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GENERAL NOTICE

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DEPARTMENT OF LABOUR

SOCIAL PLAN

I, Membathisi Mphumzi Sheperd Mdladlana, Minister of Labour, hereby publish for general information the undermentioned Social Plan which flowed from the Presidential Job Summit.

M. M. S. MDLADLANA
Minister of Labour

FOREWORD BY THE MINISTER OF LABOUR

South Africa is currently reeling from the news that several employers are planning to retrench large numbers of workers. The combined effect of all of these retrenchments, if they take place, is an alarming increase in unemployment and poverty. Whatever the underlying economic reasons, the effect on affected individuals and regions is severe, particularly in a context where unemployment is already way too high.

The Social Plan is an agreement concluded at the Presidential Job Summit last year. It seeks to put in place three sets of measures: the first set of interventions seek to prevent retrenchments taking place at all; the second seek to ensure that where they are unavoidable then they are managed humanely; and thirdly where large scale retrenchments have taken place then measures to assist the affected individuals and communities to find alternative forms of employment or sustainable livelihoods are in place.

Implementation of the agreement has already commenced: the National Productivity Institute is in the process of establishing the Social Plan Technical Support Facility. This facility is intended to support firms that establish Future Forums. We intend to more actively promote the establishment of Future Forums so that employers and workers can together anticipate crises and plan more constructive alternatives to retrenchment.

If retrenchments are unavoidable, my Department has already commenced with the delivery of retrenchment services and firms facing large scale retrenchments (over 500) are invited to contact the provincial Department of Labour offices for assistance in this regard. Over and above this, we have begun to work together with other agencies – particularly local authorities in areas affected by large-scale retrenchment – to assist individuals and communities to develop alternative forms of employment.

The success of the Social Plan depends on all of the social partners working together. Unless we do, we shall fail to assist affected individuals and regions and our society will suffer the consequences. The time to implement the spirit as well as the letter of this agreement is NOW.

M M S MDLADLANA
MINISTER OF LABOUR

Labour Market and Human Resource Development for Job Creation

Social Plan

1. Introduction

- 1.1 A proposal on a Social Plan Act was tabled by labour on 12 October 1995 in the Trade and Industry chamber of the National Economic Development and Labour Council (NEDLAC). It was agreed by the Management Committee of NEDLAC on 13 October 1995 to establish a task team comprising of delegates from the Trade and Industry and Labour Market chambers.
- 1.2 The task team has been meeting for over two years and has reached agreement on the framework to guide affected parties on the ways of dealing with large retrenchments in all sectors and includes a broad proposal on the implementation of the framework agreement.

2. Objectives

Noting that:

- 2.1 Growth and job creation are urgent priorities, the social plan approach aims to avoid job losses and employment decline wherever possible. There would nevertheless be instances where large job losses are unavoidable. In such cases the social plan approach will seek to actively manage retrenchments and to ameliorate their effects on individuals and local economies.

It is agreed that:

- 2.2 The social partners accept that the burden of employment decline should not be borne by the affected individuals and regions alone. Rather a social plan approach should be adopted which helps to reintegrate retrenched people into the economy, and which helps to revitalise affected local economies.
- 2.3 The NEDLAC parties support the promotion of policies designed to ameliorate the consequences of employment decline and to manage the process of down-scaling.

3. Principles

- 3.1 The NEDLAC parties have committed themselves to the following principles which define the social plan approach:

- 3.1.1 A social plan approach is applicable where there is a threat of large scale retrenchments which impact on sectoral, regional or national interests.

- 3.1.2 The social plan approach aims to ameliorate the social and economic impact for individuals, regions and the economy.

- 3.1.3 A social plan approach promotes negotiation about threats to employment security and measures which can be taken to avoid employment decline.

- 3.1.4 A social plan approach is essential in cases where there is a reasonable possibility that alternatives could be developed to save jobs.

- 3.2 The nature of the social plan approach

- 3.2.1 A social plan comprises a basket of instruments characterised by focused programmes directed at achieving short, medium and long term goals.

- 3.2.2 A social plan approach requires the participation of labour, government and business and will involve interventions at various levels.
- 3.2.3 The social plan approach is subject to the Labour Relations Act, 1995, and the Code of Good Practice on Dismissals for Operational Requirements.
- 3.2.4 While the social plan approach will assist parties with appropriate measures and in obtaining government assistance, it does not prevent them from pursuing alternative strategies to achieve the same goals.

