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CONTENTS**INHOUD**

No.		Page No.	Gazette No.	No.		Bladsy No.	Koerant No.
GOVERNMENT NOTICES				GOEWERMENSKENNISGEWINGS			
Labour, Department of				Arbeid, Departement van			
<i>Government Notices</i>				<i>Goewermenskennisgewings</i>			
R. 689	Labour Relations Act (66/1995): Cancellation of Government Notice: Motor Industry Bargaining Council—MIBCO: Auto Workers' Provident Fund Collective Agreement.....	3	23419	R. 689	Wet op Arbeidsverhoudinge (66/1995): Intrekking van Goewermenskennisgewing: Motornywerheidsbedingingsraad—MIBCO: Voorsorgfonds vir Motorwerkers Kollektiewe Ooreenkoms.....	3	23419
R. 690	do.: Motor Industry Bargaining Council—MIBCO: Extension of Consolidated Auto Workers' Provident Fund Collective Agreement to Non-parties.....	3	23419	R. 690	do.: Motornywerheidsbedingingsraad—MIBCO: Uitbreiding van Gekonsoleerde Kollektiewe Voorsorgfondsooreenkoms vir Motorwerkers na Nie-partye	3	23419

GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF LABOUR DEPARTEMENT VAN ARBEID

No. R. 689

31 May 2002

LABOUR RELATIONS ACT, 1995

CANCELLATION OF GOVERNMENT NOTICE

MOTOR INDUSTRY BARGAINING COUNCIL—MIBCO: AUTO WORKERS' PROVIDENT FUND COLLECTIVE AGREEMENT

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 32 (7) of the Labour Relations Act, 1995, cancel Government Notice No. R. 616 of 13 July 2001, with effect from 10 June 2002.

M. M. S. MDLADLANA
Minister of Labour

No. R. 689

31 Mei 2002

WET OP ARBEIDSVERHOUDINGE, 1995

INTREKKING VAN GOEWERMENTSKENNISGEWING

MOTORNWERHEIDBEDINGINGSRAAD—MIBCO: VOORSORGFONDS VIR MOTORWERKERS KOLLEKTIEWE OOREENKOMS

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, trek hierby, kragtens artikel 32 (7) van die Wet op Arbeidsverhoudinge, 1995, Goewermentskennisgewing No. R. 616 van 13 Julie 2001 in, met ingang van 10 Junie 2002.

M. M. S. MDLADLANA
Minister van Arbeid

No. R. 690

31 May 2002

LABOUR RELATIONS ACT, 1995

MOTOR INDUSTRY BARGAINING COUNCIL—MIBCO: EXTENSION OF CONSOLIDATED AUTO WORKERS' PROVIDENT FUND COLLECTIVE AGREEMENT TO NON-PARTIES

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the Motor Industry Bargaining Council—MIBCO and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Agreement, shall be binding on the other employers and employees in that Industry, with effect from 10 June 2002, and for the period ending 31 August 2003.

M. M. S. MDLADLANA
Minister of Labour

No. R. 690

31 Mei 2002

WET OP ARBEIDSVERHOUDINGE, 1995

MOTORNWERHEID BEDINGINGSRAAD—MIBCO: UITBREIDING VAN KOLLEKTIEWE VOORSORGFONDSOOREENKOMS VIR MOTORWERKERS NA NIE-PARTYE

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, verklaar hierby, kragtens artikel 32 (2) van die Wet op Arbeidsverhoudinge, 1995, dat die Kollektiewe Ooreenkoms wat in die Bylae hiervan verskyn en wat in die Motornwerheidbedingingsraad—MIBCO aangegaan is en kragtens artikel 31 van die Wet op Arbeidsverhoudinge, 1995, bindend is op die partye wat die Ooreenkoms aangegaan het, bindend is vir die ander werkgewers en werknemers in daardie nywerheid met ingang van 10 Junie 2002, en vir die tydperk wat op 31 Augustus 2003 eindig.

M. M. S. MDLADLANA
Minister van Arbeid

Nota: 'n Afrikaanse vertaling van die Ooreenkoms by die Engelse kennisgewing is op aanvraag beskikbaar by die Bedingingsraad.

