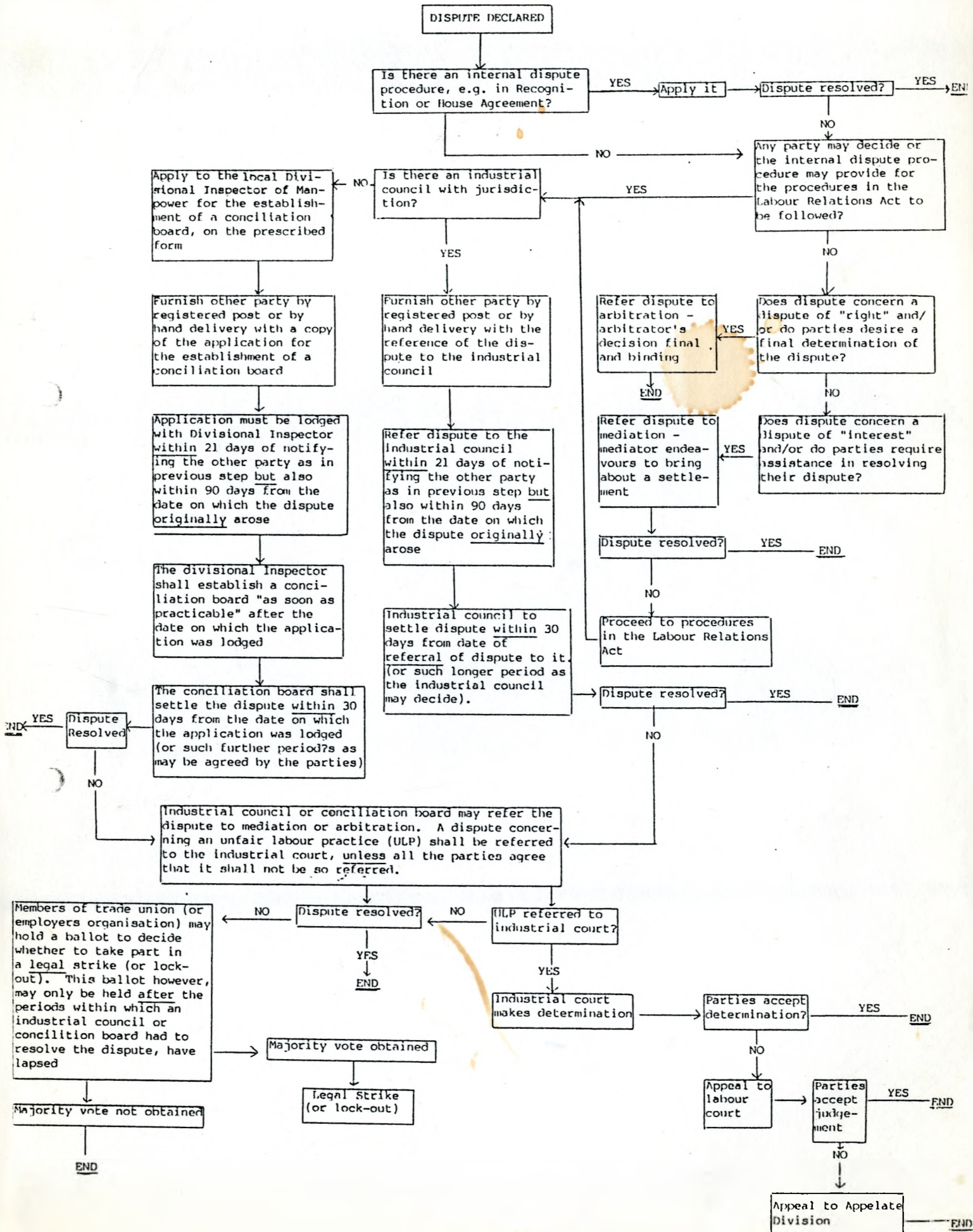


PROCEDURES FOR THE RESOLUTION OF LABOUR DISPUTES



A REVIEW OF SACCOLA'S ACTIVITIES IN RESPECT OF LABOUR
RELATIONS LEGISLATION

The First Phase:
Achieving Employer Consensus on Key Issues

After SACCOLA's expulsion from the International Organization of Employers in 1983 the committee decided to explore areas of domestic activity consistent with its objectives of discussing employer views on labour affairs, and representing these views where agreement amongst employers existed.

As the National Manpower Commission had shortly afterwards published a lengthy report dealing, inter alia, with the role of the Industrial Court and the definition of the unfair labour practice concept, SACCOLA set up a working party to see if employer consensus could be achieved on these issues. SACCOLA succeeded in agreeing a 18 page document, which was submitted to the Department of Manpower on 28 August 1984. This was subsequently acknowledged by the Director General of Manpower to have been one of the most comprehensive reactions to this report. In his reaction to the report, however, Dr Van der Merwe noted that legislative change would be greatly facilitated by labour/employer agreement, and he therefore suggested that SACCOLA should discuss its proposals with union federations.

The search for at least areas of agreement on labour legislation between employer bodies and union federations has remained a guiding objective of SACCOLA's activities in this area from this time. SACCOLA's objectives with regard to labour legislation may be fairly described as the desire to see sound legislation which enjoys the support of the broadest possible range of affected parties, i.e. employers and unions.

Phase Two:

Attempting to Talk to the Unions

Responding to the suggestion of the Director General SACCOLA sent copies of their submissions to TUCSA, SACOL, FOSATU and CUSA during August 1985. Meetings were held with TUCSA, SACOL and CUSA.

