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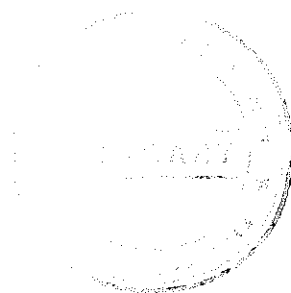
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## **Restructuring of the social security system in Indonesia**



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Social Security Department, ILO Geneva  
December 1999

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# Contents

	<i>Page</i>
<b>Introduction</b> . . . . .	1
<b>Chapter 1. Main social security issues</b> . . . . .	3
1.1 Pensions . . . . .	3
Public Sector . . . . .	3
Private Sector . . . . .	3
Private Pension Funds . . . . .	4
1.2 Other Benefit Issues . . . . .	5
Employment Injury Protection . . . . .	5
Maternity Benefits . . . . .	5
Health Care . . . . .	6
1.3 Coverage . . . . .	6
<b>Chapter 2. National strategies for the restructuring of the social security system and the reform of Jamsostek</b> . . . . .	9
2.1. Main Activities . . . . .	9
2.2 Workshop on the Restructuring of Social Security (16-17 November 1999) . . . . .	9
Structure of the Meeting . . . . .	9
Main Points from the Proceedings . . . . .	10
2.3 National Strategies for the Restructuring of the Social Security System and the Reform of Jamsostek . . . . .	11
Main Considerations . . . . .	11
Reform of the Jamsostek Scheme . . . . .	12
Changes in Jamsostek as a Social Security Institution . . . . .	12
Changes in the Jamsostek Programme . . . . .	12
2.4. Amendments to the Legislation and an Implementation Plan . . . . .	13
Legal Changes . . . . .	13
Implementation Plan . . . . .	13
<b>Chapter 3. Conclusions and follow-up action</b> . . . . .	15
3.1 Policy Issues . . . . .	15
3.2 Development of the Jamsostek Social Security Scheme . . . . .	16
<b>Annex 1. Overview of social security protection</b> . . . . .	17
<b>Annex 2. Workshop on restructuring of the social security system in Indonesia. Jakarta, 16 – 17 November 1999</b> . . . . .	23
<b>Annex 3. Amendments to the legislation</b> . . . . .	25
<b>Annex 4. List of main persons met</b> . . . . .	29
<b>Annex 5. Bibliography</b> . . . . .	31

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## Introduction

This assignment arose from the ILO Employment Strategy Mission to Indonesia in April and May 1999 as regards the findings in the field of social protection and, in particular, the serious problems of the Jamsostek scheme for employees in the private sector and State Owned Industries. A report by Mr Clive Bailey, Senior Social Security Specialist in SEC/PDN, ILO Geneva described the numerous weaknesses of this scheme and the widespread lack of confidence in its management<sup>1</sup>. Urgent action was recommended to begin a process of addressing these problems constructively in order to rebuild both the scheme and public confidence in it.

The weaknesses of the scheme are epitomized by the national provident fund JHT run by Jamsostek which, as a defined-contribution compulsory savings scheme paying out lump-sums on the occurrence of the first of the three contingencies of invalidity, survivorship and old-age, not only is fundamentally incapable of providing adequate income support in retirement, but also allows members to withdraw their accrued balances when unemployed. During the serious economic crisis in Indonesia many members had no option but to liquidate their savings for retirement in this way due to the lack of unemployment insurance and effective methods of providing severance pay to retrenched workers. In contrast, social security schemes for civil servants and the Armed Forces respectively provide pensions for long-term contingencies.

This and other grave deficiencies in the system are compounded by the widespread unpopularity of Jamsostek as a social security institution. This is due to the general perception that it is most inefficient in such important respects as maintaining members' contribution records, subject to political intervention in its investment decisions, ineffective in extending coverage, and largely unaccountable to its members. Widespread evasion and payment of contributions on minimum wages are both a symptom and an underlying factor in Jamsostek's serious situation. Moreover, Jamsostek has the legal status of State Owned limited liability company subject to taxation on so-called profits, which, of course, is inappropriate for a statutory social security scheme.

These various problems had brought about demands for the so-called monopoly of Jamsostek to be ended so that private companies could compete for implementation of this scheme. The Ministry of Finance (MOF) had received advice from consultants on this issue, and under its responsibility for promoting the development of private pension schemes is interested in removing obstacles, including the compulsory membership of Jamsostek's JHT scheme. This had been recommended by a World Bank study into ways of developing supplementary pension schemes<sup>2</sup>. The Ministry of Manpower (MOM) had set up a National Steering Committee (NSC) to advise on legislative amendments for the purpose of effecting this drastic change. The ADB is currently providing advice to MOF through a project on "The reform of pension and provident fund schemes". A NSC was set-up which includes MOM representatives.

ILO's view is that Indonesia should have a core public social security scheme which provides adequate social security protection, broadly consistent with ILO standards, which should be part of a mixed system of social protection with three tiers or levels. This consists of a basic social safety net tier financed by taxation, then a compulsory self-financing social security system, and with voluntary supplementary schemes forming a third tier. Indonesia has some of these elements at present and needs to review the present scheme and address the numerous weaknesses which now detract from the already limited impact of the present provisions and their implementation. MOM agreed that this important issue should be examined through the formation

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<sup>1</sup> "Social Protection Strategies" (Chapter 15 of Indonesia: Strategies for Employment-Led Recovery and Reconstruction, ILO October 1999).

<sup>2</sup> "Reforming Indonesia's Pension System", Chad Leechor, Policy Research Working Paper 1677 World Bank, October 1998.

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of a NSC, the assignment of an ILO consultant for one month and the holding of a national seminar.

The terms of reference for the consultant were that:

- he/she should participate in the national social security seminar and present a paper on social security principles and planning with reference to the experience of other countries in the region. He/she should then in collaboration with national counterparts assist in:
  - preparing a national strategy for the development of social security in Indonesia which will include the respective roles and responsibilities of the State (both at the central and the regional level), employers, individual workers and citizens, communities and private sector
  - formulating proposals for the reform, restructuring or replacement of JAMSOSTEK
  - outlining the aspects to be covered in prepared draft legislation relating to the national social security strategy and the reform of JAMSOSTEK, and
  - developing an implementation plan.

The Director-General of the ILO appointed Mr Kenneth Thompson, who was joined by Mr Clive Bailey during the period from 15 to 26 November 1999, to undertake this consultancy. He wishes to express his appreciation to Mr Bomer Pasaribu, Minister of Manpower for the extensive support and assistance provided to Mr Bailey and Mr Thompson throughout their respective assignments.

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# Chapter 1. Main social security issues

This chapter provides information on the broader social security context in which the restructuring of Jamsostek is being considered. Certain aspects may impact on the outcome of these efforts to retrieve the present situation and to address long-standing issues concerning the Jamsostek scheme. As indicated in the preceding section, there are separate social security schemes for civil servants, the Armed Forces and the private sector (including State Owned Industries) respectively. These are summarized in Annex 1. This chapter concentrates on relevant selected issues concerning income and health protection, including pensions, employment injury, maternity, health insurance, and coverage of the labour force.

