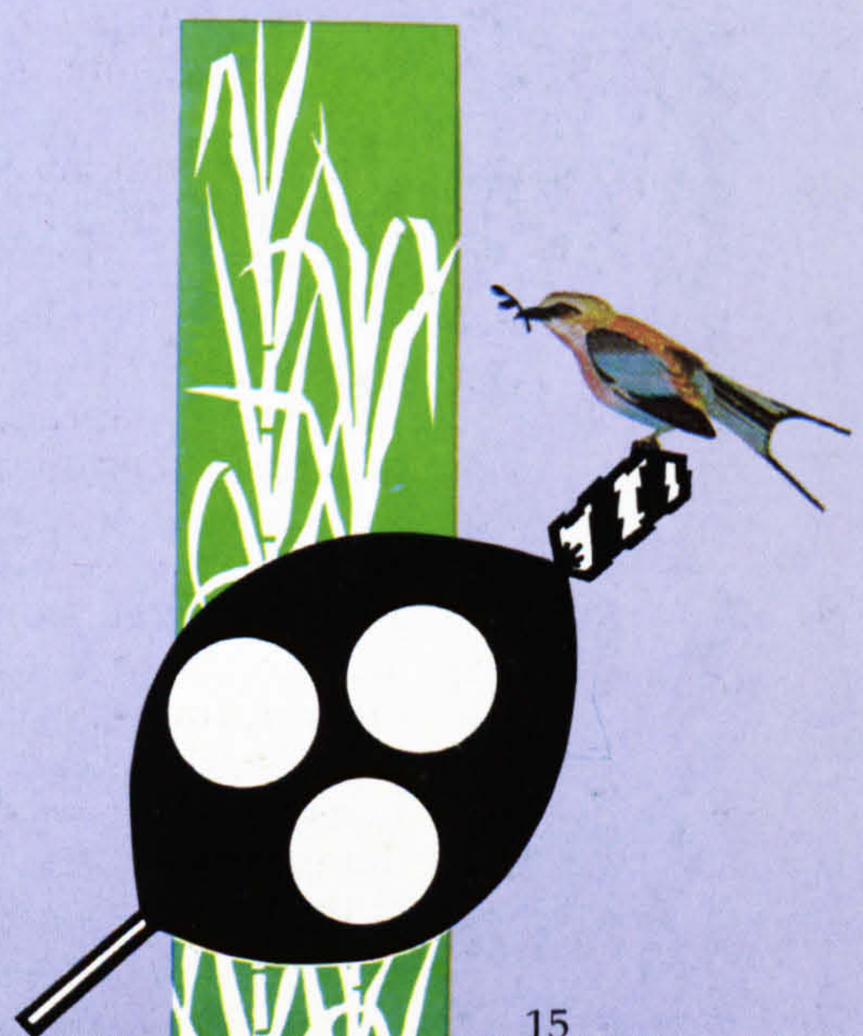
Driving off from the first tee at Mananga Golf Club, Tshaneni.

SPORT AND RECREATION

The sugar industry calls for hard work but provides extensive sport and recreational facilities for its employees.

Some of the best facilities in the Kingdom are to be found at the lowveld social centres, such as the Goshe Szokolay floodlit soccer stadium at Simunye and the Mananga Golf Club at Tshaneni.

Goshe Szokolay



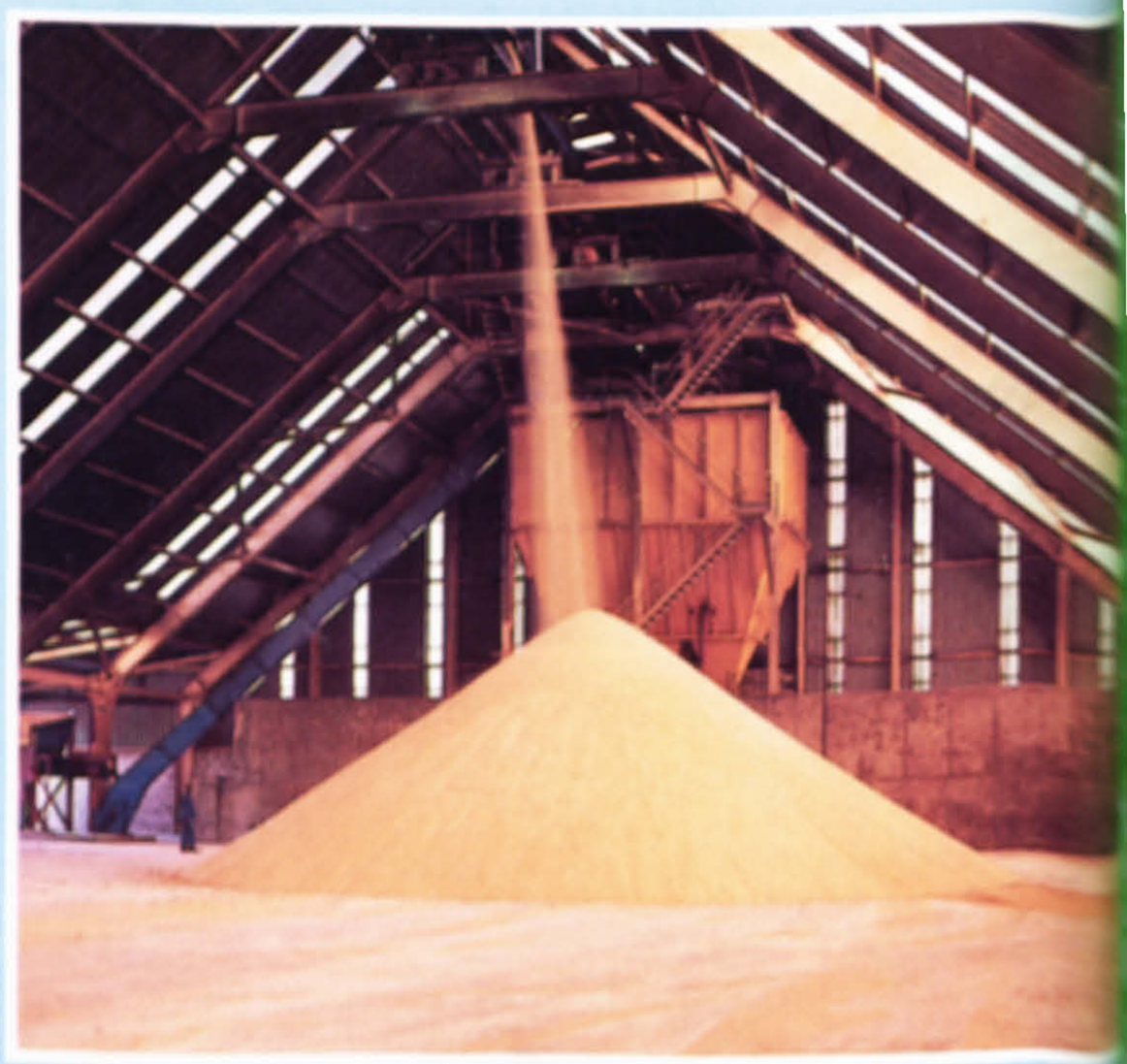
A ship being bulk-loaded at port.

EXPORT

Sugar and molasses are transp ed in bulk by road to loading in lations at Mlawula (for the Mhl and Simunye mills) and Ph moya (for the Ubombo mill) then by rail to terminals at Ma or Durban.

Regular export markets includ European Economic Commun and the United States of Amer

SWAZILAND SUGAR SERVES THE NATION



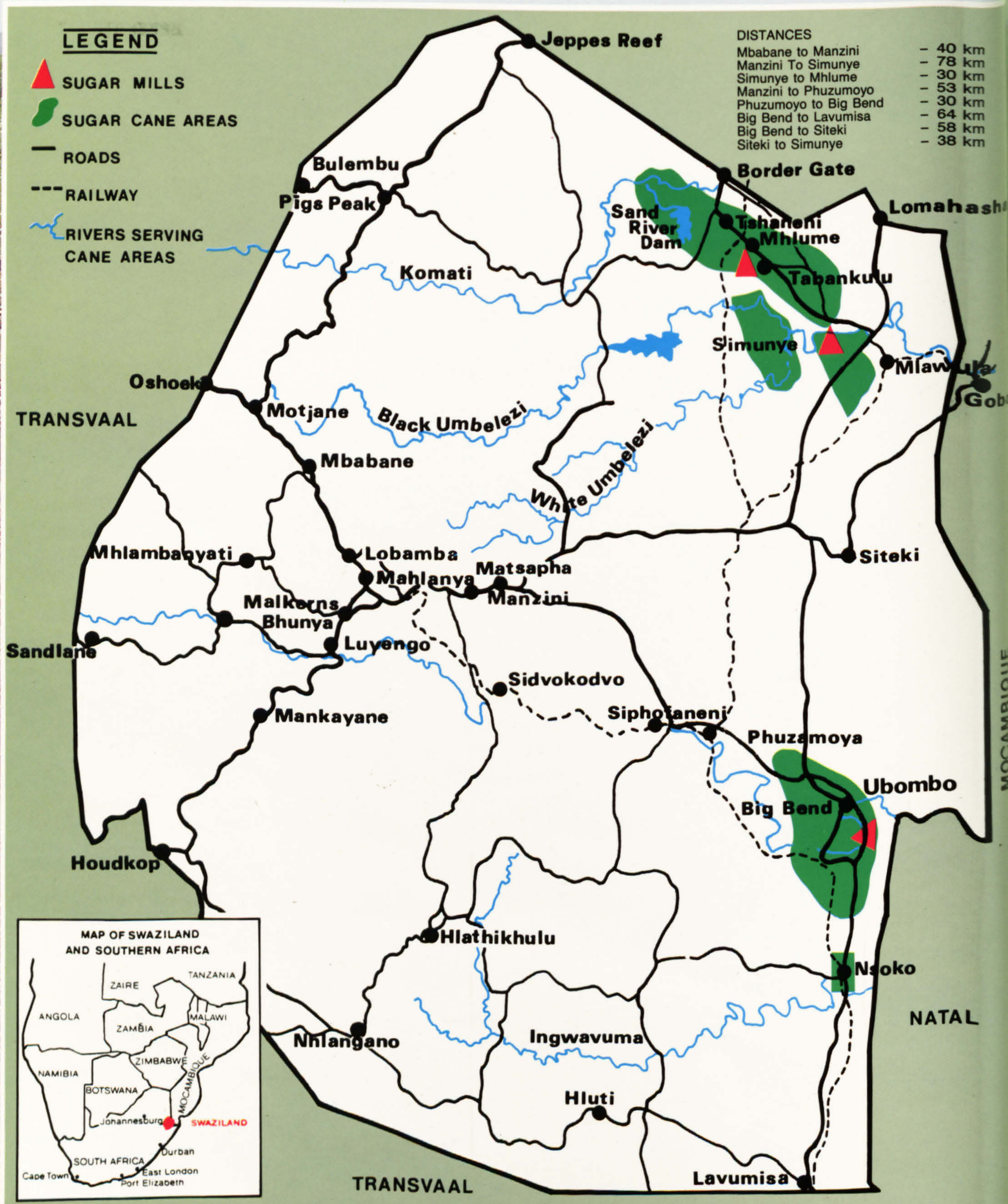
The start of a sugar mountain in the strategic store at Mlawula

The slogan "Sugar Serves Swaziland" was adopted in this publication to show the role the sugar industry has played in the economic and social development of Swaziland.

The sugar industry has already contributed greatly to the economic progress of Swaziland by the establishment of sugar mills and cane estates, by developing large areas of the lowveld under irrigation, by introducing modern agricultural and industrial methods, by instituting technical training programmes and providing extensive health, housing and social welfare services.

But this is not all. The industry has for many years been the nation's principal earner of foreign exchange and its largest employer. It is also a most important taxpayer.

The sugar industry is proud of its record over a relatively short period of time and looks forward to continuing development in the years ahead.


LEGEND
SUGAR MILLS
SUGAR CANE AREAS
ROADS
RAILWAY
RIVERS SERVING CANE AREAS
DISTANCES
Mbabane to Manzini - 40 km
Manzini To Simunye - 78 km
Simunye to Mhlume - 30 km
Manzini to Phuzumoyo - 53 km
Phuzumoyo to Big Bend - 30 km
Big Bend to Lavumisa - 64 km
Big Bend to Siteki - 58 km
Siteki to Simunye - 38 km
Jeppes Reef
Bulembu
Pigs Peak
Komati
Sand River Dam
Border Gate
Tshaneni
Mhlume
Tabankulu
Lomahasha
Simunye
Mlawula
Oshoek
TRANSVAAL
Motjane
Black Umbelezi
White Umbelezi
Mbabane
Mhlambanyati
Lobamba
Mahlanya
Matsapha
Manzini
Siteki
Malkerns
Bhunya
Luyengo
Sandlane
Sidvokodvo
Mankayane
Siphofaneni
Phuzamoya
Ubombo
Big Bend
Houdkop
Hlathikhulu
Nsoko
NATAL
Nhlangano
Ingwavuma
Hluti
TRANSVAAL
Lavumisa
MOCAMBIQUE
MAP OF SWAZILAND AND SOUTHERN AFRICA
TANZANIA
ZAIRE
ANGOLA
MALAWI
ZAMBIA
ZIMBABWE
NAMIBIA
BOTSWANA
MOCAMBIQUE
Johannesburg
SWAZILAND
Durban
SOUTH AFRICA
East London
Cape Town
Port Elizabeth

APPENDIX 2

APPENDIX 2

SWAZILAND'S CHANGING POLITICAL CLIMATE AND THE ROLE OF THE INVESTOR COMMUNITY

BY

J R MASSON

Talk delivered at the half-yearly meeting of the Federation of Swaziland Employers at Mbabane on Thursday 30 April 1992

Mr President etc. etc

Perhaps I should begin by explaining what I will not be talking about. I will not be providing a "Who's Who" or a "What's What" of players in the current political scene, nor will I be indulging in crystal-gazing about what lies over the political horizon. What I will do is to place the present political stirrings in a historical context so that we may distinguish the wood from the trees a little more clearly. I need not add that this is a personal interpretation.

We have Vusela 2, or to give it its official title, the Tinkhundla Review commission, and are moving, somewhat slowly it must be said, towards the next station on the line. I can see quite a few stations ahead, so using the railway analogy, we are now train-watching, and the train is Vusela Stimela.

In pondering on these matters, I was attracted to the phrase "To rule or to reign", because it seemed to encompass both the journey and the destination. However, on recalling where I had borrowed my theme to be, I realised that it was coined at an anniversary of the execution of Charles I of England, the last of the Divine Kings! Not a very diplomatic choice, but reading on, I noted two points. Firstly, it heralded the ascendance of Oliver Cromwell, to some a tyrant in his own right, but more generally recognised as one of the fathers of the British Parliamentary and Constitutional system. Secondly, and in contrary spirit, it also provoked the following reaction,

"If this doctrine of divided power were to lead to deplorable results there would be no cause for astonishment". To which one might respond "Spoken like a Governor" and which might be paraphrased "Change? What Change?"

The inference is clear, out of the frying pan, into the fire. So we have both sides of the coin. Do we jump or don't we? Maybe the title "To rule or to reign" is appropriate after all.

What are the real issues at stake? Vusela 2 is the natural outcome of its harassed predecessor, which discovered that the Tinkhundla system of election had become a demon in our midst. the logical next step was to exorcise the demon, by examining alternative methods of electing members of Parliament. Hence Vusela 2. However, the terms of reference could be very restrictive, bearing in mind the probability that the debate on reforming the electoral system will open a door through which much wider ideas of constitutional change will try to force their way. If we want to be dramatic, we can say that this will be the real contest for the soul of the Swazi Nation. Vusela 2 may have turned out to be a sorcerer's apprentice.

But I anticipate. We can only assess the future from a knowledge of the past. I am not advocating that history repeats itself. Different circumstances, both at home and abroad, and different personalities make an exact re-run of the past impossible. However, a knowledge of these past circumstances and personalities and the situations they have created may help to avoid Vusela Stimela being shunted into a siding, both politically and economically, or even being put into reverse. So it seems to me to be worthwhile to look back at the political past, to see what clues we may find for the future course of events.

The King has always been an executive monarch, by virtue of his traditional authority as Ngwenyama, but the 1968 Independence constitution relegated the Kingship to a largely constitutional role, because he was obliged to accept the advice of his Prime Minister and Cabinet, and no-one else. This was corrected in 1973 when the 1968 constitution was repealed, and it was re-iterated in the Establishment of Parliament Order of 1978, where it is stated (Section 69) that the executive authority vests in the King, which may be exercised directly, or through other "officers and authorities:, e.g. the Cabinet of Ministers in executive matters, and Parliament in legislative matters. It also enables the traditional Libandla system of King's advisers to exercise quasi-executive powers, without portfolios and with unspecified procedures and limitations, unlike Cabinet Ministers and Members of Parliament. At the heart of the traditional structure is the dual nature of the monarchy, supported by the chiefly network in control of land tenure and settlement,

now essentially a private tax system in lieu of the traditional tributes of labour, cattle etc. and practising vestiges of the judicial authority removed in 1950 when the Swazi Courts were established. Through all these runs the cohesive, though declining, force for Swazi traditional culture and custom.

The traditional system has been under varying degrees of pressure from the forces of change since the arrival of Europeans in the 1880's or earlier, whether as concessionaires, traders, missionaries or settlers, and continuing through more than 60 years of colonial rule. Each group has made its own peculiar contribution, whether for better or for worse. For example, the colonial power did not apply itself seriously to the development of the country and its people until about 10 years before independence, but during this latter period it brought about great changes, especially in economic infrastructure. Despite all manner of pressures, the traditional system survived substantially intact to form the foundation of the Imbokodvo National Movement, or "King's Party", which over-ran the opposition parties in the first (1964) elections by polling 85% of the vote, and carried on to win the 1967 election with 80%, in both cases winning all the elected seats in the legislature.

Imbokodvo also won the first post-independence election in 1972 with a similar majority, but three opposition members were returned in constituencies with high worker concentrations. This was seen by the traditional authorities as the thin end of the wedge of dissenting politics, and in 1973, after unsuccessful attempts to oust the trio, the King repealed the British made constitution, which included a "Bill of Rights" and other "specially entrenched provisions", in order to rule by decree, or by order-in-council through a Council of Ministers. The repeal proclamation also introduced a State of Emergency and detention without trial, the abolition of the Judicial Service Commission, and the banning of political parties, demonstrations and meetings. In 1978, a form of parliamentary government was restored, with indirect elections through an electoral college, but the King remained unfettered executive Head of State. At the same time the title King, in British constitutional terms, and Ngwenyama, in Swazi traditional terms, became indistinguishable in practice, thus signifying the priority of the traditional hierarchy.

Incidentally, the move back to autocratic government in 1973, while inescapable from the point of view of the traditional authority, did sow the seeds of its own near destruction, in the emergence of the self-styled Supreme Council, or Liqoqo, with its heavy handed approach to all criticism, or failure to conform to its demands. I should know because I was in the Finance Ministry at the time.

To get back to our train-watching. Of late, these post-independence constitutional "adjustments" have come under increasing criticism, both at home and abroad. There was in fact critical comment in 1973, but it was muted, generally because of the authoritarian atmosphere at the time, and more particularly because of threats of banning or censorship of the press, the only nominally independent media at that time.

The freedom of expression in the media, and in public life, which has sprouted over the past year or so, has transformed the political scene. There is even an intermittent alternative press. It is in this environment that the rallying call for a move to a more democratic and open society is being made.

The main visible players or PUDEMO and HUMARAS, the one avowedly political, the other avowedly non-political. Just how long this neat distinction will survive is another matter. What is more certain is that these will not be the only players. Indeed, some others have recently surfaced, e.g. the Swazi National Front, but some have yet to get on the train, while others are already on it but are pretending to be mere sightseers.

However, for the present, let us assume that we are dealing with two main pressure groups for change. As far as HUMARAS is concerned, its primary goal is the re-establishment of a human rights charter. I say re-establishment because the 1968 Constitution contained a very comprehensive "Bill of Rights". So whether HUMARAS pushes for its re-institution, or opts for something different, it is instructive to check out the 1968 Constitution provisions to understand what is at stake.

The 1968 constitution was a carefully prepared document, designed to implant western democratic ideals into a society which it was assumed would progressively shed its traditional structure. the weakness of the concept was that once the Constitution was in place there was no room for the Monarchy to manoeuvre "progressively", because it had already been transformed into a purely constitutional monarchy, literally in the hands of Ministers. In practice of course it did not operate as restrictively as this because of the underlying authority of the King. But it did in fact introduce a new form of society, based on western, particularly British, values in which traditional authority was nominal and negligible. The Swazi leadership recognised this, and accepted the constitution with great reluctance, as the price to be paid for independence, though they had no intention of keeping it if it proved unworkable, which it did in 1973 when the independence of the Judiciary proved to be unacceptable.

The essence of the 1968 constitution was the "Bill of Rights" and the constitutional structures created to ensure its fair and equitable application to Swazi society. With such a constitution again in place, there would be no justification for the retention of any repressive or socially offensive legislation. There are, no doubt, certain provisions which would need clarification, taking account of refinements in human rights thinking since 1968, but taken as a whole the 1968 constitution is a formidable bulwark against despotic or quixotic behaviour by any authority, great or small.

For those who have not read a good constitution lately, the 1968 constitution had 13 chapters spread over about 70 pages, and covering

Chapter ii	Protection of Fundamental Rights and Freedom of the individual (Bill of Rights)
iii	Citizenship
iv	The Monarchy
v & vi	Parliament
viii	The Executive
viii	Land and Minerals
ix	The Judicature
x	The Public Service
xi	Finance
xii	Alteration of the Constitution
xiii	Miscellaneous provisions (including recognition of the Swazi National Council)

The status given to Swazi affairs may be gauged from the last item - relegated to miscellaneous provisions!

As with the "Bill of Rights" there would obviously have to be some changes if such a constitution were to be restored. These might include a review of the chapter on land and minerals, which effectively paved the way for the establishment of Tibiyo and Tisuka, and which also preserves the communal land tenure system, vested in the Ngwenyama-in-Libandla, and this of course includes the role of chiefs in land tenure and land administration. This of course focuses on the distinctive character of Swaziland's socio-economic system, the dual economy as it has been called. So long as there is a dual economy, it is difficult to see how substantial socio-economic changes can occur, and so long as socio-economic changes do not take place, there will be a dual economy. This is a chicken and egg situation, to which I will refer later.

The principal structures which supported adherence to the 1968 constitution were

The Monarchy

Parliament

The Executive

The Judicature

The Public Service

These are the key structures of any constitution incorporating a Bill of Rights.

A brief commentary will reveal the considerable extent to which each constituent member has moved away from the 1968 structure which was discarded in 1973.

The Monarchy

In 1968 it was executive, but this was limited by Section 85, which stated the King shall act in accordance with the advice of Cabinet etc., which made him a constitutional monarch, British style.

In 1978 this limitation was removed.

Parliament

In 1968 there was open elections to vote for members of Parliament on a direct basis.

In the 1978 Act there are indirect elections through an Electoral College. Critics would say that they are all selected not elected.

The Executive

In 1968 the appointment of Ministers was by the King, acting in accordance with the advice of the Prime Minster, which meant in effect that the Prime Minister chose his Cabinet.

In the 1978 Act all Ministerial appointments are made directly by the King.

The Judiciary

In 1968 all judges were appointed by the King, acting on the advice of the Judicial Service commission.

In 1973 the JSC was abolished, to be replaced in 1982 by the Minister for Justice interposed between the King and a revived JSC.

The Public Service

Here the contrast is in effectiveness. The quality of the civil service has deteriorated noticeably since Independence, despite the specialised training of many staff members, and the endless courses, seminars, conferences etc which civil servants attend. The deterioration must therefore be attributed to the various pernicious influences which have infected it, nepotism, indiscipline, unrebuked inefficiency, and corruption.

The extent of the gap which has been created between the 1968 structures and those in operation today will be obvious. At present none is more obvious than the problems which beset the judicial system. If, therefore, the 1968 constitution or something like it were to be revived, there would have to be major readjustments of power as between the various structures. However, the gap also indicates the strength of the rejection of the 1968 Constitution by the Swazi leadership. To expect them to return to a rejected constitution is unrealistic. any move towards a more democratic constitution would have to be "home-grown". It would also be unrealistic to expect a 1968 type constitution, because it offers no "running-in" period. A new constitution would therefore have to have transitional stages to allow the necessary adjustments to take place. however, the time period would not have to be too protracted, or the "political opposition" would become impatient. Also the transitional process would have to be credible and saleable to the "opposition". Is this a realistic scenario?

Of course, we have not yet got to this stage, nor are we near it. Vusela 2 has still to get up steam, so we do not yet know whether, and if so how the assorted train crew are going to reach some modus operandi. However, what we can say at this

point is that there is still a yawning gulf between the aspirations of the political opposition, and the limited terms of reference of Vusela 2. Will it, as I have suggested earlier, be a door through which ideas with much wider implications will try to push through, or will Vusela 2 be derailed, and the power struggle continued at a more dispersed level throughout the country, with the opposition trying to obtain an octopus hold, or more appropriately for Swaziland, a python hold on the country? These metaphors obviously imply a possibility of violence.

Will Vusela 2 be highjacked by the politicians and crypto-politicians to become a Trojan Horse, or will Vusela 2 be derailed and abandoned? What is likely to be the reaction of the traditionalists, the right wing as we might describe them, in contrast to the left wing of the politicians? (These are merely relative terms, and do not have any economic connotations). As we have seen, in 1973 the reaction was to close the door, and to tell the world to go away. This is hardly possible today, BUT .....It is more likely that , as a first gesture to democratic pressure, Vusela 2 will hammer out some sort of electoral dispensation. The timetable is short, because the life of the present Parliament cannot be prolonged beyond five years, that is from the end of 1987, so there may have to be an untidy compromise. This will certainly be the case if the respective roles of the Monarchy, parliament and the Executive are not adequately defined, because we have seen that these are three of the essential structures of the state. That is the nettle which Vusela 2 has to grasp. It is all the more tricky, because once launched on a new constitutional dispensation the railway line stretches ahead in a predictable direction.

In this context it is interesting to note that the terms of reference of Vusela 2 (paragraph 3(b)(i) and (ii)) require the Committee to report to His Majesty on problems, malfunctions and definitions in the existing process of election of members of Parliament, in terms of Parts II, III and VI of the Establishment of Parliament Order of 1978. This is interesting because Part II deals with the Electoral Committee, Part III deals with Tinkhundla and Part VI deals with the Executive, including the relationship between King and Ministers. It may be significant that

Part IV which deals with the Electoral College, is not singled out for examination, but it may be that it is an inadvertent omission.

The offences section is also illuminating. It is an offence to insult, disparage or belittle any member of the Commission, or to obstruct, interrupt, hinder or prejudice of the Commission etc. etc. It is clearly intended that there shall be no repetition of the buffeting which some members of Vusela 1 experienced. Still, the penalties are draconian - E5000 or 5 years imprisonment or both - to offend the Commission is in the same category as slaughtering a rhino.

This is of course a full-frontal view of Vusela 2, where everything is exposed, but if it were possible to get a rear view, one might speculate that others were beavering away at a revision of the electoral system. Clearly, the authorities cannot allow Vusela 1 to become a damp squib, and so must have something up their sleeves for the year-end.

It would be wrong to single out PUDEMO and HUMARAS as the only key players. I did refer to those who have not yet got on the train, or are on it with their heads down. The trade union movement in its widest definition, that is including SNAT, SNUCS etc should not be overlooked in this context. In the present close knit political set-up, the distinction between politics and industrial relations must of necessity be blurred, or rather they are overlapping activities. Unions are becoming more organised, and while the Labour Department may feel encouraged by this progress, the Swazi leadership may not feel the same way about an increasingly organised pressure group, which, if it entered the political arena, could possibly exercise as much influence as the politicians. it is also pertinent to realise that the present trade union leadership is highly influenced by events across the border in the political and industrial relations fields, and that some of their strategies are being developed in consultation with their contacts there. Some of the constitutional niceties discussed here today may indeed be considered irrelevant.

Nor would it be correct to underestimate what I will call "Women power". In the present social framework there is ample scope for this emerging pressure group.

For different reasons the input of the business community must be catered for. It may be a sign of the times that despite all the talk of the need for new investment and business confidence, the business community is conspicuous by its absence on the Vusela 2 Committee. This of course raises the old dilemma of whether business and politics really mix in Swaziland. Are they like oil or water? Well politics is naturally an indigenous activity, whereas business is very largely an expatriate activity, and a natural reaction of business might be to steer clear of politics. However, this could be a mistake. I have spoken of the forces of the left and the right in Vusela 2, but who is representing the middle ground, or put it another way, who is there to bring the two opposing forces together to find some common ground? Is there not a case for the co-opting of members of the business community as a first step in involving this group in the wider discussions which undoubtedly lie ahead.

It is also relevant to mention the option of violence, as a means of achieving political goals. The danger of protracted deliberation over a new constitutional dispensation has already been described as creating impatience. Impatience these days can easily be translated into violence. Events across the border will show whether CODESA will be able to create acceptable transitional arrangements through negotiation, or whether the present fringe violence will erupt into something akin to large scale civil disorder.

Reference has been made to corruption in the Public Service, and we have some prominent examples before us right now. It is of course a much wider and more deeply rooted phenomenon, as the report of the Vusela I committee emphasises. In this sense it has a wider connotation, embracing nepotism, favouritism, self-seeking opportunism and bribery as well as corruption in its more legalistic definition. It has been said that this wider form of corruption is endemic in the Swazi body politic. There is of course a perfectly simple explanation for it. It is the only avenue open to many of the Swazi hierarchy to retain influence, income and indeed wealth in a

society where these advantages are now to be found mainly in the modern economic system. The question is whether this form of corruption is so ingrained that it cannot be eradicated without destroying the system itself. Consciously or unconsciously this is what the critics of corruption may be saying.

Finally, 1973 is nearly 20 years ago, and the world has changed. No longer do foreign powers and international agencies turn the blind eye if human rights are violated, if inefficiency, neglect and corruption become a way of life, and if the Swazi Nation has lost its way. The spotlight of world opinion will be on Swaziland, just as it is today on events next door. Everyone will become an expert on Swaziland's internal affairs. "Feudal monarchies" are grist to the mill of human rights activists.

There is another aspect of this which the business community has to consider. I referred earlier to the dual economy and the difficulty of moving away from this to an integrated one. Certainly, as long as the main planks of the business structure are of expatriate origin, it will be natural for the Swazi authorities to regard themselves as a counterweight, and so perpetuate the system. So while we may wish to see the hierarchical power structure devolve into a more representative one, we must, if we are honest with ourselves, be aware that we have to rid the business community of its essentially expatriate image. One way or another it must be seen to be part and parcel of the body politic, and so contribute to the gradual disappearance of the dual economy.

It may therefore be concluded that the Vusela 2 exercise, though of limited scope, is only the beginning of what is likely to be a wide ranging constitutional debate, which, it is to be hoped, the Swazi leadership will recognise as inevitable and will endeavour to keep going constructively as issue after issue is tackled and hopefully resolved, within the conceptual framework of a new constitutional dispensation. This framework must ensure that each part of the structure, the Monarchy, Parliament, the Executive, the Judiciary and the Public Service has its own specific and distinctive role to play, and that each does so within the parameters of a Constitution. A

constitution which it must also be stressed, should be home-grown and adapted to the needs of the Swazi people as a whole. It must not be imposed like the 1968 Constitution, and so it must be evolutionary in character, not revolutionary. The social fabric must not be destroyed in the process, because that would be throwing the baby out with the bath water. This may be an optimistic prognosis, but optimism is necessary if the debate is not to degenerate into a dialogue of the deaf, or more seriously a head-on collision, or even a blow-up. Whether it is an explosive or implosive demolition makes little difference. It will still be necessary to pick up the pieces.

I hope that this interpretation of events will help to identify the train, the railway line on which it will have to run, the siding to be avoided and the hoped for destinations.

Hamba Vusela Stimela

15TH APRIL 1992 JRM/jim

APPENDIX 3

SWAZILAND SUGAR MANUFACTURING AND REFINING INDUSTRY EMPLOYERS ASSOCIATION

COMPARATIVE RATES FOR LOWEST GRADE OF EMPLOYEE BASED ON WAGES REGULATION ORDERS AS AT 1ST APRIL 1989

INDUSTRY	DATE OF WAGES ORDER	MINIMUM RATE OF PAY	WORKING HOURS PER WEEK	CASH RECEIVED PER MONTH	CASH VALUES OF RATIONS	VALUE OF ACCUMULATED BONUS/MONTH	TOTAL REMUNERATION PER MONTH = CASH + BONUS + RATIONS	ANNAUL LEAVE	PAID PUBLIC HOLIDAYS	REMARKS
Sugar Manufacturing & Refining Industry - Hourly Rated Industrial	1.4.88	E0.81c per hour	46	E161.46	E52.00	E13.40	E226.86	12 working days	9	
Mining & Quarrying LN119 of 1988	1.10.88	E8.57 per day	48	E222.82	Included in wage	-	E222.82	15 working days	7	
* Building & Construction LN122 of 1988	1.11.88	E1.01 per hour	47½	E207.89	Included in wage	-	E207.89	22 days		
Sugar Manufacturing & Refininf Industry - Daily Rated Agricultural	1.4.88	E5.40 per day	54 to 48	E140.40	E52.00	E11.65	E204.05	12 working days	9	
Swaziland Govt Bienial Wage award 1988	1.4.89	E203.88 per month	40	E203.88	Included in wage	-	E203.88	-	13	
* Retail & Wholesale Distributive Trades LN117 of 1988	1.9.88	E185.60 per month	48	E185.00	Included in wage	-	E185.00	12 working days	11	
Road Transportation LN 25 of 1989	1.3.89	E41.15 per week	48	E178.18	Included in wage	-	E178.18	15 working days	12	
* Manufacturing and Processing Industry LN19 of 1989	1.2.89	E40.00 per week	48	E173.33	Included in wage	-	E173.33	14 calendar days	7	
* Watching & Protective Services LN 140 of 1988	1.1.89	E165 per month	72	E165.60	Included in wage	-	E165.60	21 calendar days	Nil	9 days included in annual leave in lieu of public holidays worked
Hotel & Catering Industry Mhlume/Simune/Big Bend Area LN 141 of 1988	21.12.88	E128.00 per month	48	E128.00	E34.68	-	E162.68	12 working days	8	
* Motor Engineering Trades LN 14 of 1989	1.2.89	E0.81 per hour	45	E157.95	Included in wage	-	E157.95	10 working days	6	
Forestry and Forest Industry LN 109 of 1988	1.10.88	E19.08 per week	48	E82.68	E34.68	-	E117.36	12 working days	6	
Agricultural Industry LN 142 of 1988	1.12.88	E2.27 per day	57	E59.02	E34.68	-	E93.70	12 working days	7	6 days wages each week. No attendance bonus.
Domestic Employees LN21 of 1985	8.3.85	E72.00 per month	48	E72.00	Included in wage	-	E72.00	12 working days	9	

* Free accommodation NOT provided.