SCHEDULE**MOTOR INDUSTRY BARGAINING COUNCIL—MIBCO****AUTO WORKERS' PROVIDENT FUND COLLECTIVE AGREEMENT**

in accordance with the provisions of the Labour Relations Act, 1995, made and entered into by and between the

Retail Motor Industry Organisation—RMI

and the

Fuel Retailers' Association of Southern Africa

(hereinafter referred to as the "employers" or the "employers' organisations"), of the one part, and the

National Union of Metalworkers of South Africa,

South African Motor Union

and the

Motor Industry Staff Association

(hereinafter referred to as the "employees" or the "trade unions") of the other part, being the parties to the Motor Industry Bargaining Council—MIBCO.

CLAUSE 1: PERIOD OF OPERATION

This Agreement shall come into operation on such date as may be fixed by the Minister of Labour in terms of section 32 of the Act, and shall remain in force for the period ending 31 August 2003.

CLAUSE 2: SCOPE OF APPLICATION OF AGREEMENT

- (1) Subject to the provisions of subclause (2) of this clause, the terms of this Agreement shall be observed—
 - (a) in the Motor Industry in the Republic of South Africa;
 - (b) by all employers who are members of the employers' organisation and by all employees who are members of the trade unions.
- (2) Notwithstanding the provisions of subclause (1) of this clause, the provisions of this Agreement shall not apply to—
 - (a) employees who are members of the South African Motor Union or the Motor Industry Staff Association;
 - (b) members of the National Union of Metalworkers of South Africa who are members of the Motor Industry Pension Fund;
 - (c) journeymen who are not members of the National Union of Metalworkers of South Africa or apprentices who are not members of the National Union of Metalworkers of South Africa, other than those referred to in the definition of "journeyman" and "apprentice", respectively;
 - (d) any employee who has been granted a retirement benefit by any fund which provides for such benefits;
 - (e) employees in respect of whom their employer contributes, and for as long as their employer so contributes, to a pension fund/provident fund that was in operation on the date of coming into operation of this Agreement and which, in the opinion of the Council, provides benefits not less favourable than those provided by the Fund;
 - (f) any employee for six months from the date on which he begins employment in the Motor Industry: Provided that any employer may in his discretion waive this exclusion.
- (3) Clauses 1, 2 (1) (b) and 8 of this Agreement shall not apply to employers and employees who are not members of the employers' organisations and trade unions, respectively.

CLAUSE 3: DEFINITIONS

Any expressions used in this Agreement which are defined in the Labour Relations Act, 1995, and the Main Agreement shall have the meanings assigned to them in the Act and that Agreement, references to an Act shall include any amendments to such Act, and unless the contrary intention appears, words importing the masculine gender shall include the feminine and vice versa; further, unless inconsistent with the context—

- (1) "**Act**" means the Labour Relations Act, 1995 (Act No. 66 of 1995);
- (2) "**apprentice**" means an employee serving under a written contract of apprenticeship registered or deemed to have been registered under the Manpower Training Act, 1981, and includes a minor employed on probation in terms of the Act as well as a learner in terms of Chapter IV of the Skills Development Act, No. 97 of 1998;
- (3) "**Company**" means the Motor Industry Fund Administrators (Pty) Ltd;
- (4) "**Council**" means the Motor Industry Bargaining Council—MIBCO, registered in terms of section 29 of the Act;
- (5) "**establishment**" means any premises or part thereof in or which activities in the Motor Industry or part thereof are conducted;