## 1.1 Pensions

Policies on pensions, including private pension schemes, have important ramifications which are relevant to the restructuring of Jamsostek.

### Public Sector

The Government Civilian Employees Savings and Insurance Scheme, which is the responsibility of MOF and is run by PT Taspen, provides

- pensions calculated on the final monthly salary at the rate of 2.5 per cent of basic salary per year of service, and
- lump sum payments of 16.5 months salary on retirement or earlier death

Civil servants, now numbering over 4 million, contribute a total of 8 per cent of earnings for these benefits. The scheme has built-up considerable assets and the investment returns augment the contribution income so that they meet the costs of the lump-sum payments and about 22.5 per cent of pension expenditure. The balance is paid from the Government budget. This scheme is building-up considerable unfunded liabilities as indicated by projections that pensions which currently account for about 30 per cent of the civil service wage bill will increase to 70 per cent by 2020, and that the fund for lump-sum payments will run into deficit by 2006<sup>3</sup>. Consequently, remedies must soon come under consideration, including higher pension ages, use of average earnings not final salaries to calculate pensions, improved investment strategies and reductions in administrative costs. However, plans of the recently elected Government to upgrade civil service salaries substantially through a series of pay settlements during the next 5 years will effect corresponding increases in existing pensions (over 1.73 million retirement and 750 000 survivors pensions), and in future liabilities.

The pension scheme for the Armed Forces, which is under the responsibility of the Ministry of Defence and administered by PT Asabri, has a similar structure but information is not available on its financial situation.

### Private Sector

The conversion of the national provident fund into a social insurance pension scheme became a policy objective under Repelita IV. It may be recalled that the provident fund when introduced in 1978 was seen as a means of starting a contributory old-age protection scheme with

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<sup>3</sup> "Reforming Indonesia's Pension System," Chad Leechor, Policy Research Working Paper 1677 World Bank, October 1998.

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a low contribution of 2.5 per cent of earnings until a more complex social insurance pension scheme became feasible. The ILO conducted studies into the design of a pension scheme in 1988 which recommended a scheme providing flat rate benefits based on average earnings. The actuarial valuation showed that a scheme meeting relevant ILO standards<sup>4</sup> could be financed by a contribution of 5.5 per cent of earnings, subject to a contribution ceiling, under a system of partial funding<sup>5</sup>.

In 1992 the IMF also examined possibilities for a pension scheme to replace the clearly ineffective provident fund. This study recommended the gradual introduction of a partially funded defined benefit scheme with a contribution rate of 6 per cent of the gross wage subject to a contribution ceiling, which would achieve the minimum replacement rate of 40 per cent of average earnings after 30 years insurance prescribed in the Social Security (Minimum Standards) Convention, No.102 of 1952<sup>6</sup>. Gradual increases in pension age from 55 to 62 were proposed.

An important recommendation was that there should be a national pension scheme for all types of employees in the public and private sectors to provide the basic retirement income, with the possibility of supplementary second tier benefits. The main reasons for this proposals were to remove disparities in standards between the public and private sectors, and affordability, in view of the financial problems of the civil service scheme.

Law 3/92 on Employees Social Security provided in Article 14 for old-age benefits to be in the form of a lump-sum or periodical payments or a combination of both, but no change was made to the existing scheme. An ILO mission in 1993 advocated the principle of periodical payments as essential to guarantee financial support throughout the long-term contingencies of invalidity, survivorship and old-age<sup>7</sup>. There can hardly be any question about the need for and feasibility of a social insurance pension scheme for Jamsostek members, but the current strategies for the development of private pension funds, which are explained next, add to the urgency and importance of this major change.

## Private Pension Funds

Law 11/92 on Pension Funds provides a legal and regulatory framework for the development of Employers Pension Funds (EPF) and Financial Institution Pension Funds (FIPF) under the supervision of MOF. By the end of 1997 approximately 1.2 million employees were members of such schemes (more details are given in Annex 1). Private pension funds have become a major policy option for MOF not only to improve pension protection for employees, but also to strengthen capital markets for economic reasons by means of significant growth in the volume of investments by private pension funds. MOF is examining options for all-round improvements in the regulatory and institutional framework and in the incentives for employers to join or set-up voluntary pension schemes. The ADB project mentioned in the Introduction is conducting an actuarial and financial analysis of the existing pension and provident fund schemes in order to develop recommendations for fully-funded schemes which will increase savings mobilization and provide adequate population coverage. Whilst the issue of the fiscal unsustainability of the Taspen civil service pension scheme arouses concern, there is considerable interest in recommendations on Jamsostek which would allow employers to opt out in favour of private company provision. This is described next.

Under a Financial Sector Reform project financed by CIDA a proposal was made in 1998 for Jamsostek to be converted into a Life Insurance Company to operate the current insurance

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<sup>4</sup> The Social Security (Minimum Standards) Convention, No.102 of 1952.

<sup>5</sup> "Social Security Pension Scheme" INS/86/022 Actuarial Report, ILO Geneva 1988.

<sup>6</sup> "Indonesia: Blueprint for a Comprehensive Public Pension Scheme" IMF Fiscal Affairs Department, July, 1992.

<sup>7</sup> "Report to the Government on Social Protection", ILO, Geneva, 1993

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schemes, and to administer the provident fund as a FIPF for the purpose of removing the so-called "monopoly" of Jamsostek. This change was advocated in order to open up the voluntary pension market and encourage employers to opt for the private pension schemes. The main basis for this far-reaching proposal is the contention that, whilst defined benefit pension schemes should entail government management because of redistributive features such as the provision of minimum pensions or intergenerational transfers, this does not apply to defined contribution schemes<sup>8</sup>. The report advises that all Life Insurance Companies should be entitled to administer the entire Jamsostek programme. These proposals ignore the essential differences between commercial and social insurance which require the continuation of the Jamsostek scheme without exemptions so that it can achieve the best attainable cost-effective standards of social security protection by utilizing the widest possible risk pooling across all types of occupations and both high and low-income earners. In any case, this argument for privatizing the social security scheme would lose all force if a decision is taken to convert the provident fund into a social insurance defined benefit pension scheme on the basis of the recent studies described above. This major issue therefore assumes paramount importance in the restructuring of Jamsostek, as discussed in chapter 2.

## 1.2 Other Benefit Issues

### Employment Injury Protection

In the case of permanent disability or death resulting from employment injuries, the Jamsostek JKK scheme provides for a lump sum and a periodical payment for 24 months. Under the Social Security (Minimum Standards) Convention No. 102 of 1952 periodical payments in respect of permanent disability and death should be made throughout the contingency, except that benefit may be commuted into a lump sum where the authorities consider that a lump sum will be properly utilized, or the disability is slight. The latter term has to be interpreted in national legislation and, for example, may be defined as up to 20 per cent loss of earnings capacity which means that lump sums are paid for cases of 20 per cent or less, and that persons with higher disability ratings receive pensions without a fixed duration. In its 1993 review of the social security system, ILO recommended the provision of pensions throughout the contingency as an essential entitlement under employment injury insurance; this change is within the capacity of the scheme which has accumulated excessive reserves, as explained in Annex 1, under the present method of operation of the financial system of this branch<sup>9</sup>.