SWAZILAND SUGAR MANUFACTURING AND REFINING INDUSTRY

COMPARATIVE RATES OF PAY AND BASIC CONDITIONS FOR LOWEST GRADE OF SKILLED HOURLY RATED EMPLOYEES BASED UPON WAGES REGULATION ORDERS AS AT 1ST APRIL 1989

INDUSTRY	DATE OF WAGES ORDER	MINIMUM RATE OF PAY	CASH VALUES OF RATIONS	VALUE OF ACCUMULATED BONUS P/M	TOTAL REMUNERATION PER MONTH	WORKING HOURS PER WEEK	ANNAUL LEAVE	PAID PUBLIC HOLIDAYS	REMARKS
* Road Transportation LN 25 of 1989	1.3.89	E156.68 per week (i..e. E3.26 per hour)	N/A - NIL	NIL	E678.95	48	15 working days	12 Per Annum	Minimum qualification is time serve Apprentice
Swaziland Sugar Manufacturing & Refining Industry - Collective Agreement	1.4.88	E2.94 per hour	N/A - NIL	E48.82 (8.33%)	E634.86	46	3 weeks	9 Per Annum	Minimum qualification is time serve Apprentice
* Manufacturing and Processing Industry LN 19 of 1989	1.2.89	E71.00 per week (i.e. E1.48 per hour)	N/A - NIL	NIL	E307.67	48	14 Calendar days	7 Per Annum	Minimum qualification is Grade III Government Trade Test
* Motor Engineering Trades LN 14 of 1989	1.2.89	E1.31 per hour	N/A - NIL	NIL	E255.45	45	10 working days	6 Per Annum6	Minimum qualification is Grade III Government Trade Test
* Building & Construction LN122 of 1988	1.11.88	E1.07 per hour	N/A - NIL	NIL	E220.24	47½	12 Working days	8 Per Annum	Minimum qualification is Grade III Government Trade Test
Agricultural Industry LN 142 of 1988	1.12.88	E5.81 per day (i.e. 61c per hour)	N/A - NIL	NIL	E151.06	57	12 working days	7 Per Annum	Minimum qualification is Government Grade II Trade Test or a time served Apprentice

* Free Accommodation NOT provided.

APPENDIX 4

APPENDIX 4

'YOUR UNION ORGANISATION'

A STUDY CIRCLE MATERIAL

(UNDATED)

Page numbering in this booklet is individual to itself

(Page 1 - 77 last page)

your union Organization

A study circle material

Swazi Federation of Trade Unions (SFTU)

1. FOREWORD

This study circle material has been compiled by the Swaziland Federation of Trade Unions (SFTU). The SFTU is the national trade union centre to which Swaziland industry unions are affiliated. It is affiliated to the Organization of African Trade Union Unity (OATUU). It maintains close fraternal relations with free and democratic international trade union organizations. These close fraternal relations have resulted in receiving material and financial support for education purposes from a number of fraternal organizations including the I.L.O.

The main objective of the SFTU is, inter-alia, to promote and support the efforts of workers' organizations in improving efficiency and productivity through collective bargaining. This objective may be achieved by the steady application of Swaziland based workers' programmes. In this connection, the SFTU is grateful to the Government for its continued support and the employers for releasing their employees from time to time to attend the educational activities.

The Swaziland Federation of Trade Unions takes the opportunity to present this book, the first ever to be produced by the centre, to the unions for their use in training workers in various trade union skills. It is envisaged that the book will be updated from time to time against the experiences gained during its use.

We are indebted to the Nairobi Project Office for assisting in the publication of this valuable document. Indirectly this credit also goes to the Organization of African Trade Union Unity and other organizations for the various forms of support they have given to the SFTU.

Long Live the African Worker !

GENERAL SECRETARY

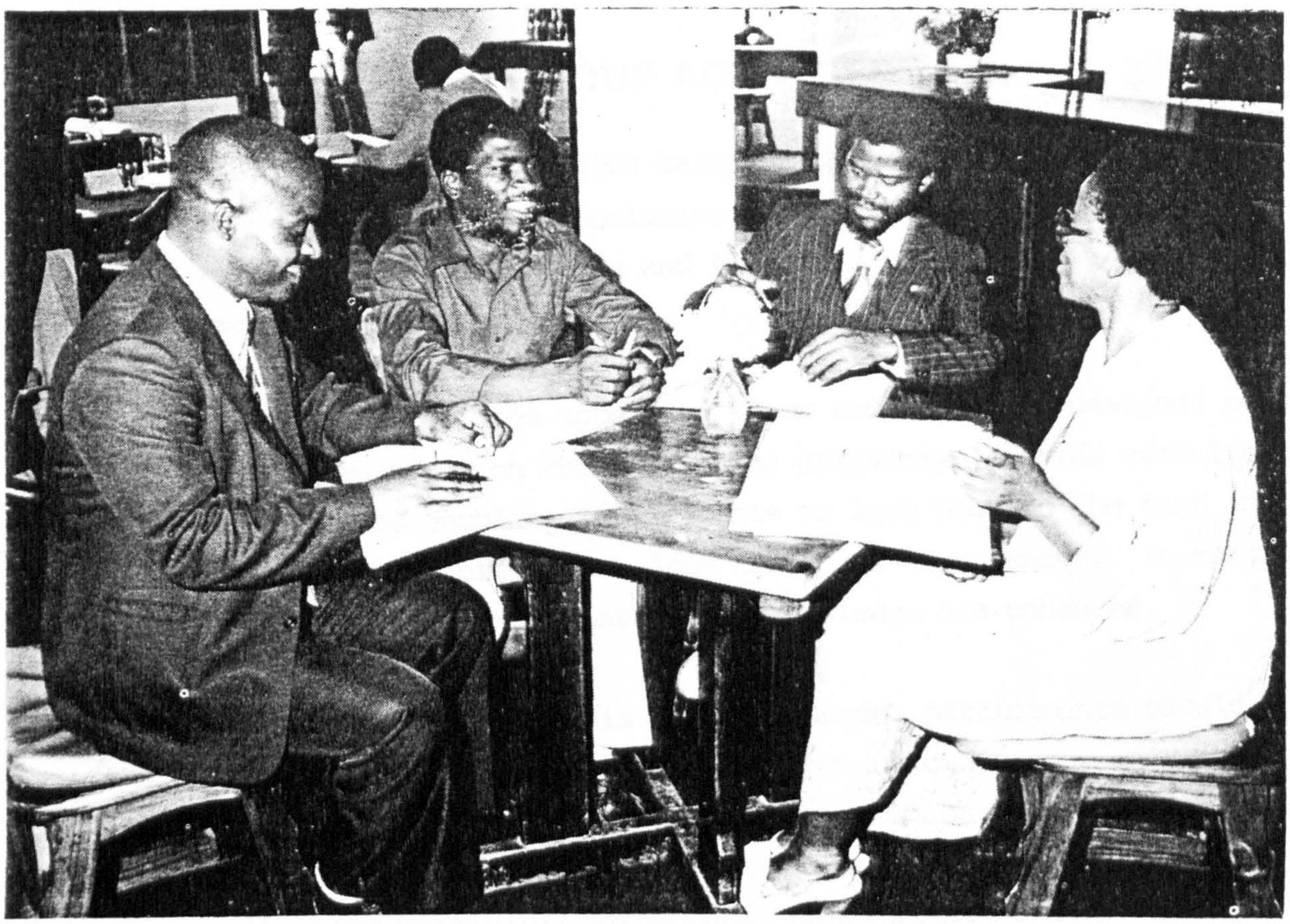
CONTENTS

	PAGE
FOREWORD	
INTRODUCTION	5
SESSION ONE: GETTING TO KNOW EACH OTHER	11
SESSION TWO: TRADE UNION MOVEMENT IN SWAZILAND	12
SESSION THREE: YOUR UNION ORGANIZATION	22
SESSION FOUR: HOW YOUR UNION FUNCTIONS	27
SESSION FIVE: DEMOCRACY	33
SESSION SIX: UNITY	38
SESSION SEVEN: TRADE UNION FINANCE	44
SESSION EIGHT: COLLECTIVE BARGAINING	50
SESSION NINE: THE THREE PHASES OF COLLECTIVE BARGAINING	57
SESSION TEN: BARGAINING OVER RIGHTS (GRIEVANCE HANDLING)	62
SESSION ELEVEN: OCCUPATIONAL HEALTH AND SAFETY	68

PAGE
NUMBERING
AS ORIGINAL

2. INTRODUCTION

This study material was produced by the Swaziland Federation of Trade Unions in conjunction with OATUU Nairobi Project Office. It aims at encountering the educational needs of the trade union rank-and-file members. It further aims to establish an on-going workers' educational programmes among the SFTU's affiliates with a view to strengthening the affiliates towards the achievement of self-reliance.



EDITORIAL COMMITTEE:

In order to facilitate the production of the material, an editorial committee was formed consisting of four Swazi trade unionists who wrote the material with the assistance of representatives from SFTU and OATUU Nairobi Project Office.

The four Swazi trade unionists were:

SIPHO MOTSA, employed by Swaziland Meat Corporation.
He was the Secretary of the Corporation's Workers' Committee.

JABULAN DLAMINI: employed by the Swaziland Breweries.
He was the Chairman of the Breweries Workers' Committee.

DOUGLAS DLAMINI: employed by Swaziland Collieries. He was a member of the Collieries Workers' Committee.

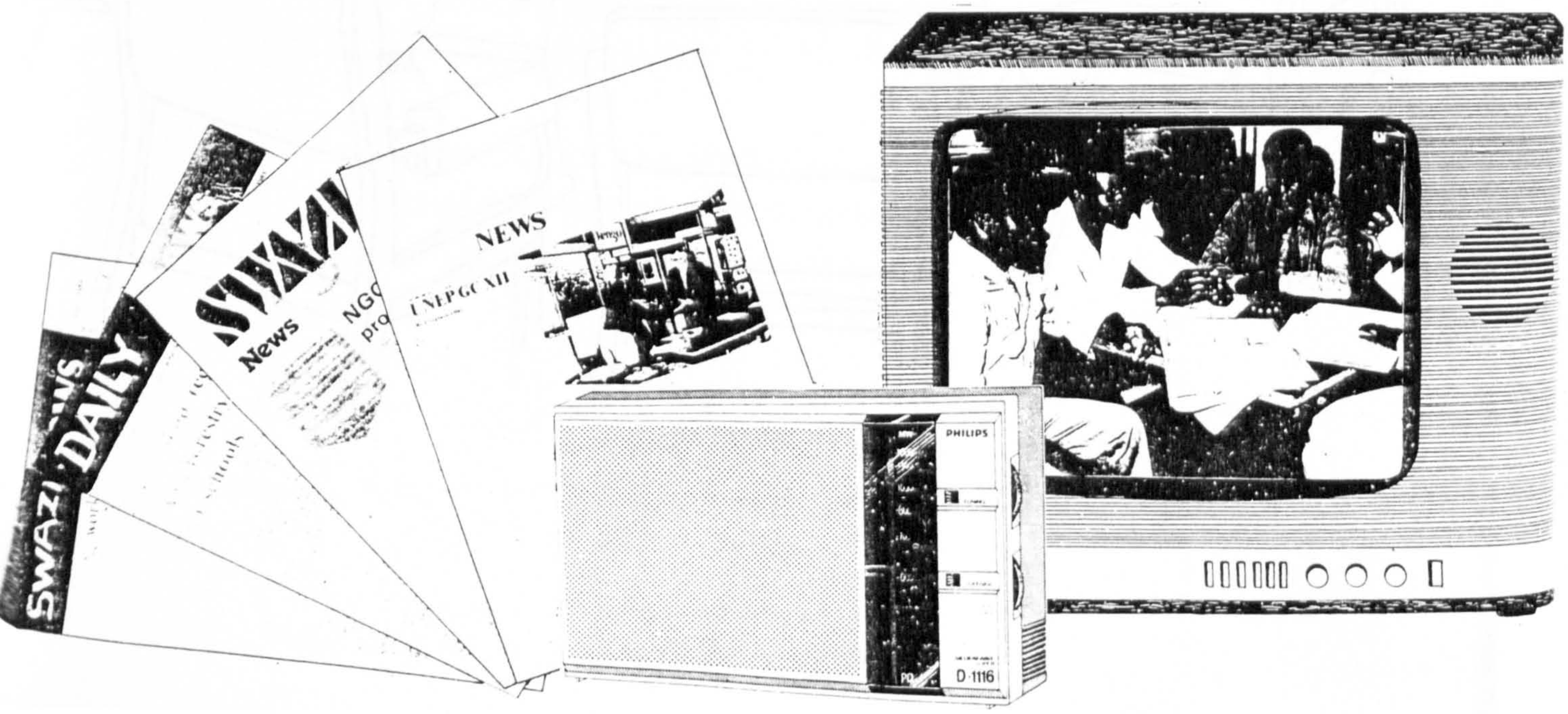
ISRAEL MTHETHWA: employed by McAlpine & Sons. He was a member of the McAlpine & Sons Workers' Committee. He later volunteered to organise the Building and Construction Workers' Union when he was relieved of his job with the McAlpine.

THE TEXT AND GROUP ACTIVITIES

The text of various topics carry brief basic information and facts, they are by no means conclusive to provide every information on the topics. More information and facts are expected to come out during group discussions.

The group activities appearing after each text are designed to stimulate discussions on the text. The activities provide useful exercise for practice enabling participants to look back to the text and to draw out more information from their own experiences. In this way, the chances for assimilating new knowledge are enhanced.

If further information is still required, participants should not hesitate to seek such information through other sources such as radio, and television programmes, publications, field trips and visits or to invite experts. For example, if the discussion is on collective bargaining agreements, there might be need for a union secretary's guidance or need for a factory inspector's guidance if discussion is on Occupational Health and Safety.



A Study Circle may need an expert's views

WHY STUDY CIRCLES?

It is because:

>> under the study circle education, many members will be reached with education at their place of work, at branch office or at their own homes at a nominal cost to the union.

>> study circles are democratic and the study circle leader is a fellow worker who is equal with every member of the study circle; he does not dictate matters or act as a school teacher, every member has an equal say on planning and the running of the study circle.

>> every study circle member actively participates in discussions and every member's views and opinions are respected.

>> members cooperate with each other, share experiences, compare notes and learn from each other which is just the same as they would learn from study materials.

>> the study circle members practically examine, analyse and search for solutions to workers' problems.

>> the personal experiences of the study circle members at work is one of the most important things they bring to the study circle.

>> membership to the study circle is regardless of educational background, age or position; the only qualification is the union membership.

HOW TO FORM STUDY CIRCLES

Trade union members interested in pursuing trade union studies can voluntarily form study circles. Each circle should have at least five members and not more than fifteen. Members of one study circle may come from one company or from several neighbouring companies or members residing at one place.

1. Facilities:

Study rooms:

they can use social halls, schools, union branch offices, company halls or their own homes.

2. Equipment:

Once study group is formed, they sould seek aid from their union for such things like study materials, chalk-board and writing materials. Sometimes, participants may provide their own writing materials.

For more information, they can contact the branch secretary or someone responsible for educational activities in their union.

HOW TO USE THE STUDY MATERIAL

After the introduction session, the participants should decide on which topic to start with. Afterwhich it is recommended that the participants should divide themselves into smaller groups of say, two to four per group for the purpose of going through the text and discussing the group questions. The reason for working in smaller groups is to ensure active participation by every member. If a group is larger than four, there will be competition for chances to speak or some members will be passive or the group splits.

In each group there should be someone appointed to act as a chairman to direct discussions and someone as a secretary or a recorder to record answers and decisions of the group for reporting when the groups reassemble together. These responsibilities should be rotated among group members after each session.

The study circle leader should check the small groups to see whether they are on the right tracks and provide them with any assistance they might need. During the reporting, the study circle leader should record important views from each group with a view to drawing one acceptable conclusion for each question.

TIME FOR EACH SESSION

This will depend entirely on the study group itself, but the only advice is that the study circle leader must be alert all times to ensure that discussions end when the group has exhausted the session, otherwise irrelevant discussions may develop resulting in time wastage.

CONTINUING TO THE NEXT SESSION

Before starting on a new session, the study circle leader should give a brief summary of the previous chapter and introduce the next one.

3. SESSION ONE:

GETTING TO KNOW EACH OTHER

During the first meeting, it is important that there is an introductory session because when people meet for the first time, they tend to be reserved and unable to feel free, so in order to set a good climate to promote understanding, each member of the group should be given an opportunity to take an active part in the introductory session by telling the group:

- his/her name
- where he/she resides
- where he/she works and for how long
- when he/she became a union member
- whether he/she holds any position in the union
- reasons for enrolling in study circle
- any other

GROUPWORK ON VALUES OF INTRODUCTIONS

TASK:

You have just participated in the introductory session. In your small group, make a list of what you consider to be the main advantages and benefits of starting a course in this way. Take into account the point of view of the Study Circle leader as well as that of the participants.

4. SESSION TWO:

THE TRADE UNION MOVEMENT IN SWAZILAND

Swaziland because of its economic viability, created an excellent climate for employment as early as the colonial period. Industries like mining, sugar and forestry were the most important areas of economic activities in the early days of Swaziland industrialisation. These economic activities acted as a stimulus for organised labour in order to safeguard workers against injustices such as poor working conditions and low pay.

Despite the high rate of illiteracy among the working masses, the gospel of trade unionism was beginning to be received in 1960's by many as a result of the social injustices.

THE PERIOD 1960 — 1968

Early in 1960 the local authorities and the British Government had acknowledged the urgent need for communication between workers and management and as well as looking into their working conditions, hence the appointment of the F.C. Catchpole Commission in May 1960 whose terms of reference was to look into the labour relations in the face of growing socialisation of labour. Those days the fixing of wage rates was the sole prerogative of employers since there was no machinery for collective bargaining, despite the so-called "Wages Determing Proclamation of 1937 (Cap 123)".

When the commission published its report, the then Labour Secretary, Mr. Wilson commented on the report as follows: "The main problem associated with economic development in which all others have their cause are the rapid growth of a large permanent industrial labour force and the accompanying changes in the basic attitude to employment on the part of the Swazi worker. Gone are the days when all problems could be settled on the basis of personal relationship between the employer and the employee. The labour relations of the future will be dominated by mass attitude. It is important therefore that the law should provide a framework for peaceful industrial relations guaranteeing certain minimum conditions of employment in order to minimise discontent by providing machinery for negotiations."

The report of F.C. Catchpole Commission further acknowledged that there were no trade unions in Swaziland then, due to that, only a few minor amendments were suggested to the Trade Unions Dispute Proclamation No. 31 of 1942. It concluded that industrial expansionism was however proceeding at a high pace and it was considered that problems and difficulties affecting labour may arise in not too distant future.

The commission's report came out at a time political movements were also being organised by the African nationalists, as a result, the report was received in some quarters with skeptism. But the workers were quite happy with it.

FORMATION OF THE FIRST TRADE UNION

In 1962, the country saw the first trade union formed in the name of Pulp and Timber Workers' Union whose primary aims were to improve the working conditions of all workers in the forestry and further to promote formation of workers organisations in other industries so that the organizations could be united under a federation of trade Unions.

THE STRIKE THAT PARALYSED PRODUCTION

Not before long, after the registration of the Pulp and Timber Workers' Union it was forced by poor conditions of work and the employers' attitude to call a strike on 6 April, 1962. This caused diverse effect on the future development of trade unions. The strike only affected the forest and the pulp plant. But early 1963, the strike broke out again spreading to all industries developing into a national strike paralysing the production and services throughout the country.

THE CAUSE OF THE NATIONAL STRIKE

The entire country was not only undergoing economic changes but also experiencing political awakening like the rest of Africa. Political parties were seeking the support of workers capitalising on unhealthy working conditions prevailing in workplaces. As the strike spread to Ubombo Ranches on 18 March, 1963, Havelock Mines on 20 May 1963. Virtually every big company was struck. Political parties such as Swaziland Democratic Party and Swaziland Progressive Party came out

in support of workers, whereas the Swazi National Council and European Advisory Council alongside with employers opposed the strike. Although the real causes of the strike were the appalling working conditions and the employers' attitude towards the workers, the involvement in the strike by politicians in order to influence workers' support for their political parties, made the strike to be viewed as political rather than industrial. This sparked off bitter exchange of words between opposing political parties.

Due to total failure to avert the strike, His Majestry the King, Sobhuza II intervened by sending the following appeal in a telegram especially to the miners where Prince Masitsela had been appointed by the Swazi National Council as a labour Officer;

> "NO TRUE SWAZI WOULD TALK TO ME THROUGH THE STRIKE STOP IF ANY MISUNDERSTANDING EXISTED ARRANGEMENTS FOR DELEGATES TO VISIT ROYAL HEADQUARTERS SHOULD HAVE BEEN MADE THROUGH UMNTFWANENKHOSI MASITSELA."

Unfortunately, the striking workers defied the Royal directive, an act which was viewed as an end of trade unionism in Swaziland. This was because to a Swazi, defying the authority was unknown, foreign and unacceptable.

As the strike continued, the British Government representative, the Resident Commissioner requested for assistance from the Home Government to reinforce the local police force of 350 men. On the 16th of June, 1963, an airlift of the First Battalion Gordon Highlands from Kenya arrived to crash the strike.

THE STRIKE AFTERMATH

Approximately 66,000 man days were lost, assessed at approximately E2m. The cost to the Government in increasing the police force was considerably high. Hostility to trade Unions by the Swazi National Council, European Advisory and the employers increased considerably.

The Registrar of Trade Unions embarked on a mass de-registration of trade unions. Internal squabbles due to political differences also rocked such unions like Clerical and Commercial Workers' Union and Swaziland Railways Workers' Union.

THE PERIOD AFTER INDEPENDENCE

The Kingdom of Swaziland became independent on 6 September, 1968 after the election in 1966 which was won by the Swaziland National Council led by Prime Minister Prince Makhosini Dlamini. After the independence when one would have expected a change of attitude towards the trade unions, instead, the Swazi National Council revealed its opposition to the trade unions, some of its leaders claimed that there was no need in Swazi society for such foreign influences like trade union, furthermore, they made an attempt to control the trade unions by sponsoring one national trade union body to cater for all workers in the country. However, the idea was totally rejected by the workers and therefore the union was not formed. After this failure, further move was made with the advice of Mr. Ken Baker who was attached to the Labour Department. As a result of the move, the first federation of the Unions was formed. Poor conditions of work prevailing at that time prompted the I.L.O. intervention. The ILO offered a scholarship to the federation for which Joseph Zwane was nominated to attend a study course for six months in Canada. International Confederation of Free Trade Unions also showed interest by sending a representative to assist Swaziland workers with the formation of genuine democratic trade unions free

from employers and politicians domination. His efforts culminated in the formation of the present Swaziland Federation of Trade Unions (SFTU) by seven trade unions on 19 October, 1971 at a meeting held at the Mbabane Central School, the seven unions were:-

1. Swaziland Miners and General Workers' Union
2. Swaziland Citrus Plantations, Agricultural & Allied Workers' Union
3. Amalgamated Union of Ngwane Commercial Industrial Workers' Union
4. Swaziland Bank Workers' Union
5. Swaziland Government Industrial Workers' Union
6. Swaziland National Union of Teachers
7. Swaziland National Union of Civil Servants

The following were elected to lead the federation:-

Bro. A.V. Kunene	-	President
Sister G.N. Simelane	-	General Secretary
Bro. V.N. Dlamini	-	Asst. General Secretary
Bro. P. Mngomezulu	-	Treasurer
Bro. O.M. Dlamini	-	Committee Member
Bro. V.Z. Simelane	-	Committee Member

The federation was not registered until 23 March, 1973

Due to political upheavals in 1973, King Sobhuza II at the instigation of the Prime Minister, Prince Makhosini suspended the country's constitution on the ground that it was unworkable and further announced the dissolution of parliament and declared the state of emergency. Under the emergency, workers were denied the right of assembly and all check-off systems were cancelled and attempts made to substitute trade unions with "Works Councils." The conditions made the Unions die a natural death. The only trade union to survive was the Banks Workers' Union due to "bank stop orders" which ensured the continued collection of union subscriptions. But due to the ban on meetings, the union engaged on no activities at all, except negotiating with the Standard and Barclays Banks on salaries.

While due to de-registration of some unions, ban on meetings and cancellation of check-off system were responsible for trade unions disappearance, the only trade union banned by the Government was the Swaziland National Union of Teachers following teachers - students' strike.

The federation, though adversely affected by loss of its affiliates, continued to exist with almost no activities at all, except its delegation led by the General Secretary, Miss G.N. Simelane which appeared before the Constitution Commissioner in 1973 to air the workers' views on the country's constitution.

RE-ESTABLISHMENT OF TRADE UNIONS

The Kingdom of Swaziland Government became a member of the I.L.O. in 1975. After becoming a member, the Government ratified 15 ILO Conventions and established the Labour Advisory Board to which the Government SFTU and employers representatives were appointed in order to provide for tripartite consultations on labour matters. The change necessitated the re-activation of the SFTU in order to represent workers on the Advisory Board, at ILO meetings and in other areas where workers' interests are involved. The consultations at the Labour Advisory Board led to the enactment of the Employment and Industrial Relations Acts in 1980. The promulgation of the two acts marked a new phase of industrial relations development in the Kingdom of Swaziland, because, the Industrial Relations Act provided for the formation of industrial trade unions and laid down the machinery for settling industrial disputes which included the setting up of the Industrial Court. Due to the long absence of trade unions in Swaziland, it took considerable time to revive the unions in terms of the new law, because, workers were unaware of the provisions of the act. The trade unions formation only became a reality after the SFTU with the support of the Government approached the ILO and OATUU Nairobi Project Office for assistance on workers' education aimed at creating workers' awareness about the act and the importance of forming trade unions.

The ILO acting on the SFTU request, sent a workers' educator in the second half of 1981. The ILO educator conducted a number of education activities. OATUU Nairobi Project Office also responded and carried out in conjunction with SFTU, a number of education programmes on basic trade unionism in 1982 and 83. The ILO further offered technical

advice to the various interim committees set up for the purpose of formulating constitutions and effecting the registration of industrial unions. These activities created an awareness among Swaziland workers of the crucial need to form trade unions. As a result, five trade unions were registered in May 1983 and five others were in the process of being registered. The five unions registered were:

1. Swaziland Agriculture and Plantation Workers' Union
2. Swaziland Commercial and Allied Workers' Union
3. Swaziland Union of Financial Institutions
4. Swaziland Manufacturing and Allied Workers' Union
5. Swaziland Transport Workers' Union

S.F.T.U. OPENED AN OFFICE IN MANZINI

In order to facilitate the registration of the trade unions, the SFTU opened an office in Manzini early 1983 with the assistance of the Commonwealth Trade Union Council which provided funds for paying office rent and a typist for a period of six months. After that period it was anticipated that the trade unions formed would assume the responsibility of paying for the running of the office.

ACTIVITY:

AIMS: 1. to enable you learn what happened in the past

2. to enable you to improve your unions based on the past experiences

TASK:

In your small groups, discuss the following questions and record your answers:

1. When was your union formed and who were the founder leaders ?

2. Make a list of problems and weaknesses of our early trade unions which you have learned through the text. Find out if the problems are still with our present trade unions ? What do you suggest should be done ?

YOUR UNION ORGANIZATION

FIND OUT:

AIMS:

- to prepare for a discussion about your union organization
- to find out about your local union organization.

TASK:

Before next week's study circle session, try to find out the following:-

- do you have a local branch ?
- have you or your colleagues ever attended a union meeting ?
- has a union official ever visited your workplace ?
- do you or your fellow members know the name of your General Secretary, President or Treasurer ?

5. SESSION THREE

UNION AIMS

WHY FORM A UNION?

Why did you decide to form a union ? There may have been several different answers given by participants. Here is a list of some of the more common reasons given when workers are asked what made them form a trade union.

- Unity is strength
- Better wages
- Better conditions
- A safe work place
- Freedom from exploitation
- Union benefits
- To have a stronger voice at work
- To play a part in society

UNITY IS STRENGTH

Workers soon find that they have a common interest. This common interest is referred to by unionists as solidarity. Workers join together in order to increase their bargaining power. This allows them to negotiate on more or less equal terms with management. The individual worker cannot bargain with management in the same way. The bargaining carried out in works councils are also limited due to the fact that the workers' representatives on these councils are first and foremost employees of the company and are bound to fear employers for victimisation when they prove to be tough. They lack bargaining skills and lack unity with their fellow workers doing the same job in different undertakings. Workers that have no organization which unites all workers in an industry to oppose the employer cannot bargain. They can only beg and beggars must be satisfied with what is given to them.

BETTER PAY

Trade unions aim to win adequate secure wages. This means giving you a reasonable standard of living. It also means winning fair shares, especially if productivity is improving. And it means protecting your income during sickness, when having children and in retirement.

A secure income means a reasonable basic rate - not having to rely on overtime and bonus payments which change from week to week. Unions also aim to make sure you get a proper rate for the job you do. So our aims are:

* productivity
* hours of work
* holidays
* overtime
* discipline
* promotion
* pensions
* sick pay
* work breaks
* welfare facilities
* maternity pay

As unions become stronger then they usually extend the range of things that they bargain over with management.

SAFER CONDITIONS

Everyone has the right to work in decent, comfortable conditions. This includes protection from risks to safety and health. Without union action these rights will often be disregarded. We aim for:

* removing safety hazards
* controlling risks to health
* good welfare facilities.
* good canteen arrangements
* protection from stress

We demand better and safer working environment

FREEDOM FROM EXPLOITATION

Unions aim to protect members against unfair treatment, such as discrimination or victimization. That means representing members who are threatened with unnecessary discipline or dismissal, and defending them when they need it. It can mean negotiating fair procedures and safeguards for discipline and dismissal cases.

Descrimination: It means opposing discrimination and prejudice because of race, sex, tribe or any other reason. More than that, it means taking positive steps to make sure that all have a fair chance of work, training and promotion. Unions aim to:

* defend disciplined members
* oppose unfair treatment
* negotiate fair promotion procedures
* oppose discrimination
* negotiate for equal opportunities
* stop victimization

UNION BENEFITS

Some wealthier unions provide their members with benefits such as sick pay and pensions. While many such benefits are now being developed by the state, such union benefit schemes can assist union members when they are in need. They have been a way of encouraging workers to join unions.

TO HAVE A STRONGER VOICE AT WORK

Union organisation gives members a chance to influence events at work. You have far more influence acting together than just as an individual.

Union democracy means that each member has a say in union policies. All members should be involved in discussions and decisions about the approach the union should take.

At local level, this means taking part in meetings at the workplace and union branch. And members can influence unions at higher levels by sending resolutions and delegates, and taking part in union elections.

TO PLAY A PART IN SOCIETY

At national level unions will cooperate with government and industry in the economic development of Swaziland. The Swaziland Federation of Trade Unions will also seek to ensure that workers' views are taken notice of by industry and Government. Workers have a crucial role to play in the development of the country. By joining and being active in a union, you can make sure that you play your part in Swaziland's growth and progress.

ACTIVITY

AIMS:

- to think about why people join unions
- to develop arguments to encourage people to join unions
- to practise using counter arguments.

TASK:

Your study circle leader will divide you into non-members and trade union representatives. The non-members will be asked to prepare anti-union arguments and the trade unions reps to prepare the case for trade unionism.

When preparations are complete, your study circle leader will set up interviews between non-members and representatives. The idea is for the union rep to convince the non-member to join the union.

NON-MEMBER'S BRIEF

You have just joined the firm and a trade union rep has arranged to meet you to explain the advantages of trade union membership. You have not belonged to a trade union before and you are against trade unions. You want to know what the advantages are.

REPRESENTATIVE'S BRIEF

You work at a factory where about half the workers are in the union. Your union is now trying to persuade the non-members to join up. You have arranged to meet a non-member to persuade him/her to join.

FIND OUT:

AIMS:

- to put the information you have learned to practical use.