- (6) **"Exemption Board"** means the Board established by the Council in terms of section 32 of the Act, to consider appeals from non-parties against the refusal of a non-party's application for exemption from the provisions of this Agreement and the withdrawal of such an exemption by the Council;
- (7) **"Fund"** means the Auto Workers' Provident Fund, established in terms of the rules of the Fund for the purpose of providing lump sum benefits or annuities for employees in the Motor Industry or for the dependants of such employees on the death of such employees;
- (8) **"journeyman"** means an employee who is validly in possession of either a Grade CA or Grade CAE membership card issued to him on or after 1 January 1984 by either the Motor Industry Combined Workers' Union or the National Union of Metalworkers of South Africa;
- (9) **"Main Agreement"** means the Agreement in which wages and other conditions of service are specified for employees in the Motor Industry, as published in terms of section 32 of the Act;
- (10) **"Motor Industry"** or **"Industry"** means the Motor Industry as defined in the Main Agreement from time to time;
- (11) **"Pension Fund"** means the Auto Workers' Pension Fund published in terms of section 32 of the Act under Government Notice No. 690 of 31 May 2002 as amendment from the time to time;
- (12) **"pensionable remuneration"** means the amount which an employer would normally and/or regularly pay to an employee, either weekly or monthly, in respect of the ordinary hours required to complete a full normal week of a month, as the case may be, and does not include remuneration which an employee who is employed on a piecework basis receives over and above the amount he would have received if he had not been employed on such basis, but includes commission received on the sale of goods: Provided, however, that all commission received in excess of R7 000 per month shall be excluded;
- (13) **"Region EC"** means those areas defined as "Area A (EC)" and "Area B (EC)" in the Main Agreement;
- (14) **"Region KZNL"** means the Province of Natal as it existed prior to the promulgation of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), and the Magisterial District of Mount Currie;
- (15) **"Region FS & NC"** means those areas defined as "Area A (FS & NC)" and "Area B (FS & NC)" in the Main Agreement;
- (16) **"Region Highveld"** means those areas defined as "Area A (Highveld)" and "Area B (Highveld)" in the Main Agreement;
- (17) **"Region Northern"** means those areas defined as "Area A (Northern Region)" and "Area B (Northern Region)" in the Main Agreement;
- (18) **"Region WP"** means those area defined as "Area A (WP)" and "Area B (WP)" in the Main Agreement;
- (19) **"regional council"** means a committee appointed as such by the Council in terms of its constitution for any region defined herein;
- (20) **"retirement age"** means 65 years;
- (21) **"voluntary member"** means a person admitted to membership by a regional council in terms of clause 5 of this Agreement;
- (22) **"week"** means a period of seven consecutive days commencing at midnight on a Sunday.

CLAUSE 4: ESTABLISHMENT AND OBJECTS OF THE FUND

- (1) The Auto Workers' Provident Fund (hereinafter referred to as the "Fund"), originally established in terms of Government Notice No. R. 837 of 23 June 1995, is hereby continued.
- (2) The Fund shall consist of contributions as specified in this Agreement, and interest or dividends on investments.
- (3) The objects of the Fund shall be, in accordance with the rules of the Fund as determined from time to time, to provide pension benefits for members.

CLAUSE 5: MEMBERSHIP

- (1) Subject to the provisions of clause 2 of this Agreement and of subclause (3) of this clause, membership of the Fund shall be compulsory for every apprentice who applies for membership of the Fund, and every journeyman and every employee employed in the Motor Industry who has not reached retirement age or who has not been granted pension fund benefits by the Fund and who does not elect to remain or become a member of the Pension Fund.
- (2) Employees who are not compulsory members in terms of subclause (1) and Directors of companies, members of close corporations, sole proprietors and partners in business directly engaged in, or in connection with the Motor Industry who are registered with the RMI, a Fuel Retailers' Association of Southern Africa may be admitted to voluntary membership of the Fund at the sole discretion of the regional council concerned, and the provisions of the Agreement shall *mutatis mutandis* apply to persons admitted to voluntary membership and to their employers.
- (3) Every employee for whom membership is compulsory in terms of subclause (1) of this clause, shall—
 - (a) complete the form specified in Annexure A to this Agreement and lodge such completed form with the Secretary of the regional council for the region in which he is employed, within one month after the date on which he enters, re-enters or becomes employed in the Motor Industry; and for purposes of this paragraph an employee shall be deemed to have re-entered the Motor Industry when he has changed employment from one region to another;

- (b) furnish, when required to do so by the Council, a regional council or the Fund, such evidence and information, documentary or otherwise, as may be necessary for purposes of establishing his identity, his membership of the Fund and/or paying or determining any benefit arising out of such membership.

(4) Every person who is admitted to voluntary membership in terms of subclause (2) of this clause shall complete the form specified in Annexure B to this Agreement and lodge such completed form with the Secretary of the regional council concerned.

CLAUSE 6: CONTRIBUTIONS

(1) Every employee for whom membership of the Fund is compulsory in terms of clause 5 (1) or every voluntary member in terms of clause 5 (2) of this Agreement, shall contribute 7 per cent of his pensionable remuneration to the Fund in respect of each week of employment in the Motor Industry: Provided that where an employee receives or is entitled to receive wages for less than 23 hours in any week, no contributions shall be payable by him in respect of such week.

(2) The contributions specified in subclause (1) shall, subject to the proviso contained in subclause (1), be deducted by the employer from every employee's wages on the first pay day after this Agreement comes into operation, and on each pay day thereafter.

(3) Every employer shall contribute and add to the contributions deducted in terms of subclause (2) contributions of an equal amount.