### Maternity Benefits

The 1993 ILO review also recommended that consideration should be given to converting maternity benefits into social insurance benefits. These are now the responsibility of employers who pay full wages for 3 months with the possibility of up to 3 months more on medical certification. Despite the legislative requirements for these payments and prohibitions against dismissal during pregnancy and maternity leave, discrimination and evasion usually occur to some extent. This is the principal reason for conversion into social insurance benefits in many similar countries so that payment of benefits becomes the responsibility of the social insurance fund thus ensuring uniform standards of maternity protection and reduction in discrimination against the employment of female workers. It is also possible for the social insurance fund to aim

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<sup>8</sup> "Alternative Means of Delivery of Jamsostek Benefit Program" 1.9.98

<sup>9</sup> "Report to the Government on Social Protection", ILO, Geneva, 1993



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for higher standards of health and income protection for female workers and their children than could be reasonably expected under employer liability legislation.

## Health Care

The National Health Law number 23 of 1992 established the JKPM system of managed care which is designed for national implementation through various schemes including Jamsostek and Askes for civil servants (further information is given in Annex 1). Provision of health care benefits (JKK) by Jamsostek is affected by two major problems:

- financial constraints due to the widespread practices of contributing on basic salaries which undermines health insurance schemes because the increasing unit costs are unrelated to the level of individual contributions (it is evident from Annex table 1 that over 79 per cent of the contribution income is spent on health care benefits); and
- the principle of exemptions for employers providing equal or better benefits to their staff which has reduced the scope of coverage.

Jamsostek is therefore constrained in the quality of service it can provide and in turn this increases evasion and opting out by employers. The JKPM system of managed care envisages a curative, promotive and preventive service which is a longer-term aim for Jamsostek when it has a stronger membership and financial basis for improving its health care programme. The first objective should be to overcome the financial problems through more effective enforcement in order to begin a process of raising standards and increasing membership in order to strengthen the case for legal changes to end losses of members to Askes and through exemptions.

### 1.3 Coverage

Jamsostek applies to enterprises with 10 or more workers or with a monthly payroll of Rupiah 1 million or more. The latter rule should ensure the inclusion of workplaces with 4 or even fewer workers, which should provide Jamsostek with a sufficient basis for achieving wider coverage. Jamsostek reports approximately 15 million registered members but there is no accurate data on active contributors. However, there is little doubt that evasion and under-declaration of workers and their earnings are serious constraints on Jamsostek's efforts to implement the scheme. The main problems are:

- Jamsostek has no authority to appoint inspectors and has to rely on labour inspectors to apply sanctions against delinquent employers;
- unsatisfactory features of the scheme and its administrative performance which exacerbate the non-compliance problem; and
- uncertainty amongst some enterprises about paying to Jamsostek in view of the publicity about opening up the scheme to private insurance companies.

In this situation, there is concern that redundant workers forced into the informal sector, including self-employment, lack social security protection, and an interest therefore in extending the coverage of suitable schemes within the limits of contributory capacities and administrative feasibility. The pensions planning described at section 1.1 above envisaged widening coverage and the JKPM concept is for the inclusion of all population groups<sup>10</sup>. Therefore, extensive improvements in coverage constitute a high priority in any strategy for developing social security protection in Indonesia.

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<sup>10</sup> For example, pilot schemes for members of cooperatives were initiated in 1997 under the auspices of the Ministry of Cooperatives see "The Status of Managed Care in Indonesia" by Dr Widyastuti Wibisana, Director for Community Participation, Ministry of Health.

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However, these problems tend to obscure the fact that extending coverage to small enterprises and the informal sector is inherently very difficult, as shown by the notable lack of progress in the developing world in general. For example, ILO estimates that about 90 per cent of the labour force in South Asia is outside the scope of coverage of public social security schemes with no realistic prospects of significant improvement in the short or medium term. The ILO in pursuit of its overall goal of securing decent work for men and women everywhere has adopted as one of its four strategic objectives: "To enhance coverage and effectiveness of social protection for all." The essential point is that coverage in this context refers to meaningful, appropriate as well as personal membership of a scheme. The three objectives in coverage strategies are

- personal coverage
- range of coverage, as regards the contingencies for which protection is afforded, and
- level of coverage or the effectiveness of the system of protection in such respects as the provision of pensions or, less satisfactorily, in the form of lump sums.

All three elements are important but those without coverage for any contingency are likely to be the most vulnerable.

ILO considers that a new multi-dimensional approach is needed which recognises that social protection schemes must be adapted to better suit the needs and circumstances of working people in a wide variety of situations. This should be accompanied by major efforts to strengthen the administration of existing schemes. The development of social safety nets for the poor needs greater attention. Another area for improvement is the structure and governance of the main schemes. As these schemes will not be able to extend coverage fully for many years there is a key role to be played by micro-insurance schemes.

ILO therefore envisages a strategy with three complementary elements:

- Strengthening and improving statutory social security schemes, including the extension of social insurance, the development of social assistance and social safety nets for the poor, as well as exploring new linkages between social protection benefits and employment policies;
- Promoting and supporting the development of micro-insurance schemes that respond to the needs of and contributory capacities of rural and informal sector workers;
- Establishing linkages between statutory social security schemes and micro-insurance schemes.

The concept of the three tier system of social protection, which is discussed in the next chapter, is the basis for implementation of this strategy. This involves different Government Ministries and agencies and clearly a comprehensive and coordinated approach will be required if meaningful progress is to be made with coverage issues.

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## **Chapter 2. National strategies for the restructuring of the social security system and the reform of Jamsostek**

### **2.1. Main Activities**

The main activities during the assignment were to:

- advise MOM and the NSC,
- participate in the national workshop,
- draft the required documents on the national strategies, revisions of the legislation and the implementation plan, and
- to follow-up on the next stages of action.

In addition, fact-finding visits were made to MOF (Pension Fund Directorate), MOH, the Government Civilian Employees Savings and Insurance Scheme run by PT Taspen, the Government Employees Health Insurance Scheme administered by PT Askes, the World Bank, and the ADB project team. The consultant also participated in the session on Social Protection Strategies in the ILO/MOM Employment Strategy Forum held on 24 November 1999. Annex 4 contains a list of the main persons met during the assignment.

The NSC was established on a tripartite basis under the chairmanship of MOM with members from MOF, MOH, Apindo, FSPI, and Jamsostek. Professor Sentanoe, a long-standing expert in social security, acted as adviser to the NSC. The NSC met on 6 occasions under the chairmanship of the Director-General of Industrial Relations and his deputy for this subject, the Director of Wages and Social Security. Unfortunately, the MOF was unable to attend despite direct invitations to the Directorate of Pension Funds. The planning of the National Workshop occupied most of the time of the NSC as it considered this to be an extremely important part of the consultative process for devising a national strategy for the restructuring of social security. This is described next.