4. The Establishment of Future Forums

- 4.1 A social plan approach is most effective when it arises from timeous analysis of problems in a particular sector or company, because this makes it possible to explore appropriate solutions and to implement these in a properly planned way.
- 4.2 If attempts at developing a social plan wait until a retrenchment proposal is tabled, then there are often serious time limitations on the process, and the options available are therefore far more limited.
- 4.3 NEDLAC parties should therefore promote ongoing discussions between workers' representatives and employers about the future of their industries, and enterprises, and set up 'early warning systems' that can identify problems timeously.
- 4.4 The establishment of future forums, whether separately or part of existing bargaining forums, is therefore proposed. These forums will involve employees and their representatives and management, to look ahead at problems, challenges and possible solutions.

5. Social Plan Technical Support Facility (SPTSF)

5.1 The Terms of Reference for the SPTSF

- 5.1.1 It is agreed that the Productivity Advisory Council will be renamed as the Social Plan and Productivity Advisory Council (SPPAC).
- 5.1.2 The Department of Labour will establish a Social Plan Technical Support Facility (SPTSF), under the auspices of the SPPAC.
- 5.1.3 In consultation with the SPPAC and after approval by the Minister, the SPTSF shall publish the rules of operation and the criteria for assistance which will be based on the principles of the Social Plan framework.
- 5.1.4 Future forums may agree to approach the proposed SPTSF for technical assistance in the careful analysis of problems and solutions facing the sector or enterprise.
- 5.1.5 Subject to the agreed criteria and availability of resources, the SPTSF may provide or commission the expertise necessary to provide technical or advisory services to the parties as required. Resources available at the National Productivity Institute (NPI) will also be accessed where appropriate, and the NPI will be used to give infrastructure assistance to the SPTSF. The terms of reference would need to be agreed with the parties.
- 5.1.6 The implementation of proposals arising from the SPTSF process would need to be agreed to by the employer and worker parties affected.
- 5.1.7 The SPTSF process will operate within the requirements of the law dealing with fair retrenchment procedures.

5.2 Functions of the SPTSF

5.2.1 Services available to all companies and unions:

- (a) The SPTSF will provide a 'one stop shop' through which companies and unions can access information about government assistance programmes.
- (b) The SPTSF will develop a register of technical experts that may assist the parties **where jointly requested** in an analysis of problems and an identification of possible solutions.

5.2.2 Services available to "troubled" sectors or industries:

- (a) The Social Plan will prioritise sectors or industries that are in decline, and resources will be targeted at providing meaningful assistance to troubled sectors or industries.
- (b) To be defined as a "troubled" sector or industry both representative unions and employers should jointly apply to the Productivity and Social Plan Advisory Council, which will be tasked with prioritising sectors or industries for social plan services.
- (c) The SPTSF will meet with sectors or industries prioritised as above, to agree on a programme to identify and/or address the problems. The SPTSF will provide or access the following standard services:
 - (i) An in-depth sectoral or industry study to analyse the underlying reasons for the threat and to recommend proposed solutions. All employers and unions in the sector can request a copy of the study.
 - (ii) The SPTSF will facilitate access to government assistance programmes for the implementation of agreed solutions where jointly requested by the parties.
- (d) In addition, the SPTSF will provide or secure the following additional services on a shared cost basis:
 - (i) Desk studies for individual companies within the sector, where jointly requested to analyse the problem and identify possible solutions.
 - (ii) Where the desk study indicates that the prognosis for saving jobs is good, the SPTSF will develop more in-depth proposals in this regard when jointly requested.

5.2.3 Services available to companies outside the "troubled sectors"

- (a) It is recognised that companies outside of the prioritised sectors may face large-scale job loss. A limited facility is therefore made available to address such situations.
- (b) In such situations the company represented by management and the representative union/employees would apply to the Social Plan and Productivity Advisory Council or its delegated authority for assistance when faced with large-scale re-trenchments.
- (c) The SPTSF would provide or secure the following services, on a shared cost basis, to successful applicants:
 - (i) Desk studies to analyse the problem and identify possible solutions where requested by unions and employers, jointly.
 - (ii) Where the desk study indicates that the prognosis for saving jobs is good, the SPTSF will develop more in-depth proposals in this regard

where jointly requested;

- (iii) The SPTSF will facilitate access to government assistance programmes for the implementation of agreed solutions where jointly requested.