TASK:

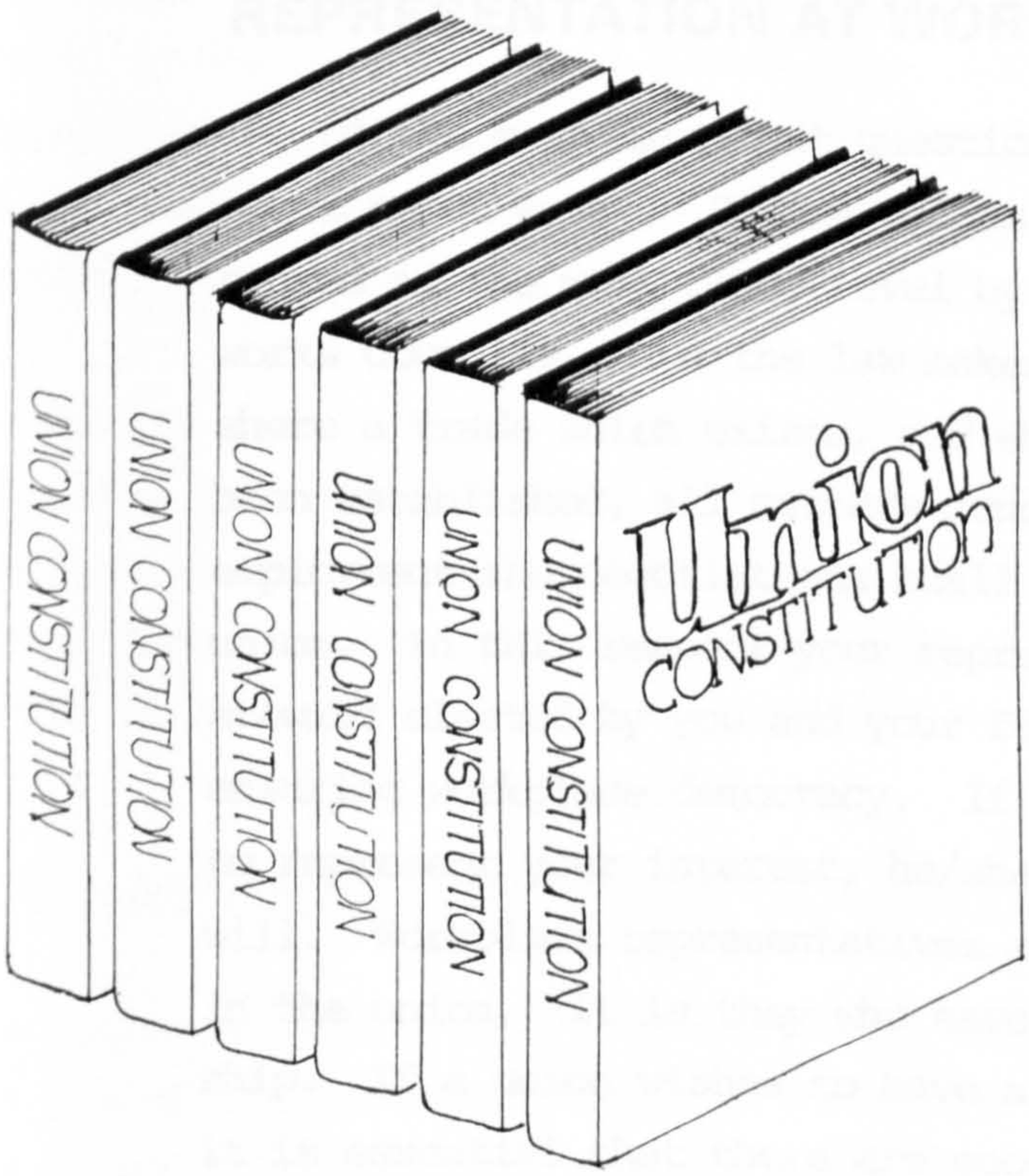
Before next week's study circle session, try to find out if there are any non-union members who work in your section or department. Talk to them about the union and try to persuade them to join up. Remember to tell your local union reps what you are doing and why.

6. SESSION FOUR:

HOW YOUR UNION FUNCTIONS

The law of Swaziland guarantees the FREEDOM of Association and the right to ORGANISE. This means that workers in Swaziland have legal right to organise themselves into trade unions of their own choice for the purpose of engaging in collective bargaining with their employers in order to improve their working conditions. The law not only guarantees the rights, but also protects the rights against any interference either by employers or public officers.

UNION CONSTITUTION



Your union is a democratic organization which represents your interests and those of your fellow workers in the industry. All members have equal rights to participate in union activities, stand for election, vote for candidates for union office and express their views on union policy. Your union constitution will lay down the way your union is organised and what structure it has. All union members have the right to read their union constitution and have a duty to read and understand it. A copy of all union constitutions has to be given to the Ministry of Labour where they are checked to make sure they obey the law. Trade union structure is bound to vary from union to union. You need a structure which suits your needs best, that is to say, the structure which reflects the realities, problems, capacity and financial means of your union.

The importance of your union structure is to determine areas of responsibilities; and the way members will work together towards the achievement of the aims and objectives of the union.

We will now look at the different parts that go to make up most union organizations.

REPRESENTATION AT WORK

One of the most important questions for a union member is who represents me at work ? Before unions were established workers were represented at the work place level by workers representatives to the works councils. Now the law makes it very clear that in an industry where a trade union exists, and where joint industrial council has been established, all matters concerning terms and conditions of employment and negotiations shall be the sole responsibility of the union. In this respect your representative will be your union shop-steward elected by you and your fellow workers. This is one way of ensuring workplace democracy. If your representative constantly fails to represent your interest, he/she can be replaced with someone who will. Workplace representatives are among the most important people in the union. It is they who have the closest contact with the membership. If a union wishes to have a good workplace organization, then it is essential that there are good links between the workers and the union.

YOUR UNION BRANCH

At initial stage, you may not have an active union branch. As unions grow and attract more members then they will create more and more branches to represent local union members. Union branches are sometimes based in one workplace, or, more often, in an area or a town. All members in the area covered by the branch will have a right to attend branch meetings. Some of the important things a union branch can do are:

- to act as a forum for members.
- to give union members a chance to compare conditions of work at different companies.
- to settle grievances and disputes between union members.
- to organise membership drives.
- to organise educational and social activities
- to make sure the national union is aware of the members' feelings on issues and policies.
- to send resolutions and delegates to the national union congress or general meeting.

The branch is a very important part of the union because it is in direct touch with you, the member. For a union to be strong and democratic it must have a solid foundation. Its branches must be well organized and should keep members informed and involved in the affairs of the union. Likewise, union members have a duty to go to branch meetings regularly and take an active part.

The branch will normally be run by a branch committee. The branch committee will deal with the day to day affairs of the branch, call meetings, control the finances of the branch and keep in touch with the national office. As with other union officers, branch officers should be elected and stand for re-election regularly.

THE NATIONAL EXECUTIVE COMMITTEE

Your union will probably have a National Executive Committee. It is the job of the National Executive Committee to manage the affairs of the union. It deals with the day to day affairs of the union and also has the job of interpreting and implementing official union

policy. Union policy is usually decided by the General Meeting which we shall look at next.

THE GENERAL MEETING

This is the supreme authority of the union. The General Meeting will generally meet at least once a year. The General Meeting is open to all members, who must receive 21 days written notice of the time and place of the General Meeting. The most important function of the General Meeting is to decide the policies of the union. This is usually done by discussing issues and voting on resolutions. The resolutions that are debated at the General Meeting come from members. In this way, you, the active member, has a say in how your union is run. Some union constitutions will also give the General meeting powers to appoint full-time officials of the union. In between one General Meeting and the other, it is the job of National Executive Committee to make sure that union policy is implemented.

BIENNIAL DELEGATES CONFERENCE

Biennial Delegates Conference shall meet at least once in two years. The business of the conference shall be strictly the election of national officers and trustees. It will be attended by in addition to national officers and trustees, delegates from branches or from industries forming the union as the General Meeting so decides.

ACTIVITY

AIMS:

- to find out about how your union functions
- to think about how you can influence things

FIND OUT

Your study circle leader will divide you into small groups. Answer the questions below. You may find pages helpful. One of you should note down your group's ideas.

1. Where does the highest authority in your union lie ?

2. What is the job of your national executive committee ?

3. Why is your union constitution important ?

4. List some reasons for unions developing branches.

5. How in your opinion, do union members take part in making decisions on union policies ?

6. Draw a chart of your trade union structure.

FIND OUT

AIMS:

- to prepare for a discussion about democracy in your union.
- to find out what your fellow members think about the union.

TASK:

Before next week's study circle session, try to find out the answers to these questions. For some questions you will have to talk to your fellow members and find out their views.

1. Did you and your fellow workers vote for your shop-steward or was he appointed by the union ?

2. Have you ever taken part in electing a union official, either at branch level or at national level ?

3. Talk to one or two members at work and ask them whether they think the union is run democratically. Make note of the main arguments they use to agree or disagree.

.../..

7. SESSION FIVE

DEMOCRACY

Democracy and unity are the corner stones or foundation stone on which trade union organisation stands and grows.

WHAT IS UNION DEMOCRACY?

It is a key trade union principle that a union should be run democratically. This means that members must have a say in the running of the union and in deciding union policy. A union must always be accountable to its members. This is possible at workplace level and branch level, where members can directly cast their votes and take decisions during members meetings. It is also important that democracy works at higher levels too. At council meetings and conferences, members' views are reflected through delegates or representatives they have elected. Union policies mean little if they are not backed by the members. This means more than letting members tick a ballot every few years, then giving leaders the rights to take all the decisions without involving the members until the next election. Union democracy must be a continuous process of participation, representation and information. It can sometimes take time and money to achieve, but it's an essential part of effective trade unionism.

EXERCISING YOUR DEMOCRATIC RIGHTS

There are many ways in which you as a member can exercise your democratic rights. Here are some of them:

- by taking part in workshop meetings with your fellow workers to decide how to deal with issues, disputes and grievances.
- by raising issues and placing them on the agenda of union meetings.
- by making sure that your workers' committee and/or union take up your grievances.
- by electing and re-electing your workplace representative.
- by electing and re-electing your local and national officers.
- by attending branch meetings and helping to pass resolutions and sending delegates to conference.

MAKING YOUR UNION BRANCH WORK

It is difficult to see how unions can be democratic unless you build strong democratic union branches. You may find that a lot of your fellow union members won't come regularly to branch meetings. Here are some ideas for improving the way your branch works:

- make sure members can raise items on the agenda
- make sure your branch officers call meetings at reasonable times.
- invite your work-mates along to branch meetings
- suggest to your branch committee that they make the meetings lively and informative
- help make your union branch a social gathering as well as dealing with union matters.

FULL-TIME OFFICIALS

All unions in Swaziland will have full-time officials who organize the union. These officials will normally be paid out of union funds. Most unions will have a full-time General Secretary and Deputy General Secretary. There will also be a number of full-time organisers whose main job will be to organise new members and represent existing members. Many unions will have to appoint full-time officers in charge of union education.

In some unions full-time officers will be elected by the membership, while in others they will be appointed by the National Executive of the union. Whatever they are appointed the most important thing is that they remain accountable to the membership that they are paid to represent. Full time officers should always seek to represent the views of their members.

In Swaziland where many unions are still at infant stage, the task of the full time officer is very important. They will spend most of their time organising new members into the union. The growth of the union will often depend upon the success of their efforts. Their aim will be to organise all workers in the industry.

HOW DECISIONS ARE MADE IN YOUR UNION

Unions have developed different ways of making sure that decisions are reached democratically. You may be familiar with some or all of these methods.

By Consenus

You may have been at union meetings or meetings of fellow members at work where there has been a grievance to discuss. The person chairing the meeting will provide a general discussion on the subject. After this discussion, there is general agreement on the line to be taken.

By Show of Hands

If there is disagreement then it may be essential to take vote. The most common form of voting is by show of hands. The hands are then counted and the chairman will declare the results. It is quite common for the chairman to appoint someone to carry out the count.

By Acclamation

This method is not very common. It is sometimes used in large congresses or conventions. Those in favour of a particular motion will be asked to shout and later, those against shout. The decision will be passed in favour of those who make the biggest noise.

.../..

By Ballot

Some decisions are made by ballot. This method is often used for election of officers. The ballot can be a direct one taken at a meeting, or a secret ballot where no one knows who voted for whom or what. A secret ballot is very similar to a political vote or election. If this method is used then normally the counting of the ballot papers is carried out by an independent body.

MAKING SURE THAT MEETINGS ARE FAIR

One of the responsibilities that members have is to make sure that meetings are run fairly and everybody has a say. Here are some questions you may like to ask about the meetings you take part in:

* is everyone participating ?
* does only one person speak at a time ?
* does the chairperson seek to find common ground between opposing views ?
* does the chairperson highlight any proposals from the meeting ?
* does the chairperson make sure that clear decisions are made and that everyone knows what they are ?
* do the members feel that the meeting was fair ?
* are minutes taken correctly ?

These same questions apply to all union meetings.

ACTIVITY

AIMS:

- to help you to think about how decisions are made in your union.
- to help you to assess how democracy is working in the wider union.

TASK:

Discuss these statements in your group and prepare a short report on each question. Try to summarize what the group feels about each topic.

1. Democracy at work is provided by workers' committees and works councils. The union is not involved.

2. Union democracy will not work unless members build strong union branches.

3. How in your opinion, do union members take part in the running of the union ?

4. Union leaders don't represent the views of their members.

5. All full-time leaders should be elected by their membership.

FIND OUT

AIMS:

- to help you think about the different types of people your union represents at work.

TASK:

Before next week's study circle session try to find out the answers to these questions.

1. Do you have both men and women union members at work ?

2. Do you have both skilled and semi-skilled union members at work ?

3. Do you have clerks and supervisors who are union members at your workplace ?

8. SESSION SIX: UNITY

UNITED WE STAND, DIVIDED WE FALL

Unity is sometimes described as the first principle of trade union. Unity is strength and is really the basic reason why workers join trade unions. You will be familiar with such union slogans as:

"Unity is strength"
"United we stand, divided we fall"
"An injury to one is an injury to all"
"One for all, all for one"

All these slogans express the simple idea that if workers unite they will be stronger and more successful than if they remain divided. Some of the advantages of unity are:

- Unity will increase the bargaining power of unions.
- Unity will make it impossible for management to divide workers.
- Unity will strengthen the union and encourage unorganised workers to join.
- Unity amongst workers will gain the respect of the government.
- Unity means that a union's energy can be concentrated on improving conditions.

UNITY AND BARGAINING

When unions bargain with management, their bargaining strength will depend on whether they have the support of their members. This is especially true of national and local issues. Imagine what would happen if a workers' representative was defending a worker who had been threatened with dismissal and management knew that most workers thought that the worker should be dismissed. It is very unlikely that you could save that person's job.

How successful do you think a union might be if it was negotiating wage claim and management knew that most of the workers would accept much less than the union had claimed ?

These examples demonstrate how important it is to have a united approach. Union officials must seek the support of the membership itself if this is to be achieved.

MANAGEMENT DIVIDING WORKFORCE

Management often has an interest in dividing workers and setting

them up in competition with each other.

In a capitalist society such tactics are very common, and unions need to make sure that such attempts are resisted. Other divisions which management might seek to exploit are:

- Men against women
- Skilled workers against less skilled workers
- Clerical or white collar workers against production workers
- Workers from one department against workers from another
- Union members against non-union members

UNITY AND ORGANISING

A united union will find it much easier to organise new members. Unions grow by demonstrating to workers that they can effectively represent their interests. That is why it is advocated that one union for a particular industry. If there are splinter unions then the workers may be confused about which one to join while employers take advantage. It is the aim of most unions to achieve 100% membership in the industry they operate in. This will not be achieved if there are competing unions.

GOVERNMENT POLICY AND INDUSTRIAL UNIONS

The Government has declared a policy of having one union in one industry. The policy is firmly supported by the Swaziland Federation of Trade Unions. The aim is to ensure that all the workers in an industry are in the same union. The Government is against unions being created to look after the interests of priviledged workers.

LACK OF CO-OPERATION AMONG UNION OFFICIALS

Where union officials quarrel with each other, much of their energies are directed towards gaining over the other. This distracts them from their main task of representing their members. This can be particularly harmful to union members. If peace and stability are to be achieved, then a union must devote its time to working for unity.

REPRESENTING EVERYONE

We have seen that industrial unions may represent different types of workers. Some groups of workers will have particular needs which others don't have. A union must look after these particular interests. This is not the same as giving one group preferential treatment as the needs must be genuine. If, however, a particular group such as skilled craftsmen have an unreasonable demand, such as maintaining the differentials that existed before independence, then this could not be pursued. An industrial union needs to have some clear overall policies and to represent particular groups within the limitations of these policies. Unity is an important aim which is difficult to achieve. There are many ways divisions do occur among members in an organization and unity will only be achieved by firm leadership and sound union policies. However, you as a union member have your own part to play. This can be done by seeking opportunities to educate your fellow members from day to day.

ACTIVITY

AIMS:

- to help you to think about what causes disunity.
- to help you think about improving the consciousness of your fellow workers.

TASK:

ONE

Take an example from your group of an incident where one group of workers fell out with another. Prepare a short report to give to the study circle which includes:

- a brief description of the incident
- what happened
- did the union benefit in any way ?

TWO

Below are a number of situations you may be faced with. Say how you would respond in each case.

1. A fellow worker approaches you and says that he is seeking support to throw out your union shopsteward. His reasons are that the shopsteward is a woman and he doesn't think she should represent them.

2. One of your fellow workers is just about to be promoted to skilled grade. He is the most-experienced worker. Two other workers approach you and ask for your support in stopping his promotion; the reason they give is that he belongs to a political party which they do not support.

3. A white supervisor approaches you to produce maximum bonus for three weeks. In return he will try to get you upgraded. He says that he thinks the bonus targets are easy and wants to demonstrate this to other workers.

FIND OUT

AIMS:

- to prepare for a discussion about Union finances.
- to find out what your members think about union subscriptions.

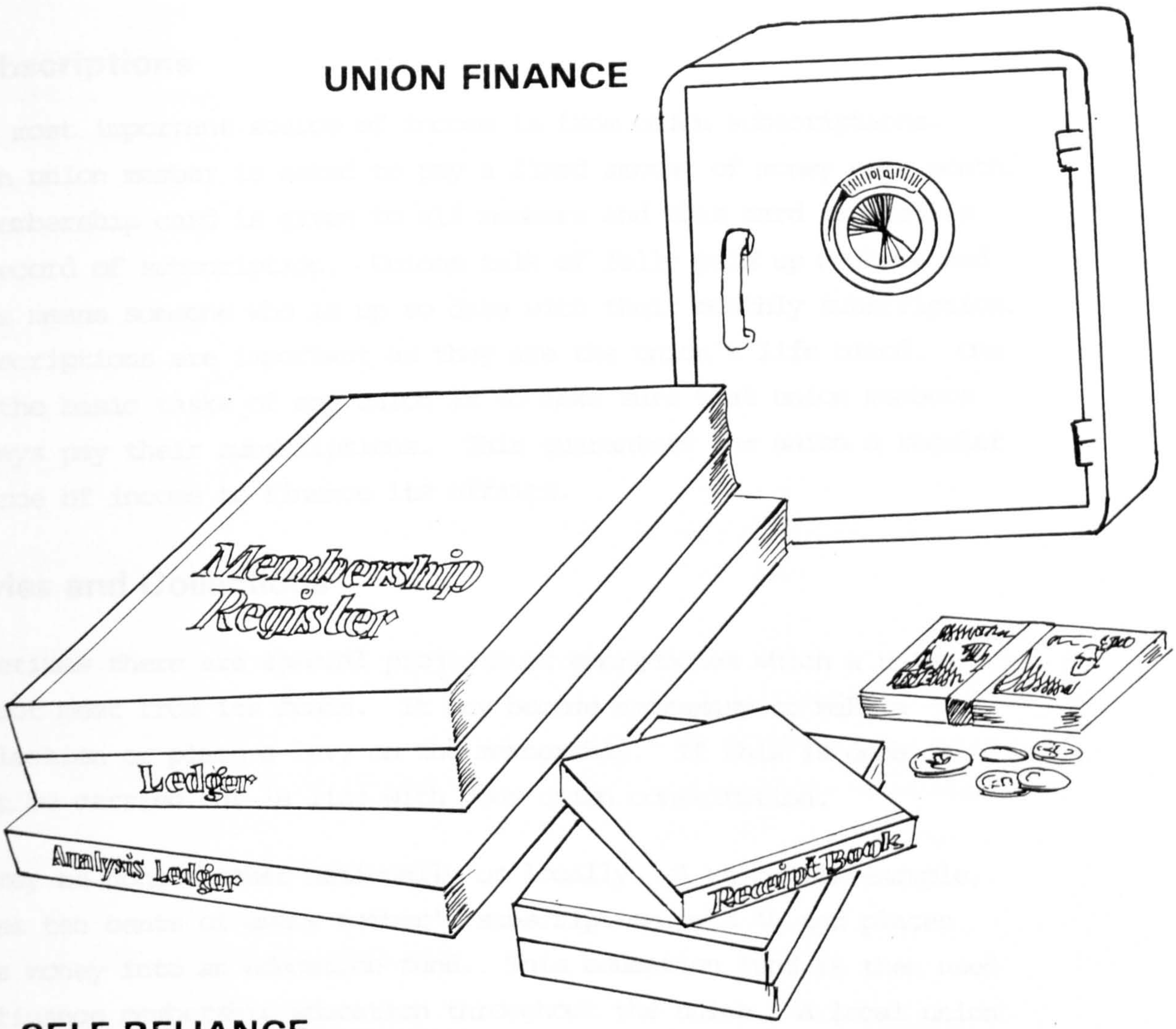
TASK:

Before next weeks study circle try and find out the answers to these questions.

- how much are your union subscriptions
- how are your union subscriptions collected.
- what do your fellow members think about the amount of money they have to pay to the union.

9. SESSION SEVEN:

UNION FINANCE



SELF RELIANCE

One of the main aims of a union is to be self-reliant. This means that unions must have income to pay for the services they provide to members. They should not be dependent upon government, political parties or outside bodies.

SOURCES OF INCOME

Enrolment Fees

Most unions charge an enrolment fee when a new member joins. This is one of the sources of income and is usually a small amount of money. Its purpose is to encourage the committment of new members. Unions do not receive a lot of financial benefit from this source as it does not provide a regular flow of income. If, for example a union recruited 500 new members in a year and the joining fee is fifty cents, then those new members would bring in E250. One advantage of the joining fee is that if the union is carrying out a big membership drive, then it will be getting extra cash as new members join.

Subscriptions

The most important source of income is from union subscriptions. Each union member is asked to pay a fixed amount of money each month. A membership card is given to all members and this card is used as a record of subscription. Unions talk of fully paid up members and this means someone who is up to date with their monthly subscription. Subscriptions are important as they are the union's life blood. One of the basic tasks of any union is to make sure that union members always pay their subscriptions. This guarantees the union a regular source of income to finance its affairs.

Levies and Collections

Sometimes there are special projects or emergencies which a union cannot meet from its funds. It may become necessary to make a collection or place a levy on the membership. If this is done it must be carried out in line with your union constitution.

It may be done whether nationally or locally. A union for example, takes ten cents of every member's subscription paid in and places this money into an education fund. This education fund is then used to finance membership education throughout the union. A local union branch may also seek to fund a particular activity by raising special collection. When unions collect money this way it is very important that members feel that the money is for a useful purpose.

Financial Assistance

There are many international agencies who will help unions in the developing world. Such bodies give assistance to unions to organise and set up their offices. These are useful expressions of solidarity, but the union should ensure that:

- there are no strings attached
- any education work encourages self-reliance and the ability of the union to do its own education
- the union doesn't come to depend upon assistance

LEVEL OF SUBSCRIPTIONS

Setting the correct level of subscriptions is an important decision for union officials to take. If the subscriptions are too low then

the union will not have enough money to run its affairs. This makes it very unlikely that it can expand and organise more members. If the level is too high then potential members may be discouraged. Members and potential members will also look at the union subscriptions in relation to what the union provides. If the union is strong and effective, then they will be more likely to join whether the fee is fifty cents or one lilangeni. Experience from European and African unions suggests that there is a general rule which applies to the level of subscriptions. The rule is that the subscriptions should be 1% of the workers' wage. This would mean that if the union member was earning E100 then the union subscriptions would be E1 per month, and a worker earning E300 would pay E3 per month. A percentage system like this is fair as those who can pay more do so. However, it is more difficult and expensive for the union to administer.

COLLECTING UNION SUBSCRIPTIONS

For a union to prosper it must be able to collect subscriptions regularly. Unions in many countries build their organizations of branches to do this. There are several different ways that unions collect their subscriptions in Swaziland:

Direct Payment to the branch

Union members go to their branch every month and pay their dues. This method relies on the member's willingness to attend the branch at least once a month. In some cases this may be very difficult because after sometime they will relax and as such fail to pay their subscriptions regularly.

Collectors

Union subscriptions are collected from the members by a union official. This may be a full-time organiser or a shopsteward. Usually what happens is that the union will appoint collectors at a workplace who will be responsible for collecting the money and forwarding it to the union.

Check-off System

In Swaziland the law provides for the deduction by the employer of union subscriptions from the wages of union members who have completed

a check-off form authorising the deductions. The money deducted is paid directly by the employer to the union banking account.

This is certainly the most reliable system from the point of view of regularity of income. In countries where check-off is not provided for by the law a union which intends to adopt check off will seek the members' consent to include it in the collective agreement. Members are then asked to sign an authorization form to be given to the employer in order to effect deductions.

Safe guarding union funds

Members need to know that their money is being used correctly. There are many safeguards to ensure that union funds are not misused in any way.

Under the law all registered unions have a constitution and this must say how unions funds are handled. Each year the union has to have its books examined by an auditor. This auditor will be an independent person who has nothing to do with the union. S/he will carry out a yearly investigation of how the union has spent its money. This investigation is published in an auditor's report. The copies of the auditor's report form part of the unions annual return to the Labour Commissioner as required by law. It also forms part of the unions' financial report to the general meeting. Inside the union, unions' funds are controlled by the treasurer of the union. S/he is usually assisted by union trustees. Together they will be responsible for the administering of union funds and keeping the books up-to-date and in order. The treasurer trustees and General Secretary will:

- Act as signatories for withdrawing money
- Prepare financial statements
- Keep the union accounts books in order
- Assist the auditor or registrar of trade unions in their investigations

Union members have legal right to find out the amount of income the union has and how it is spent. They should also be able to find out what reserves the union has in the bank.

BUDGET

Budgeting is a very important part in trade union finance administration. it will enable the union to easily assess its financial position and to be able to plan for future growth of the union.

BUDGET ESTIMATES

a) Estimating income

Think about the unions' sources of income such as joining fee, subscriptions and others. Make estimates on joining fee on the basis of how many members will join the union in the coming year ? Make estimates on subscriptions on the basis of how many will fall out ? How many members after joining the union in the coming year will continue paying subscriptions ? How much money will be forthcoming under other sources ? Based on these projections, the unions income will be estimated at thousands or millions of Emalangeni or as the case may be.

b) Estimating expenditure

Having estimated the income, allocate this income among various headings on which the union intends to spend money in the coming year including reserve fund. When making allocations, the performance in the previous year will be a very useful guide. If for example the income is expected to fall below the previous year then the allocations will also take the same trend. If the income is expected to rise, then the allocations will also increase and new areas of operation may be added as a means of expanding the union.

c) After completion of the estimates of income and expenditure, the budget is then presented to the General Meeting for approval. When the budget has been approved, it means that the allocations must be spent accordingly. Of course, situations do arise when it is necessary to spend more money than was allocated for a particular purpose. In such a case a supplementary estimate is prepared and approved by the Executive Committee.

Through budgeting the union will tell on which activities the union spent more than the allocations and on which ones it

spent less. Your union also will be in a position to know when to raise union subscriptions and by exactly how much. The union officials will also have good reasons for defending the action to increase the subscriptions before the union members.

ACTIVITY

AIMS:

- to think about what is involved in raising union subscriptions
- to practise arguing your case.

TASK ONE

Your study circle leader will divide you into union representatives and members. The union representatives will be asked to explain to union members why the union is doubling its subscriptions. You will be given 10 minutes to prepare your arguments.

UNION REPRESENTATIVE BRIEF

Your union is in financial difficulties and has decided to double its monthly subscription from 50 cents to E1.00 each month. You have to interview a member to explain why the subscriptions have been raised.

MEMBERS' BRIEF

Your union representative has come to inform you about the union doubling its subscriptions but you feel that it is unnecessary to raise them.

GROUPWORK

TASK TWO

In your small groups, consider the following questions:

1. List down the sources of trade union income.

2. a) What problems do affect your trade union finance ?

   b) Suggest solutions to the problems.

3. Make a checklist of activities on which union funds are spent.

4. Give your opinion whether or not union budget is the same as a Government one. Put down any similarities or differences You may find.

FIND OUT

AIMS:

- to prepare for a discussion on collective bargaining.
- to find out the provisions of the law about collective bargaining.

TASK:

Bring with you a copy of the Industrial Relations Act, 1980, a copy of your works council constitution and a copy of Joint Industrial Council constitution to the next study circle meeting.

10 SESSION EIGHT: COLLECTIVE BARGAINING

Collective bargaining has two parts. The first part concerns bargaining over new demands on terms and conditions of employment or improving on an existing collective agreement. This is usually referred to as bargaining over "interest". The second part concerns bargaining over violation of workers' rights. This is usually known as bargaining over "rights", or better known as grievance handling". Both the bargaining over interests and over rights follow the same negotiating machinery set out by parties themselves and the Government. They are part and parcel of the collective bargaining process.

CONDITIONS AFFECTING COLLECTIVE BARGAINING

Collective bargaining can be made possible or impossible by the state laws. No genuine collective bargaining can develop in countries where freedom to organise and to collectively bargain freely is not guaranteed and protected by law. Swaziland in this respect will serve as a case study.

Viewing events as they occurred from the time the first trade unions were formed in Swaziland early 1962. Scared by strikes which followed immediately after the formation of these trade unions, the colonial Government alongside with Swaziland National Council developed anti-trade union attitude and made the going for them very difficult. Many of the unions were threatened with de-registration for dubious reasons. Under the circumstances, the trade unions did not grow strong enough to withstand the opposition from the Government and employers, and therefore could not engage in genuine collective bargaining. This state of affairs persisted up to independence in 1968. Even after independence when one would have expected things to improve, but on the contrary, they got more worse. The Government imposed a ban on meetings unless licenced by the Police Commissioner who naturally would not grant such licence to workers to hold meetings, furthermore, the Government issued a directive cancelling check-off. These conditions made the few unions which survived up to this time to die a natural death. Although the Government encouraged formation of works councils with rights to bargain with their employers, still no genuine collective bargaining could be said to have taken place since works councils were inplant organizations which were bound to be dominated

by employers, not only that, no negotiation machinery existed beyond the plant level for settling disagreements should they occur at the works council.

It is therefore safe to state that no genuine collective bargaining can take place unless:

- the law of the land permits and protects the right to organise and engage on collective bargaining without any interference.

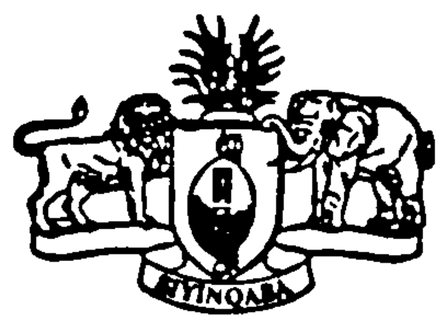
- there are strong trade unions to bargain on equal terms with employers or their agents.

THE LAW AND COLLECTIVE BARGAINING IN SWAZILAND

S1

THE INDUSTRIAL RELATIONS ACT, 1980

(ACT No. 4 OF 1980)



I ASSENT

King of Swaziland

.....19.....

AN ACT

entitled

An Act to provide for the collective negotiation of terms and conditions of employment and for the establishment of an Industrial Court for the settlement of disputes arising out of employment.

ENACTED by the King and the Parliament of Swaziland.

The Industrial Relations Act, 1980 makes the following important provisions on collective bargaining:

1. Workers have the right to form industrial trade unions as

specified under the Act.

2. Trade Unions once established have the right to seek recognition by the employers upon recruiting as members 40% or more of workers in an industry as the conclusive collective employees' representative concerning all terms and conditions of employment including wages and hours of work.

3. The union having been recognised by the employer, has the right to apply for the establishment of the Joint Industrial Council for the purpose of negotiations.

4. Unresolved disputes between the union and the employer at the Joint Industrial Council to be reported to the Labour Commissioner in order to secure a settlement by conciliation.

5. Failure to resolve the dispute by conciliation, the dispute is referred to the Industrial Court for adjudication and final settlement.

The Industrial Court's awards are final and binding on both the parties.

.../..

ACTIVITY

AIMS:

to help you identify conditions affecting collective bargaining.

TASK:

Discuss the following points in your small groups and record down your views on each of them.

1. Can genuine collective bargaining take place where workers are not represented by a trade union of their choice ?

2. Consider what other ways collective bargaining can take place without trade unions. Give your views whether or not such collective bargaining are effective.

3. Find out in what ways the Labour Laws can promote collective bargaining.

.../..

FIND OUT

AIMS:

- to find out the contents of a collective agreement
- to search for information for wage negotiations
- to find out the feelings of workers on collective bargaining by trade unions.

TASK:

In the next study circle meeting, we will discuss about collective bargaining, therefore find out about the following and where you can obtain copies, please bring them to the meeting:

- a copy of a collective agreement, and a copy of Wages Regulation order
- cost of living index
- Job categories
- the minimum wage for the lowest category in your workplace
- the range of wage rates in your workplace
- feelings of your fellow workers about negotiations by trade unions and by works councils.

WHAT IS COLLECTIVE BARGAINING?

Having gone through the above collective bargaining background in Swaziland, let us attempt to define the word collective bargaining:

"Collective bargaining is a precedural negotiation between trade union representatives on behalf of their members and representatives of employers or their agents over the terms and conditions of employment with a view to reaching agreement."