### **2.2 Workshop on the Restructuring of Social Security (16-17 November 1999)**

#### **Structure of the Meeting**

Over 150 persons were invited to represent Parliament, Government Ministries, trade unions, employers' association, the press and other interests in an effort to pool wide ranging views on Jamsostek and social security issues and problems. The agenda was drawn-up by the NSC on the basis of the outline of the Main Guidelines for a National Strategy provided by the consultant. It was designed to elucidate the concepts of the 3-tier system of social protection and the inter-relationship between tiers as a framework for in-depth examinations of the issues and problems in Indonesia, especially the Jamsostek scheme and its management in order to identify suitable strategies for restructuring the social security system. It was also essential to distinguish between institutional and programme weaknesses since criticisms of Jamsostek appeared to focus almost exclusively on the former, largely disregarding the major deficiencies in the standards of old-age, employment injury and health protection referred to in Chapter 1. Finally, another objective was to improve the generally low levels of understanding of social security principles and practices, not least those relating to sound governance of social security systems, and of the progress made in developing effective schemes in similar Asean countries.

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The process of achieving a consensus was envisaged as consisting of four stages. The agenda was devised for four panels to focus on the elements of a strategy. A total of 11 papers were presented by members of the NSC or their organizations, the ILO specialists and the President of the Indonesian Pension Fund Association. The full agenda is given in Annex 2; the four panels were as follows:

- the Role of Social Protection in Social and Economic Development (3 papers)
- the Inter-Relationship amongst Social Protection Systems (2 papers)
- Extension of Coverage (2 papers), and
- the Legal and Administrative Structures of Social Security (4 papers).

## Main Points from the Proceedings

With over 150 persons in attendance, a balance was struck between time allocations for presentations of papers and for questions and statements from the floor. With the aid of comments and summaries by each Moderator during panel sessions, the particular issues and problems brought out in the papers were highlighted for discussions. The points made in the discussions on the reform of Jamsostek are listed below.

As regards institutional changes, the main themes were as follows:

- the imperative need for a truly independent tripartite body with the status of a Trust Fund;
- the legal status of Jamsostek should be changed to end taxation of so-called profits, and maximize resource mobilization for benefit purposes;
- investment procedures should be comprehensively overhauled in order to emphasize transparency and increased returns, which were vital to restore public confidence;
- administrative standards had to rise significantly, especially in respect to efficiency in record-keeping, access of members to information and the enforcement of the legislation.

As regards upgrading of the programme, the main points were:

- the Social Security (Minimum Standards) Convention, No. 102 of 1952 should be the guideline for improving and assessing the Jamsostek scheme;
- pensions were needed for better income protection and for parity with civil servants and the Armed Forces;
- coverage should be improved by lowering the minimum coverage level from 10 to 5 and strengthening enforcement;
- on equity and practical grounds, consideration should be given to financing extensions to the informal sector from taxes;
- there should be more focus on poor workers and the unemployed.

It was noticeable that despite the large number of speakers and the strong criticisms of Jamsostek, there was only one employers' representative who referred to the possibility of allowing private providers to market this scheme in competition. Otherwise, there was total acceptance of the view that Indonesia needed a compulsory public social security scheme which maximized the scale and scope of risk pooling and of solidarity by covering as much of the labour force as possible, with private schemes functioning in a voluntary supplementary capacity. Therefore, exemptions from Jamsostek's income support schemes are ruled out which is an important outcome in view of proposals by the World Bank and others for the right to opt out of the public scheme for employers with approved private schemes of an equivalent or better standard.

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## 2.3 National Strategies for the Restructuring of the Social Security System and the Reform of Jamsostek

As a result of the scope of the agenda, the interactive nature of the Workshop and the consensus reached on major issues, a number of clear conclusions can be drawn from the meeting on the restructuring of social security in Indonesia. These were discussed at the meeting of the NSC on the afternoon of Day 2 of the Workshop. and, after further discussions and review at the following meeting, were adopted as the national strategies for the restructuring of the social security system and the reform of Jamsostek. These are set out below.

### Main Considerations

1. Social security is the responsibility of the State and is recognized as a constitutional and human right.. The main responsibility of Government is the formulation of policy in consultation with the social partners and the legislative authorities, to draft legislation and to participate in tripartite supervision and control of social security organizations through Boards acting in a trustee capacity. The social and economic importance of social security requires full participation by representatives of trade unions and employers groups in all stages of policy formulation and the drafting of legislation, and in the work of the Boards overseeing social security schemes.
2. The meeting recognized that social protection in Indonesia, as elsewhere, consisted of 3 Tiers which are inter-related. There was support for an adequate social safety-net as Tier 1 which, in conformity with Law 6 of 1974 on Social Welfare and Law 23 of 1992 on Health Care, meets essential needs for food, income support and health care, and also fosters family and community support as well as self-reliance amongst those who are able to work. For the role and development of Tier 2, the paramount considerations were:
  - severe financial constraints on the capacities of Tier 1 to cope with the extensive demands for welfare schemes from the numerous vulnerable groups in the population; and
  - the positive impacts of well-designed social security schemes on the health and productivity of the work force.
3. This means that Tier 2 should be gradually developed into a fully comprehensive social security system for all types of employees and self-employed persons which provides income and health protection in respect of the priority contingencies. The main guidelines for this process of expansion of social security protection were :
  - the standards laid down in the Social Security (Minimum Standards) Convention, No.102 of 1952;
  - affordability;
  - to maximize risk pooling and labour mobility; the implication being that exemptions should not be permitted for the cash benefit schemes;
  - administrative feasibility;
  - the system leaves scope for voluntary supplementary schemes in Tier 3.
4. Tier 3 could enhance the social security protection of part of the work force and should be encouraged through appropriate tax incentives. However, it would be advisable to coordinate with all concerned bodies in order to ensure not only that the development of Tier 2 should allow scope for the promotion of Tier 3 schemes , but also that the policies for expansion of voluntary schemes do not conflict with the strategies for the improvement of general social security protection through a comprehensive compulsory system in Tier 2.

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## Reform of the Jamsostek Scheme

5. The foremost concern of many participants, as expressed in numerous statements from the floor, was to rectify serious deficiencies in the governance of the Jamsostek and in the scheme itself. These two aspects are summarized below.

### Changes in Jamsostek as a Social Security Institution

The main points brought out during the Workshop were:

- the legal status of Jamsostek under Law 3 of 1992 as a limited liability company required to make profits and pay taxes was inappropriate for a system based on State responsibility and constitutional rights, and should be changed into that of a public social security institution operating under a Trust Fund concept with a Board of equal tripartite composition which is responsible for supervision and control;
- the strong insistence on tripartite control of social security rules out any change to allow private companies to compete with Jamsostek in the implementation of the scheme;
- the legislation on the reformed structure should ensure clear demarcation between the respective roles and powers of the Minister and of the Board functioning in the capacity of Trustees accountable both to the Government and to the members of the scheme and required to act transparently at all times;
- it was particularly important to ensure transparency and better performance in the investment of reserve funds and to utilize professional advice in devising investment strategies which conform to trust fund principles;
- the organizational structures and operating systems should be overhauled and redesigned with the objectives of
  - attaining stipulated higher standards of efficiency and service;
  - achieving effective enforcement and expansion of coverage;
  - conforming to policies on autonomy;
  - improving communications with and feedback from members in order to re-build confidence and encourage better compliance.