5.2.4 Notwithstanding clauses 5.2.2 and 5.2.3, the parties are free to seek alternative remedies.

6. Ministerial Notification and Department of Labour Services

- 6.1 In the event that a retrenchment in excess of 500 people or 10% of the labour force of a company (whichever is the greater) is proposed, within a one year period, the Minister of Labour must be notified by the employer.
- 6.2 Where the Labour Relations Act procedures and codes have been followed, and large scale retrenchments are anticipated, assistance may be requested from the Department of Labour.

7. Services Offered by the Department of Labour

- 7.1 When a large scale retrenchment is unavoidable, the retrenching enterprise may approach the Department of Labour's provincial offices for assistance. The provision of various services will aim to assist in easing the process of retrenchment. This assistance will include offering information and delivering services to retrenched workers and employers to promote re-absorption of retrenched workers into the labour market. To maximise the potential benefit of the services the parties are encouraged to jointly approach the Department of Labour.
- 7.2 The services which will be provided by the Department of Labour are divided into two separate categories, namely:
 - 7.2.1 Standard generic services offered, as set out in 7.4, across the board to employers, groups and individuals without charge.
 - 7.2.2 Additional services offered, as set out in 7.5, by agreement only and which will probably require payment.
- 7.3 Delivery of Services:
 - 7.3.1 When requested by an enterprise facing retrenchments of 500 workers or 10% of the workforce, whichever is greater, the Department of Labour will:
 - (a) Set up a Retrenchment Response Team (RRT) competent in employment services, human resource development and the unemployment insurance fund (UIF). Where necessary services linked to Labour Relations and Occupational Health and Safety will also be included. The RRT will liaise with the enterprise at the request of the workers and employers. The Department of Labour, with both workers' representatives and employers, will form a committee to determine:
 - (i) The type of standard and additional services to be provided to the retrenched.
 - (ii) The financial resources needed to cover additional services where agreed upon and the extent of resource allocation from each partner.
 - (iii) The time and people needed to offer these services.
 - (iv) The technical resources needed to deliver an effective service.
 - (v) Mechanisms on how to inform retrenched on the purpose of the Job Advice Centre (see below).
 - (b) A Job Advice Centre (JAC) will be opened on or close to the premises of the enterprise. It is the responsibility of the employers of the enterprise and/or

worker representative to find a suitable venue for the JAC as well as for any group meetings which may be agreed, if the enterprise's own premises are not available. Depending on the number of retrenchees and any negotiated agreement between workers, employers and the Department of Labour, the JAC will offer the selected choice of services preferably 5-10 working days before retrenchees leave the service of the enterprise. Standard as well as additional services will be offered during this time period provided it is practical.

7.3.2 Where there is a large scale retrenchment which affects fewer than 500 workers, either party may approach the Department of Labour's provincial office or Labour Centre for standard services outlined in 7.4 below. These services will be provided at the Department of Labour's offices. Additional services may be provided on agreement between the parties and on condition that resources are available.

7.4 Standard services to be offered

7.4.1 A set of information packs in preferred official languages will be made available to workers who are facing retrenchment and to managers planning retrenchments. The information packs will consist of comprehensive information and support measures available to retrenchees on such issues as UIF benefits, financial management, training and job seeking skills.

7.4.2 The Department of Labour will be responsible for the registration of workseekers.

7.4.3 Where available, information would be disseminated on the labour market, local economic development possibilities (in collaboration with Department of Constitutional Development) and on skills required in the area or in the workers' home area to assist workers in identifying other employment opportunities.

7.5 Additional services to be offered as agreed in point 7.3.2 above

7.5.1 In addition, the Department of Labour will be able to offer further services on the basis of specific agreements between the Department, employers and the workers' representatives at the enterprise.

7.5.2 Funding of additional services will have to be agreed to between the parties. These services may require contracting professional consultants. In which case a reasonable notice period may be necessary. The additional services may include:

- (a) Group and individual counselling to assist workers in dealing with the emotional impact and adjust to the new conditions.
- (b) Skills assessment and certification of prior learning to facilitate new employment through awarding of formal qualifications where appropriate.
- (c) Assessment of potential and development of a career plan in order to help workers to identify their options and assist them in the choices they have to make between further skills training, small, micro and medium enterprise (SMME) training and/or finding new employment.
- (d) Training and retraining of workers, in line with the Skills Development Strategy, to facilitate the channelling of retrenched workers into new employment.
- (e) Placement service.