(4) The total amount of contributions deducted from the earnings of employees and contributed by employers in terms of subclauses (2) and (3) of this clause shall be paid each month to the Secretary of the regional council for the region within the area of jurisdiction within which the employer's establishment is situated, and each such payment shall be accompanied by a written statement containing the following details:

- (a) Name, initials, trade union membership number (if any) and national identification number of each employee;
- (b) amount of contributions remitted in respect of each employee;
- (c) the date on which service began or service ended, in the case of employees whose employment began or ended since the details were last submitted.

(5) Every employer shall pay the total amount of the contributions payable by him and his employees and render the statement of details in terms of subclause (4) to the Secretary of the regional council concerned by not later than the 10th day of the month immediately following that to which the contributions and details relate.

Note:

- (a) The present postal addresses of the Secretaries of the various regional councils are as follows:

For Region EC: P.O. Box 3164, North End, Port Elizabeth, 6056.

For Region KZNL: P.O. Box 17263, Congella, 4013.

For Region FS & NC: P.O. Box 910, Bloemfontein, 9300.

For Region Highveld: P.O. Box 2578, Randburg, 2125.

For Region Northern: P.O. Box 2578, Randburg, 2125.

For Region WP: P.O. Box 17, Bellville, 7535.

- (b) Forms prepared specifically for the furnishing of the details required by this clause may be obtained from the Regional Secretary of the region concerned.

(6) The contributions payable by employers as specified in subclause (3) shall not be refundable.

(7) The contributions collected by regional councils in terms of this clause shall be paid on the Company: Provided that the Council may retain, as recoupment of administrative expenses, such amounts as may from time to time be mutually determined by the Council and the Company. The amount so retained shall be paid into the general funds of the Council.

(8) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the employer shall pay interest monthly on such amount or on such lesser amount as may remain unpaid, calculated from the due date of payment at the interest rate of 1,5 per cent to 2 per cent or part thereof from such 15th day until the day upon which payment in cash is actually received by the regional council concerned: Provided that a regional council shall be entitled in its absolute discretion to waive the payment of such interest or part thereof.

CLAUSE 7: ADMINISTRATION

(1) The Fund shall be administered in accordance with rules approved by the Council, which rules shall not be inconsistent with the provisions of this Agreement or of the Act, and a copy of the rules and details of any amendments to them shall be lodged with the Registrar of Labour Relations.

(2) In the event of the dissolution of the Council or in the event of its ceasing to function during the currency of this Agreement, the Registrar of Labour Relations may appoint the Company to perform the functions of the Council in respect of this Agreement. If the Company is unwilling or unable to undertake the performance of such functions, the Registrar of Labour Relations may appoint a trustee or trustees to perform the Council's function. The company or the trustee(s) so appointed shall have all the powers vested in the Council for the purposes of this Agreement.

CLAUSE 8: AGENTS

The Council or any regional council may appoint one or more specified persons as agents to assist in giving effect to the terms of this Agreement, and it shall be the duty of every employer and every employee to permit such persons to enter such premises, institute and complete such enquiries and examine such documents, books, wage sheets, time sheets and pay tickets, question such individuals and do all such acts as may be necessary for the purposes of ascertaining whether the provisions of this Agreement are being observed, and no person shall make a false statement to such agent in connection with his investigations.

CLAUSE 9: EXEMPTIONS

(1) The Council or any regional council may grant exemption from any of the provisions of this Agreement to any party on application.

(2) Application for exemption shall be made to the Secretary of the regional council within whose region the applicant operates or is employed.

(3) The Council or regional council, as the case may be, shall fix the conditions subject to which such exemptions shall be valid, and may, if it deems fit, after one week's notice in writing has been given to the person concerned, withdraw any licence of exemption.

CLAUSE 10: DISHONoured CHEQUES

Whenever an employer pays any sum of money which is due to the Council in terms of this Agreement, in any manner other than in cash and such payment is not honoured for any reason whatever, then and in such event a penalty shall be payable by the employer to the Council in its sole discretion, which penalty shall be equal to 1,5 per cent to 2 per cent of the amount of the purported payment. Any penalty due to the Council in terms of this clause shall be payable on demand.

CLAUSE 11: EXHIBITION OF AGREEMENT

Every employer shall—

- (a) keep a copy of the collective agreement available in the workplace at all times;
- (b) make that copy available for inspection by any employee; and
- (c) give a copy of the collective agreement—
 - (i) to an employee who has paid the prescribed fee; and
 - (ii) free of charge, on request, to an employee who is a trade union representative.