### Changes in the Jamsostek Programme

6. On the basis that whatever improvements are made in governance and operating efficiency the programme weaknesses would remain, the Workshop agreed that equal attention should be given to various possible improvements, as outlined below, in order to raise the standards of social security protection of all types of workers in the private sector and State owned enterprises:
- expansion of coverage through enforcement of the present legislation on liability for inclusion, and extension to smaller enterprises and the informal sector, including the self-employed;
  - replacement of the JHT scheme by a social insurance pension scheme on the basis of previous studies and actuarial valuations which demonstrated that a suitable scheme could be introduced without increasing the existing contribution rate for the provident fund and death insurance of 6 per cent of earnings;
  - introducing pensions more fully into employment injury insurance for long-term contingencies of serious disablement and death within the present financial system;
  - converting maternity benefit into a social insurance benefit by utilizing the same

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resources as are now expended by employers in order to overcome evasion and avoid discrimination against the employment of female workers;

- on the assumption of better compliance providing more adequate financing, aim to raise the standards of health protection through the development of a system of promotive, preventive and curative health care in accordance with Law 23 of 1992.

## **2.4. Amendments to the Legislation and an Implementation Plan**

### **Legal Changes**

Law 3/92 contains Chapter VI on the Executive Body which designates it as a State Owned Enterprise. This chapter refers to the management of employees social security by the Executive Body as controlled by the Government whilst supervision "involves the employer element and labour element". Article 28 states that the investment of the fund by the Executive Body is provided in the Government Regulation. Considerable improvements are needed to change the legal status and reflect the concepts of trusteeship and effective tripartite control within the principle of accountability to the legislature through the responsible Minister.

Proposed revisions to Articles 25 and 26 are at Annex 3 part A. These draft amendments to law 3/92 deal with the following:

- the legal status , responsibilities and accountability of Jamsostek and the principle of trusteeship;
- responsibilities of the Minister in respect to social security and his/her powers to appoint members of the Board; and
- the main principles for the composition and responsibilities of the Board.

In addition more detailed procedural provisions for the Board's meetings are included as Part B of Annex 3.

### **Implementation Plan**

Follow-up action is urgent and was discussed with the NSC. It is essential that the NSC remains active until the new Board is established and takes over the task of implementing the strategies outlined above. The implementation plan provides for various stages which are inter-dependent. Some changes may be needed if the preceding stages have different outcomes to those envisaged below. The situation described in chapter 1 is complex and the resolution of policy differences may call for changes in the implementation plan as it is outlined below. It is assumed that the National Steering Committee will participate in all stages and endeavour to ensure that the objectives are achieved.

- The National Steering Committee (NSC) to adopt:
  - Strategies for the Restructuring of the Social Security System , and
  - Draft amendments to the legislation

and submit these to the Minister of Manpower for his approval.

- The Minister and the Ministry, together with the NSC, to engage in consultations with the Ministry of Finance on the proposed change in the legal status of Jamsostek. It is also advisable for the NSC to hold joint sessions with the NSC established for the ADB project on the Reform of Pension and Provident Funds. Assuming agreement is reached to proceed with implementation, a further stage of consultations will be necessary with appropriate Parliamentary representatives, including those who participated in the National Workshop

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on 16 and 17 November 1999, in order to obtain priority for the legislative changes.

- Submission of a policy paper to Cabinet on the proposed strategy for the restructuring of the social security system indicating the various steps envisaged to
  - change the legal status of Jamsostek and establish a Board of Trustees
  - provide the new Board with a clear mandate to undertake two main tasks
  - rebuilding of public confidence in Jamsostek through a transparent approach to improving investments and an overhaul of operating systems in order to achieve wider coverage and to attain specific higher performance standards, and
  - planning of improvements in the scheme as identified in the Strategy.
- Drafting of amendments to the law 3/92 for submission to the legislature for urgent attention and, once these are promulgated, to proceed with the appointment of the Board and preparation of the short and medium-term development plans for implementation by the Board.
- In general, the NSC should adapt the plan to changes as these occur. For example, in the event of delays in effecting legislative changes, the NSC could endeavour to make progress with the studies on programme improvements in an approved Strategy. The other major factor is the different approach of the Ministry of Finance on the future role of Jamsostek. This is discussed further in chapter 3.



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## Chapter 3. Conclusions and follow-up action

### 3.1 Policy Issues

The series of laws enacted in 1992 on Employees Social Security, private pension funds, and National Health Insurance constituted a legal framework for coherent social security development, subject to the major proviso that the status accorded to Jamsostek was most inappropriate and should be amended to the equivalent of Trust Fund. The opportunities presented in 1992 to develop the Jamsostek scheme in respect of pensions protection, as previously envisaged when the provident fund was established under the 1977 legislation, as well as in other respects, were undermined by a number of factors including the confusion as to Jamsostek's legal status and the controls exercised by the fiscal authorities as the sole shareholder in implementing what was considered to be a major policy imperative- the promotion of private pension funds. The recent East Asian financial and economic crisis revealed the serious inadequacies of the resultant system of social protection, and it is of paramount importance to act decisively in remedying these deficiencies whilst the lessons are still clear to all involved in decision making processes. Furthermore, it is now better understood that strategies for employment growth should be complemented by appropriate social protection measures.

However, there are different standpoints to be resolved and the weaknesses of Jamsostek, as explained in this report, have strengthened the lobby for privatizing the compulsory social security scheme for the purpose of strengthening capital markets through the influx of long-term funds accumulated by private pension schemes. The underlying assumption is that these policies will benefit the workforce through economic development and enhanced social security protection. Apart from the fact that private pension funds were severely affected by the recent financial crisis which indicates both the risks involved for all concerned <sup>11</sup>, since similar situations may recur, and that assumptions may not be realized in practice, the overwhelming consensus emerging from the consultative processes described in chapter 2 was for social insurance pooling of risks across the full spectrum of occupations and income groups on the basis of the standards prescribed in the Social Security (Minimum Standards) Convention, No. 102 of 1952, with private pension funds in a voluntary supplementary capacity. It is of paramount importance that these major policy differences are resolved without delay.

In view of the fact that the campaign for privatizing Jamsostek has the backing of the World Bank and is part of the justification for the ADB project, this matter may need to be reviewed at Ministerial and Cabinet levels to take into account both the consensus reached in an open and fully representative forum, including not only the social partners but the Indonesian Pension Fund Association, and also the policies of the new government. It was possible during the assignment to obtain the agreement of the Minister of State-Owned Industries to changing the legal status of Jamsostek, but not to meet the Ministry of Finance on this question. This may be the next urgent step for the Ministry of Manpower to be followed as necessary by Cabinet approval of the strategies for the restructuring of Jamsostek.

These special steps are proposed to resolve the present policy differences, but it is clear that social protection has assumed sufficient importance to warrant permanent coordinating mechanisms. It would be advisable therefore to consider ILO's earlier proposals for a National Social Protection Co-ordination Authority constituted as a body with tripartite representation as

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<sup>11</sup> The Terms of Reference of the ADB T.A. for the Reform of Pension and Provident Funds state: "The financial crisis that has affected returns on all types of financial assets has resulted in substantial losses in the investment portfolio on the pension funds as well. The low returns will have serious consequences on the provision of retirement income to current contributors and will result in a crisis of confidence in the system. A more comprehensive set of reforms in the pension system is needed to reduce the possibility of recurring losses in the future."