11. SESSION NINE:

THE THREE PHASES OF COLLECTIVE BARGAINING

Collective bargaining begins with receiving demands from members and ends when all the items for negotiation have been agreed upon and a collective agreement signed by both parties and implemented. The three phases are:

- formulation of union's demands
- actual negotiations leading to collective agreement
- implementation of the collective agreement

FORMULATING UNION'S DEMANDS

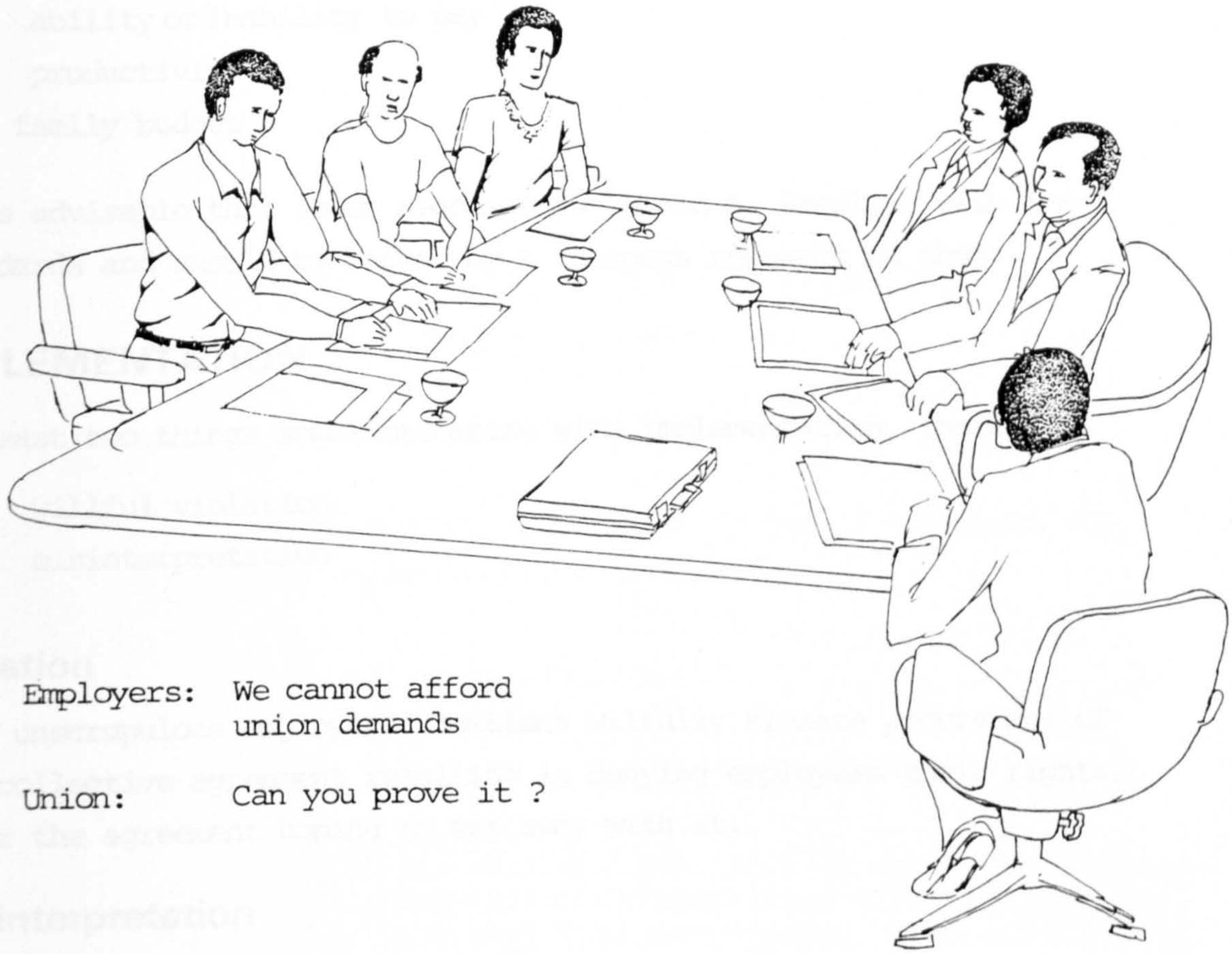
Formulation of demands or proposals is a crucial task between the members and the union officials. Union members will always come up with very huge and wishful demands that if submitted to the employers without adjustments, may scare the employers and shatter the chances of mutual discussions between employers and union negotiators. It is therefore advisable for the experienced and skilled negotiators to assist and convince their members to put forward realistic and reasonable proposals. No matter how unreasonable the ordinary members may appear to be when making proposals, they have a democratic right to be involved and be satisfied that strongest possible demands are being made on their behalf.

NEGOTIATIONS LEADING TO COLLECTIVE

At this stage, feed back to members on the progress of negotiations is important in order to keep them alert and united behind the negotiators, but the information must be carefully considered by all the union representatives at the negotiation meetings. The informations to be given should be only those which will keep members united and not those which may divide them and do more harm to the negotiations then good.

First and foremost, good negotiation climate must be set if successful negotiations are to be expected. Secondly, negotiators must be fully

prepared to negotiate in "Good Faith" and be ready to make concessions if and when they are necessary andin order to bring about "compromise" in a spirit of give and take. This is important because the purpose of engaging in collective bargaining is to secure an agreement at the parties level if possible without involving a third party.



Employers: We cannot afford union demands

Union: Can you prove it ?

During negotiations, parties will bank on their strategies and tactics for success. Union strategies will include:

- timing negotiations with economic boom period
- building union economic power

The above strategies may be viewed as long term, whereas on the negotiation table, unions will resort to such tactics as:

- effective use of figures
- being persuasive but tough
- using well calculated threats
- calling for recess to consolidate approach
- avoiding facts which may favour the employer's case
- seeking informal discussions.

In wage negotiations, there are a number of accepted standards known as "criteria for wage negotiations". Below are some of them:

- cost of living indices
- graging or classification of jobs (jobs evaluation)
- comparison of wages within a company, within an industry or within an area
- ability or inability to pay
- productivity
- family budget

It is advisable that union negotiators should be familiar with the standards and should be backed by a thorough research on them.

IMPLEMENTATION

At least two things sometimes arise with implementation, these are:

- willful violation
- misinterpretation

Violation

Some unscrupulous employers sometimes wilfully violate provisions of the collective agreement resulting in denying employees their rights, under the agreement hoping to get away with it.

Misinterpretation

After signing a collective agreement, sometimes implementing it may lead to violation due to misinterpretation. For instance, a clause may be open to more than one interpretation in which case each party will stick to an interpretation which favours it thereby causing difference of opinion.

In whatever way the violation of an agreement occurs, it will amount to either individual or collective grievance which will be handled in accordance with grievance procedure laid down in the parties agreement. Failure to settle any grievance at parties' level, a report of a trade dispute is made to the Labour Commissioner for settlement by a third party or by the Industrial Court.

To minimise cases of misinterpretation of collective agreements, trade union leaders should insist that the wording of provisions in the collective agreements must be simple, clear and understood by both the parties. This will avoid vague clauses and those which might

be open to more than one interpretation being entertained in the agreement.

ACTIVITY

AIMS:

- to help you learn about collective bargaining
- to help you practice negotiation skills

TASK:

In your small groups, discuss the following questions and record your answers on each of them.

1. What is collective bargaining ?

2. Experienced and skilled trade union negotiators are capable of carrying out collective bargaining without consulting members because they know everything.

3. Make a checklist of the items your union negotiates over with management.

4. Do you have job categories in your workplace ? Do you think that categorizing of jobs is important ? Write down your views.

5. Trade Unions would wish to carry out negotiations during economic boom periods. What are the main reasons ?

6. Why do you think that cost of living indices is important in wage negotiations ? Where would you go for information for them ?

ROLE-PLAY-NEGOTIATIONS

AIMS:

- To help you involve in negotiations
- To help you practice negotiating skills
- To help you appreciate the effectiveness of role-plays

TASK:

Your study circle leader will divide you into union and management representatives and you will be given 15 minutes to prepare your arguments for negotiation session.

Union representatives brief:

Your union submitted a wage demand to the employers and you are to represent the union at the negotiations. The negotiations are taking place during economic boom period. The agreement under review has been in force for a period of 12 months and has only one month to expire. Remember the union tactics employed on the negotiation table and the criteria for wage negotiations.

Management representatives brief:

1. The negotiations are taking place at a time that the management cannot afford to loose even a minute of production time.
2. The company profits are high but they would not agree to an equitable wage increase in order to maximise profits.
3. Remember that the criteria for wage negotiations can be used by both sides to justify their cases.
4. The management also uses such tactics like meeting key negotiators privately aiming to lure them with personal rewards or at least to put their case to them away from negotiation table in a relaxed atmosphere.

.../..

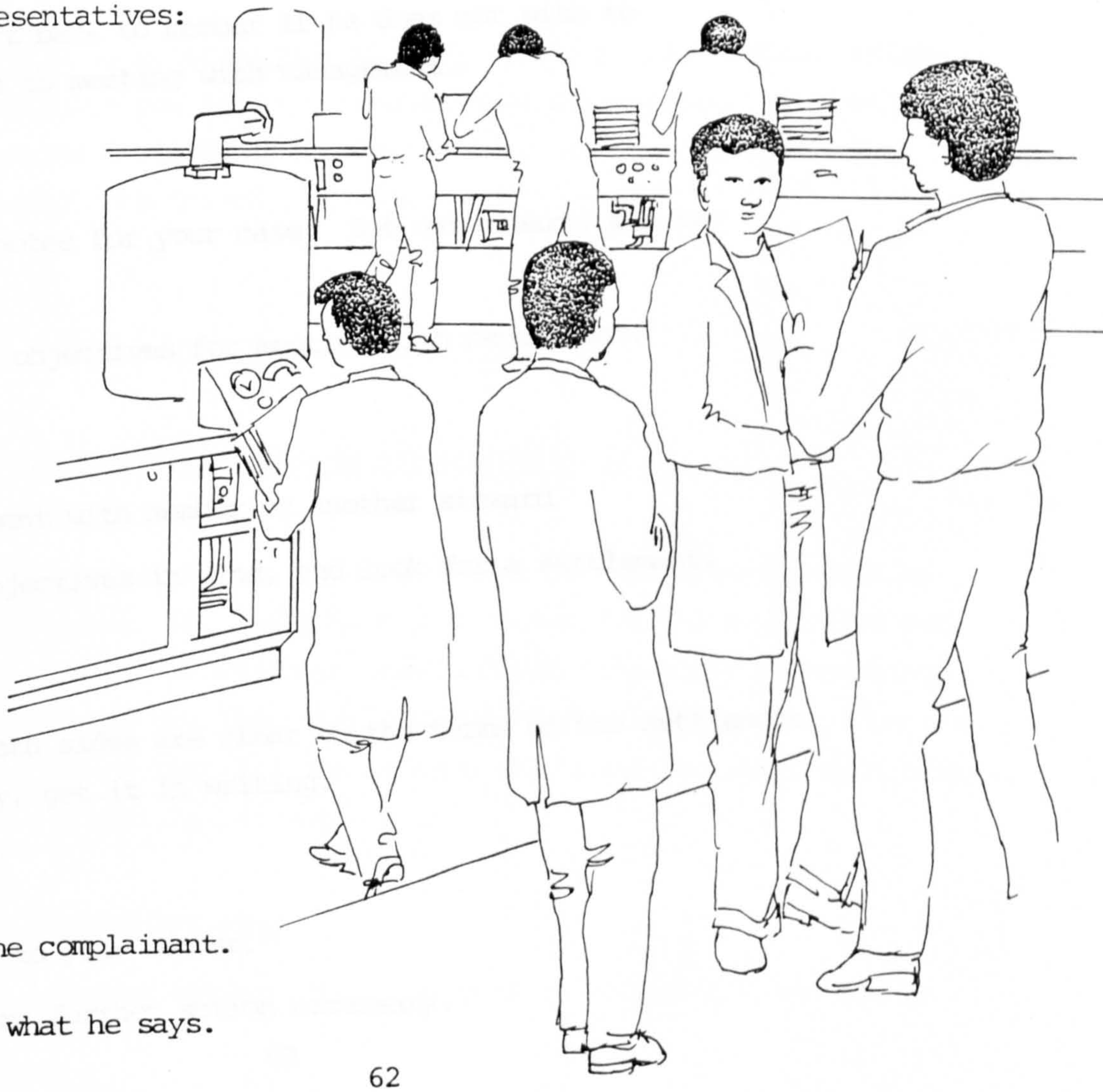
12. SESSION TEN: BARGAINING OVER RIGHTS

Bargaining over rights in normal circumstances is known as grievance handling. Grievances usually arise from violation of workers' rights provided for under the:

- collective agreement
- Labour Laws
- Customs and practices

Not all the complaints union members raise are genuine complaints. In order to know whether or not a grievance is genuine, you should check whether there has been a violation of a collective agreement, the law or custom and practices. It is the duty of every trade union representative to be conversant with all the provisions of the collective agreement, the Law and the custom and practices so as to be able to defend the workers rights effectively.

The following checklist will serve as a guide to grievance handling for union representatives:



Interview the complainant.

Cross-check what he says.

CHECKLIST

Handling Grievances

Step 1

* Interview your member to get the facts of the case
* Check the facts. This may mean:
  - Talking to witnesses
  - Referring to your Agreement
  - Considering your own experience of the problem
  - Talking to your fellow shopstewards.

Step 2

* Decide whether the case is a genuine grievance
* Ask yourself whether the collective agreement, labour laws or common practices have been violated ?
* Tell your member what you propose to do.
* Arrange report back to member if he does not wish to accompany you to meeting with management.

Step 3

* Prepare the notes for your case. Set out clearly all key facts.
* Decide on your objectives for meeting with management.

Step 4

* Meet management with member or another steward
* Keep your objectives in mind, and look for a settlement.

Step 5

* Make sure both sides are clear on the terms of the settlement. If necessary, get it in writing.

Step 6

* Report back to your member.
* Decide on any further action necessary.

* Deal with a member sympathetically and honestly.

Once again you have to keep a balance between your credibility as a union representative and your close relationship with your members. This balance is put under most strain when you decide you have to say no to a member.

Some points that might help you to think about your approach to members are:

* Try to establish a relaxed and friendly tone when interviewing your member. This is especially important if he or she is excited or worried because of his or her grievance. So you are taking the matter seriously and intend to get the full facts, but avoid appearing to cross-examine him.

* Don't leave your member 'in the air' over what you intend to do after the interview. This could lead the member to have false expectations - or it could damage your credibility as a representative. So at the end of the interview with your member say clearly what action you intend to take.

* Follow this up by arranging to report back to your member, unless he accompanies you to your meetings with management. This will avoid anyone getting the impression that you are the kind of steward who 'has chased for an answer'.

NEGOTIATING MACHINERY

The Industrial Relations Act, 1980 provides for the establishment by parties' agreements of effective procedures for the avoidation and settlement of disputes within an industry and individual undertakings. It further provides for the establishment of Joint Industrial Councils for the purposes of negotiations between the Union and management over all terms and conditions of employment.

DISPUTES PROCEDURE

Any dispute existing between the parties which hitherto could not be

settled at the parties levels may be reported to the Labour Commissioner for settlement by conciliation.

Disputes which remain unresolved at the conciliation level shall be referred to the Industrial Court for final settlement. The Industrial Court awards are final and binding on both the parties.

THE IMPORTANCE OF EXHAUSTING DISPUTES MACHINERY

The primary aim of any negotiation machinery is to provide means by which workers and their employers will promote healthy industrial relations between them through mutual trust and understanding with the sole objective of satisfactory disposition of all disputes without resorting to strikes and lock-outs thereby maintaining everlasting industrial peace. It is therefore important for both the union and employers to make the maximum use fo the laid down machinery for the good of all, the workers, the employers and the nation .

ACTIVITY

AIMS:

- To help you learn about grievances

TASK:

Answer the following questions in your small groups. Record your answers.

1. What is a grievance ?
2. How would you know whether a grievance is genuine or not ?
3. Make a list of things which workplaces and local union officials should know.

FIND OUT

AIMS:

- to find out the laid down procedure for settling grievances and disputes.

TASK:

Before the next study circle meeting, find out what recognition agreement or collective agreement say about grievance procedure at the workplace level. Find out what sections of Industrial Relations Act 1980 deal with:

- Joint Industrial Councils
- Reporting of trade disputes
- Referring of disputes to Industrial Court.

CASE STUDY — INDIVIDUAL GRIEVANCE

AIMS:

- to practise how to represent a grieved worker
- to examine what is involved in grievance handling

TASK:

Your study leader will divide you into groups representing union and management. Read through your brief and then prepare for a negotiation session. You will be given twenty minutes to prepare. Both groups should appoint chief spokesman and a recorder.

UNION BRIEF

A skilled employee named John lodged a complaint with the shopsteward that he felt he was undergraded and therefore being underpaid. He wishes to be upgraded to the grade of foreman. The union has a collective agreement which provides among others, grades of unskilled worker, semi-skilled worker, skilled worker and foreman. The management also created an apprenticeship scheme which it is quite satisfied with. The scheme has the following regulations:

1. Only candidates aged between 18 and 25 years with minimum education of division three 'O' level senior school examination quality for training under the scheme.

2. Apprenticeship training period is five years.

3. At the end of the training, trainees are tested by the company and the successful ones are promoted and the promotions confirmed to individual concerned in writing.

Mr. John had served with the company for 15 years. During the last 10 years, he trained two young 'O' level trainees who later got promoted to the grade of foreman.

The management rejected Johns complaint on the basis of the apprenticeship scheme.

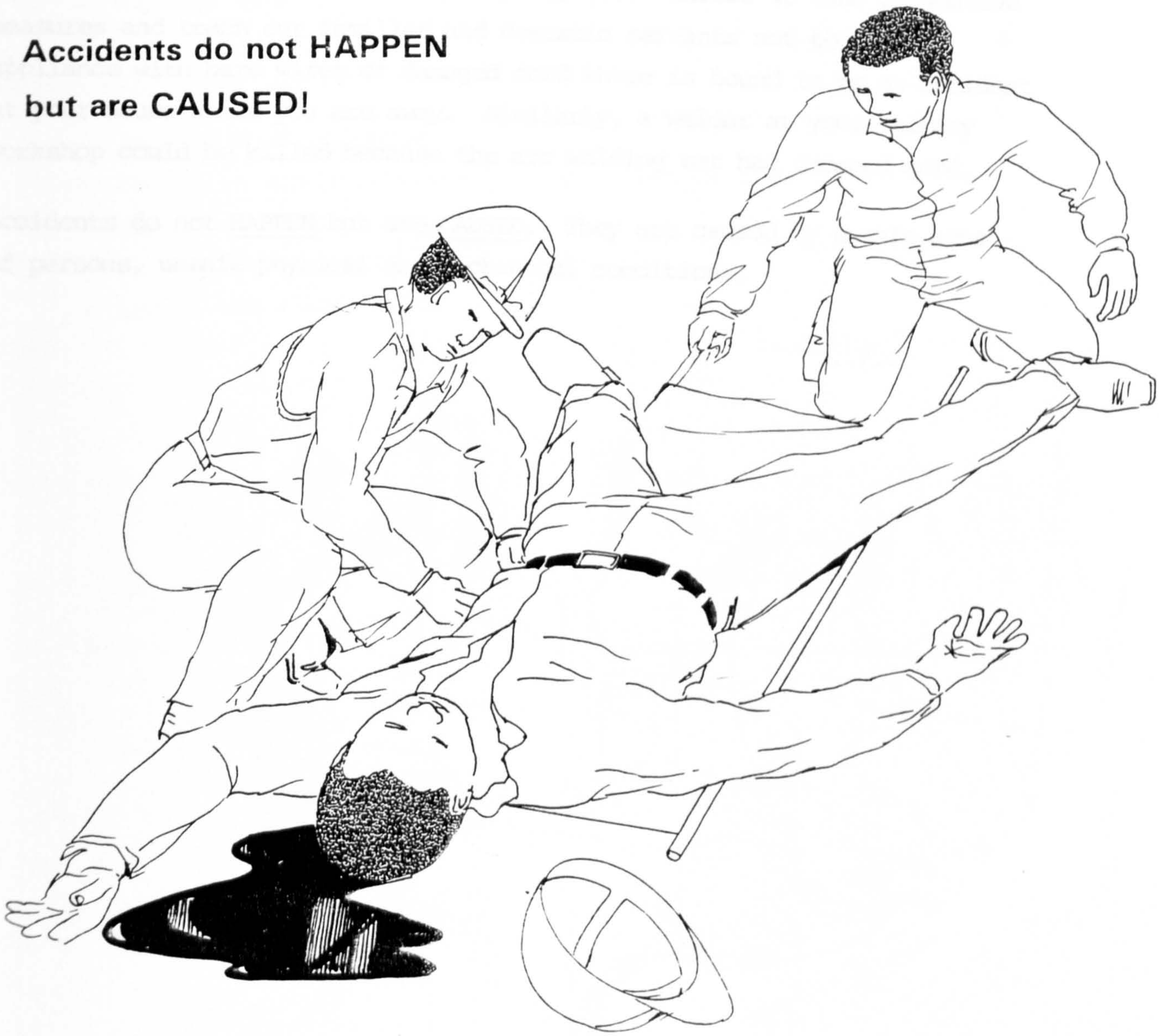
TASK TWO

Think of a grievance which arose between an individual fellow member or members and management and which sparked off serious negotiations between your union and management. Working in small groups construct your own case study based on it.

13. SESSION ELEVEN: OCCUPATIONAL HEALTH AND SAFETY

Safety is the responsibility of each and everyone, the worker and the employer. Experience has shown that the best safety measure is a careful worker. Every employee should recognise that it is his duty to perform his work safely as much as possible as it is to do it well. Equally, it is the responsibility of the management to ensure that working conditions are made as safe as possible and that the necessary protective equipment is issued to workers as the management cannot expect their employees to work safely unless they have done everything possible to provide a safe working environment.

Accidents do not HAPPEN but are CAUSED!



Some of us might think that this subject - SAFETY - is too technical. In some cases it is. Basically the principles of safety apply equally to our workplaces and our homes. It involves training of inexperienced workers on the hazards associated with the work they do and the safety precautions to be taken, such as guarding dangerous parts of the machinery, good housekeeping, responsibility for safety, etc.

When we talk about safety, we are actually talking about accident prevention. Safety basically means freedom from danger, injury or damage. An accident is an unplanned event caused by unsafe acts and unsafe conditions.

At our homes safety and health risks are also very high with the use of electrical appliances with damaged cords a source of electric shock, poisons such as latex which our children may have access to, tablets, unguarded swimming pools or rubbish pits, etc. Unless we take preventive measures and teach our families and domestic servants not to use an appliance with bare wires or damaged cord there is bound to be an accident at your house while you are away. Similarly, a welder at your company workshop could be killed because the arc welding set had damaged cord.

Accidents do not HAPPEN but are CAUSED. They are caused by unsafe acts of persons, unsafe physical and mechanical conditions.

.../..

PREVENTION OF OCCUPATIONAL ACCIDENTS AND DISEASES

Since accidents do not happen but are caused, to prevent accidents and occupational diseases therefore means elimination of causative agents which are:

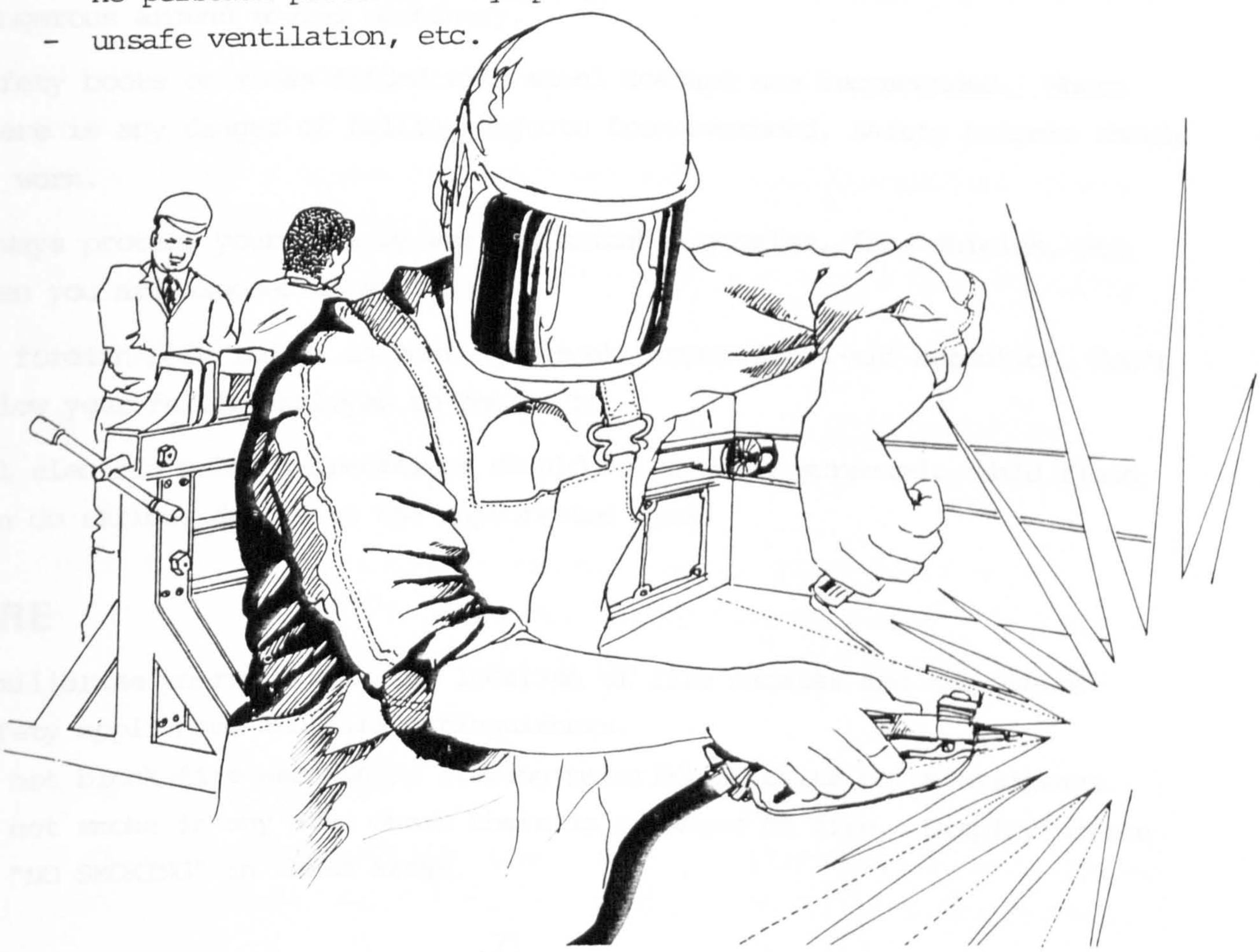
- unsafe acts
- unsafe conditions

Unsafe acts by people involve:

- operating dangerous equipment without authority
- interfering with safety devices
- fooling, teasing or abusing workmates
- adjusting or servicing moving equipment
- failure to use safety equipment
- failure to wear protective clothing

Unsafe conditions involve:

- lack of machine guards
- defective working conditions such as wet or slippery surfaces
- overcrowding in factories
- no personal protective equipment
- unsafe ventilation, etc.



The following measures therefore need to be taken:

MACHINERY

All dangerous parts of machinery must be securely guarded. Make sure that your machine is in perfect condition before starting it. Make sure you know how to handle your machine before operating it.

Never operate a machine or mechanical equipment without authority.
Always stop your machine before cleaning, oiling or adjusting it.
Any defective part of the machinery must be reported immediately to the person responsible.

ELECTRICAL EQUIPMENT

Do not tamper with electrical equipment unless you are authorised or competent to do so. Electrical equipment must at all times be assumed 'live' and therefore dangerous unless positive knowledge to the contrary is available.

Any defects in wiring or electrical equipment must be reported immediately.

CLOTHING

Loose clothing, long loose sleeves and neckties, gloves, etc., can be dangerous around moving machinery.

Safety boots or shoes fitted with steel toecaps are recommended. Where there is any danger of falling objects from overhead, safety helmets should be worn.

Always protect your eyes by wearing suitable goggles, face shields, etc. when you are exposed to eye injury.

If foreign body lodges in your eye, seek proper first-aid attention, don't allow your fellow employee to remove it.

All electric welding operations should be properly screened. Weld flash can do serious damage to the unprotected eyes.

FIRE

Familiarise yourself with the location of fire escapes and the use of safety appliances and fire extinguishers.
Do not block fire escapes by storing material in exits or on stairways.
Do not smoke in any area where there is a danger of fire. Display notice of "NO SMOKING" in these areas.

Do not lock fire escape exits during working hours.

HORSEPLAY

Horseplay or skylarking has no place in the workplace and has caused many serious accidents, some proving fatal.
Practical jokes get some laughs, but it can end up by giving someone a lifetime of sorrow. That someone could be you !

INDUSTRIAL HOUSEKEEPING

House keeping means cleanliness and orderliness in the factory - A place for everything and everything in its place. Keep passageways clear. Store material in its correct place. Dispose of rubbish, oily rags, wastes, etc. in a safe manner. Keep lockers clear of disused old clothing and rubbish.

HAND TOOLS

Never use defective tools such as those with broken handles, chisels with mushroom heads, spanners with spread jaws, files without handles, tools of the wrong size or types for the job.

COMPRESSED AIR

Loss of life or body injury can result from the misuse of compressed air.
Do not use compressed air towards your body or the body of another person.
Never direct a stream of compressed air to cool yourself or to blow dust from your clothes or hair.
Remember an air or steam hose can whip around if not held securely.

LADDERS

Make sure the ladder you are about to use is in good condition.
Make sure the ladder won't slip by either tying it or having someone hold it.
Use both hands to ascend or descend. Do not carry tools in your pockets - they could fall out and strike somebody below. Haul them up afterwards. Ladders should be kept clean and free from moisture.
Always face the ladder.

DUST AND FUMES

An employee whose work may make him come in contact with dust, fumes, gases or vapours should acquaint himself with the hazards associated

with these elements.
The best safeguard is to intercept the dust, fumes, etc., at the point of origin in a manner that will prevent them from entering the air of any work-room, but if it is necessary to wear a respirator, make sure it is the right type for the job and thoroughly clean it when the job is finished.

In carrying out work in any tank, vessel or similar confined space, make sure the tank or enclosure is safe from injurious or explosive liquids, fumes or vapour.

NOISE

Noise in workplace is now being recognised as a major health hazard by most authorities. The average worker, however, only looks at noise as a bit of nuissance. This is a very serious mistake because evidence shows that excessive noise can cause long-term damage to health that has never before been suspected. Excessive noise accelerated the normal loss of hearing which occurs as we grow older. Everycne is affected if exposed to noise long enough and at sufficient intensity.

MEASURES FOR CONTROLLING NOISE

The most effective practical way of reducing noise levels at work is to tackle it at the source, particularly with noisy machine tools, generators and compressors.

Noise can often be reduced by sound-proof shields, baffles or absorbent-lined booths being fitted near or around the noisy machines. Another important factor is to see that the level of noise in the workplace is measured, either by management or by inspectors of factories. If, in spite of preventive measures the noise levels exceed accepted or safe limits then workers should be provided with and wear protective equipment in the form of earplugs, ear muffs or noise protection helmets.

SCAFFOLDING

Never use makeshift or defective scaffolding.

If it is necessary for you to use scaffolding in the course of your duties; request your foreman to arrange for a responsible person/ scaffolder to erect the scaffolding in accordance with the requirements of the Factories Act.

TRAINING OF INEXPERIENCED EMPLOYEES

Adequate training of every new employee to generate hazards awareness and develop safe working practices is something which must be done by the management.

SAFETY COMMITTEE

These committees have played a very important role in many industries in reducing accident rate. They should therefore be established at every factory or industry with the objective to keep management and workers informed about safety and health problems prevailing in the workplace. The committee should establish means of communication i.e. workers should through the committee report potential health hazards to management and recommend corrective measures. This should be a two-way traffic. In other words, safety committee should contribute to mutual understanding and teamwork between management and workers.

FIRST AID

The Factories Act provides for the maintenance of a first aid box or cupboard. The number of first aid boxes and their contents to be maintained will depend on the number of employees in each workplace. A trained first aid attendant must be present in each shift to attend any employee who may be injured.

The first-aid is intended for immediate treatment of injuries. Unless minor, all injuries should be sent for treatment to a medical practitioner or trained nurse or dresser.

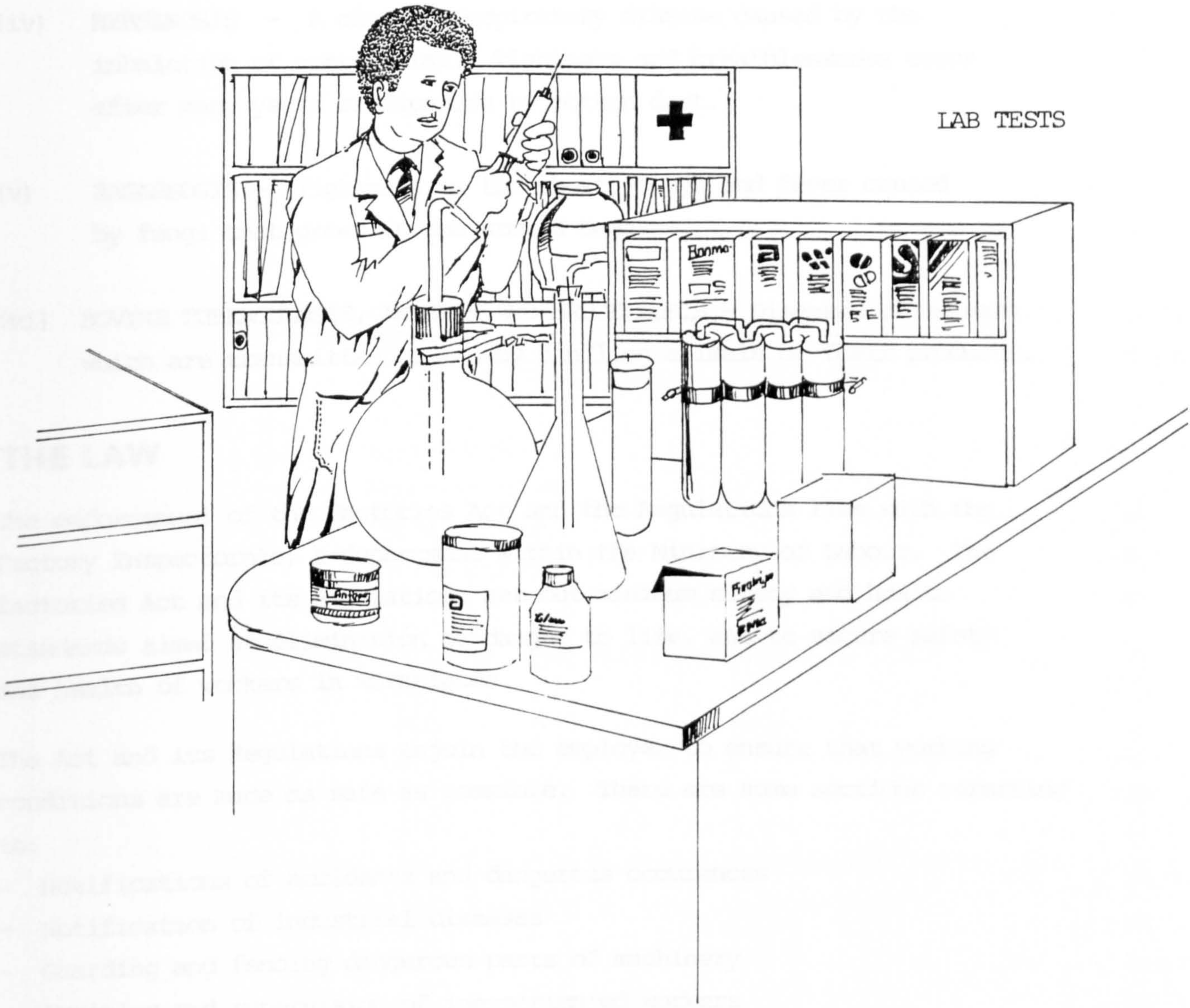
OCCUPATIONAL DISEASES

There is a time bomb ticking inside the bodies of many Swazis men and women ready to explode. That time bomb is occupational disease. Most occupational disease victims remain unaware that they have a problem until they retire from active employment or changed employment. The problem with occupational diseases is that they manifest themselves years after worker exposure to the causative agents.