8. Support to Small, Micro and Medium Size Enterprises (SMMEs)

There may be people affected by down-scaling operations who are keen to start their own enterprise. In this context, the following options may be considered jointly by workers' representatives and enterprises:

- 8.1 Facilitation of links with a Local Business Service Centre or other appropriate support institutions.
- 8.2 Delivery of business support services to workers while they are still at work and can explore the options.
- 8.3 Assistance and mentoring in feasibility studies and the development of business plans.
- 8.4 Inclusion of business and technical training for self-employment in the range of the Department of Labour's services.
- 8.5 Provision of time-off so that workers can undergo such training before they leave their workplace.
- 8.6 Identification by the company of opportunities to supply it with goods or services.¹
- 8.7 Development of a joint workers' representative and enterprise programme to assist employees to open bank accounts.²
- 8.8 Engagement with the banks and other lending institutions to explore and facilitate arrangements for workers who want to use all or part of their retrenchment packages as collateral security for business loans.
- 8.9 Approaching of Ntsika, the Department of Trade and Industry's (DTI's) SMME support agency, to look at specific provisions for training and support from Local Business Service Centres to retrenchees.

9. Regenerating Local Economies

9.1 General Approach

- 9.1.1 Once a large scale retrenchment which impacts on a region or local area becomes unavoidable, the process of social planning needs to start to look outside the enterprise to developments and opportunities in the local or provincial economy.
- 9.1.2 The parties support the call for the formulation and implementation of plans for the rehabilitation of areas that are being negatively affected by large scale retrenchments.
- 9.1.3 Government is committed to providing support to communities that take the initiative to drive economic development in their areas. Government support for such initiatives will need to be co-ordinated and be consistent with other economic and employment strategies in the area.
- 9.1.4 The Department of Provincial Affairs and Constitutional Development will provide a co-ordinating mechanism for communities seeking assistance in the context of large scale retrenchments.

9.2 Developing employment alternatives (stage one)

- 9.2.1 As soon as a company or sector realises that there will be large scale retrenchments which will negatively affect a local economy the following process should be followed:

¹ Where these are not already provided internally.

² Retrenchees are often unable to open bank accounts without proof of employment.

- (a) The affected parties, employers and/or workers, should inform the local or provincial government about forthcoming retrenchments.
- (b) The relevant local or provincial authority may initiate a process that begins with a study to identify alternative opportunities in the area. The study should inform the development of a plan to ameliorate the impact of the retrenchment. The plan should build on existing information and strategies for local economic development.

9.2.2 Government is committed to providing support to this planning process by means of a centrally co-ordinated fund.

9.3 Implementing plans for alternative employment (stage two)

9.3.1 Once a local or provincial government has developed a plan, it will be advised by the co-ordinating government department, as to possible sources of assistance for the implementation of this plan. The sources will include existing and new support measures available from various government departments.

9.3.2 Such measures will include the following:

- (a) The supply-side measures of the DTI and activities of the Industrial Development Corporation, Khula and the Small Businesses Development Corporation (SBDC).
- (b) The Department of Constitutional Development's measures to support local government in local economic development.
- (c) Project support measures from the Department of Public Works.
- (d) Project support measures from the Department of Water Affairs.

10. Social Plan Funds

10.1 The social partners note the establishment of enterprise level social plan funds and agree that these should be encouraged to assist, inter alia, the funding of programmes to save jobs and social development programmes.

10.2 The social partners accept that government funds will not be centralised in one social plan fund at this stage but will be channelled through the relevant implementing agencies including the Departments of Labour, Trade and Industry and Constitutional Development.