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well as members from the concerned Government Ministries, private pension funds, and commercial insurance companies with an interest in the social protection field <sup>12</sup>. Such an authority could establish the conceptual structure for social protection and work out the most suitable strategies for Indonesia. The issues on pensions and the cross-sectoral actions needed on the expansion of coverage referred to in section 1.3 illustrate the scope for the work of the proposed Authority. Meanwhile, it is suggested that the NSC's set up by the Ministries of Finance and Manpower respectively should hold joint meetings to coordinate action and seek a consensus on future strategies within the policy framework determined at Ministerial and Cabinet levels. This should be arranged urgently so that an important ADB project report due in mid-January 2000 can take into account the outcome of discussions within the framework of such meetings.

### **3.2 Development of the Jamsostek Social Security Scheme**

The compulsory social security system has made little or no progress for many years, and it is now accepted that there is much to do to compensate for the delays, mismanagement and failures to develop more effective schemes. The Strategy now formulated provides for all-round improvements in the institutional and programme spheres within the limits of affordability and feasibility. There is a basis to build on as regards benefit improvements in the form of studies already carried out which retain basic validity. Nevertheless, the question arises about the capacities to achieve the desired standards of good governance and strengthened social security protection. A selection of the principal tasks in any plan of action illustrates the scale and scope of the development programme:

- to establish and operate an effective tripartite supervisory system following trust fund principles;
- to formulate sound and transparent investment strategies;
- to plan and design a pension and other improved schemes;
- to administer the schemes effectively, efficiently and economically with a strong emphasis on higher standards of service; and
- to strengthen enforcement and devise effective methods of rapidly extending coverage.

Considering the present unsatisfactory operating systems and deficiencies in the overall performance of Jamsostek, as well as the weaknesses in the system of protection, what is envisaged is a parallel transformation of the institutional capacities and of the social security programme. There can be little doubt that short and medium term development plans have to be carefully and realistically formulated but that, even so, it may well be advisable to obtain international technical assistance to augment and complement the work of national experts.

ILO is ready to continue its collaboration with the Government of Indonesia in this vital and urgent task for the benefit of the labour force of the country.

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<sup>12</sup> "Report to the Government on Social Protection in Indonesia", ILO, Geneva 1993 chapter 7 of which outlines the role and responsibilities of such an Authority.

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## Annex 1. Overview of social security protection <sup>13</sup>

There are separate social insurance schemes for formal sector employees in the public and private sectors and the Armed Forces. These schemes are administered by different institutions, but they have similar responsibilities in that they all cover income security in the contingencies of employment injury, death, disability and old age (retirement). But whereas the public servants schemes provide pensions in respect of retirement, disability and death (for surviving dependants), the private sector scheme administers a compulsory savings scheme (a provident fund) for these contingencies.

These schemes are described below.

### A. JAMSOSTEK

This scheme is administered by PT JAMSOSTEK - which Law 3 of 1992 classifies as a public limited liability company (Persero)- with Government owning 100% of the shares. There is a tripartite Board of Commissioners (5 persons) answerable to the Minister of Manpower on technical and policy matters and to the Minister of Finance (as principal shareholder) on financial matters. It is aimed at formal sector workers in the private sector and employees in State-Owned enterprises and now covers those who work in enterprises with 10 or more employees, or a monthly payroll of rupiah 1 million or more, in respect of the contingencies described in the following section.

#### 1. Benefits provided

##### i) *Employment Injury Insurance (JKK):*

Compensation in respect of employment injuries for:

- Temporary loss of earnings at the rate of 100% for the first 4 months of period of incapacity, reducing to 75% for the next 4 months and then to 50%
- Permanent disability in the form of a lump sum based on a percentage of 60 months earnings depending on the percentage degree of disability with, in addition, a periodic payment for 24 months in the case of total disablement
- Death in the form of lump sum equal to 60% of average earnings for 60 months plus a periodic payment for 24 months and a grant for funeral expenses
  - Medical care in a public hospital, subject to a maximum cost
  - Rehabilitation services, including prostheses

Employers contributions to finance this component of the scheme are fixed according to their risk classification and range between 0.24% and 1.74% of the payroll. Employers in the construction industry are also obliged under a special scheme to pay contributions in respect of contract or casual workers where the site contracts are under the supervision of the Ministry of Public Works or the provincial authority.

##### ii) *Death Insurance(JKM)*

On the death of an insured person his/her family is entitled to a grant in respect of funeral expenses and a separate lump sum as compensation for the loss of a breadwinner. This is financed by a contribution paid by employers of 0.3% of earnings.

##### iii) *Retirement at age 55 or earlier in the event of invalidity, death or emigration (JHT)*

The benefit consists of a lump sum payment based on contributions paid by employers of 3.7% of earnings and workers 2% into individual accounts in a provident fund plus interest: members who have at least 5.5 years membership can also withdraw the balance in their account if they become unemployed.

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<sup>13</sup> This Annex is extracted, with some minor adaptations, from "Social Protection Strategies" by Clive Bailey as published in the form of Chapter 15 of "Indonesia: Strategies for Employment-Led Recovery and Reconstruction" Report of the Employment Strategy Mission 26 April-7 May 1999, ILO October 1999.

#### iv) Health Care (JPK)

The insured person, spouse and up to three children are entitled to inpatient and outpatient care, maternity, specialist treatment, laboratory tests, pharmaceuticals and dental care (within a prescribed limit) for through approved providers. The scheme is financed by contribution of 6% of earnings (3% for unmarried members) paid only by employers. Primary health care services are provided by health centre doctors or family physicians on a capitation payment basis and hospital care is provided through a fee for service mechanism. Those employers who provide health care to their workers of at least an equivalent standard can be exempt from this part of the JAMSOSTEK programme. However, over 2000 enterprises which are nominally liable to contribute to JAMSOSTEK have registered with PT ASKES (the Government Employees Health Insurance), which provides health care to at least 600 000 employees in the private and State Enterprise sectors

## 2. Operational Performance

JAMSOSTEK had registered 14.9 million insured persons and 82,544 employers by the end of 1998. It is not clear, however, as to how many of these are active participants but it is estimated that there were 350,000 withdrawals of provident fund membership in 1998 and another 700,000 are anticipated in 1999. The level of participation in the health care component is significantly lower, firstly, because of the facility for exemption and, secondly, because of the need to establish arrangements with health care providers to correspond with coverage.

Contribution income increased in 1998 by 15 percent in spite of the crisis, as can be seen in table 1 which contains data on contributions and benefits for the period from 1995 to 1998.

**Table 1: Jamsostek. Benefits expenditure and contribution income 1995-1998. (Million Rp.)**

	Employment injury ins. (JKK)		Death (JKM)		Health (JPK)		Provident Fund (JHT)	
	Benefits	Contrib.	Benefits	Contrib.	Benefits	Contrib.	Benefits	Contrib.
1995	40,486	97,475	8,569	43,073	35,781	44,365	119,180	456,929
1996	50,313	112,828	9,660	48,295	51,681	64,315	179,186	902,314
1997	71,144	148,306	11,160	62,893	65,629	86,233	239,003	1,139,343
1998	74,330	174,260	12,897	73,480	84,504	105,317	708,081	1,301,436

57 per cent of members contributed at the level of the minimum wage and the average minimum wage remained unchanged at Rp.250,000 from 1997 to 1998. On the other hand, benefit expenditure increased by 128 per cent principally due to the huge increase in applications for withdrawal from the provident fund on the basis of unemployment but also because of a 29 per cent increase in expenditure under the health insurance scheme. Lump sums in death and accident cases were doubled in November 1998 but in both schemes there is a considerable excess of income over expenditure.