Like occupational accidents, occupational diseases are caused by unsafe acts and unsafe conditions. But occupational diseases are mainly caused by unsafe conditions. The conditions are generally four types:

- physical such as noise, vibration

- chemical such as dust, poisonous fumes, gases, etc.
- biological such as bacteria, fungi and insects
- stress such as ergonomic factors, physical, etc.



Unlike occupational accidents, the effects of health hazards can be slow but irreversible.

SOME OCCUPATIONAL DISEASES AND THEIR CAUSATIVE AGENTS

(i) ASBESTOS - A form of fibrosis of the lung due to inhalation of asbestos dust or fibres. The disease is progressive and irreversible.

(ii) COALWORKERS' PNEUMOCONIOSIS - The disease is common with coal-miners and is caused by inhalation of coal-dust.

(iii) SILICOSIS - Pulmonary fibrosis caused by inhalation of free silica-quartz. Silicosis hazard is encountered in a wide variety of occupations, i.e. mining of quartz-bearing rocks, manufacture of pottery, porcelain, etc.

(iv) BYSSINOSIS - A chronic respiratory disease caused by the inhalation of cotton flax. Tightness and breathlessness occur after many years of exposure to cotton dust.

(v) BAGASSOSIS - Tightness in the chest, cough and fever caused by fungi that grows in the stored bagasse.

(vi) BOVINE TUBERCULOSIS, ANTHRAX AND BRUCELLOSIS - Diseases of animals which are transmitted to man by handling animals or their products.

THE LAW

The enforcement of the Factories Act and the Regulations lies with the Factory Inspectorate, a department within the Ministry of Labour. The factories Act and its Regulations set out minimum safety and health standards aimed at elimination of danger to life, and to secure safety and health of workers in workplaces.

The Act and its Regulations enjoin the employer to ensure that working conditions are made as safe as possible. There are some sections referring to:

- Notifications of accidents and dangerous occurences
- Notification of industrial diseases
- Guarding and fencing dangerous parts of machinery
- Training and supervision of inexperienced workers
- Welding and cutting by electric arch or torch
- Notices and warnings to be displayed in a factory
- Safety of electricity, the switching apparatus and precautions to be taken before work commences on electricity
- Earthing of electricity appliances
- General safety
- Ladders
- Storage of explosives, flamable dust, gas or substances
- Enclosures containing dangerous substances
- Fire prevention, fighting, drills, etc.
- First aid equipment and training of first aiders
- Provision of protective clothing and appliances.

ACTIVITY: OCCUPATIONAL HEALTH AND SAFETY

AIMS: To reduce accidents and safety hazards

TASK: In your small groups discuss the following questions and record your views. You may refer to the text on the subject.

1. What is safety ?

2. What part should the following play to eliminate accidents and unsafe working conditions:

   - the employer
   - the trade unions
   - the employees
   - the Government

3. Make a list of occupational diseases you know of.

4. What type of warnings or notices regarding health and safety are displayed at your place of work ?

5. Why is occupational diseases referred to as 'TIME BOMB' ?

APPENDIX 5

SWAZILAND AGRICULTURAL AND PLANTATION WORKERS UNION
SOME GROUND RULES FOR UNION NEGOTIATORS

1 Insist on becoming involved in all work related matters, since all job change (e.g. new equipment, new methods, etc) could have an effect on job opportunities, quality of work, life or pay. The job and conditions of work can't be separated as management is trying to do.

2 When you are not getting what you want, change the subject and come back to it later when it suits you.

3 Find opportunities for personal attacks on members of the management team about their anti-worker attitudes or anti-black attitudes. These attitudes mean that their motives can't be trusted and they will always try to exploit the workforce if they get the chance to do so.

4 When unsure what to do next (e.g. when you feel you are losing ground) caucus without declaring your position.

5 Reveal as free facts and opinions as possible <u>but</u> don't twist the facts, since you can get caught out and this would weaken your position and add to the mutual distrust between yourself and management.

6 Challenge the agenda whenever you have the opportunity to do so.

7 Use the bad reactions of the workforce as a lever when management won't accept your demands and your arguments.

8 When challenged and unsure how to respond, plead ignorance, lack of resources and lack of sophistication so as to get management's sympathy or at least change the focus of the problems.

9 When the negotiation is going against you, tell them you don't understand and ask for more explanation. Repeat this request and challenge management with any change or inconsistency in their facts or point of view.

10 Pick up vague or general statements made by management and ask what is meant by them so as to find gaps in their case.

11 When you have really run out of arguments and ability to influence management, tell them you will have to refer back to the workforce to get their reaction.

12 When management shows real evidence of wanting to understand <u>your</u> problems and needs and to move from their position, acknowledge it and work towards a solution with them. However,

13 Don't let management deceive you into "Let's work together as partners", since this could undermine your credibility with the workforce. You cannot afford to fraternize with management and lose sight of your prime goals which are:-

a) to increase your power and influence as worker representatives;

b) to represent and protect the interests of the workforce;

c) to promote worker solidarity and identity.

14 Overstress your feelings of frustration, disappointment, disillusion , anger or indifference to help you strengthen your position.

15 Accuse management of being emotional or for getting upset when they show strong feelings in their interaction with you and point out that an objective discussion is not possible if they become emotional.

(undated)

APPENDIX 6

APPENDIX 6

THE SWAZILAND FEDERATION OF TRADE UNIONS AND THE FEDERATION OF SWAZILAND EMPLOYERS MEETING IN INFORMAL ASSOCIATION IN MBABANE ON TUESDAY 9 DECEMBER 1986

ACKNOWLEDGE their joint responsibility to the establishment and maintenance of constructive and harmonious industrial relations in the Kingdom of Swaziland.

RECOGNISE that good industrial relations can make a material contribution to the social and economic well being of the Kingdom of Swaziland.

AGREE that effective industrial relations call for a climate of frankness and confidence within the tri-partite structure.

CONFIRM that frankness and confidence rests upon a clear understanding that employees and employers administer their organisations and conduct their affairs in conformity with the law, the respective Constitutions and good industrial relations practice.

RECORD their willingness to use their best endeavours to resolve all problems and disputes through communication, consultation and negotiation at the appropriate levels.

IN PURSUANCE of these aims the Swaziland Federation of Trade Unions and the Federation of Swaziland Employers agree, arising from this first and informal discussion, to conform to the following procedures and guidelines -

1 UNIONS, UNION OFFICERS AND REPRESENTATIVES

a) The Federation of Swaziland Employers will not conduct dealings with Unions and persons purporting to represent them until such time as the Swaziland Federation of Trade Union has, in writing, confirmed -

i) that a particular Union has been registered in accordance with Section 17(1) of the Industrial Relations Act;

ii) the names and titles of persons constitutionally elected to office in the Union at National Executive and Branch level and that those persons are members of the Union, in good standing; that the offices to which they are elected are provided for in the Constitution;

b) The Federation of Swaziland Employers, for its part, will upon receipt of information in accordance with the preceding paragraph, notify immediately, in writing, to the Swaziland Federation of Trade Unions any circumstances where a person elected to office in a Union is not employed in an industry nor does he have distinct occupational qualifications for employment in an industry or is a member of staff as defined in Section 2 of the Industrial Relations Act. Federation of Swaziland Employers members will be kept informed of any such notification and will withhold dealings with the person(s) involved until such time as the two Federations have clarified the issue.

c) The Swaziland Federation of Trade Unions will make its best endeavours to ensure that all Unions inform the Federation of Swaziland Employers of the names, titles and places of work of 'authorised representatives' so that such persons may be accorded facilities required by law, particularly Part VIII of the Industrial

Relations Act. "Authorised Representatives' are Union members appointed and/or elected as Shop Stewards within an undertaking and employee representatives on a Works Council under Section 40(3)(b) of the Industrial Relations Act.

2 RECOGNITION

To reduce the waste of time and resources attendant on abortive counts of union members by independent referees it is agreed that where confirmation is required that a Union has secure3ed the correct percentage of paid up union membership for the purpose of recognition under Section 36(5) of the Industrial Relations Act the following procedure will be recommended to the Union and the employer -

a) The Employer himself may conduct the count in collaboration with the Union seeking recognition and the parties shall only have resort to independent referees if a dispute arises from the count they conduct; or

b) The Employer and the Union seeking recognition, may jointly conduct a preliminary enquiry to determine, whether or not, the Union has secured prima facie, the correct level of Union membership: where an employer and a Union have grounds, after the conduct of a preliminary enquiry, for believing that more and not less than the correct percentage of paid up Union members is present in an undertaking then a formal request may be directed to the two Federations for the conduct of a count by independent referees.

3 NEGOTIATION

The two Federations recognise the necessity for communications, consultation and negotiation to be conducted on an enlightened and authoritative basis.

Both Federations, jointly and individually, will use their best endeavours to ensure that only persons engaged in a particular industry or sector of industry shall be nominated or appointed to participate in communication, consultation and negotiation on behalf of that industry or sector of industry. Provided that fulfillment of that objective shall not preclude the attendance of advisers from the two Federations in any matter on behalf of an affiliate or member.

TRI-PARTITE REPRESENTATION

Both Federations recognise their obligation to ensure effective representation as members of the Tri-Partite Conciliation Council and as assessors on the Industrial Court. Both Federations acknowledge their duty to nominate suitably competent persons in such number as will permit the efficient conduct of both the Council and the Court. Representatives so nominated by the two Federations shall be responsible for their timeous and regular participation in deliberations of the Council and the Court to secure the effective conduct of both institutions.

FUTURE RELATIONS AND CONTACT

Both Federations recongise the merit of maintaining channels of communication, once established, and agree that further meetings shall be convened from time to time to resolve contemporary problems and to evolve and publicise procedures for observance by affiliates and members which will facilitate the creation of effective industrial relations.

Both Federations agree that the Government, through the Commissioner for Labour, should be made aware of the outcome of this and any other meetings jointly convened and of the efforts being made by both Federations to contribute to good industrial relations.

APPENDIX 7

SURVEY STATEMENTS - PERSONAL INTERVIEWS

1. Trades Unions are: Communist inspired/exploited.

2. Trades Unions are: Essential for effective Industrial Relations.

3. Trades Unions are: Too sophisticated (concept) for Swaziland.

4. Trades Unions provide: A democratic form of expression in an authoritarian (industrial) environment.

5. Trades Union leaders are elected through intimidation.

6. Trades Unions are by their nature anti-authority.

7. Trades Unions seek to destroy management rights.

8. Trades Union leaders are only concerned with establishing personal power.

9. Trades Unions should not be permitted in developing countries.

10. Trades Unions provide a vehicle for agitation.

11. Trades Union rights should be restricted to 'work' related matters.

12. Trades Unions should not be permitted to affiliate to international worker movements.

13. Workers should be encouraged by management to join Trades Unions.

14. Employers should facilitate Union organisation.

15. Government should become active involved in 'chairing' Union/Employer bodies.

16. Government should provide 'Umbrella' legislation only, for Industrial Relations.

17. Collective Bargaining subverts the industrial society.

18. Developing societies must forego the 'desirable' institutions of developed societies until they reach the same level of development.

19. It is necessary to formalise the worker/management relationships.

20. Works Councils are more effective than Trades Unions as a means of communication in the work-place.

21. Employers' have a moral right to 'bargain' for Wages and conditions of service.

22. Industrial Relations is the conflict situation.

23. Industrial Relations is the concern of Government and not employers/employees.

24. A strongly organised Trade Union is a prerequisite for effective Industrial Relations.

25. Employers' have a responsibility to train Trade Union in Industrial Relations concept, skills and practice.

26. Industrial Relations can best be controlled through the 'legal' system.

27. Employers' have a right to determine Wage Rates and condition of service.

28. Worker (Trade Union) meetings should be conducted outside of work hours.

29. Industry Unions cause fragmentation of the Union movement.

30. In a given industry, an Industry Union is more reflective of worker demands, than general Unions.

31. Trades Unions should be prohibited by law, from political involvement.

32. Trade Unions should be permitted to receive funds from outside the country.

33. All levels of employees in a company should be permitted to join Trade Unions.

34. Trade Unions threaten the 'right of manage'.

35. Trade Unions should be consulted by Government on any matter of social concern.

36. Trade Unions provide a 'breeding' environment for political agitation.

37. Industrial Relations should reflect an employer/employee partnership.

38. In a Capitalist/Free Enterprise society Trade Unions are uneccessary.

39. Trades Unions arise because of worker exploitation by employers.

40. Trades Unions result from the inequalities in society.

41. The concept Collective Bargaining is alien to traditional Swaziland Society.

42. The economic power of employers' makes collective bargaining an unrealistic activity.

43. Inter-union and intra-union rivalry will ensure that the Union movement will never 'get-off-the' ground'.

44. The police have no part to play in the Industrial Relations sub-system.

45. Strikes and lock-outs should be prohibited.

46. Social Welfare is not the concern of Employers.

47. Industrial 'organisations' are non-democratic and therefore worker/management 'negotiation/Collective' bargaining is incomparible with industrial organisation.

48. The aim of collective bargaining is to produce industrial harmony.

49. Non-legal conciliation is preferable to Industrial Court proceedings.

50. The Industrial Court provides protection only for the employee.

APPENDIX 8

ANONYMOUS

INDUSTRIAL RELATIONS QUESTIONNAIRE

1 Your cooperation would be appreciated in completing this short and ANONYMOUS QUESTIONNAIRE.

2 Information is required for a University Thesis concerned with 'Industrial Relations in Swaziland'. As part of the exercise, it is relevant to establish the 'value/norms', vis-a-vis Trade Unions, of opinion-formers and those who participate or who might participate in determining the 'socio-economic/political environment' within which Industrial Relations activities operate.

3 Your spontaneous reaction to the statements is solicited and should be relevant to Swaziland.

4 Please tick the one single grading (1, 2, 3, 4, 5) which most accurately reflects your viewpoint.

		Strongly Agree	Agree	No Predominant View	Disagree	Strongly Disagree
.1	Trade Unions provide A democratic form of expression in an authoritarian (Industrial) environment.	1	2	3	4	5
.2	Trade Unions are by their nature anti-authority	1	2	3	4	5
.3	Trade Unions leaders are only concerned with establishing personal power	1	2	3	4	5

	Strongly Agree	Agree	No Predominant View	Disagree	Strongly Disagree

		Strongly Agree	Agree	No Predominant View	Disagree	Strongly Disagree
.4	Trade Union provide a vehicle for agitation	1	2	3	4	5
.5	Government should provide 'Umbrella' legislation only, for Industrial Relations	1	2	3	4	5
.6	Developing societies must forego the 'desirable' institutions of developed societies until they reach the same level of development	1	2	3	4	5
.7	Works Councils are more effective than Unions as a means of communication in the work-place	1	2	3	4	5
.8	Industrial Relations is a conflict situation	1	2	3	4	5
.9	A strongly organised trade Union is a prerequisite for effective Industrial Relations	1	2	3	4	5
.10	Industrial Relations can best be controlled through the 'legal' system	1	2	3	4	5

		Strongly Agree	Agree	No Predominant View	Disagree	Strongly Disagree
.11	Trade unions should be prohibited by law, from political involvement	1	2	3	4	5
.12	Trade Unions provide a 'breeding' environment for political agitation	1	2	3	4	5
.13	In a capitalist/Free Enterprise Society/ Trade Unions are unnecessary	1	2	3	4	5
.14	Trade Unions result from the inequalities in society	1	2	3	4	5
.15	The economic power of employers' makes collective bargaining an unrealistic activity	1	2	3	4	5
.16	The police have no part to play in the Industrial Relations sub-system	1	2	3	4	5
.17	Industrial 'organisations' are non-democratic and therefore worker/management negotiation and collective bargaining is incompatible with Industrial organisation	1	2	3	4	5
.18	Non-legal conciliation is preferable to Industrial Court proceedings	1	2	3	4	5

THANK YOU FOR YOUR ASSISTANCE

APPENDIX 9

THE CONSTITUTION

OF THE

SWAZILAND AGRICULTURE

AND

PLANTATION WORKERS UNION

RESOLUTION TAKEN AT THE MEETING OF THE

SWAZILAND AGRICULTURE AND PLANTATION WORKERS UNION

HELD ON 30 JANUARY 1983 CONFIRMING

FORMATION OF AND SEEKING REGISTRATION OF THE UNION

Whereas, we Members of the SAPWU, moved by sentiments of justice and human dignity as well as the desire to secure and maintain permanent industrial peace in the Kingdom and the world over, have agreed to the following constitution and therefore now resolve to submit it to the Labour Commissioner for the registration and certification of our Union:

REPRESENTED IN THIS MEETING ARE WORKERS DELEGATES FROM THE FOLLOWING AGRICULTURE AND PLANTATION INDUSTRIES:

Ubombo Ranches Limited

Royal Swaziland Sugar Corporation Limited

Tambankulu Estate Limited

Mhlume Sugar Company Limited

Usuthu Pulp Company Limited

....

....

....

....

THE CONSTITUTION OF THE
SWAZILAND AGRICULTURE AND PLANTATION WORKERS UNION

TEXT OF THE CONSTITUTION
PREAMBLE

Whereas, with the passage of the National Labour Legislation, herein after referred to as the Industrial Relations Act 1980, into law on 26th September, 11980, which offers the formation of industrial workers organisations and their protection, we, the Members of the Swaziland Agriculture and Plantation Workers Union, affiliated to the Swaziland Federation of Labour, believing ourselves justly entitled to share, in proper proportion, the wealth we help to create by our labour, affirm and confirm our right to improve our social and economic welfare and that of our dependents by all legal means, including the right to self organisation, to form and join a labour organisation to bargain collectively through representatives of our own choosing and';

Whereas recognizing that unity among those whose industrial, economic and social problems are alike, imparts the security of numbers and strengthens our voiced demands, we have created this organisation so that through the centralised activities, we will be able to more effectively direct our energies to the attainment of those objectives of our organisation as set out in our constitution, and, recognising our duties and obligations as citizens of the Kingdom of Swaziland, we pledge ourselves to continue loyally to the head of State, the Government and the Nation at large and to the Defence of our democratic institutions.

The Swaziland Agriculture and Plantation Workers, moved by sentiments of justice and human dignity as well as by the desire to secure and maintain permanent industrial peace in the Kingdom and the work over, agree to the following Constitution:-

CONSTITUTION

RULE 1 NAME OF UNION

The Name of this Union shall be known as the **SWAZILAND AGRICULTURE AND PLANTATION WORKERS' UNION (S A P W U).**

RULE 2 REGISTERED OFFICE

i) The Registered Office of this Union shall be at Manzini, P O Box 1153, Manzini, Swaziland.

ii) The Registered Head Office of the Union shall not be changed except by a resolution duly carried by the Annual General Meeting of the Union.

iii) Any change in the situation of the office shall be notified to the Labour Commissioner within fourteen days from its being effected.

RULE 3 OBJECTS

(i) To secure the complete organisation of eligible workers in Swaziland employed in the various agricultural plantation industries, and to enter into separate recognition and active agreements with individual employers or employers associations in such industry.

(ii) To have the right to affiliate to the General Labour Organisation in Swaziland, and also to other Unions as may be deemed necessary in so far as it meets the requirements of the Industrial Relations Act..

iii) To provide legal aid to members who have belonged to the Union for not less than one year and whose contributions are not more than three months in arrears in respect of matters arising out of or incidental to their

employment provided that such matters are not attributed to fraudulent conversion or otherwise.

iv) To provide unemployment benefit to members who have belonged to the Union for not less than a year and whose contributions are not more than three months in arrears in respect of suspensions/or dismissal pending decisions/or job placement for matters relating to and arising out of their employment provided that such suspensions/or dismissal are not attributed to fraudulent conversions or criminal commissions.

v) To provide "SICKNESS BENEFIT" to members who have belonged to the Union for not less than six months and are in good standing provided the sickness does not arise out of or incidental to their employment.

vi) To provide funeral benefit for members who have belonged to the Union for not less than three months provided their untimely death does not arise from or incidental to their employment or resulting from occupational disease.

vii) To raise and maintain funds for these purposes.

viii) To represent its members in any negotiations when they so desire and to endeavour to secure representations on any council or committees in which their interests may be directly or indirectly affected.

ix) To take any other lawful action or adopt any other lawful method for the furtherance of the interests of the Union, and for provision of benefits which the General Meeting or the Biennial Delegates conference may decide.

RULE 4 **MEMBERSHIP**

i) Any person (exclusive of staff) who is employed in the agriculture and plantation industry is eligible for membership.

ii) No person eligible for membership shall be denied membership in the Union because of sex, race, colour, creed and or nationality.

iii) The enrolment fee for all members shall be E2.00.

iv) Contributions shall be due monthly at the rate of E1.00 (one Lilangeni).

v) Every member shall be supplied with a subscription card and a copy of the Constitution.

vi) Every member shall be deemed to possess a copy of the rules and ignorance of the rules on the part of any member shall not be accepted as an excuse for a breach of any rule. Every member shall be subject to such fines and penalties as decided by the General Meeting.

vii) Members who retire from their normal employment with a view to permanent retirement from work and would automatically be severing their active connection with the Union may in very exceptional and outstanding cases and only at the discretion of the General Meeting be granted honorary life membership as a mark of esteem and appreciation for long and valuable service rendered to the movement.

viii) No contribution to, or benefits from the funds of the Union will be payable by or to honorary members.

ix) Honorary members may attend all regular biennial and special meetings where their experiences may be of benefit to the Union in an advisory

capacity. Whilst they contribute to discussions they shall have no right to a vote.

x) Honorary membership will not be conferred on members of other Unions.

RULE 5 **FUNDS**

i) The funds of the Union shall be lodged at one of the Banks in Swaziland by a motion taken at the General meeting or the Executive Committee.

ii) An annual budget shall be prepared by the Treasurer or the Executive Committee and submitted to the General Meeting for his consideration and approval.

iii) All expenses of meetings called by the General Meeting, Biennial delegates Conference and Executive Committee shall be borne from the funds of the Union.

RULE 6 **GENERAL MEETING**

i) At least once a year the Executive Committee shall call a General Meeting of the Union. This Meeting will be open to all members, who must receive 21 days written notice of the time and place of the General Meeting.

ii) Any member of the Union has the right to propose a Resolution or question, an officer at a General Meeting. In the case of a Resolution the Resolution should be sent to the head office not later than 7 days prior to the meeting taking place, in order that it can be placed on the agenda.

iii) The General Meetings shall be the forum for deciding the policies of the Union and for reviewing the officers' conduct of the organisations affairs.

Resolution should be sent to the head office not later than 7 days prior to the meeting taking place, in order that it can be placed on the agenda.

iii) The General Meetings shall be the forum for deciding the policies of the Union and for reviewing the officers' conduct of the organisations affairs.

iv) Fees, levies and other financial matters shall be determined by the General Meeting.

v) The General Meeting may fine any member or officer who has proved to the satisfaction of the meeting to have been guilty of conduct prejudicial to the interest of the Union, by a sum not exceeding E5. The General Meeting may in a serious case expel such member or officer from the Union. Any member fined or expelled will have a right of appeal to the Swaziland Federation of Trade Unions. However, before any disciplinary action is taken against a member or officer the charges brought against him shall be put in writing and addressed to him at least seven days before the meeting is held.

vi) For the General Administration of the Union's affairs and for the Government of the Union in the interval between the General Meetings an Executive Committee shall be established as provided for in Rule 7.

vii) The business to be conducted at the General Meeting shall be as follows:

1 Adoption of the Agenda
2 Confirmation of the minutes of the last General Meeting held.
3 Matters arising from the minutes.
4 Annual Report presented by the General Secretary and relevant discussion thereon.
5 Treasurer's Report and the adoption of the Annual Statement/Balance Sheet.
6 Auditor's Report.

7 Questions from the floor.

8 Any other competent business.

9 Close.

viii) It shall decide the salary of the General Secretary, office staff and amount of honorarium to be paid to any other officers. It shall give instructions to the Trustees regarding the investment of the funds of the Union. The decision of the General Meeting shall be binding upon all the members and officers.

ix) A general meeting may authorise a committee of its members to act on its behalf on all or any of the matters referred to in this paragraph (Rule 6) for a specific period.

RULE 7 **EXECUTIVE COMMITTEE**

i) There shall be regular monthly meetings of the Executive Committee among whose business will be to examine the activities of the Union.

ii) Its composition shall be made up of the Chairman, Vice Chairman, General Secretary, Deputy Secretary and Treasurer plus delegates from the main sectors making up the industry.

iii) The Executive Committee shall take follow-up action on all matters being directed to it by the General Meeting and shall assist the Treasurer in the preparation of the annual budget.

iv) The Executive Committee shall give instructions to the General Secretary and other officers for the conduct of the Union. It may appoint such organisers, workers; educators and clerical staff as it may consider necessary. It may suspend or dismiss any officer or member of the staff for neglect of duty, dishonesty, incompetence, refusal to carry out the

decisions of the Executive Committee or for any other reason which it deems good and sufficient in the interests of the Union. However, the officer shall have a right of appeal to the General Meeting or a special General Meeting convened for that purpose.

v) In the event of death resignation or dismissal of an officer during a period between two General Meetings the vacancy shall be filled temporarily by the Executive Committee until a General Meeting has been convened.

RULE 8 BRANCHES

i) A group of members at a particular workplace or geographical location may form themselves into a Union branch. To do so they should forward a request to the General Secretary for a branch to be formed, accompanied by six signatures. The request will be considered at the next general meeting for a decision. If there are no objections then the branch will be formed.

RULE 9 BIENNIAL DELEGATES CONFERENCE

i) The business of the Biennial Delegates Conference shall strictly be held for the purpose of elections. It shall be by way of secret ballots supervised by independent persons or members who have demonstrated to the satisfaction of the General Meeting their intention not to be elected in any post that carries an office.

ii) The modalities of the conference shall be worked out by the General Meeting such as the delegation from each agricultural industry (based on numerical strength) its venue, duration and agenda, and the number of observers to be invited.

iii) The General Meeting shall then direct the General Secretary to take appropriate action by sending out letters of invitation to the various industries who would subsequently communicate the names of their delegations to the General Secretary at least seven days prior to the commencement of the conference. Such notice of invitation shall be issued one month prior to the starting date of the conference.

iv) The Agenda shall be strictly adhered to and shall be as follows:-

1 Adoption of the Agenda.
2 Chairman's Opening Remarks.
3 Address by distinguished Guest(s).
4 Reading and Confirmation of minutes.
5 Matters Arising.
6 Short Break (Tea).
7 Resumption.
8 Declaration of all offices vacant.
9 Nomination and Election Process.
10 Election Results.
11 Closing Courtesies.

RULE 10 **DISCIPLINE**

i) A member or official may be suspended or expelled as may be determined by the General Meeting.

a) If he fails, within seven days of demand in writing by the General Secretary, to pay contributions which are more than three months in arrears.

b) If he infringes any of the terms of the Rules of the Union, or acts in a manner which is detrimental to the interest of the Union, provided that

there shall be a right of appeal against suspension or expulsion to the General Meeting, if the action was first taken by the Executive Committee or to the S F T U. if the action was first taken by the General Meeting. Notice of any such appeal shall be forwarded or handed to the General Secretary in writing within twenty-one days of the date on which the decision of the Executive Committee was communicated to the member, or official concerned.

ii) No member or official shall be suspended or expelled unless he has been given an opportunity to state his case personally at a meeting of the Executive Committee or General Meeting of which he has received not less than seven days notice in writing. The matter with which the official is charged shall be set out in such notice and shall have the right to subpoena witnesses.

iii) A member or official who has appeared before the Executive Committee or General Meeting in accordance with section 2 of this Rule shall if he is dissatisfied with the decision of the Executive Committee or General meeting and has lodged an appeal in the manner herein provided for, have the right to restate his case to the General Meeting or S F T U which considers the matter.

iv) A member or official shall be entitled to call witnesses in respect of his case, when attending a meeting of the Executive Committee, or the General Meeting or S F T U Meeting in terms of sections 2 and 3 of this Rule as the case may be.

v) Any decision taken by the Executive Committee or the General Meeting in terms of this section shall, when an appeal has been lodged, be subject to ratification or otherwise by the General Meeting where the decision was taken in the Executive Committee or by the S F T U meeting as the case may be.

vi) Upon expulsion of a member or official, all monies due to the Union by such person shall be payable. If payment thereof is not made within fourteen days, the Executive Committee or General Meeting may take steps as it deems necessary to secure a settlement.

vii) A member or official shall cease to be entitled to any of the benefits of membership, including the right to vote:-

a) If the subscription or other charges by him to the Union are more than three months in arrears.

b) During any period while he is under suspension in terms of these rules.

RULE 11 INSPECTION OF BOOKS AND ACCOUNT

Every person having an interest in the funds of the Union i.e. any member, may, on giving due notice, inspect all the books of the Union.

RULE 12 OBLIGATION OF OFFICERS, EXECUTIVE COMMITTEE AND GENERAL MEETING

All officers including members of the Executive Committee and General Meeting shall be required to sign an obligation immediately after the declaration of their election to the following effect:-

"That I will deliver up to my successor all funds, books and all other properties of the Union".

RULE 13 OFFICERS AND STAFF

i) The Chairman shall be elected biennially by a vote of the Biennial Delegate Conference and shall serve for two years.

He shall be eligible for re-election. He shall preside at all General Meetings and Special General Meetings and Executive Committee Meetings and shall be responsible for the proper conduct of business at all such meetings.

He shall have a vote at Executive Committee meetings and in case of an equality of votes, shall have the right also to give a casting vote. At Biennial Conferences he shall not have a vote except in case of an equality of votes when he shall have the right to give a casting vote. He shall sign the minutes of each meeting at the time they are approved, in conjunction with the General Secretary of the Union and shall endeavour to secure the observance of these rules by all concerned.

ii) The General Secretary shall be elected by a vote of the Biennial Conference and shall serve for two years after which time he will be eligible for re-election. He shall conduct the business of the Union in accordance with the Rules and shall carry out the instructions of the General Meeting or Special Meeting and of the Executive Committee. He shall attend all meetings of the Executive Committee and General meeting, and shall record the minutes and shall have the right to speak. He shall prepare the General Meetings Report for the General Meeting. He shall in conjunction with the Treasurer and one of the Trustees sign cheques on behalf of the Union.

iii) The Vice-Chairman shall be elected biennially by a vote of the Biennial Conference and will deputise in the absence of the Chairman. The same conditions applying to the Chairman in Section 1 of this Rule will apply to the Vice-Chairman when the circumstances arise.

iv) The Treasurer shall be elected biennially by vote of the Biennial Conference. He shall be eligible for re-election biennially, he shall be responsible for the financial books and for all monies belonging to the

Union. All monies received by him shall be paid into the Union's account at the Bank. He shall not hold more than E10 at any one time. He shall prepare a financial statement for each meeting of the Executive Committee and in respect of the General Meeting an annual statement of accounts with budget for the next fiscal year. The annual statement of account shall be audited and a copy of it shall be lodged with the Labour Commissioner against the prescribed date and every member shall be entitled to see this return on application to the Head Office of the Union. He shall supply gratuitously of the Annual Statement and Balance Sheet as audited to the members. He shall have the right to speak at all meetings. He shall in conjunction with the General Secretary and one of the Trustees, sign cheques on behalf of the Union.

v) Any officer whose duties involve financial sponsibility shall provide such security as the General Meeting may require.

RULE 14 **AUDITORS**

i) Two internal auditors shall be elected at the Biennial Conference and shall be eligible for re-election biennially.

ii) The internal auditors shall have access to all the books and accounts of the Union and shall examine every balance sheet and annual returns of the receipts and expenditure, funds and effects of the Union, and shall verify them with the accounts and vouchers relating thereto and shall either sign them as found to be correct, duly vouched, and in accordance with law, or shall specially report to the meeting in what respect they find them incorrect, unvouched or not in accordance with law.

iii) However, a registered Firm of Auditors shall be appointed to audit the accounts of the Union at the end of each year and shall issue a certificate in that respect.

iv) A copy of the Auditor's Report shall be conspicuously placed at the Head Office of the Union.