11. Investigation of Additional Forms of Financial Assistance

Government undertakes, within the first six months of the implementation of the national framework agreement on the social plan, to investigate the feasibility of providing additional forms of financial assistance for the development and implementation of social plans, the delivery of the Department of Labour services and for regional economic development initiatives as outlined above provided that such support:

- 11.1 Is justified within the context of a broader employment strategy.
 - 11.2 Takes due account of the cost of job loss in respect of taxes to be lost and insurance to be paid.
 - 11.3 Does not subsidise activities which the parties should normally undertake anyway.
 - 11.4 Resources are available.
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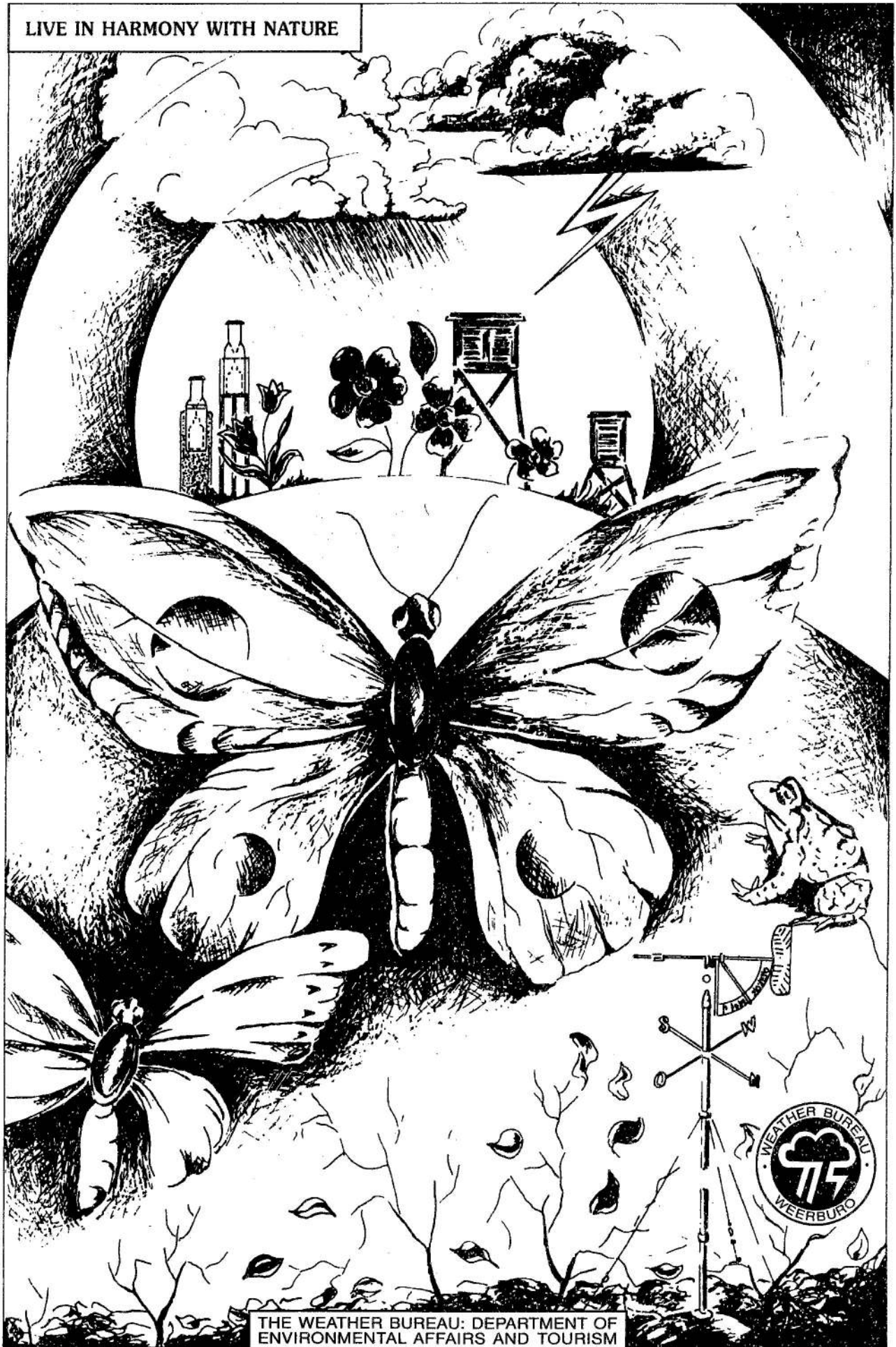