Having regard to its function as the primary social security system in Indonesia has a number of weaknesses: these are discussed in the following paragraphs:

#### i) Coverage

The scheme covers only 50 per cent of the formal sector labour force and only about 13 per cent of the national labour force. In particular among those excluded are those who work for small employers.

#### ii) Compliance

According to JAMSOSTEK statistics, there were outstanding liabilities by employers for contributions totalling 20 per cent of the 1998 aggregate contribution liability. Of this 30 percent or Rp.100 billion was outstanding in respect of liability in 1998. These figure exclude unknown and unquantified evasion and, in particular, the consequences of underpayment based on low insurable earnings. There are apparently opportunities for evasion through different definitions of earnings under the social security and labour legislation with the latter adopting a narrower definition centred on the basic wage. An additional problem is the absence of JAMSOSTEK's authority to investigate and enforce compliance in respect of the scheme

which it is charged with administering. This task is assigned to the labour inspectors of the Ministry of Manpower, which is less effective in practice due to staff shortages.

### *iii) Level of social protection*

Although the programme addresses long term contingencies such as retirement, permanent disablement and death (provision for surviving dependants), it does so essentially by lump sum payments rather than by pensions which would provide income security throughout the contingency and which are a strong feature of the public servants schemes. The level of protection is also dependent on the level of participation and the tendency to contribute at the minimum level has already been noted

In addition, the lump sum payments made under the provident fund (JHT) represent the accumulation of members contributions plus the interest credited to members' accounts annually based on investment performance. The contributions include an employers contribution but the objectives of a provident fund are not attained if the rate of interest so credited is not higher than the rate of inflation and it should also at least equate with the market rate. JAMSOSTEK has consistently not been able to achieve this and given the low level of contribution the average balance in members' accounts is very low - Rp.510,000 - equivalent to two months minimum wage. Entitlement to earlier withdrawal further weakens the protection available in old-age.

JAMSOSTEK's assets which represent the aggregate worth of the provident fund have declined in value. The financial crisis had a dramatic effect on the real value of assets which have fallen to \$62 per member.

### *iv) Investment performance*

Approximately 80 per cent of JAMSOSTEK's funds are invested in time deposits in banks. But JAMSOSTEK was apparently subject to political pressure under the previous administration as to how and where it invested its funds. This resulted in considerable sums being invested for political reasons in banks or other financial enterprises at rates of interest which were unfavourable to the scheme's members. This was particularly common during the last year of the previous administration when the financial sector was very volatile. Press articles from this period provide details of alleged inappropriate interventions by the then Minister of Manpower.

### *v) Status*

PT. JAMSOSTEK is a public limited liability company which is obliged by law to pay tax on its profits. This is inconsistent with its objectives as a social insurance institution: it should not be profit seeking but should rather hold the contributions of its members in trust pending future benefit claims. Although it is intended to be autonomous, representatives of employers and workers have only limited opportunity to supervise and influence the overall management of the scheme and the relationship with the responsible Ministries needs to be clarified.

### *vi) Financing systems.*

Both the employment injury and the death insurance schemes are financed in accordance with commercial insurance principles rather than social insurance and as result premium collection is higher than necessary. Given that these benefits are principally paid by lump sum or over a short period and that the annual pattern of expenditure is broadly similar, the ratio of expenditure to contribution income is too low: 42% in the case of JKK and only 17% in the case of JKM. This has led to an excessive accumulation of reserves whilst, simultaneously, the health insurance programme, where the loss ratio is 80%, is under constant pressure from rising costs and increasing claims.

### *vii) Administration*

PT JAMSOSTEK experiences considerable difficulty in carrying out the administrative functions associated with registering members and employers, collecting and recording contributions and processing benefit claims accurately and speedily. Systems are computerised and decentralised but it has not succeeded in compiling a national data base in order to keep track of the movement of registered members. The organisation has been under considerable public scrutiny over the last two years partly because of its linkage in the view of the public with the previous administration and partly because of highly publicised

incidents which have drawn attention to limitations in the management and the performance of the scheme.

## B. TASPEN

TASPEN, the Government Civilian Employees Savings and Insurance Scheme, has similar objectives to JAMSOSTEK. It provides the following benefits:

### i) Endowment insurance

Employees contribute 3.25% of their earnings which provides the basis for a lump sum payment of up to 16.5 months of salary in the event of death in service or on attainment of retirement age (56)

### ii) Pensions

Employees also contribute 4.75% of their earnings towards a pension on retirement which is calculated at the rate of 2.5% of basic salary for each year of service. On death, before or after retirement, a monthly pension is paid to the widow or widower (or to the children if there was no spouse). At the end of 1997, there were 1,646,184 retirement pensions and 742,816 survivors pensions in payment. Pensions are adjusted at the same time and on the same basis as the earnings of civil servants.

Expenditure on the TASPEN programme relating to lump sum benefits and the cost of 22.5% of pension benefits is met from the workers' contributions and assets derived from those contributions. The balance is met directly by Government. At the end of 1997, total assets were valued at Rp.11.2 trillion and investments were valued at Rp.9.3 trillion. Roughly two-thirds relates to the pension and the balance to the lump sum scheme and this liability was estimated in 1995 as Rp. 73.6 trillion (or 19.5 % of GDP) (Chad Leechor, 1996). The long-term fiscal impact of this pension programme will be very significant unless there are major changes in the structure in the programme or in key parameters such as retirement age. At present, pensions account for 30% of the Government civil service wage bill but this is likely to increase to 70% by 2020 (C.Leechor) and before that payments of pensions would exceed income from contributions and investments:

#### TASPEN PENSION FUND - INCOME AND EXPENDITURE, 1997(million Rp.)

Contributions	4,017.118	Benefits	4,157,629
Investments	890.169		
Total Income	4,907,287		

TASPEN is currently one of the most important investor in the Indonesian financial markets and owns one third of the country's pension assets. It suffered some reverses in the recent financial crisis and is now building-up its reserves. Government liabilities under the endowment insurance scheme are also increasing and it is estimated that annual liabilities in this respect will exceed income from contributions and investment by 2006 which will impose an additional fiscal burden on the Government. Other weaknesses in the civil service benefit programme operated by TASPEN are:

- labour mobility is inhibited by the limited vesting rights in the TASPEN scheme : civil servants who leave before age 50 lose all pension rights including their own contributions.
- pension is based on the final month's earnings rather than related to a longer period of earnings and this may not reflect normal earnings patterns.

By the end of 1998, the programme covered over 4 million civil servants and 159,000 employees of state enterprises. PT TASPEN has a staff of 2500 with 4 regional offices and 40 branch offices. It is responsible to the Ministry of Finance. Its tasks are concerned with calculating pension entitlement, arranging for the payment of pensions through post offices and the investment of reserves. (A similar programme applies to members of the armed forces and to civilian employees of the Ministry of Defence. This programme is administered by PT ASABRI but was not included within the scope of this review ).