CLAUSE 12: INDEPENDENT EXEMPTIONS BOARD

Subject to clause 23 of the Administrative Agreement published under Government Notice No. R. 557 of 22 June 2001, the same conditions and criteria shall apply in respect of appeals from non-parties submitted in terms of the provisions of this Agreement.

CLAUSE 13: RESOLUTION OF DISPUTES

(1) For the purposes of this Agreement a "dispute" means any dispute about the application, interpretation or enforcement of this Agreement, or any other collective agreements entered into by the parties to the Council.

(2) Any such dispute shall be referred to the Council in the form specified by the Council. This provision shall not apply when the Council makes use of the procedure set out in subclause (4).

(3) If the Council fails to resolve the dispute through conciliation and the dispute remains unresolved, it shall be referred for arbitration to the MIBCO-Dispute Resolution Centre in terms of section 52 of the Act. The arbitrator shall have the power to decide upon the procedure to be followed at the arbitration hearing in terms of section 138 of the Act, and be entitled to make an award in respect of the parties' arbitration cost in terms of section 138 (10) of the said Act.

(4) The provisions of this clause stand in addition to any other legal remedy through which the Council may enforce a collective agreement.

(5) The arbitrator's decision shall be final and binding subject to the parties' right of review to the Labour Court.

(6) Any other dispute shall have the same meaning as defined in the Act and be dealt with in terms of section 51 of the said Act.

Signed at Randburg, on behalf of the parties, this 14th day of February 2002.

R. BASTICK
President of the Council

A. VAN NIEKERK
Vice-President of the Council

B. G. DU PREEZ
General Secretary of the Council

**ANNEXURE A TO THE AUTO WORKERS' PROVIDENT FUND AGREEMENT
APPLICATION FOR REGISTRATION AS A MEMBER**

Fund No.

Union No. (if any)

Identity No.

Surname

First names

Date of birth.....(year).....(month).....(day).....

Sex (state male or female)

Employed by (employer's name and address).....

.....

Occupation

Applicant's private address.....

.....

Were you employed in the Motor Industry previously?

If the answer is "Yes", state name and address of employer

.....

I, the undersigned, a member of the

hereby apply to be registered as a member of the Auto Workers' Provident Fund and agree to abide by the provisions of the Fund's rules in force from time to time.

I nominate as my beneficiary in the event of my death:

First names (Mr/Mrs/Miss)

Surname

Relationship (state: wife, husband, father, mother, son, daughter, as the case may be)

.....

Address

Identity No. of beneficiary (where applicable)

Date

(Member's signature)

*Please insert names of trade union if applicable.

MEDICAL HISTORY

Please answer "YES" or "NO" to the following questions, to allow the Fund to determine whether or not a FULL, DETAILED MEDICAL EXAMINATION is required.

If "YES" please give full details in the Schedule below.

1. Have you ever suffered from one or more of the following:

- 1.1 Any disorder of the heart, e.g. rheumatic fever, heart murmur, coronary artery disease, chest pains, shortness of breath or palpitations.....
- 1.2 High blood pressure or a disease of the blood vessels or a circulatory disorder, or varicose veins.
- 1.3 Any respiratory or lung trouble, e.g. asthma, bronchitis, persistent cough, tuberculosis (TB)
- 1.4 Any disorder of the digestive system, gall bladder or liver, e.g. actual or suspected gastric or duodenal ulcer, recurrent indigestion or hiatus hernia.....
- 1.5 Disease or disorder of the kidneys, bladder or reproductive organs, e.g. albumin in urine, stones or venereal disease.....
- 1.6 Any nervous or mental complaint, e.g. epilepsy, blackouts, paralysis, anxiety state or depression
- 1.7 Ear, eye, nose or throat disorder, e.g. ear discharge, defective vision, recurrent tonsillitis, cataract or visual defect
- 1.8 Disorder or disease of muscles, bones, joints, limbs, spine, e.g. rheumatism, arthritis, gout, slipped disc or other back trouble
- 1.9 Diabetes, sugar in urine, thyroid or other glandular or blood disorder
- 1.10 Cancer, growth or tumour of any kind
- 1.11 Any tropical disease, e.g. bilharzia, malaria
- 1.12 Any other illness, disorder, operation, disability or accident.....

2. If not already stated, have you during the past five years—

- 2.1 Had any X-rays ECGs or other investigations, operations or been hospitalised
- 2.2 Taken any course of sedatives, tranquillisers or drugs for medical or any other reason
- 2.3 Consulted any doctors or specialists

3. Have you received any form of disability grant/pension and/or ill health pension from any other pension fund/WCA/military/insurance, etc**SCHEDULE**

Question number	Nature and duration of complaint or symptoms	Date	Name and address of attending doctor or hospital	When did applicant have symptoms
.....
.....
.....