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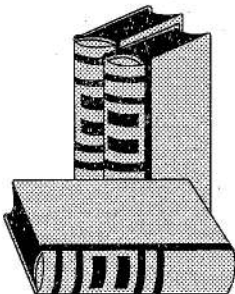
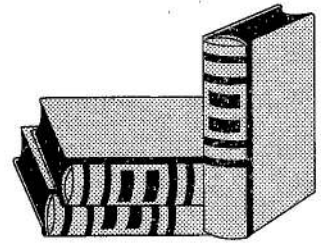
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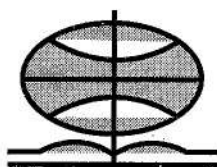
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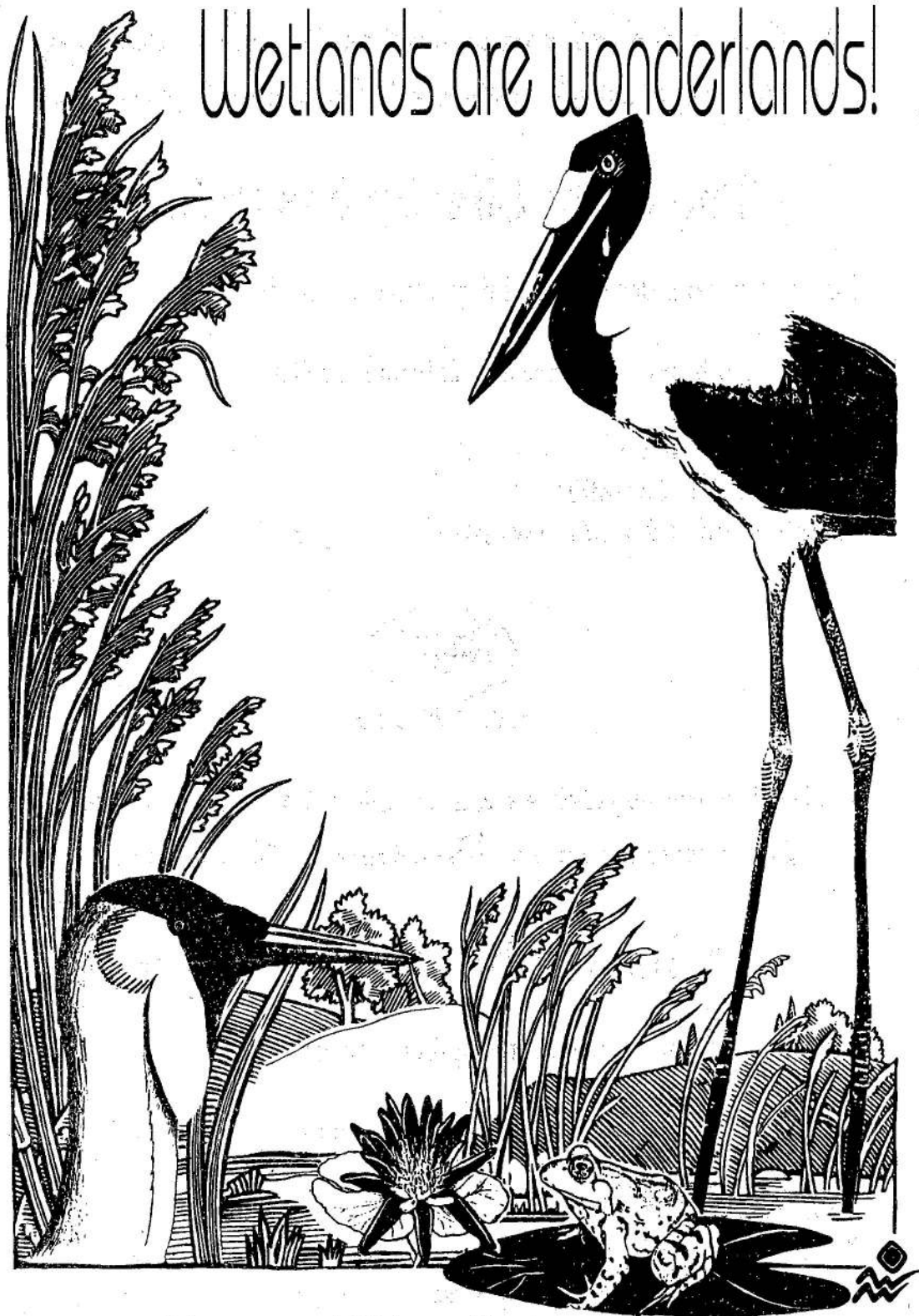
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Tel: (012) 334-4507, 334-4511, 334-4509, 334-4515