Whilst a significant debate took place with TUCSA (turning especially on the desirability of codifying the Unfair Labour Practice) the meetings with SACOL and CUSA did not result in substantive exchanges. SACOL evinced no particular desire to discuss these issues. CUSA, whilst quite ready to debate the SACCOLA proposals, also wished to debate a broader agenda of industrial relations issues, which SACCOLA felt it was not able to accommodate.

FOSATU failed to respond to the request for a meeting.

Phase Three:

Taking a Public Stand

In late 1986 the Department published a draft Bill for comment. During 1987 the Parliamentary Standing Committee commenced work on the Bill. Whilst SACCOLA members generally gave verbal and oral evidence on the Bill, SACCOLA itself did not make representations.

By early 1988 it was clear that the proposed Labour Relations Bill was itself becoming a major focus of union/management and union/state conflict. Domestically and abroad both COSATU and NACTU had begun to characterize the Bill as repressive, union bashing and an attempt to roll back Wiehahn Reforms.

Against this background it was suggested that SACCOLA again seek to meet union federations about the Bill. As consensus was not achieved on the issue, no SACCOLA meetings took place, though six of SACCOLA's member organizations did meet with COSATU on 2nd March 1988. At this meeting COSATU indicated that it was not prepared to negotiate about the Bill and demanded that employers join COSATU in an outright rejection of the Bill. The Employer Organizations present rejected this demand both because they saw much that was positive in the draft Bill, also because they had made representations to the Parliamentary Standing Committee to improve the Bill. The outcome of these representations was at this stage (2nd March) not yet known. Instead the Employers invited COSATU to indicate, in detail, their problems with the Bill. The meeting ended with the parties far apart, but with an agreement:

- firstly, to exchange the written submissions made by employer bodies and COSATU on the draft Bill (the employer submissions were handed to COSATU at the meeting and COSATU's submissions were provided some three weeks later);
- secondly, to meet again to discuss "employer problems with the present legislation";
- also to meet again when the draft Bill emerged from the Standing Committee.

COSATU and NACTU continued to mount a major public campaign against the Bill. The changes made by the Standing Committee through addressing most employer concerns, and many of COSATU's written submissions were discussed by the union federations publicly. The allegations of state repression, union bashing and rolling back Wiehahn reforms were repeated.

In late May SACCOLA again invited union federations - now concentrating on the two federations running this campaign, namely COSATU and NACTU - to meet and discuss the Bill. In order to attempt to counter the unbalanced and positively distorted picture that was being presented of the Bill, SACCOLA prepared an agreed text of a press statement which it planned to release after its meeting with the union federations. As employer concern mounted over media coverage of the Bill it was decided to convert the press statement into a paid advertisement, which was published in ten daily and Sunday newspapers nation wide. The ad argued that the proposed legislation was not anti-union, contained reasonable provisions and compared favourably to legislation in other Western countries.

COSATU and NACTU, meanwhile, had planned three days of "national peaceful protest" for the 6th, 7th and 8th of June. SACCOLA's meetings took place with COSATU on 2nd June and NACTU on 3rd June. At its meeting with COSATU, SACCOLA attempted to persuade it to call off its three day action. COSATU in turn asked SACCOLA to withdraw its press ad. The details of the Bill were not discussed. At the meeting with NACTU the following day NACTU did raise seven detailed concerns about the Bill. It was agreed to meet again to discuss these further.

Phase Four:

Talking about Talks

On the second day of the stayaway SACCOLA received a proposal from COSATU. This proposal was linked to the SACCOLA ad. It deduced some criteria for sound labour legislation which it suggested COSATU and SACCOLA appeared to hold in common and it suggested that the two organizations should agree to submit their contending views about the Bill to a third party adjudication using the "five principles" as a basis for measurement.

SACCOLA, in its response, welcomed an opportunity to debate the Bill in detail, (this had been its objective since 1985) but reserved its position on third party adjudication.

On 8 June 1988 SACCOLA meet with the Minister of Manpower to explore whether talks with union federations could still influence the contents of the present Bill. The Minister indicated that there was an opportunity to influence the Bill, though time was short.

On 17 June 1988 SACCOLA had a follow up meeting with NACTU at which it was agreed to set up a joint working party to explore areas of agreement on the Bill.

SACCOLA then proposed that the union federations and SACCOLA should meet senior officials of the Department of Manpower to explore how the SACCOLA/COSATU/NACTU talks could be most effectively linked to the legislative process. This meeting took place on 21 June 1988. COSATU and NACTU were represented by their legal teams. A meeting with the Minister also took place. At this meeting, though not at the employers request, the Minister agreed to delay the promulgation of the Bill (which had now passed through its Joint Committee stage, and could no longer be altered until 1st September, and also agreed that his department would consider the introduction of a Second Labour Relations Amendment Bill for the August sitting of Parliament if SACCOLA, COSATU and NACTU could agree desirable technical amendments by the third week of July. After the meeting COSATU agreed to provide SACCOLA with a detailed statement as a basis for starting discussions. This statement was provided on 7th July. Though it suggested many areas of possible agreement, in all of these areas further discussion was needed to actually word agreements. The document cannot be seen as a basis for possible urgent amending legislation.

SACCOLA responded in writing on 1st August. In the meantime, at a meeting with COSATU/NACTU lawyers held on 20th July the possibility was raised of seeking the non-promulgation of certain of the Bill's clauses (clauses 1(h), 8, 9, 25, and 26 were suggested). This proposal was debated at SACCOLA meetings held on 27th and 29th July. This proposal is currently still under debate.



R.M. GODSELL

CHAIRMAN - SACCOLA

Johannesburg

4th August 1988