RULE 15 **TRUSTEES**

i) Two members of the Union shall act as Trustees. They shall be elected by a Biennial or Special Conference from candidates not holding permanent or full time positions in the Union, and hold office during the will and pleasure of the Union, as expressed by the majority of the delegates at a Biennial or Special Conference. They shall remain fully qualified members of the Union, and ceasing to be such they shall cease to hold the office of TRUSTEES.

ii) A trustee may be removed from office by the Executive Committee or General Meeting on the grounds that owing to ill-health, unsoundness of mind, removal from the country or for any other reason he is unable or unsuitable to perform his office.

iii) In the event of the death, resignation or removal of a Trustee, the office shall be filled temporarily by the Executive Committee or the General Meeting.

iv) The Trustee shall have vested in them all real and personal estate whatsoever belonging to the Union, for the use and benefit of the Union and members thereof, and upon the death or removal of any such Trustees the real and personal estate so vested in them shall rest in the succeeding Trustees or Trustees of the Union, without any conveyance or assignment being necessary.

v) The Trustees shall, from time to time, be required, an upon the authority of a resolution of the General Meeting, to convey to them in writing (and

which shall be a complete discharge from all liability on the part of the Trustees on compliance therewith) -

a) Invest, re-invest and vary the investment of the funds of the Union, as may be resolved upon the Executive Committee, in such securities as may be deemed desirable;

b) Pay over to the General Meeting, or to such persons as they may appoint, such sums as may be required for the claims and expenses of the Union from the funds applicable thereto.

vi) No trustee shall be liable to make good any deficiency which may arise or happen with the funds, but shall be liable only for those monies or securities actually received by him.

vii) One of the trustees, in conjunction with the General Secretary and Treasurer shall sign cheques drawn on the current banking account on behalf of the Union.

viii) A trustee may at any time resign his office by tendering his resignation in writing to the General Secretary.

ix) Every resolution appointing a trustee shall be entered on the Minutes of the Conference at which he is appointed and a copy shall be sent to the Labour Commissioner.

x) It shall be the duty of any trustee who has resigned or has been moved from office to execute such documents and take such other steps as may be necessary to vest in the Trustees for the time being of the Union all securities and other property held by him on behalf of the Union.

xi) No trustee shall invest any part of the funds of the Union upon the security of his own property other than in accordance with and as directed in writing by the Executive Committee.

xii) Election shall be done by secret ballot.

RULE 16 REPRESENTATION ON NEGOTIATION MACHINERIES AND OTHER COMMITTEES ETC.

Representation as required in the above connection shall be elected by the Executive Committee.

RULE 17 STEWARDS

Not more than four stewards shall be elected biennially by vote of the Biennial Conference. It shall be the duty of the stewards to ensure that none but accredited delegates enter the Biennial and Special Conference and that they present the necessary proof to this effect by producing the papers which they will have been supplied with.

RULE 18 LEVIES

i) The General Meeting may, after a vote of members has indicated approval, impose a levy as agreed, upon all members of the Union and all members shall be required to pay such levy. The levy shall be paid in conjunction with the collection of Union contributions in the usual manner, and receipts shall be issued for same or special entries made on the members' contribution cards.

ii) If any member fails to pay a levy within four weeks of imposition, the amount shall be treated as arrears of contribution.

RULE 19 STRIKE

i) All efforts will be made by the Union to settle disputed issues so as not to revert to strike by appealing to the good senses of management. However, in the event of a decision to withdraw labour, necessary action shall be taken to satisfy the law.

ii) Officers who negotiate on behalf of the Union membership must consult regularly with the members on the progress and results of the negotiations that take place. This should apply in the case of concluding, amending, altering or abandoning a collective agreement.

RULE 20 LEGAL ASSISTANCE

Consistently with the provisions of Rule 3 Section (v) the General Meeting shall have authority to provide legal advice and legal assistance for any member whose contributions are fully paid up, in any matters connected with his employment provided the General Meeting are satisfied that the case is one of which it is advisable that legal advice or assistance shall be taken and provided also the necessity for legal assistance is not caused by drunkenness, willful neglect of duty or by criminal action on the part of the member.

RULE 21 EDUCATIONAL

The Union may undertake the education of its members through meetings, classes and monthly bulletin reporting the activities of the Union. Further it may publish literature and take other actions as will promote their industrial, cultural and social interest.

RULE 22 AFFILIATION

The Union shall affiliate to the Swaziland Federation of Trade Unions. The affiliation fee which shall be payable at the end of each month is 25% of the income received by the Union from membership subscriptions, which shall be forwarded to the Treasurer of the S F T U.

RULE 23 ALTERATION OF RULES

These Rules shall only be altered, amended or rescinded or new rules made by a majority vote at the General Meeting.

RULE 24 DISSOLUTION

i) The Union shall not be dissolved except with the consent of $^{5}/_{6}$ th of the membership of the Union obtained by means of ballot vote.

ii) In the event of the Union being dissolved as provided above, all debts and liabilities legally incurred on behalf of the Union shall be fully discharged and the remaining funds shall be kept in trust by the central organisation for a period of two years, during which should the organisation be revived, the central organisation shall take 50% for the furtherance of its national obligations and the 50% shall be given to the charity for the handicapped.

THE CONSTITUTION: THE EMPLOYERS ASSOCIATION FOR THE SWAZILAND SUGAR MANUFACTURING AND REFINING INDUSTRY

1 NAME

The name of the Association shall be the Employers Association for the Swaziland Sugar Manufacturing and Refining Industry and shall initially consist of three representatives appointed by and from each of the member sugar mills known as Mhlume (Swaziland) Sugar Company, The Royal Swaziland Sugar Corporation and Ubombo Ranches together with a like number of alternates appointed in a like manner.

2 INTERPRETATION

For the purposes of this Constitution, unless inconsistent with the context, the words and expressions herein shall have the same meaning as in the Industrial Relations Act, 1980. 'Member' means a Company or a Corporation and initially is one of (a) Mhlume (Swaziland Sugar Company), (b) The Royal Swaziland Sugar Corporation or (c) Ubombo Ranches.

'Representative' means a person who is an employee of one of the member companies or corporations and who is appointed to represent that member on an employer organisation.

'The Association' means that of the Employers Association for the Swaziland Sugar Manufacturing and Refining Industry.

3 OBJECTS

The objects and functions of the Association are:-

a) To promote, support, encourage and protect the interests of members.

b) To assist and encourage co-operation between members in regard to such matters as affect the common interests of members.

c) To examine and express opinions on any proposed legislative or other measures affecting the interests of the Association or its members.

d) To promote and secure industrial peace and harmonious labour relations and to regulate relations between its members and their employees.

e) To encourage, promote, aid and effect the settlement of disputes by legal means in terms of an agreed grievance and disputes procedure.

f) To establish in conjunction with industry unions or employee representatives a Joint Industrial Council in terms of Part IV of the Industrial Relations Act 1980.

g) To investigate, recommend, foster, encourage and promote education and technical facilities and/or schemes for training of apprentices and other employees in the Sugar Manufacturing and Refining Industry.

h) To utilise its funds solely for the objects for which the Association was established.

i) To do or perform all such other lawful acts, deeds, things or functions as may be incidental or conducive to the attainment of the above objects.

4 MEMBERSHIP

a) Membership shall be confined to:

Employers engaged in the manufacture and/or refining of sugar and any of its by-products from cane and who are members of the Swaziland Sugar Millers Association.

b) Application for membership shall be made on the form prescribed by the Executive Committee and shall be lodged with the Secretary, together with the entrance fee and subscription for the current year. All applications for membership must be proposed and seconded by members of the Association.

c) A list of members shall be circulated to all members at such intervals as the Executive Committee shall decide but in any case not less than once a year.

d) A member whose membership is terminated for the reasons specified in Clause 5(a) (i) - (iv) may rejoin as a new member.

e) Any member wishing to resign must give at least 6 months written notice to the Secretary and such resignation shall be submitted to the Executive Committee. Provided that such member shall be liable for the subscriptions due or to become due up to the expiration of such notice at the final and absolute discretion of the Executive Committee.

f) No member shall resign during any strike or lockout and during the continuation thereof shall conform to and observe all the conditions and resolutions of the Association.

5 TERMINATION OF MEMBERSHIP

a) At the discretion of the Executive Committee a member may be suspended or expelled for any of the following reasons, provided that he be given 6 months notice of any such action to be taken:

(i) If the member, being a Corporation or a Company, is wound up, dissolved or become bankrupt.

(ii) If the Executive Committee passes a resolution that it is undesirable in the interests of the Association that a member shall remain a member, such member shall be fully informed in writing of the allegations against him.

(iii) If a member fails to abide by the constitution, by-laws, rules or resolutions adopted by the Association.

(iv) If a member is guilty of any conduct which in the opinion of the Executive Committee renders the member unworthy of membership of the Association.

b) Any member suspended or expelled from the Association may appeal to a General Meeting within 1 month of the Executive Committee's decision being communicated to him.

c) No member, having ceased to be a member or suspended under this clause, may have any claim upon the Association or its funds.

6 ENTRANCE FEE AND SUBSCRIPTIONS

a) An entrance fee of E100,00 shall be paid by all new members provided that the Executive Committee may in its discretion waive such fee when a new member has previously ceased to be a member or has been suspended from membership.

b) An annual subscription of not less than E100,00 shall be determined by the Association and shall be payable in advance on or before the 1st day of May of each year.

c) Subscriptions payable by new members shall be calculated pro-rata on a quarterly basis for the balance of the year.

d) The maximum limit of the annual subscription specified in Clause 6 (b) may only be increased by a resolution passed by two thirds of members present at a General Meeting.

e) A member whose subscription is three months in arrears shall be suspended from membership unless the Executive Committee decides otherwise but should any member's subscriptions be six months in arrears in any year, such a member without prejudice to the Association's right to recover arrear subscriptions shall *ipso facto* cease to be a member of the Association.

7 OFFICES OF THE ASSOCIATION

a) The offices of the Association and of the Executive Committee shall be those of Chairman, Vice Chairman, Secretary and Treasurer; all of whom shall be elected by secret ballot at the Annual General Meeting of the Association and who shall hold office until the next Annual General Meeting provided that the

offices of Secretary and Treasurer may be combined and that no less than two members are represented on any Executive Committee.

Any vacancy occurring in the Association or in the office of Chairman, Vice-Chairman, Secretary or Treasurer of the Association or the Executive Committee shall be filled by a representative appointed by the Association from the Company at which the original office bearer was employed for the unexpired period of the office concerned.

b) Nominations for election to the Executive Committee of the Association shall be in writing and must bear the signature of the proposer and the seconder together with the written consent to nomination of the nominee. Nominations shall be lodged with the Secretary at least seven days prior to the Annual General Meeting.

c) Where more than one person is nominated for an office, a secret ballot of the representatives present and entitled to vote shall be held and the nominee who receives the absolute majority (i.e. more than the combined votes cast for the other candidates), shall be declared elected. When three or more candidates are nominated for an office and no single candidate secures an absolute majority on the first ballot, the candidate receiving the least number of votes shall be excluded and another ballot taken of the remaining candidates and this process shall be repeated until one candidate receives an absolute majority of the votes cast whereupon that candidate shall be declared elected.

d) The Executive Committee shall appoint any other person or persons to such committee or sub-committee as they decide is necessary from time to time.

8 DUTIES OF THE OFFICE BEARERS

a) Chairman

The Chairman shall :

(i) Preside at all meetings at which he is present:

(ii) Conduct meetings according to the rules of the debate:

(iii) Sign the minutes of the previous meeting after clear confirmation:

(iv) Enforce observance of the constitution of the Association:

(v) Generally exercise supervision over the affairs of the Association:

(vi) Perform such other duties as by usage and custom pertain to his office:

b) Vice-Chairman

The Vice-Chairman shall :

Carry out all the duties of the Chairman in the absence of the latter.

c) Secretary

The Secretary shall :

(i) Conduct all correspondence relating to the Association, call all meetings including Executive Committee Meetings and Special General Meetings of the Association and cause proper minutes of such meetings to be kept in a book provided for that purpose:

(ii) Advise all representatives of the Association or Executive Committee as the case may be of a General or an Executive Committee meeting and shall attach to the advice of such meeting the Agenda showing the business to be transacted:

(iii) Keep a register of all members which shall include a record of the address and date of enrolment of each member, the dates of payment of the entrance fee and subscriptions paid and the period to which these payments relate:

(iv) Make available at any reasonable time the register of members and other books of the Association, including the confirmed minutes of any Meeting of the Association, for inspection by any member of the Association:

(v) Perform all such other duties as the Association or the Executive Committee shall determine.

d) Treasurer

The Treasurer shall :

(i) Be responsible for the funds of the Association and the keeping of proper books of account in the form prescribed by the Association.

(ii) Prepare an income and expenditure statement for the year together with a balance sheet reflecting the financial position of the Association to the 30 April each year and these shall be submitted to the Association at the Annual General Meeting:

(iii) Arrange for the accounts to be audited by a duly qualified Auditor appointed at the Annual General Meeting and shall make available to members a copy of the audited accounts together with the auditors report:

(iv) Receive from the Secretary entrance fees and the subscriptions of members and any monies due to the Association, bank all

monies with a bank designated by the Association, sign receipts and keep all necessary vouchers:

e) All cheques drawn on the Association banking account shall be signed by two office bearers, one of whom must be the Treasurer.

f) Office bearers shall be regarded as holding honorary positions of the Associations but may be remunerated for their services in accordance with such decision of the Executive Committee as may from time to time be made.

g) Every office bearer, Executive Committee representative or employee of the Association shall be indemnified by the Association against all costs, losses and expenses incurred by him in the course of carrying out the instructions of the Association or in the performance of duties allocated to him by the Association.

9 EXECUTIVE COMMITTEE

a) The general business of the Association shall, subject to any directives issued by a General Meeting, be managed by the Executive Committee.

b) The Executive Committee shall consist of not less than three representatives elected by the Annual General meeting as in paragraph 7 (a).

c) The representatives of the Executive Committee shall remain in office until the appointment of their successors.

d) The Chairman and Vice-Chairman together with two representatives of the Executive Committee representing different members of the Association present at a meeting of the Committee shall be a quorum.

e) The Executive Committee shall meet as and when required, but in any case not less than once every year.

f) A Special Meeting of the Executive Committee may be called by the Chairman at any time and shall be called by the Secretary following a written request signed by not less than two representatives of the Committee.

g) Representatives of the Executive Committee shall be given at least seven days written notice by the Secretary of the time and place of a meeting, provided that shorter notice may be given at the discretion of the Chairman in respect of Special Meetings. An Agenda for the meeting shall be attached to every notice of meeting.

h) A representative of the Executive Committee may be suspended or expelled from office for any of the following reasons:-

(i) On suspension or expulsion of his member Company or Corporation from the Association.

(ii) On absenting himself from three consecutive meetings of the committee without permission or reasons acceptable to the Committee.

(iii) On his member Company or Corporation ceasing to be in good financial standing as defined in Clause 6 (e).

(iv) On being convicted of a crime involving dishonesty.

(v) On being elected or appointed to hold office in a political party or as a Minister, Assistant Minister or Deputy Minister.

(vi) If a two thirds majority at a General Meeting vote in favour of removing a representative from the Executive Committee.

(vii) A representative of the Executive Committee may resign giving three months notice to the Secretary of the Association.

10 POWERS OF THE EXECUTIVE COMMITTEE

The Executive Committee shall have the following powers:-

a) To prescribe the form of application for membership and to consider and determine upon all applications for membership.

b) To expel or suspend any member from membership for reasons specified under Clause 5.

c) To appoint sub-committees to investigate and enquire into any matter and submit a recommendation to the Executive Committee.

d) To appoint persons to represent the Association on a Joint Industrial Council established under the provisions of Part IV of the Industrial Relations Act 1980.

e) To have the custody of the funds and other property of the Association and to open and operate a banking account in the name of the Association.

f) To institute or defend legal proceedings by or against the Association or against or on behalf of individual members or representatives.

g) To investigate and where possible settle disputes arising between members or between members and employees.

h) To determine the remuneration and to define theduties of any persons who may be appointed under this Section.

i) To do such other things as in the opinion of the Executive Committee are conducive to the interests and good management of the Association or the promotion of its objectives.

11 ANNUAL GENERAL MEETING

a) An Annual General Meeting of the Association, open to all members, shall be held not later than 31 July in each year at which meeting the Association shall submit its report for the previous year.

b) The Chairman of the Association shall chair the Annual General Meeting.

c) The notice of such Annual General meeting shall include the time and place of the meeting and shall be accompanied by the Agenda.. Particulars of business to be considered by the meeting shall be given to all members not later than 21 days before the meeting.

d) Only the representatives of fully paid up members may vote in the election of officers, nominate candidates for any office, be nominated for or be elected to any office, or express views on candidates and issues.

e) Two thirds of the representatives of the Association present at an Annual General Meeting shall be a quorum.

12 ORDINARY GENERAL MEETING

a) An Ordinary General Meeting of the Association shall be held on such a day as the Executive Committee shall appoint, subject to fourteen days notice of the meeting being given by the Secretary to each member of the date, time and venue together with the Agenda for the meeting.

b) The Chairman of the Association shall chair an Ordinary General Meeting.

c) A quorum for an Ordinary General Meeting shall be two thirds of the representatives of members in good financial standing.

d) Questions arising for decision at Ordinary Meetings shall be decided by a majority vote on a show of hands on a motion duly seconded or, should the meeting so decide, by secret ballot as provided in Clause 14(e); in the case of an equality of votes the Chairman of the Association shall have the casting vote in addition to his deliberative vote..

e) Every member in good financial standing present at a ballot shall be entitled to one vote for each representative of that member.

f) The Chairman or in his absence, two members of the Association may, at any time, convene a Special General Meeting at such notice as in his or their opinion the urgency of the case may require.

g) No business other than that specified in the notice convening the meeting shall be discussed at a Special General meeting except by approval of the Chairman.

h) The accidental omission to give notice of a meeting to any of the members or the non receipt of such notice shall not invalidate any resolution passed at a meeting.

i) Bye-laws consistent with this constitution or with the provisions of the Industrial Relations Act, 1980 or with any other written law may be framed, amended or rescinded by the approval of not less than two thirds of the representatives of members present at a General Meeting.

j) Any representative may propose a resolution or question an officer at a General Meeting.

k) A General Meeting shall be the forum for deciding the policies of the Association and for reviewing the officer's conduct of the Association's affairs and the Executive Committee shall be bound by the decision of the meeting.

13 REPRESENTATION ON OTHER BODIES

a) A representative may be elected by the Association to represent it on other bodies approved by the Association and representatives so elected shall be appointed to serve on such bodies as representatives of the Association and not in their individual capacity. Such representative shall carry out the instructions of the Association and shall resign from any body on which he may be representing the Association, if so instructed by the Association.

b) The Executive Committee shall determine the number of representatives to be appointed from the Association to serve on a Joint Industrial Council established under the Industrial Relations Act, 1980. Such representatives shall be appointed as laid down in 10(d) and as provided for in the Constitution of the Joint Industrial Council.

c) Representatives of the Association serving on the Joint Industrial Council may resign from such council by giving three months notice in writing to the Secretary or such other notice as maybe prescribed in the constitution of the Council; any Association vacancy on the Joint Industrial Council shall be filled by a representative appointed by the Executive Committee.

14 GENERAL

a) An annual return shall be submitted to the Labour Commissioner by 31 October each year providing the following details:-

(i) The address of the Association :

(ii) The names and postal addresses of all office bearers :

(iii) Any amendments made to the Association's constitution during the preceding financial year :

(iv) The audited accounts for the preceding financial year :

b) Liability of members in respect of expenses of the Association shall be limited to their annual subscriptions.

c) Any proposal to declare or take part in an industry lockout shall be determined at a General Meeting by a two third majority of the representatives present.

d) No ballot involving the declaration of or participation in a lockout shall be taken until the matter giving occasion therefore has been dealt with in accordance with Part VII of the Industrial Relations Act, 1980.

e) No amendment, alteration, repeal of or addition to any of the provisions of this constitution shall be made, except by special resolution approved in a secret ballot by not less than two thirds of

the representatives of members in good financial standing present at a General Meeting of the Association.

15 WINDING UP

a) The Association shall be dissolved by a resolution of any General Meeting provided in sub-section (a) or if for any reason the Association is unable to continue to function the following provisions shall apply:-

(i) The last appointed Chairman or the Vice-chairman of the Association or, in their absence, the available representatives of the last appointed Executive Committee of the Association shall forthwith submit to the Labour Commissioner a statement signed by him or them setting forth the resolution adopted, or the reasons for the Association's inability to continue to function as the case may be, requesting that the Industrial Court shall be appointed to carry out the winding up of the Association.

(ii) The Industrial Court may call upon the last appointed office bearers of the Association to deliver to it the Association's books of account showing assets and liabilities together with the register of members, valid for the 12 months prior to the date of which the Association was unable to function (herein referred to as the date of dissolution), the subscriptions paid by each member and the address of that member at the time of the dissolution. The Industrial Court may also call upon the office bearers to hand over to the Court all unexpended funds of the Association and to deliver to the Court the Association's assets and all documents necessary in order to liquidate the assets.

(iii) The Industrial Court may take such steps as it considers necessary to liquidate the debts of the Association from its established funds or any other monies released from any assets of the Association and if the said funds and monies are insufficient to pay all the creditors after the expenses of winding up have been met, the order in which the creditors shall be paid may be decided by the Industrial Court subject to the provisions of paragraph 15(b) or any written law for the time being in force relating to the distribution of the assets of insolvent estates.

(iv) After the payment of all debts in accordance with sub paragraph (iii) the remaining funds, if any, may be distributed by the Industrial Court as it may deem equitable amongst the members of the Association who were in good financial standing as at the date of dissolution.

SWAZILAND SUGAR MANUFACTURING AND REFINING INDUSTRY EMPLOYERS ASSOCIATION

COMPARATIVE RATES FOR LOWEST GRADE/GRADE A.1. EMPLOYEE BASED ON WAGES REGULATION ORDERS AS AT 31 OCTOBER 1991

INDUSTRIAL AND COMMERCIAL INDUSTRIES

INDUSTRY	DATE OF WAGES ORDER	MINIMUM RATE OF PAY	WORKING HOURS PER WEEK	CASH RECEIVED PER MONTH	CASH VALUE OF VALUE OF ACCUMULATED RATIONS BONUS/MONTH		TOTAL REMUNERATION PER MONTH - CASH + BONUS + RATIONS	ANNUAL LEAVE	PAID PUBLIC HOLIDAYS	REMARKS
Sugar Manufacturing & Refining Industry - Hourly Rated Industrial	1.1.91	E1.23 per hour	46	E245.18	E65.00	E20.43	E330.61	12 working days	6	Negotiated Collective Agreement
Motor Engineering Trades LN52 of 1991	1.2.91	E1.50 per hour	45	E292.50	included in wage	-	E292.50	10 working days	8	
Mining and Quarrying	1.8.90	E11.17 per day	48	E290.42	included in wage	-	E290.42	18 working days	8	
Building & Construction LN 53 of 1991	1.1.91	E1.28 per hour	47½	E263.47	included in wage	-	E263.47	13 days	8	
Manufacturing and Processing Industry LN 32 of 1991	1.2.91	E51.75 per week	48	E224.25	included in wage	-	E224.25	14 calendar days	7	
Road Transportation LN 10 of 1990	1.3.90	E49.38 per week	48	E213.98	included in wage	-	E213.98	15 working days	12	

THE FOLLOWING ADDITIONAL RELEVANT INFORMATION HAS ALSO BEEN OBTAINED FROM THE MANAGEMENT OF MONDI TIMBER PRODUCTS (SWAZILAND)

Mondi Timbers	1.5.91	E9.60 per day	48	E249.60	E34.68	E15.25	E299.53	12 working days	6	Negotiated Collective Agreement

APPENDIX 11
Revised 31 October 1991

SWAZILAND SUGAR MANUFACTURING AND REFINING INDUSTRY EMPLOYERS ASSOCIATION

COMPARATIVE RATES FOR LOWEST GRADE/GRADE A.1. EMPLOYEE BASED ON WAGES REGULATION ORDERS AS AT 31 OCTOBER 1991

AGRICULTURE BASED INDUSTRIES

INDUSTRY	DATE OF WAGES ORDER	MINIMUM RATE OF PAY	WORKING HOURS PER WEEK	CASH RECEIVED PER MONTH	VALUE OF ACCUMULATED BONUS/MONT H	TOTAL REMUNERATION PER MONTH - CASH + BONUS + RATIONS	ANNUAL LEAVE	PAID PUBLIC HOLIDAYS	REMARKS
Sugar Manufacturing & Refining Industry - Daily Rated Industrial	1.1.91	E7.83per day	54 to 48	E204.88	E20.49	E290.37	12 working days	10	Negotiated Collective Agreement
Forestry and Forest Industry LN 107 of 1990	19.90	E24.24 per week	48	E105.04	-	E139.72	12 working days	6	
Agricultural Industry LN50 of 1991	1.3.91	E2.99 per day	57	E77.74	-	E112.42	12 working days	8	6 days wages each week. No attendance Bonus

APPENDIX 11
Revised 31 October 1991

APPENDIX 12

A CONSTITUTION FOR THE JOINT INDUSTRIAL COUNCIL OF THE SWAZILAND SUGAR MANUFACTURING AND REFINING INDUSTRY

1 TITLE

The Joint Industrial Council shall be called the Joint Industrial Council for the Swaziland Sugar Manufacturing and Refining Industry, hereinafter referred to as the "Council".

2 DEFINITIONS

For the purposes of this Constitution and for any acts or matters arising therefrom, the definition of any words or phrases shall be that given in Sec.2 (Interpretation) of the Industrial Relations Act No.4 (1980) or any other of the Labour Laws of Swaziland which may be pertinent, provided, in this case, that they do not conflict with words or phrases used in the Industrial Relations Act; save that:-

"employee" means a person engaged on work as defined in the Works Council constitutions of the respective participating companies.

3 FUNCTIONS OF THE COUNCIL

3.1 To secure the largest possible measure of joint action by employers and employees for the development of the industry and the improvement of the conditions under which persons are engaged in the Industry. Without detracting from the generality of this requirement, the functions of the council shall include:-

a) the establishment by negotiation between employer/employee representatives of rates of wages and salaries, hours of work and working conditions and the drawing up or amendment of Collective Agreements covering the industry.

b) the consideration of measures for improving productivity in the industry.

c) the establishment of machinery for the settlement of unresolved disputes as referred by the General Managers of the participating companies and for the settlement of disputes or differences between different parties and sections in the industry.

d) the issue of authoritative statements pertaining to wages and conditions of service affecting the industry which are of general interest.

e) representation of matters arising from JIC to the Government and other relevant authorities, and organisations.

f) the consideration of any matters that may be refereed to the Council by the Government or any other relevant authorities and organisations.

4 SCOPE OF COUNCIL

The scope of the Council shall include all employees in the industry as defined in para 2 of this Constitution.

5 MEMBERSHIP OF THE COUNCIL

5.1 The Council shall consist of:-

a) An Independent Chairman and an Independent Deputy Chairman one of whom shall preside at Council Meetings.

b) 4 Standing Committees to be known respectively as Industrial Daily Rated Employees, Agricultural Daily Rated Employees, Skilled Employees, Monthly Paid Employees, membership of which shall comprise of an equal number of employer representatives and employee representatives as defined in paragraph 2.

5.2 Members shall be appointed for two years and shall be eligible for re-appointment.

When an appointed member is incapacitated or for any reason is disqualified from office and thus unable to complete the full two years term of office, it shall be the responsibility of the remaining affected members to appoint or elect, as the case may be, a replacement member, who shall qualify in terms of Sec 6.3 and who shall complete the unfinished period of that term.

Written notification of the replacement shall be given to the Secretaries of the appropriate Standing Committee who shall circulate the information to the Council members so affected.

5.3 In the event that, for any reason, a member is unable to attend a meeting of the Council, then the body appointing that member, shall appoint an alternate member who shall qualify in terms of Sec 6.3, for the specific purpose of attending that meeting. The alternate member

shall provide written proof of his appointment to the Chairman of that meeting.

5.4 The Independent Chairman or Independent Deputy Chairman in their capacity as Chairmen of Standing Committees shall have the power to co-opt persons with special knowledge who are not members of the Council; such persons shall serve in a consultative capacity only.

5.5 A quorum for a meeting of any Committee shall be the Chairman or Deputy Chairman and at least two (2) employee representatives and two (2) employer representatives from each participating Company who have been appointed to the Committee by the Council.

6 APPOINTMENT OF OFFICERS AND MEMBERS

6.1 The officers of the Council shall consist of a Chairman and Deputy Chairman and joint Secretaries for each Standing Committee. The Chairman and Deputy Chairman shall be independent persons who have had experience in industrial relations.

6.2 Joint Secretaries, one from the employers' side and one from the employees' side shall be appointed by Council members present at the first meeting of each Standing Committee of the Council following the appointment of members.

6.3 Members shall be those persons nominated by the employers and persons elected from the respective company Works Councils, in the following numbers for each Standing Committee:-

Ubombo Ranches	-	Employer	3	Employees	3
Mhlume Sugar Co	-	Employers	3	Employees	3
Royal Swaziland Sugar Corp		Employers	3	Employees	3

It shall be the joint responsibility of employer and employee representatives within each member company to inform employees of the names of persons so appointed to the Standing Committees of the Council.

6.4 The Council shall be enlarged proportionately to cater for representation from any new employer whose organisation is admitted to membership of the Council.

7 MEETINGS OF THE STANDING COMMITTEES OF THE COUNCIL

7.1 Ordinary meetings of the Standing Committees of the Council as appropriate [ref. para 3.1(a)], shall be held not less frequently than once every 2 years, in order, by negotiation, to agree wages/salaries and conditions of service for an ensuing period of time as provided for in the Collective Agreement for this Council. Any member of the Standing Committees of the Council wishing to refer any matter to such Standing Committees for discussion at an ordinary meeting shall submit the matter to the Secretaries of the appropriate Standing Committee not less than thirty days before the meeting is to be held.

7.2 Special meetings of the Standing Committees of the Council shall be called by the Chairman or Deputy Chairman as soon as he can conveniently arrange such meetings on receipt by him of a written request for such a meeting from the Employers Association or from the Works Councils represented on the appropriate Standing Committee of the Council. Matters for discussion at a special meeting of a Standing Committee of the Council shall be set out in the request for the special meeting and in the notice to be sent to members of the appropriate Standing Committee calling the meeting.

8 AGENDA FOR MEETINGS OF THE STANDING COMMITTEES OF THE COUNCIL

The agenda for meetings of the Standing Committees of the Council shall be prepared by the Joint Secretaries and, together with any necessary memoranda, will be sent to each member of the appropriate Standing Committee of the Council in the case of ordinary meetings, at least fifteen days before the date of the meeting and in the case of special meetings, as soon as possible. A matter not on the agenda for a meeting may only be discussed with the permission of the Chairman of the meeting.

9 MINUTES OF THE MEETINGS

9.1 A record of decisions taken, shall be agreed before the termination of each meeting.

9.2 Minutes of the meetings of the Standing Committees of the Council shall be prepared by the Secretaries and a copy thereof shall be sent to all members of the appropriate Standing Committee within fifteen days of the meeting being held.

10 COUNCIL DECISIONS

10.1 Standing Committees of the Council shall act as the Council, relative to matters within the terms of reference for each Standing Committee [para 5.1(b)].

10.2 In the event of failure to reach agreement on any issue, a report of the dispute shall be compiled and signed by the Chairman and all members present of the appropriate Standing Committee and action taken according to the procedure for the resolution of disputes as prescribed in the Industrial Relations act No.4 (1980).

11 STATUS OF EMPLOYEE REPRESENTATIVE

11.1 Employee representatives on the Standing Committees of the Council shall be free to express their views on any matter falling within the scope or functions of the Council without fear that their relations with employers will be affected in any way by statements made in good faith while acting in a representative capacity.

11.2 Employee members of the Council shall be regarded as "on duty" for the period of the meetings of the council and shall be granted appropriate opportunities by the employers for consultation with each other, prior to a meeting of the Council.

12 EXPENSES OF THE COUNCIL

The expenses of the council shall be met from a fund to be jointly established and maintained by employers and employees. Two Secretaries (one from employers and one from employees) shall be responsible for the funds of the Council and for the keeping of proper books of account. Nevertheless, for the better conduct of the proceedings of the Industrial Council, it shall be proper for employers to expend such sums as they consider appropriate to assist with the administration of the Council, in the event the joint funds contributed by the parties are inadequate for the purpose.

Every Office Bearer, member or employee of the Standing Committees of the council shall be indemnified by the Council against all costs, losses and expenses reasonably incurred by him in the course of carrying out the instructions of the council or in the performance of duties allocated to him by the Council.

13 COLLECTIVE AGREEMENTS

13.1 A Collective Agreement made by the Standing Committees of the Council and any amendment to an existing Collective Agreement shall be in writing and signed by the Chairman or Deputy Chairman and a nominated member from each side.

13.2 Copies of a Collective Agreement made by a Standing Committee of the Council and any amendments to an existing Agreement shall be made available to both sides of that Standing Committee of the Council in a quantity to be agreed by the Council and which shall be sufficient to ensure that all persons affected by the Agreement or amendment can acquaint themselves with its contents.