I hereby certify that the answers provided by me to the above questions are complete and true in every respect and acknowledge that failure on my behalf to disclose medical information to the Fund may lead to restrictions and/or non-payment of any form of ill-health pension and/or death benefit. I also accept the Fund may advise me at their cost to undergo a more detailed medical examination and if such medical report is unsatisfactory in any way, restrictions may be applied to the normal benefits in terms of the rules of the Provident Fund.

.....
Applicant's signature

.....
Date

FOR OFFICE USE ONLY

Date received

Date registered

Date of this payment

Return to

When completed, this form shall be forwarded to—

The Regional Secretary

Motor Industry Bargaining Council—MIBCO

Region

P.O. Box

ANNEXURE B TO THE AUTO WORKERS' PROVIDENT FUND AGREEMENT**APPLICATION FOR ADMISSION AS A VOLUNTARY MEMBER**

Surname

First names

Date of birth (year) (month) (day)

Union No.

Identity No.

Sex (state male or female)

Employed by (employer's name and address)

.....

.....

Occupation

If an employer, state full name of business

.....

.....

Status of employer (e.g. owner, director, partner, member)

I, the undersigned, member of
hereby apply to be registered as a member of the Auto Workers' Provident Fund and agree to abide by the provisions of the Fund's Rules in force from time to time.

Were you employed in the Motor Industry previously?

If answer is "Yes", state name and address of employer and your Fund No.

.....
(Date)

.....
(Member's signature)

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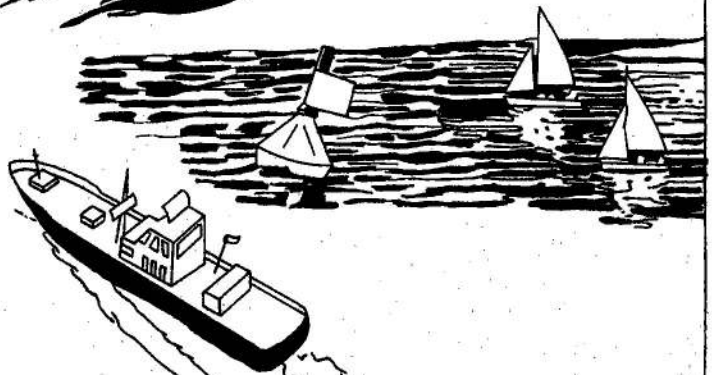
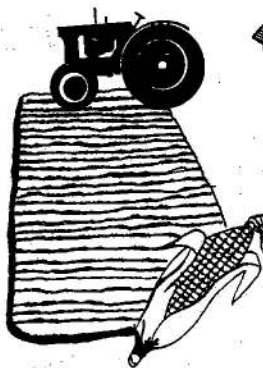
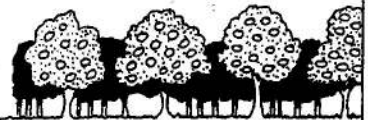
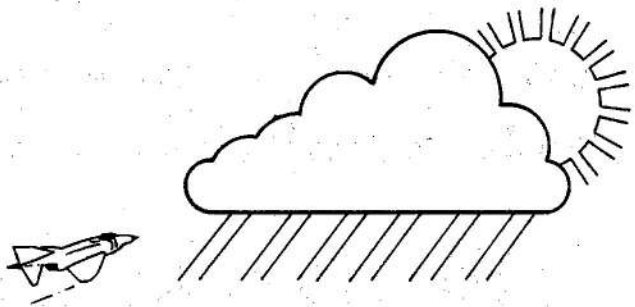
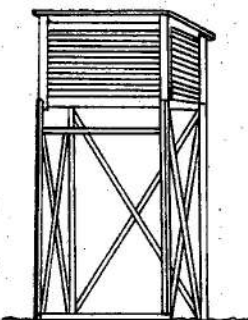
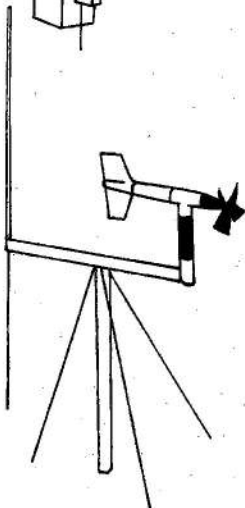
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