SUGAR MANUFACTURING AND REFINING JOINT INDUSTRIAL COUNCIL (I.E. UBOMBO RANCHES, MHLUME & SIMUNYE)

STANDING COMMITTEE

INDUSTRIAL DAILY PAID
MANAGEMENT REPS:- 3

Personnel Manager
Factory Manager
Agricultural Manager

EMPLOYEE REPS:- 3

AGRICULTURAL DAILY PAID
MANAGEMENT REAPS:- 3

Personnel Manager
Agricultural Manager
Field Manager

EMPLOYEE REPS:- 3

HOURLY PAID
MANAGEMENT REPS:- 3

Personnel Manager
Agricultural Manager
Factory Manager

EMPLOYEE REPS:- 3

MONTHLY PAID
MANAGEMENT REPS:- 3

Personnel Manager
Business Manager
Factory Manager}Alternate
Agric Manager }
EMPLOYEE REPS:- 3

SIMUNYE BRANCH WORKS COUNCILS

INDUSTRIAL DAILY PAID BRANCH COUNCIL
MANAGEMENT REPS:- 3

Personnel Manager - Chairman
Factory Manager
Agricultural Manager

EMPLOYEE REPS:- 10

AGRICULTURAL DAILY PAID BRANCH COUNCIL
MANAGEMENT REPS:- 3

Personnel Manager - Chairman
Agricultural Manager
Field Manager

EMPLOYEE REPS:- 8

HOURLY PAID BRANCH COUNCIL
MANAGEMENT REPS:- 3

Pers Manager - Chairman
Factory Manager
Agricultural Manager

EMPLOYEE REPS:- 5

MONTHLY PAID BRANCH COUNCIL
MANAGEMENT REPS:- 3

Pers Manager - Chairman
Business Management
Agric Manager } Alternate
Factory Manger}
EMPLOYEE REPS:- 5

LOCAL WORKS COUNCILS

INDUSTRIAL DAILY PAID WORKS COUNCILS					AGRICULTURAL DAILY PAID WORKS COUNCILS						HOURLY PAID WORKS COUNCIL		MONTHLY PAID WORKS COUNCIL
Chairman Fact Manager	Chairman - TFE Manager	Chairman - TFE Manager	Chairman - Civil Engineer	Chairman - Dev Manager	Chairman Area Manager	Chairman - Area Manager	Chairman - Area Manager	Chairman - Harv Area Manager	Chairman - Civ Engineer	Chairman - Senior Agron.l	Chairman - Factory Manager	Chairman TFE Mgr. Civil Eng.	
WORKS COUNCIL - Fact	WORKS COUNCIL - TFE Mlaula	WORKS COUNCIL - TFE Ngomane	WORKS COUNCIL - Civil Eng. - Est. Serv.	WORKS COUNCIL - Pers - Busin. - Train - Soc. - Clinic	WORKS COUNCIL - Mlaula	WORKS COUNCIL - Ngomane North	WORKS COUNCIL - Ngomane South	WORKS COUNCIL - Harv	WORKS COUNCIL - Parks & Gardens	WORKS COUNCIL - Agronomy	WORKS COUNCIL - Factory	WORKS COUNCIL - TFE - Civil Engineering	Nil

APPENDIX 12A

APPENDIX 13

ROYAL SWAZILAND SUGAR CORPORATION LIMITED
WORKS COUNCIL FOR DAILY PAID INDUSTRIAL WORKERS
CONSTITUTION AND RULES

1 NAME

The name of the Works Council shall be the Simunye Sugar Estate Industrial Works Council and is hereinafter referred to as "the Council".

2 OBJECTS

a) To provide an effective channel of communication between employees and management on matters of mutual interest.

b) To secure the maximum possible measure of co-operation between management and employees in order to achieve all Company objectives undertaken in the mutual interest of both parties.

c) To prevent misunderstanding as much as possible.

3 FUNCTIONS

The functions of the Council shall be advisory and shall cover the matters shown below:-

a) Conditions of Service (including wages and wage structure).

b) Working conditions.

c) Discipline.

d) Education and Training.

e) Efficiency.

f) Accident prevention.

g) Recreation and Welfare.

h) Interpretation and explanation of Legislation relating to employment or Company regulations and policies.

4 GRIEVANCES AFFECTING INDIVIDUAL EMPLOYEES

Any individual grievance should be taken up by the employee concerned as laid down in the Company's Complaints and Grievance Procedure.

5 MEMBERS OF THE COUNCIL

The Council shall consist of management representatives as nominated by Management, an independent representative, and workers representatives as elected by the employees and shall be made up as follows:-

Management Representatives

The Factory Manager or his nominee - Chairman
The Manager, Transport and Field Engineering - Workshops
The Civil Engineer or his nominee
The Administration Manager
The Personnel Manager
Personnel Superintendent - Welfare - Secretary

Independent Representative

Ndabazabantu - Ex-officio member of all Works Councils

Employee Representatives

Six from the Factory

Two from T F E workshops

Two from Civil Engineering department

One from Administration department

One from Personnel department

to be elected from the representatives of the Works Sub Councils of each department.

6 OFFICERS

a) The Factory Manager or any other official appointed by the Company, shall be Chairman of the Council.

b) The Personnel Superintendent - Welfare shall be Secretary of the Council.

c) An Interpreter acceptable to both management and employees representatives shall be appointed by the Chairman as and when required.

7 EMPLOYEE REPRESENTATIVES

Only an employee of the Company shall be entitled to represent each department on the Council.

8 ELECTION OF EMPLOYEE REPRESENTATIVES

a) Representatives of the sub-councils of the Factory, civil Engineering, TFE Workshop, Administration and Personnel

Departments shall be entitled to take part in an election to select the representatives from such departments.

b) In May each year employees will elect their representatives to represent them during the forthcoming year.

c) Employee representatives elected in terms of sub-paragraph (b) above shall hold office for a period of one year.

d) Employees in a department may re-elect their representatives from the preceding year to represent them again the following year.

9 CASUAL VACANCIES ON THE SUB-COUNCILS

If an elected representative ceases to be an employee of the Company or resigns from the Council, the department concerned shall hold elections within 30 days of such occurrence in order to replace such representative. If the vacancy has not been filled within such period, the remaining employee representatives shall meet and nominate a successor from the department concerned to represent such department.

10 MEETINGS

a) Ordinary meetings of the Council shall be held once every three months.

b) Representatives shall be given seven days notice of the intention to hold such ordinary meeting.

c) Representatives must submit items for inclusion in the Agenda of business to be discussed at any meeting at least two days before such meeting to the Secretary. Only items so submitted may be

discussed at any meeting except that the Chairman shall, at his discretion, be entitled to permit the discussion of any other business not appearing on the Agenda.

d) The Council shall have the power to invite to attend any of their meetings, any person whom they may desire to consult in any way or who wish to make representations to the Council in any way.

e) Minutes of all meetings will be taken by the Secretary and subsequently delivered to all representatives. They will also be displayed on appropriate Company notice boards. Management will receive copies of the minutes of the meetings of the Council.

f) Meetings shall, wherever possible, take place during normal working hours.

g) At all meetings of the council, a quorum shall consist of fifty per cent of the management and employee representatives.

11 CO-OPTED REPRESENTATIVES

The Chairman may, at the request of employee representatives, co-opt any other Company employee to be an additional representative on the Council.

12 IMPLEMENTATION OF RECOMMENDATIONS

The Chairman shall be entitled to accept and implement recommendations which have no financial implications for the Company and are in line with existing company policy. All other recommendations shall be referred to Management for a decision.

13 GUARANTEE

A representative of the Council will be perfectly free to discharge the duties of his office with the absolute assurance that his personal standing in the Company will in no way suffer or be prejudiced by any action he may take or statement he may make whilst acting in good faith in his capacity as a Council representative.

APPENDIX 14

23 September 1982

Labour Commissioner
Labour Department
P O Box 198
MBABANE

Dear Sir
You will, I feel, wish to be apprised of the way in which Industrial Relations are developing in the Sugar Industry and specifically with the regard to the three Mills.

We have, as you know, as employers formed an Employers' Association (Sugar Manufacturers and Refiners Association) within the definition of the Industrial Relations Act and as current Chairman it seems appropriate to record the steps we are taking, to implement both the spirit and letter of the Act.

Works Councils have been in existence in all 3 mills for several years; we are now seeking to ensure a 'common' structure within each mill.

This structure provides for a 'tiered' approach in line with the particular requirements of the various categories of employee; thus, Daily Paid (Industrial), Daily Paid (Agricultural), Hourly Paid, Monthly Paid.

In effect, within each mill there will be a number of 'Branch' Councils which collectively may be defined as '<u>the</u>' Works council.

In essence our approach is to 'strengthen' as it were and to familiarise all employees with effective Works councils which in turn will provide the nucleus of employee representatives for the Joint Industrial Council, which itself will comprise of a 'tiered' structure.

Ultimately, and in fact we are aiming to progress this as quickly as possible, we shall be seeking approval of a Constitution for the formation of a Joint Industrial Council.

We are hoping to be able to produce the necessary Works council Constitution and the Joint Industrial Council Constitution within the next 3 months and visit by yourself to discuss, in general terms our approach to the current and immediate future Industrial Relations situation.

Yours sincerely

GENERAL MANAGER

APPENDIX 15

EMPLOYERS ASSOCIATION AND TRADE UNION RELATIONS - JUNE 1983

'POSITION PAPER'

1 **Joint Industrial Council**

The JIC based on a Works Council hierarchy was intended as an interim structure which, in the absence of Unions, not only complied with the Industrial Relations Act, but provided, in reality, machinery/framework for collective bargaining. The Union has now pre-empted this. The JIC structure (for sugar industry) is flexible enough however to accommodate unions, in so far as local 'shop stewards' for each category could effectively form Branch Councils and could produce Standing Committees for the JIC. Nevertheless, for any chance of that happening, it would be essential to discuss this with Unions now rather than being 'pre-empted' again, without trying to exert at least some influence.

2 Representation at Simunye is currently (2 June) considered to be +/- 200. The membership fee is E2.00 and the monthly contribution E1.00 - not a large sum to pay for 'employee' representation by 'professionals' even for the lowest level of worker - the indications from both Ubombo and Mhlume are that there is growing Union influence.

3 **Works Councils**

As far as these are concerned, it looks as though the Union has already 'scotched' the idea, unless we try to show them, through discussion (para 1) that the structure serves the Union needs, as well as management's.

Even if Simunye does lag behind in Union membership, it is only likely to be temporary, one possible alternative to delay Union influence would be to withdraw from the Employers' Association and go it alone. We ought not to rely on our management/worker relationships being sufficiently effective to sustain that effort, however, even though we think they may be better than at the other Mills.

The ability by management to stay 'in control' is questionable, in the present circumstances, temporarily we might still manage it, but given a worsening or an improvement in sugar's fortune's, it could be argued that some hard 'bargaining' will emerge. The apparent lack of Union progress at Simunye is probably due to the less than dynamic local Union representative - that situation can only be temporary.

4 Unions

Given the 'new' Industrial Relations impetus (and legislation and intent) then Unionisation does appear inevitable.

(i) The basic 'conflict of interests' - perhaps a rather more apt description, would be 'conflict in perception' prevents any chance of the Union being on management's side, or for that matter, management joining the Union, BUT since the Union exists and it can only be a question of time before the 40% membership can be claimed for recognition, then there seems nothing to lose and perhaps something to gain from discussions with the Union. (While this comment suggested only 'two sides' to a 'conflict', no other party e.g. Government - appeared to be involved).

(ii) Nevertheless, the crux of this depends upon evidence of growing Union membership.

On the assumption that the Union will be able to demand recognition from the other two mills, even if Simunye membership lags, it would be difficult to keep out for any length of time. (see para 5 - Strategy). While currently recognition can only be given by individual employers, it is again only a question of time before the Act is amended, to include Employer Associations[1]

(iii) Rejection of a Union request for recognition given reasonable membership, even if not 40%, would immediately establish a 'conflict' as against 'negotiation bargaining/environment; Employers could be seen to be 'anti-union'.

(iv) Similar 'conflict' would arise if we reject the Agricultural and Plantation Workers' Union on the grounds that it does not really represent the Sugar Milling Industry. The opportunity for influencing that situation without causing conflict is now past; and in any case Union recourse to the Industrial Court, could ensure that recognition be granted.

Such situations for either side, need to be avoided if we are to establish a 'collective bargaining' approach to Industrial Relations.

(v) The fact that there is now a Registered Union, for a 'wide' industry sector, would indicate that the Union is likely to expect higher rates of pay from the cane growers. The question of who can exert the greater influence as between growers and millers in resisting wage claims is one which requires greater know-how on sugar economics than is available to Industrial Relations staff, but given a responsible Union leadership, the cane growers might be able to make a case, for the time being.

5 Strike Strategy

Two points arise concerning the much expressed opinions of employers concerning an 'unsophisticated environment' and 'wild-cat strikes':

- the proximity of Swaziland to South Africa - the influence of 'workers' (Swazis) from South Africa, either relocating in Swaziland or visiting and 'international' Trade Union contacts, will have some bearing upon the progress of the TU movement.

  In the 'longer' term - and 'longer' may not be so far ahead, we need to recognise Trade Unions as a 'vehicle' for political purposes.

The arguments that Swazis are one nation and are not 'divided', that Swazi Government policy (legislation) prohibits political activity, that Swazis are politically apathetic are virtually the same arguments promoted in South Africa before the Wiehahn Commission, and the subsequent more flexible South African legislation for Trade Union activity. The arguments are not really valid.

The fact is that 'legitimate' Trade Union activity has many variations and while older workers may not be initially too enthusiastic, particularly when a monetary subscription is required, there are an increasing number of younger and relatively 'educated' individuals who, prevented from political activity, (as is the case in both South Africa and Swaziland) may well seek to use the Union as a means of demonstrating against Government policy. (See Ch. 9). The 'strike' at Simunye in May 1992, ostensibly over Recognition appeared to be projected for the purpose of influencing the authorities during the Vusela II investigations to take note of 'worker power'. This position paper 'forecast' such a situation in June 1983!)

Historically while economic considerations initiated Union formation, almost simultaneously, the Union power-base via Industrial action was used to 'demonstrate' (and ultimately 'force') recognition of a wide range of social and political grievances. Union strategy is to focus upon economically and socially (sometimes militarily) strategic industries.

Thus, while the South African Motor Industry (Port Elizabeth) was one of the most progressive, in terms of employee 'welfare', it was the first major industry to be 'hit' by the Union.

The point is that it was 'strategic' in the sense that not only did it affect smaller related industries but since the Motor companies were 'international', it attracted international attention on 'underprivileged workers' in South Africa.

Thus the 'hit' list was a 'strategic' move by the Unions and the resulting series of strikes were not 'wild-cat' although the 'strike' syndrome gave rise to a number of wild-cat strikes subsequently.

The earlier comment on Swazi unity has relevance in so far as the actual strikers in South Africa were united. In Port Elizabeth they were almost all Xhosa. The dock-workers in Durban, were all Zulu. Certainly, in Johannesburg, the ethnic groups were mixed, but they tended to have a 'common' united Sowetan identity for Union purposes. (Politically, that unity was destroyed by the inter-faction African National Congress v Inkhata Freedom Party violence in 1990/91).

Conceivably - 'sugar' is an economically strategic industry in Swaziland. Union 'political' motives may not yet be apparent and may not have the 'international' aspects which exist in South Africa, but the strategic importance could be used to 'embarrass' the traditional Government eventually.

The 1960's Big Bend and Havelock Mines strikes were 'political' and the Railways/Construction strike of 1962/3 was a strategic move by Union leaders who had worked in South Africa, to force recognition of Trade Unions by the employers.

- Strategy formulation is the work of Union leaders and while much of the membership may consist of 'unsophisticated' individuals it is the leaders who really determine what happens not the 'rank and file', hence the need by the Employers to get to know them through discussion.

It may be argued that the UK rank and file in recent years have tended to ignore/challenge the leadership, BUT it has taken almost 150 years in a 'sophisticated' industrial and political environment for that to happen.

6. **Employer Combination**

Reference to employer 'combinations' to delay Union recognition would have little 'legal' validity; (para 4 (ii)). In any case Union 'strategy (para 5) may seek to force recognition.

As indicated previously, at present, 40% membership in individual companies, forces recognition and proposed amendments to the Act, will ultimately force recognition by Employers' Associations. 'super' Association of Employers, e.g. the Federation, seeking to delay recognition of Unions could produce an Employer/Government confrontation!

7 Initiative

The formation of the JIC by the employers, indicated the Employer 'initiative'. What is of concern now, is that the 'initiative' appears to have gone to the Unions in that the Employers are 'reacting' to Union moves. Certainly we are trying to push ahead with JIC but without actively involving

the Unions or in fact even discussing the Chairmanship etc. with Works Council representatives. We have not yet sought any Worker, support for any Chairman 'nomination' - the 'workers' could object!

8 **Planning**

What is needed is a clear short-term and long-term strategy for dealing with Unions.

A strategy, flexible enough to allow for consideration of Union 'moves', (we might be better able to anticipate those if we had some contact with the Union), but which enables the Employers to retain some initiative towards at least trying to establish a 'conflict-free' collective bargaining environment; not the same as thinking that conflict can always be avoided.

Some important Strategic Questions to be answered are:

What stance do the Employers wish to adopt vis-a-vis Unions and over what period of time?

What are the Economic, Social, Political Objectives to be pursued?

Employers need also to answer these questions from the Union point of view and also anticipate Government concerns.

9 I really feel that this is important enough for the Employers' Association to hold a Strategy - planning conference involving more of our Senior Executives most of whom will eventually be involved in collective bargaining and the Federation Director - don't think a 'two-hour' meeting is sufficiently long enough to think through and determine all of the issues involved. (Fox - June 1983)

INDUSTRIAL RELATIONS STRATEGY

1 Overall Approach

There is need to review, probably annually, in the light of developments. Industrial Relations is essentially a dynamic phenomenon. Employers could, for example at some stage in the future, be faced with a complete rejection of Unionism by the work-force; similarly they could be confronted with politically powerful and militant Unions, if the whole State situation were to change.

The tabulated strategic guide-lines outlined in this paper provide an on-going 'plan' for action by the Employers, in an attempt to retain some initiative in the developing Industrial Relations situation and to retain/maintain a workable structure for the establishment of 'terms and conditions of service' and for the 'resolution of disputes'.

2 Union Action

Within the plan, developed action is on the basis of "what happens if.....?" in response to employer 'initiatives', but obviously, the Union will be pursuing its own goals, which may/may not coincide with the Employers. Contingency covers some of the possible actions of the Union, which could be in response to Employer initiatives, but which may be pursued by the Union as 'independent' of those initiatives; actions in either case would be the same.

Note that 'strikes' can be initiated for reasons completely independent of any 'local' issue.

3 Employer Action

The 'Lock-out' as a strategic weapon (as with Strikes for Unions) could be used, for a variety of reasons.

In the very long-term situation, Employers might need to resort to such action. However, Strikes or Lock-outs, are actions precipitated by a general reaction to events or specific dispute. Employer decisions in this regard should seek to attain realistic objectives, and not occur as an 'angry' response to worker activities.

INDUSTRIAL RELATIONS STRATEGY

1 AIMS

1 ECONOMIC - Establish, through negotiation, rates of pay and conditions of service within Employer parameters at 24 months intervals.

2 SOCIAL - Maintain and improve 'credible' public image for Sugar Milling Industry, as a continuing exercise.

3 POLITICAL - Maintain 'status-quo' within the framework of national Industrial Relations system.

- Maintain JIC as a permanent 'negotiating' and Industrial Relations body.

2 OBJECTIVES

EMPLOYER INITIATIVES

1 SHORT TERM	ACTION	CONTINGENCY
1 Establish negotiating environment within JIC (Milling Industry by 31 August:-)	(i) Tripartite meeting:- - Point-out need to move quickly in readiness for next round Wages negotiations.	Union - non acceptance - Involve Labour Commissioner
- Acceptance of Chairman for JIC	Emphasis:- Employers 'must' finance at this stage/bring-out Chairman by 30 September.	- Offer alternatives:- - Abort and re-think in response to Union comment. - Refer Works (Branch) Councils - using the Action information.

SHORT TERM (cont'd)

		:- Impartiality of Damerell:- :- TU Connections :- CDC Labour Advisor	- Consider Union alternatives to Chairman if offered, but continue discuss with Branch Committees the appointment of Damerell.
	(ii)	'Discuss' with Company Branch Committees.	
	(iii)	Formal offer to Chairman (Damerell)	
2 Acceptance of Stdg Committees	(i)	Tripartite meeting:- Advantages:- - 'Continuity/familiarity' - 'Direct' representation - Direct 'interest' - Administrative convenience for both parties	Union non-acceptance - Re-sell 4 Stdg Committees - Refer Registration JIC/ Refer to Works Councils - Defer further discussion/ await Union request for recognition but continue with JIC.
3 Works Council representation/pending Union 'readiness'	(i)	Tripartite meeting:- - Essential 'representation' for next 'round' Wages negotiation. - Logical 'follow-on' from Branch Councils	Union non-acceptance - Refer Union to JIC Constitution. - Provision for amendment - Pursue Works Council representation pending recognition of Union
	(ii)	- 3 Mills must keep-in-line to avoid chaos in industry	- Demand by Union for recognition viz without 40% membership.

		(iii) Pursue JIC "election" with Works Councils	- Refer flexible Constitution - Defer further discussion - Await Union request for Recognition based on 40% membership.
2	**LONG TERM**		
1	Political		
	Recognition when requested by Union - but need to maintain JIC as on-going exercise	- Acceptance of JIC Structure - already requested Association amendment	- Union non-acceptance of terms for Recognition (e.g. 4 Committees) - Negotiate: 4 - 3 - Stdg Committees - If Union demands Individual Employer/40% :- then outline terms for Joint recognition Agreement:- i.e. - Employers' Assn - JIC 'structure' - If Union demands recognition without 40% (e.g. Simunye):- - Refer Branch Works Councils - Note flexibility JIC Constitution to accommodate Union/Non-Union. - Refer Industrial Relations Act (non-compulsion)

2 **LONG TERM** (cont'd)

On-going
- Insist on Joint Recognition
- Lobby "influential" Government members
- Develop PR exercise on 'value' of JIC Structure
- Establish 'contacts' with Union leaders

- Union rejection
- Declare DISPUTE-GM's
- Follow procedure to Industrial Court

.2 Information 'desk' ASAP

- Monitor Union/Employer (other) activities
- Discuss Union matters with individual employees/and FSE
- Monitor 'Union' publications, speeches, international contacts

2 Socio-economic

Collective Agreement - by 31 January 1984

- During period 1 Oct - 31 Dec define:-

Financial and non-financial 'negotiating' items on basis of"-
Optimistic, Realistic, Pessimistic

Incorporate Existing Terms/ conditions of Employment

Develop 'negotiating' tactics

Record Job Categories Collective Agreement

In event of Deadlock
- Declare dispute - GM's

Follow procedure :-
Decide "lock-out" or Industrial Court

References

1 Federation of Swaziland Employers' - Letter to Sugar Milling Companies - 11 February 1983.

2 Simunye Sugar Estate - 19 July 1983

Mhlume Sugar Company - 28 July 1983 to Executive Director of Federation of Swaziland Employers.

3 Times of Swaziland - 3 November 1983 - 'Employers are Lashed'.

4 Times of Swaziland - Reports - 20 October; 3, 10 November 1983 -...

APPENDIX 17

SWAZILAND SUGAR ASSOCIATION

ANNUAL REPORT 1986/87

INDEX

			Page
Membership 1986/87	-	Council	2
	_	M.E.C.	3
Bankers			4
Solicitors			4
Auditors			4
Staff			5
Representatives and Consultants			5
Chapter 1 - Introduction and General Survey			6
Chapter 2 - 1986/87 Crop			7
Chapter 3 - Local Market			7
Chapter 4 - Export Market			8
Chapter 5 - International Sugar Affairs			9
Chapter 6 - Capital Investments and Expansion			9
Chapter 7 - Publicity and Public Relations			9
Chapter 8 - Association Membership and Representation			10
Chapter 9 - Swaziland Sugar Industyr Quota Board			10
Chapter 10 - Cane Prices Review Committee			10
Chapter 11 - Final Accounts for the Year Ended 30th April 1987			11
Table 4 - Sugar Tonnage Reconciliation			12
Table B - Local Market Sales			15
Table C - Details of All Shipments			16
Table D - Sugar Production 1958 - 1987			18
Table E - Crop Results 1977/78 - 1986/87			19

EMPLOYER REVIEW

A meeting took place in Mbabane on the evening of 26 April 1984 (SSMRI Minutes). Also present was the then non-Executive Chairman of the Board of the Royal Swaziland Sugar Corporation (Simunye), the later Mr G Szokolay, who although an expatriate by birth, had long association with Swaziland and with extensive local business interests.

The major purpose of the meeting was to determine common reaction with regard to Union recognition procedures and standardised reaction in the event of any possible labour action following the breakdown of JIC negotiations with daily rated industrial and agricultural workers.

1 Points for discussion were:-

Standard reaction in the event of any possible work stoppage. It was agreed that close liaison should be maintained to ensure that no single company took steps which were inconsistent with common reaction. It was further agreed that:-

- Personnel executives should arrange to visit the Labour Commissioner and Minister of Labour to appraise them of the present situation.

- General Managers were to request an audience with the Governor of the Royal Residence at Lobamba to appraise him of the general industrial relations situation in the milling industry, in order to ensure that the Employers' 'case' had been clearly communicated to the 'authorities'.

- The meeting noted that all three Mills had received requests for recognition from the Swaziland Agricultural and Plantation Workers Union and it was agreed that a common auditor be appointed to ensure that the union had the required 40% membership level.

A follow-up meeting was then convened between the personnel executives and the Executive Director of the Federation of Swaziland Employers. Matters considered, were:-

The situation regarding SAPWU activities. Provided the SAPWU officials did not allow their union activities to interfere with their jobs in any way, there was nothing that their employers could do to restrain provocative behaviour on the estates. They were doing so as officials of SAPWU and not as employees of any company or as office bearers of any company Works Council.

It was stated that the Secretary of the Employers' Association (SSMRI) had written to SAPWU on behalf of the three companies acknowledging its demand for recognition at each company. He had stated the previous terms for the consideration of recognition. No reply had yet been received from SAPWU.

It was noted (Industrial Relations Act) that the 30 days which employers had in terms of the Act to notify the union that they would recognise it or not, would only commence on the date on which the 40% membership at each company had been acceptably verified.

The Executive Director (FSE) reported that SAPWU had lodged applications for recognition with Mhlume, Simunye, Ubombo and also IYSIS. IYSIS, an agricultural company had replied in the same vein as SSMRI E/A rejecting recognition.

The proposed amendment[1] to the I/R Act was discussed. It was agreed that no matter what changes SAPWU were required to make the SSMRI would not be greatly affected - they would still be dealing with mainly the same union officials and union, no matter how they were required to change their constitution, their name or their office bearers. In fact the law might not even be amended. In any event, the negotiations then underway with SAPWU should continue as normal.

It was seen however that a company like IYSIS could be very seriously affected as they were at present legally locked into negotiations with SAPWU and if the Act was amended as proposed, could be faced with having recognised a union which was no longer applicable to its industry.

ENDNOTE

1. The Labour Advisory Board submitted the agreed amendments as listed by both employer and Trade Union representatives, under the Chairmanship of the Labour Commissioner in September 1983. As at (February 1992) no discussion on the amendments had taken place in cabinet; no amendments had been promulgated to the original Act, but a new 'draft' Act was circulated at the end of 1991 for 'comments' from Employers.

APPENDIX 19

27 June 1984

Labour Commissioner
P O Box 198
MBABANE

Dear Sir

Ref:- UNION RECOGNITION - SECTION 36 (5) - INDUSTRIAL RELATIONS ACT

We refer to the existing situation between the Swaziland Agricultural and Plantation Workers Union and 3 Sugar Mills individually and collectively through the Sugar Manufacturing and Refining Industry Employers' Association of Swaziland, concerning Union Recognition.

There is as you will know, currently two 'disputes' recorded by the Union; first, that pertaining to the legality of the Joint Industrial Council and agreements made by the Council which had already been referred to the Industrial Court, and the matter adjourned until 18 October; secondly, the report of a dispute, dated 7 June 1984, lodged with your office, concerning alleged Union non-recognition, by the Employers.

In an attempt to resolve what is clearly a prolonged and unsatisfactory situation, several informal contacts between the Union Acting General Secretary and the Secretary to the Employers' Association have taken place and two 'informal' meetings have occurred between the parties collectively.

The first such meeting took place in Mbabane on June 19th; at that meeting the Union was assured that subject to adequate evidence and records, the Employers' Association and the individual Sugar Mills would grant recognition on the basis of a 40% Union representation at each mill and on condition: that in order to obviate

the bureaucratic need to refer to the Industrial Court on every minor disagreement which might arise, during the Union membership verification process, then there should be appointed, in addition to the single Union and Employer representatives, who would actually conduct the 'count'. a completely independent referee, to whom reference could be made, in the event of such disagreement. The Employers suggested two names and the Union was asked to suggest further names. The Union was also asked to comment on what was to be done about wages increases for daily paid workers who because of Union activity had refused to negotiate in the JIC.

The Union requested a meeting of their National Executive to discuss the situation and the Employers' facilitated such a meeting for Friday 22 June at Manzini, notwithstanding the short notice, in an attempt to amicably resolve and progress recognition: it was understood that the Union would contact the Employers after that meeting.

At the Union's request a follow-up informal meeting was convened at Mhlume on 26 June in order to consider the Union viewpoint, after the meeting of 22 June and to further discuss the procedure for recognition.

Union representatives (Appx 2) met with the Employer representatives. Initially the Union objected to talks on recognition because the Employers were simultaneously, allegedly 'negotiating' with the Monthly-paid and Skilled Employee Standing Committees of the Joint Industrial Council.

The Employer representatives explained that the JIC meetings to which the Union referred were progress meetings which had been arranged at the time of the signing of the Interim Collective Agreements with the Monthly-paid and Skilled Employees, which agreements had been made prior to the Union's application for recognition to the 3 Sugar Mills; however, both of these Committees of the Joint Industrial Council, had been informed that because a case involving the Joint industrial Council validity was pending in the Industrial Court and also because talks had been convened to further discuss Union recognition, then further

negotiation and discussion within the JIC would be suspended pending the outcome of the Court Action and recognition talks. Therefore there was no reason to delay further, talks on Recognition procedure.

The Employers representatives reiterated their viewpoint that some independent referee was necessary to arbitrate in the event of disagreement over 'counting', since it was clearly impracticable to refer every minor issue to the Industrial Court.

The Union representatives were adamant that no such referee was required in terms of the Industrial Relations Act; the Employers' representatives agreed, but pointed out that the necessary recognition procedures should be "voluntarily agreed"; both parties were already disagreeing over this initial issue, and it therefore seemed both logical and necessary for such a "referee" to be appointed and the Union were again asked to put forward names of representatives stated that they would not agree to the appointment of an independent referee and that any disagreement should be referred to the Industrial Court; since there was already disagreement on the 'referee' issue, the Union 'complaint' (report 7 June 1984) to the Labour Commissioner would not be withdrawn.

No comment was offered on the question of Wage Increase for Daily Paid employees, which as indicated previously has not been negotiated so far by the Daily Paid JIC representatives.

In reporting this current 'deadlock' situation to you, we feel bound to observe Union intransigence over what would appear to be a perfectly legitimate request; the provision of 'independent arbitration' in the event of minor disagreement during the process of verifying Union claims for membership support; the Union continues to cause delay.

We (the Employers) conceded and have moved from an initial stand for requiring an independent, but qualified professional auditor, to a professional man (e.g.

doctor, lawyer) and now to an independent 'someone' of acceptable community and educational standing; the Union, for their part, have made no concessions.

We emphasise, that as Employers, we have a right to request adequate evidence of Union membership qualification and that there is need for some independent referee acceptable to both parties, to arbitrate in the event of minor disagreement during the verification process; otherwise we foresee an untenable situation in which the Industrial Court, with its heavy and burdensome workload and consequential delays, will be asked to pronounce on every minor issue and thus the total process of recognition will be delayed indefinitely.

We cannot stress, too strongly that the present impasse poses grave problems for the Sugar Industry and for Swaziland.

Yours faithfully

PETER J G FOX

for SSMRI E/A

cc	Acting General Secretary	-	SAPWU
	Executive Director	-	Federation of Swaziland Employers
	Personnel Managers	-	Mhlume, Ubombo & Simunye

CONFIDENTIAL

CONSIDERATION IN PRESENT INDUSTRIAL RELATIONS SITUATION

The current impasse in wage negotiations for daily paid employees requires a careful review of the options open to the employers and the steps which should be considered in attempting to resolve the problem. It is evident that there is no "ideal" solution and whatever course of action employers choose it will expose them to some element of risk either in terms of industrial unrest, dissatisfaction amongst its employees or potential longer term problems over industrial relations.

Four alternative courses of action can be considered

1 Leave the situation as is to find its own level

2 Pay an immediate end of June) unilateral increase.

3 Pursue a strategy to "force" negotiation through the existing JIC (without the Union participating).

4 Test Union support as rapidly as possible by a simpler recognition procedure and if support is proved negotiate over daily paid forthwith.

1 Leave situation as is to find own level

Whilst this action might comply strictly with the IR Act, it probably has the greatest risk of promoting industrial unrest in the short term and enhancing support for the Union movement. The employer' image meanwhile deteriorates and an increasingly complex situation is building up over back pay administration, assuming any increase is paid from 1 April.

2 <u>Pay unilateral increase</u>

This action would have the immediate advantage of defusing the situation and might possibly give a breathing space to all concerned whilst at the same time reducing union influence. However there is a danger that it is a short term solution only; it could be interpreted as a sign of weakness on the employers part (by Union supporters particularly) and could promote additional wage demands if and when the Union is recognised. It could jeopardise future IR with employees and the Union. Most importantly it cuts across the JIC procedures which employers have been "preaching" for the past 18 months and reduces our credibility.

3 <u>Force Negotiations through existing JIC</u>

This could be seen as interfering with worker/worker disagreement, management could be seen as deliberately trying to thwart the Union and in so doing promote further worker discontent and support for the Union.

4 Test Union support by simpler recognition procedures and negotiate <u>for daily paid wages</u>.

This course of action complies with the JIC procedure and could break the current impasse. it expresses management's willingness to conclude an agreement and could enhance our credibility with the workforce.

Its disadvantages are that it suggests management's weakness, the method is not totally accurate and it will probably result in the Union gaining recognition for all categories of employees.

Of the four alternatives considered, <u>option 4</u> might achieve the most desirable result and if agreed by the industry the following steps could be followed in its implementation.

i Union informed that employers are prepared to follow a recognition procedure through the appointment of representatives from employees, unions and an independent referee (Federation of Employers). Employers make it clear that recognition if achieved would only permit wage negotiation for daily paid employees at this stage.

ii Recognition procedures implemented and results announced within one week (speed is essential).

iii Negotiations on daily paid wages (agricultural and industrial) commence. negotiations restricted to wages only not any other matters.

iv After completion of wage negotiations the more detailed and protracted negotiations would continue on other terms, conditions, job standardisations, etc throughout the year.

v If union then requests 'check off' system it will be simple to monitor union support.

APPENDIX 21

3 December 1984

General Secretary
Swaziland Agricultural & Plantation Workers' Union
c/o SFTU
P O Box 1158
MANZINI

Dear Sir

REF - TRADE UNION RECOGNITION

We confirm the matters agreed with your Executive, at the informal meeting on 30 November 1984 at the Swazi Inn - Mbabane.

It is understood that:-

1 - Your Union will request the Registrar of the Industrial Court to withdraw the Replication Order of 29 May 1984 concerning registration of agreements in respect of skilled and monthly paid employees, formulated by the Joint Industrial Council for the Sugar Manufacturing and Refining Industry.

2 - The complaint to the Labour Commissioner, against the employers, with reference to Union recognition willful also be withdrawn.

3 - The Employer's Association, as representative of the Employers, in order to facilitate progress with the process of Union recognition, agrees to recommend to the Joint Industrial Council members for skilled and monthly paid and to the Registrar of the Industrial Court, that there is now no point in registering the April 1984 agreements, because of the indefinite postponement in the proceedings of the Industrial Court and because the Agreements expire, in any event, on 31 March 1985.

4 - The 'counting process' to establish Union membership will be done by the Personnel Manager at each Estate and a Union Official through checking of membership lists and receipts against Company pay-rolls and simultaneously carried out at the 3 Sugar Estates (Mills) in mid-January 1985.

5. - When this activity has been completed, we will again meet jointly on a date at a venue to be agreed, in order to consider the next step.

6 - This letter to be copied to the Registrar of the Industrial Court; Executive Director Federation of Swaziland Employers; General Secretary of Swaziland Federation of Trade Unions and the Labour Commissioner and to be exchanged with your Union's confirmatory letter, by the two Secretaries, as soon as possible.

The Employers' will disseminate information concerning our agreed decisions through Works Councils, at the 3 Sugar Estates as soon as practicable.

We record our appreciation of the cordial manner in which the meeting was conducted.

Yours faithfully

PETER FOX

for and on behalf of: SSMRI E/A

cc Executive Director Federation of Swd Employers

General Secretary - SFTU

Personnel managers - Ubombo : Mhlume

Labour Commissioner

Registrar - Industrial Court

APPENDIX 22

	Date of Count..	Overall Payroll : Members %			Monthly Payroll : Members %			Skilled Payroll : Members %			Daily Paid Industrial Payroll : Members %			Daily Paid Agricultural Payroll : Members %		
Simunye	5 Feb 1985	3347	1451	43.35	149	31	20.80	127	76	59.80	995	510	51.25	2076	834	40.10
Mhlume	7 Feb 1985	2120	873	41.18	132	60	45.45	78	39	50.00	799	445	55.69	1111	329	29.61
Ubombo	13 Feb 1985	3703	681	18.39	94	19	20.21	49 53.06	26		1113	323	29.02	2447	313	12.70
TOTALS		9170	3005	32.76	375	110	29.30	254	141	55.50	2907	1278	43.90	5634	1476	26.19

Revised Draft Recognition Agreement

An agreement made and entered between the Sugar Manufacturing and Refining Industry Employers' Association of Swaziland (hereinafter called 'the Employers') of the one part and the Swaziland Agricultural and Plantation Workers Union (hereinafter called 'the Union') of the other part on the ..... day of .....1985.

1 **Recognition**

1.1 The employers agree to recognise the Union as representing only eligible employees of the Sugar Manufacturing and Refining Industry. Employees who are not eligible to be represented by the Union are listed at Annexure 1.

1.2 The Employers agree that during the duration of this Agreement they will not recognise any other Union or organisation as representing employees who are eligible for representation by the Union in terms of Clause 1.1 hereof.

1.3 This recognition is granted on the basis of the Constitution of the Union as registered on the ..... 1985, and is subject to the understanding that in all matters of recognition the Employers will deal only with matters concerning the Sugar Manufacturing and Refining Industry. Any amendment made to the Constitution of the Union which has the effect of enabling the Union to take any action contrary to or incompatible with the provisions of this Agreement will entitle the Employers to regard the Agreement as having been terminated from the date of such amendment to the Constitution notwithstanding the provisions of Clause 15.

1.4 This recognition is granted subject to an assessment of the number of fully paid up members of the Union at each of the employees' companies immediately prior to the signing of this Agreement, such assessment to indicate a level of representation consistent with the requirements of the Industrial Relations Act.

2 Negotiable Matters

2.1 The Employers agree to meet, in accordance with the procedures hereinafter described, the representatives of the Union from time to time for the purpose of discussing matters concerning wages, productivity, hours of work and terms and conditions of employment of such employees as the Union is recognised in this Agreement as representing.

2.2 The Employer will not be obliged to meet the Union to discuss any questions concerning the engagement or promotion of any person employed by the Employers, whether such person is a member of the Union or not, or any other matter which is the sole prerogative of management. Matters relating to disciplinary proceedings will be dealt with in terms of Clause 4 of this Agreement.

3 No Victimisation

3.1 The employers agree that they will not take disciplinary action against any Union Representative or other official of the Union on account of any legitimate activities in his capacity as Union Representative or official. The Employers acknowledge that it is the prerogative and duty of the Union to discipline its members and officials for any unconstitutional or improper acts done by them in their capacity as members and officials of the union.

3.2 The Union agrees that it will not take disciplinary action against any employee whether he is or is not a member of the Union, on account of the performance of his duties as an employee of the Employers. The Union recognises that it is the prerogative of the Employers to discipline its employees for any improper acts done by them in their capacity as employees.

3.3 If either party can advance in writing reasonable grounds for believing that any disciplinary action has been taken by the other party in contravention of Clause 3.1 or 3.2 hereof the matter may be discussed in accordance with the provisions of Clause 7.1 of this Agreement.

4 Disciplinary Proceedings

4.1 At the hearing of any formal disciplinary proceedings against an employee whom the Union is recognised in this Agreement as representing, the employee may, at his request , be accompanied by a representative of the local Branch of the Union.

4.2 When an employee whom the Union is recognised as representing appeals against any decision made at formal disciplinary proceedings, he may, at his request, at any appeal proceedings, be accompanied by his Union Representative.

4.3 The Union agrees that in all disciplinary proceedings, the decision of the General manager shall be final, subject to the appeals procedures as provided for in Section 41 of the Employment Act, 1980, and to the Disputes Procedure contained in Part VII of the Industrial Relations Act, 1980.

4.4 At all stages of the above procedures the officials of the Industrial Relations Departments will be available to advise and assist the employee.

4.5 Disciplinary Policy as recognised by the Employers is attached at Annexure 2. This Disciplinary Procedure to be followed, based on this policy, will be those in force from time to time at each Employer Company.

5 Settlement of Local Questions - Individual Employees

5.1 If any employee whom the Union is recognised by this Agreement as representing wishes to raise a matter relating to his conditions of employment other than a matter relating to engagement or promotion (excluded from discussion in terms of Clause 2.2 hereof) or a matter which has been dealt with under the Disciplinary Proceedings (set out in Clause 4 hereof) he will in the first instance discuss it with his immediate supervisor.

5.2 Only the matters which cannot be settled in this manner will be considered to be grievances which will be dealt with in accordance with the procedure set out at Annexure 3.

6 Settlement of Local Questions - A Group of Employees

If any two or more employees wish to raise a matter relating to the conditions of service of their immediate work group, they may choose from among themselves a delegation of not more than three employees to represent them, which must include a Representative of the local Branch of the Union. This delegation shall then adopt the procedures set out in Clause 5 provided that the procedures will commence at the level of the supervisor having immediate supervision over all members of the group.

The procedure set out in Clause 5, providing that any matter of principle affecting all Union members or involving the interpretation of this Agreement may be dealt with under Clause 7, shall apply to this Clause.

7 Settlement of Local Questions - At Individual Company Level

7.1 The following procedure will apply when the local Branch of the Union wishes to raise a matter affecting all employees whom the Union is recognised in this Agreement as representing at any one Employee Company, in accordance with Clause 2 of this Agreement, or any complainant by an individual employee or group of employees which raises a matter of principle affecting all employees at that Company or which involves the interpretation of this Agreement and which has been dealt with under Clause 5 or Clause 6 and has not been settled, or any allegation of victimisation made in accordance with Clause 3:

7.1.1 The Secretary of the local Branch of the Union will first ask for a meeting with the official designated by the Company for the purpose of dealing with matters of the nature of the complaint or subject to be discussed, and will hand to such official an agenda setting out with full details the matters it is wished to discuss at the meeting and the meeting will normally be held within 7 working days whenever possible.

7.1.2 If agreement is not reached at the meeting arranged in accordance with 7.1.1 above, the Secretary of the local Branch of the Union may then ask for a meeting with the General Manager of the company or his nominee indicating at the same time which of the matters on the original agenda it is wished to discuss again, and the meeting will normally be held within 7 working days whenever possible.

7.1.3 At all meetings arranged in accordance with 7.1.1 or 7.1.2 above the Chair will be taken by a representative of the company who will not have a casting vote and the Union will be represented by not more than three representatives who will be employees of the Company and must include the Union Branch Chairman or his deputy; and the Company will likewise be represented by not more than three representatives. The Union representatives may be accompanied by a paid official of the Union, who may attend for the purpose of acting as Recorder on behalf of the Union, and who may, with the specific permission of the Chairman of the meeting, speak on a point of explanation only.

7.1.4 Should agreement not be reached at any meeting held in accordance with 7.1.2 above, either party may refer the matter or matters in dispute to the Joint Industrial Council constituted in accordance with Clause 9 of this Agreement.

7.2 The following procedure will apply whenever the Company wishes to discuss with the local Branch of the Union any local matter in accordance with Clause 2 of this Agreement, or any allegation of Union action against an employee in contravention of Clause 3.

7.2.1 The Company will first request the local Branch of the Union to meet the official designated by the Company for the purpose of dealing with the matters of the nature of the subject to be discussed, and will hand to the Secretary of the local Branch of the Union an agenda setting out with full details the matters to be discussed, and the meeting will normally be held within 7 working days whenever possible.

7.2.2 The provisions of 7.1.3 and 7.1.4 above will apply to all meetings arranged in accordance with this Clause.

8 Informal Consultation

Nothing in this Agreement contained will preclude:

8.1 the parties to this Agreement from consulting together informally and outside the terms of this Agreement on any matters of mutual concern, whether or not such matters relate to the terms and conditions of employment of any employee; PROVIDED further that no understanding reached between the parties at such informal consultation will be binding upon either party in terms of this Agreement.

8.2 the Employers from consulting together with any body composed of or representing any employees of the Employers or their dependents, whether or not such employees or any of them are members of the Union whom the Union is recognised by this Agreement as representing, upon any subject of mutual concern other than a matter concerning the terms and conditions of employment in accordance with Clause 2 of this Agreement.

Note: Informal discussion under this Clause will be by domestic arrangement.

9 Negotiating Procedures - At Industry Level

9.1 Should either party wish to discuss with the other party any matter or matters under Clause 2 of this Agreement, the matter or matters will be referred to the Joint Industrial Council for the Sugar Manufacturing and Refining Industry which will be constituted and will conduct its business in terms of the condition of the Joint Industrial Council attached at Annexure 4 of this Agreement in accordance with this Clause.

9.2 All local questions raised under Clause 7 hereof which have not been settled between a Company and the Union will likewise be referred to the Joint Industrial Council.

10 Leave of Absence on Union Business

The Employers will grant unpaid leave of absence to Union officials for the purpose of Union business, provided convenient advice of such absence is given to the management and provided work is not seriously impaired. Members of the Joint Industrial Council attending regular meetings of the Council or special meetings called at the request of the Employer's Panel will be considered to be at work.

11 Strikes and Lockouts

11.1 The Employers and the Union agree not to cause, countenance or support any lockout, strike, restrictive practice or similar industrial action of employees until the matter or matters in dispute have been discussed by the Joint Industrial Council, and if no agreement has been reached thereat, referred to Conciliation in accordance with the provisions of the Industrial Relations Act, 1980.

11.2 The Union agrees that it will not call or countenance a strike, restrictive practice or similar industrial action of its members or any section or part thereof in any circumstances, unless and until a secret ballot of all its members shall have been taken and a two-thirds majority of those voting have noted in favour of a strike. All members of the Union shall have a reasonable and equal opportunity to vote on any such ballot. any such ballot shall, with the approval of the Minister of Labour, be supervised by some person authorised by him in that behalf.

11.3 The Union agrees that in the event of a strike it will maintain all essential services. The employers agree in the even of a strike to provide the Union with a list of all those employees required to work on essential services, and the Union agrees to use every endeavour to ensure that such employees do the work required. Essential services for this purpose include:

i) any service required for the maintenance of the well-being of the population, including hospitals and clinics, sanitation, water supplies and law and order;

ii) any service connected with the generation of power and pumping;

iii) any service required for maintenance in such condition as shall prevent deterioration of and permit the immediate operation of machinery and plant;

iv) any service which is likely to remove or reduce the risk of danger to any person;

v) any other service which may be declared in the Laws of Swaziland to be an essential service.

12 Union Representatives

12.1 The Employers agree to recognise Union Representatives appointed by the union who will be appointed and will carry out their duties in the manner provided in this Clause.

12.2 The Union will be responsible for the selection of local Branch Representatives at each individual Employer Company. The Union agrees not to select any person who is not employed by that individual company and who has less than one year's total continuous service with that company. Immediately after selecting any Union Representative, the Union will notify the individual company of his name and the department which it is intended that he should represent.

12.3 The number of Union representatives appointed for each company will be agreed between the Union and each individual company.

12.4 Each individual company will have the right to raise with the Union any objection which it may have to the appointment of any particular person, and such objection will receive consideration by the Union, in conference with the Company, if either party so desires, before the appointment is confirmed.

12.5 The appointment of a Union Representative will terminate:

i) on the expiry of the period for which he was appointed;

ii) on the resignation from his appointment of a Union Representative;

iii) on the termination of the Union Representative's employment with the company;

iv) on the transfer of the Union Representative to any other department, unless the company and the Union agree that the appointment will continue in respect of the department to which the Union Representative is transferred;

v) on the decision of the Union Branch Committee, that the appointment will be terminated, and on notification to the Company thereof;

vi) on appointment to a category which the Union is not recognised as representing.

12.6 A Union Representative will deal with all questions which may be referred to him in the manner laid down in this Agreement. Should it come to his knowledge that any employees whom he represents are acting, or have formed the intention of acting in a manner contrary to this Agreement, he will use his best endeavours to persuade such employees to act in the manner laid down in the Agreement.

12.7 A Union Representative will be afforded reasonable facilities for access to the Personnel Department for dealing with matters arising in the department which he represents, and for discussing with officials matters generally affecting employees in his department, provided that this in no way restricts the right of the individual employees to process their own grievances. Being a full-time

employee of the company, he will not leave his work without the permission of the official immediately in charge of that work, which will not unreasonably be withheld.

12.8 In all other respects a Union Representative will conform to the same working conditions as other employees.

12.9 A Union Representative may by agreement act outside the particular department for which he is appointed, but only when there is no Union Representative available, and only for the purpose of assisting an employee who has raised a question in the manner laid down in this Agreement.

12.10 A Union Representative will in all respects observe the provisions of this Agreement, and will on appointment sign a declaration, in the form shown hereunder, of his intention so to act. He will carry out his duties in the department for which he is appointed without serious or unnecessary interference with normal work or duties.

Union Representative's Declaration Form

As AGREED between the Swaziland Agricultural and Plantation Workers' Union and the Sugar Manufacturing and Refining Industry Employers Association of Swaziland, I ..... Union Representative in the ..... Department of ..... Company hereby agree to carry out my duties as Union Representative in strict conformity with the provisions of all Agreements subsisting between the Union and the Employers.

(Signed) ..... Union Representative

(Signed) ..... Branch Chairman

(Signed) ..... Personnel Manager

12.11 In the event of a Union Representative willfully failing to observe the provisions of this Agreement, or inducing others to act in contravention of such provisions, the individual company will have the right to raise the matter with the Union, with a view to the termination of the Union Representative's appointment or to other appropriate action being taken.

12.12 Action taken by a Union Representative in good faith and in pursuance of his duties as a Union Representative, will in no way affect his employment with the Company.

13 Notice Boards

The Company agrees to provide notice boards at convenient places for use of the Union.

14 Amendment and Termination Agreement

This Agreement maybe amended by mutual consent between the parties, and will remain in full force and effect unless -

a) cancelled by mutual agreement,

b) replaced by a new Agreement negotiated by the parties, or

c) voided in terms of Clause 1.4 of this Agreement.

in witness whereof the parties have set their hands at ..... on the .....day of..... 19.... in the presence of the subscribing witnesses:

for and on behalf of the Sugar Manufacturing and Refining Industry Employers' Association of Swaziland

(Signed) .....witness (Signed) .....

witness (Signed) .....

for and on behalf of the Swaziland Agricultural and Plantation Workers' Union

(Signed) ..... witness (Signed) .....

witness (Signed) .....

UNION 'LEGALITY'
LEGAL INTERPRETATION

Throughout the entire period of the negotiations between the Employers' and the Union, there was a tacit understanding among the employers that given an Industrial Court action, against them for failure to grant Recognition, then there was a possibility that the 'legal' existence of the 'all embracing' Agriculture and Plantation Workers Union could be rejected. The precise 'technical' grounds centered upon the interpretation of 'industry' and whether the Union's own Constitution complied with the Act. Argument may be summarised as follows:-

1) Section 20 (Industrial Relations Act - 1980) provides that an 'organisation' (Industry Union, Staff Association, Employers Association) is to be confined to <u>one</u> industry.

'Industry' is defined as "... a sector of economic activity wherein the employers provide a similar service, or are engaged in the manufacture, processing, purchase or sale of a similar product or similar products".

Advocate Van Aswegen of the South African Bar, consulted by Ubombo Ranches quoting South African and Zimbabwean precedent, showed that:-

- industry is 'a class of productive work or manufacture' as distinct from the 'trade' or 'occupation' with which it is collocated.

The word 'undertaking', as defined in the Act, clearly distinguishes between an undertaking in which articles are <u>manufactured</u> or <u>materials transformed</u> and on the other hand, the <u>cultivation of land</u> and <u>horticulture.</u>

He noted that:-

the existence of the Swaziland Cane Growers Employers Association in
which members activities are limited to the growing of sugar cane.

the Wages Determination for the Sugar Manufacturing and Refining Industry.

The foregoing was 'evidence' of accepted distinctive industries; but it is possible (e.g. the Sugar Millers) to be engaged in more than one industry at the same time.

2) If this argument was accepted, then the Union's Constitution conflicts with Section 20 of the Act, because it allows for the "eligibility and enrolment of members in various industries; although the constitution tries to provide for this by making provisions (Rule 7 (ii) for division of the industry into main sectors; Rule 9 (ii) - distinguishes between various agricultural industries; Rule 9 (iii) even refers to "various industries".

3) Section 68 of the Act allows the right of an employee to "take part" in an organisation, but Van Aswegen argued that this does not confer the right to "join" an organisation other than for the industry in which an employee is employed.

This argument clearly affects membership rights as between agricultural and industrial employees both categories of which are employed by the three Estates viz SSMRI E/A.

4) The Executive Director FSE (Copy Letter - SSMRI E/A 25 March 1986) recognised that the Act in its definition of 'industry' splits agriculture in two parts for the purpose of Union activity - viz engaging in agriculture to

sell products for human consumption and those who engage in agriculture to sell products not for consumption. (e.g. presumably forestry).

He believed that the legislature used the word 'industry', 'albeit badly', to guard against the fragmentation of Unions.

He, also noted that the Union constitution, (Rule 3(i)), by conferring membership eligibility on persons in the 'agricultural and plantation industry' rationalises the scope of their membership to include all persons in 'agriculture'.

He believed that to challenge the Union on the 'technicality' of the definition of 'industry' (comment, presumably the associated Union 'eligibility' for membership) was unlikely to be upheld by the Industrial Court.

5) Van Aswegan, based upon his own interpretation, believed that the Labour Commissioner had erred in registering the Union Constitution.

6) The Simunye Personnel Executive commented, that:-

The SSMRI Employers Association, by virtue of its title separates "Sugar Manufacturing and Refining", as a distinct industry.

However, there appeared to be no legal constraint on Employers granting recognition to any Union, provided the recognition was, in respect of employees within the employers' industry who were defined as "such categories of employee as are named in the application ..." (Sec 36).

7) What was of concern was whether Union legality could be challenged, in so far as the employers had already engaged in discussions pertaining to a Recognition Agreement thus acknowledging the existence of the Union.

Simunye's legal advisor did not consider that these discussions, however, affected the question of Union legality.

8) Query - if the SSMRI Employers Association was legal, then could that 'definition' be extended to recognise a Union which embraces another industry?

Could the existing Employers' Association and the existing Union both be legal at the same time?

It was decided that before invoking legal proceedings at any time concerning Union legality, SAPWU itself, should be notified of the Employers' grounds for rejection of that legality. (Appendix 25)

27 November 1985

General Secretary
Swaziland Agricultural & Plantations Workers Union
P O Box 205
BHUNYA

Dear Sir

It is with sincere regret that we write to record that an impasse has arisen in regard to the negotiations which have taken place up to now between us, concerning your application to this Association to be recognised as an Industry Union in terms of Section 36 of the Industrial Relations Act 1980. From our point of view it would appear that the negotiations have broken down because inter alia it has not been possible to reach agreement on the classification of employees whom you seek to represent.

On a proper analysis of the situation it has now become clear to us that the underlying reason why agreement cannot be reached is that you are not a proper Industry Union as defined by the Act. The purpose of the Act as embodied in its provisions is to enable employees in a particular industry to create an Industry Union to negotiate with an employers association composed of employers who are engaged in providing "a similar service or in the manufacture, process, or sale of a similar product". On re-examining your Constitution it is quite clear that your membership embraces various types of employees who are engaged in industries which manufacture, process and sell totally dissimilar products. As a consequence your members do not have a community of interest.

In terms of the foregoing it is apparent that as you are not an Industry Union as defined by the Act, then the provisions of Section 36 of the act providing for recognition do not apply in the present circumstances.

However, please be assured that in arriving at this conclusion we have no desire or intention to prevent our employees from forming a properly constituted Union. We are, as we have always been, anxious to come to an agreement with such an industry Union to cover the Sugar

Manufacturing and Refining Industry, and as soon as you have put your house in order and amended your Constitution to comply with the Act we shall be happy to continue negotiations.

Yours faithfully

P FOX
for SSMRI E/A

cc Labour Commissioner
Executive Director, FSE
General Secretary - SFTU

APPENDIX 26

27 December 1985

The General Secretary
Swaziland Sugar Manufacturing and Refining Industry
P O Box 1
SIMUNYE

Dear Sir

RECOGNITION AGREEMENT NEGOTIATIONS

On behalf of the National Executive of the above mentioned organization, I would like to state the following resolutions taken with regard to Recognition Agreement Negotiations Exercise. The committee would like to stress that regardless of the fact that the general membership had given us mandate to pursue this Recognition to the Industrial Court, the committee on its own has decided to go full swing on re-negotiations hoping that we both are going to facilitate the deliberations on this issue. One of the major reasons which made our general membership resort into such Resolutions was the pace on which negotiations are taking place, which of course we now hope that our counter parts will assist us in employing a much faster pace in our Negotiations.

The above decision by our committee was taken immediately after the 20 November 1985. our main discussions and deliberations in the Negotiations will be based on the Revised Draft Recognition agreement so as to facilitate our negotiations. We have therefore prepared our points of view on the basis of the revised draft. This document, shall be presented to you on the date on which we are going to resume discussions which I hope will be very soon. Anyway whilst having embarked on this decision, we then found a letter from your side which was challenging our Union's legitimacy. After receiving such a letter, we then had to meet and agree to an amendment of our Constitution Rule 3 (i) hence the delay in responding. We have agreed to make an addition and this article, shall now read as follows:

RULE 3

i To secure the complete organisation of all eligible workers in Swaziland employed in the Agriculture and Plantations Industry including citrus fruit, maize, cotton, pineapple and sugar cane growers, cutters, manufacturing and refining, wood pulp, forestry workers and all other workers employed in the Industry.

ii This addition and clarification was done in compliance with your query on your letter dated 27 November 1985. The Union also wishes to express that it does have the mandate of Negotiating and are ready to do that as soon as you fix the date hoping that it shall be in the very near future.

Other issues which were raised in the Labour Commissioner's office we believe will be best discussed between ourselves, that is issues such as discussing in a reasonable manner. Unless we are explicitly told where we showed being unreasonable it is therefore difficult to anticipate that we cannot repeat the same mistake and as such we feel that let's discuss this issue in good faith as soon as we meet for negotiations which I hope will take place very soon so as not to exhaust the Union membership's patience which is already on the red and mounting a lot of pressure on our negotiations' outcome. I am therefore on behalf of our committee, wishing to express that we are looking forward to a positive response to facilitating negotiations for the better of both Employers, Employees and the economy of the country. We hope your response shall include a date for negotiations.

Yours faithfully
J SITHOLE
SECRETARY GENERAL

UNION COMPROMISE

The Union Executive agreed to amend its constitution, (SAPWU letter - 27 December 1985) at the conciliation meeting in the Labour Commissioner's Office on 10 December 1985 between SAPWU, NEC and SSMRI E/A. It was noted (SSMRI Minutes - 22 December 1986) that the proposed amendment did not appear to alter the illegality of the union in any way, however. The only solution to the problem appeared to be the following:-

- Rule 3 1) the Union Constitution should be replaced with:-

  "To secure the complete organisation of all eligible workers employed in the Sugar Manufacturing and Refining Industry of Swaziland".

- This meant that the Union would have become applicable to the SSMRI only. It would also have meant that it would have to change its name and there would be other minor consequential changes to the remainder of the constitution. The same constitution could then be used for each individual industry, i.e. the Forest Industry etc. At the same time SAPWU could remain the umbrella body under which the Agricultural Unions operated within the SFTU.

- If the union had agreed to this proposal in writing, SSMRI E/A would have immediately been prepared to resume negotiations on the Recognition Agreement pending formalities for the registration of the 'new' union.

However SAPWU Executive then raised further argument (SAPWU letter - February 1986). The letter had merely indicated that the necessary steps would be taken to put the SSMRI E/A proposal to the union's General Council. It had not

agreed to accept or introduce the proposal. SSMRI E/A representatives asked SAPWU Executive to confirm that the SAPWU General Council had at its special meeting (8 March 1986) formally rejected any proposal to amend its constitution. That continued (February 1991) to be the Union Executive's stance.

The attempt to delay/prevent 'recognition' through the employers' alleged concern with the definition of 'industry' was pursued at a meeting of The Labour Advisory Board on 23 May 1984. The reason for the meeting was to consider the proposed amendments to the Labour legislation. An official request to FSE from the SSMRI E/A (SSMRI letter 2 May 1984) requested that the Executive Director FSE propose to the Labour Advisory Board that in view of the drastic change to the present situation which the proposed amendment to the definition of "Industry" would make, particularly with regard to the activities of SAPWU, all present applications for recognition should be suspended until the matter had been resolved one way or the other. The Employers' representatives, indicating their principals' views and knowing that bureaucracy in Swaziland is invariably very slow, perceived this approach as a means of 'delaying' Union Recognition. The letter is a 'model' of duplicity. While emphasising union legitimacy, it focuses upon the issue of 'fragmentation' - a major anathema to government - to encourage a suspension of all union recognition activities, until the matter 'be resolved'.

It should be understood that although Federation of Trade Union representatives were co-members with Federation of Employers' representatives of the Labour Advisory Board, no discussion had occurred between the SSMRI E/A management and SAPWU representatives concerning the definition of "Industry". The union representatives were unaware that management might use this interpretative controversy as an issue in the recognition process. As at 1992 (commencement) it has not yet been used/tested in the Industrial Court.

APPENDIX 29

GRIEVANCE PROCEDURE

Allied to the introduction of a disciplinary code is the need for a formal grievance procedure.

It is necessary to differentiate clearly between individual and group problems.

It is incombent upon managers at all levels to resolve grievances satisfactorily to both mangement and the employee in the shortest possible time.

1. Definition of a Grievance

Real or perceived infringement of an individual's rights in terms of legal requiremetns, company policy and procedures and/or collective argeements.

* Nothing in this definition prevents an employee from discussing or referring matters of personal concern to his superiors.

2. Issues covered by this procedure

All individual grievances can be raised using this procedure. It excludes group issues which are channelled through the trade union representative.

3. Procedure

Refer to Annexe A.

The following steps should be followed by an employee who has a grievance.

STEP 1 The grievance should be put to the immediate superior who has one (1) working day to deal with the issue, and either resolve it or continue with the grievance procedure.

STEP 2 In the event that the grievance cannot be satisfactorily resolved by an employee's immediate superior, the employee must have his grievance documented (form GP1) and referred to the next level of management. If it is again unresolved, it must be referred upwards to consecutive levels of management until the divisional head is reached. Each level of management has two (2) workingdays to deal with the issue and either resolve or refer it upwards.

STEP 3 Oncethe divisional manager has reviewed the grievance and it remains unresolved, it must be referred to the Personnel Manager. Again, this step should not exceed 2 workingdays. At this level, the representative should be a shop steward. This is necessary to fulfill legal requirements as well as to assist with continuity in representation if the case proceeds to the Labour Commissioner as a dispute.

STEP 4 If the Personnel Manager is not able to effect a resolution in conjunction with Divisional Managers the documents must be referred to the General Manager who will give a decision. This step should not exceed 3 working days. If the issue is not satisfactorily resolved for the employee, the employee will be entitled to pursue this matter in accordance with the Disputes Procedure Part 7 I.R. Act.

* NOTE: Access to the General Manager is allowable on his decision only.

4. Rights of an Employee

The following rights are fundamental to any grievance procedure:

* The employee has a right for his grievance to be considered by all levels of management in the organisation in accordance with the procedures.

* The employee has the right to be represented by another company employee, of his own choice.

* The employee has theright to be informed about the progress and outcome of the applicable grievance issue.

5. Responsibilitis of Different Levels of Management

The following responsibilities must be addressed.

* Managers must listen to grievances with empathy.

* Managers must reply timeously (within the time constraints laid out by the procedure).

* If the issue is unresolved at any level, the manager at that level must organise the appointment with his superior.

* All levels of management must ensure that the grievance form (GP1) is filled in correctly and signed.

Parties in the greivance hearing should be encouraged to use Personnel Department Officials for facilitative services.

Form GP1

RECORD OF GRIEVANCE

Name of Employee: ..... Co. NO. .....

Department: ..... Section : .....

Title : ..... Grade : .....

Has the grievance been put to the first line of supervision (Yes/No)

Details of greivance (to be filled in by employe of representative)

Attach note if more space is required.

.....

.....

.....

.....

.....

.....

.....

..... Signed .....

Date : .....

a) Grievance resolved by .....

.....

b) Grievance not resolved. Referred to next level .....

Signed : ....

Employee Representative

Date : .....

a) Grievance resolved by .....

.....

b) Grievance not resolved. Referred to next level

Signed : .....

Employee Representative

Date : . . . . . .

a) Grievance resolved by . . . . . .

. . . . . .

b) Grievance not resolved. Referred to next level . . . . . .

Signed : . . . .

Employee Representative

Date : . . . . . .

a) Grievance resolved by . . . . . .

. . . . . .

b) Grievance not resolved. Referred to next level

Signed : . . . . . .

Employee Representative

Date : . . . . . .

a) Grievance resolved by . . . . . .

. . . . . .

b) Grievance not resolved. Referred to next level . . . . . .

Signed : . . . .

Employee Representative

Personnel Manager (Comments) Date : . . . . . .

. . . . . .

. . . . . .

. . . . . Signed: . . . . . .

General Manager (Comments) Date: . . . . . .

. . . . . .

. . . . . .

. . . . . .

. . . . . Signed: . . . . . .

7/8/90

APPENDIX 30

UNITED NATIONS DEVELOPMENT PROGRAMME IN SWAZILAND

Extract from Report by Mr. David Tajgman
ILO Regional Adviser.

Convention No: 100 Equal Remuneration

During discussions I advised of possible activities the Government could take to promote the Convention's application to wages above the legal minimum, particularly the promotion of the concept to the eight currently registered collective agreements by direct contact with the parties involved as the agreements are registered and monitored.

Convention No: 87: Freedom of Association and Protection of the Right to Organize, 1948 and Convention No: 98: Right to Organize and Collective Bargaining, 1949

There is no change to report under these Conventions. LEG/REL is responding to a request for assistance in redrafting labour legislation. The labour legislations situation in the country seems to be rather difficult -- growing interest among workers for organizational rights, resistance from the law and management attitudes. Unions were banned between 1973 and 1980, and continue to be restricted in organization and activity under the current law. I was told that this, in combination with the hard line taken by formal sector managements, make union organization and collective bargaining difficult. The Government, being reliant upon South African investment, it is said, does not seem to take a supportive attitude toward the unions. Change in this area can be expected only in the longer term. See additional comments below, Section IV.

Convention No: 94: Labour Clauses (Public Contracts) 1949

Convention No: 111: Discrimination (Employment and Occupation), 1958

No change in these areas. The report which have been supplied contain relevant information on practical application.

Convention No: 144: Tripartite Consultation (ILS), 1976

The Labour Advisory Board has not met for at least a year. The Executive Director of the Employer's Association, beside planning retirement, is scheduled to have his residency permit revoked, resulting in a leadership gap on management's side of the table. The trade union movement is very young and in need of training. The official of the primary asbestos mining company was not aware that the Government had "approved ratification" of the Asbestos Convention (even though the Government had scheduled our meeting for the purpose of discussion the possibility of ratification) -- not surprising considering that there has not recently been a meeting of the Labour Advisory Board. Tripartism is not healthy here and in need of strengthening; I wonder though, how much can be done without a firmer commitment by the social partners to sound, communicative and constructive industrial relations. Considering, from a regional standpoint, how much is at stake and the relative cleanliness of the slate, as well as LEG/REL's possibly going in to write new legislation, perhaps some constructive management and labour education (aimed at attitudinal change) in collective bargaining and tripartism could be worked out.