## C. ASKES

Approximately 13 per cent of the population is covered by a health insurance programme and of these the majority are members of ASKES (the Government Employees Health Insurance). This was first

established in 1968 to provide health care to civil servants, pensioners and their families. The scheme was restructured in 1991 as part of a government initiative to provide more comprehensive health services. The scheme is administered by another Persero - PT ASKES. Comprehensive health services are provided to registered members and their families either on a capitation system, budget system or a package system under the managed health care concept. Employees pay 2% of their wages as a contribution to the cost. At the end of 1998 13.6 million persons were covered on a compulsory basis including 4 million civil servants and 1.4 million retirees. As already mentioned, 600,000 persons employed by state enterprises or private companies are also insured under ASKES (these employers have obtained exemption from coverage under JAMSOSTEK). Coverage of these enterprises is through a managed care programme with the premium determined on an enterprise basis.

Both PT ASKES and PT JAMSOSTEK are implementing an indirect system of health care provision: a managed care programme (JPKM), which was introduced under Health Act no.23/92. This legislation provides for the community to be guaranteed access to health services in the form of a nationally defined comprehensive package of benefits based on medical needs, with no limits on coverage. The intention is that JPKM will assure equity, affordability, comprehensive care, continuity, quality assurance and cost containment (Roesma, 1997).

Health care services for the compulsory members of ASKES are distributed among 7000 health centre doctors. If secondary care is needed, members are free to go to their preferred public or military hospitals or certain designated private hospitals as long as these are type C hospitals while for tertiary care, type B hospitals are available. Compensation for primary care providers is on a capitation basis while tariffs for secondary and tertiary care in hospitals are based on an agreement between the Minister of Health and the Minister of Interior, owners of the hospitals. Hospitals are paid based on collective claims with package tariffs and in the case of emergency, members are allowed to go to any hospital (PT ASKES will pay a fee for service if there is no contractual agreement).

#### Problem areas:

- Although ASKES income from contributions and investments exceeds its expenditure (Rp.596 821 million compared with Rp.488 008 million in 1998), the public health care facilities which are used for most of the services provided are heavily subsidised by Government.
- Rising health care costs due to changing disease patterns for example an increase in the number of heart disease and cancer cases which require high technology inputs. This has been compounded by the increased cost of imported drugs and medical equipment as a consequence of the financial crisis.
- Cost containment and relationships with providers.

ASKES pays hospitals at lower than the general tariff for example, 80% in the case of type C hospitals and only 60% in the case of type A or B. This has the effect of reducing the fee to the specialist and can result in discrimination and queuing. Also, ASKES, as a cost containment measure, has prescribed a list of generic drugs, essential drugs etc sometimes with special prices but this may not be accepted by specialists. ASKES has therefore introduced a total capitation system in some districts in which hospitals and health centre doctors know how much is available from the ASKES budget in that district and can plan their budget accordingly.

## Supplementary and employer-liability provisions

This next section describes the social protection systems which have been established to supplement the social insurance schemes described above.

#### Pensions.

Although private schemes and arrangements based on collective agreements have existed for some years, the implementation of Law 11/1992 on Pension Funds was a major advance in the development of social protection in the area of pensions. The act regulated the structure and operation of Employers Pension Funds (EPFs.), administered at arms length by employers through foundations, and Financial Institution Pension Funds (FIPFs) operated by commercial insurance companies or banks, and obliged such funds to register with the Ministry of Finance. As at 31 December 1997, there were 311 EPFs covering 1,046,869 active members and 44,034 beneficiaries. 242 of the schemes are defined benefit and such schemes are obliged to provide pensions with an accrual rate per year of service not greater than 2.5% and a maximum replacement rate of 80% of monthly salary. Retirement age is 55 with provision for early

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retirement between 45 and 55. Widows and widowers are eligible for pension benefits on the death of an insured person whether before or after retirement.

Members who leave service with less than three years of membership can be refunded their contributions plus interest; if they have more than 3 years service, provision is made for a deferred pension. If separation takes place more than 10 years before retirement, pension rights can be transferred to another EPF or FIPF. Employers contributions to EPFs are determined by actuarial valuations and employees contributions must be 7.5% of pensionable earnings or three times the accrual rate times pensionable earnings whichever is the lesser, Contributions are tax deductible while pension benefits are taxable income.

As at 31 December 1997, 24 banks and insurance companies were operating FIPFs in respect of 150,000 active participants. The benefit structure is similar to that of EPFs. Both EPFs and FIPFs are fully funded and thus play an important role in the Indonesian financial markets in spite of the relatively small number of schemes. Total assets of EPFs as at 31 December 1997 were Rp.15,812,000 million and of FIPFs 388,000.

Only about 10 per cent of the formal sector labour force is covered by these schemes and thus many employers find them unattractive for a variety of reasons. Many employers have only a small labour force and/or a high staff turnover and view participation in a pension fund as a costly and time consuming burden: particularly when employees are already covered by mandatory public schemes such as JAMSOSTEK and by labour legislation on severance payments. In addition the structure of the funds and the rules associated with their operation are similar to those applicable in developed countries and are rather stringent for Indonesia. Among the rules that make pensions unattractive to employers are:

- funding of pension obligations through a separate foundation
- vesting of pension benefits after a short period of employment
- low retirement age of 55
- 80% of benefits paid in the form of an annuity even when the amount is small
- unfavourable tax treatment

## **Employer liability benefits**

In addition to the voluntary participation in private pension funds and their liability under JAMSOSTEK, employers are obliged by legislation to directly provide social protection benefits to their workers in respect of a number of contingencies. These obligations are summarised below:

- Wages during sickness  
Full pay for 3 months, 75 per cent for the next 3 months, 50 per cent for the next 3 months and 25 per cent for the next three months
- Wages during maternity leave  
Full pay for 3 months with an additional 3 months subject to medical certification. Termination of employment prohibited during pregnancy or maternity leave.
- Termination of employment  
Minimum of one months wages for each year of service up to a maximum of 4 months wages
- Workers Compensation  
For those not covered by the JAMSOSTEK or public servants scheme, the employer must, in the case of employment related injury or disease, directly meet the cost of medical care and first aid, pay wages during a prescribed period and provide lump sum compensation according to the degree of disablement and pre-accident earnings.

The above provisions may be supplemented by the provisions of collective agreements and all are subject to revision in the Manpower Bill which is under preparation.



## **Annex 2. Workshop on restructuring of the social security system in Indonesia. Jakarta, 16 – 17 November 1999**

### **AGENDA**

Day 1, Tuesday, 16 November 1999

08.00 – 08.45 : Registration/Morning Coffee

08.45 – 09.30 : Opening Session :

Report by the Organizing Committee  
Speech by Mr. Carmelo Noriel, Senior Specialist on Labour Standards, ILO Jakarta on behalf of the Director ILO, Jakarta  
Opening Speech by Mr. Mohd. Syaufii Syamsuddin, Director General of Industrial Relations and Labour Standards on behalf of the Minister of Manpower  
Press Conference

**Panel I** : **The Role of Social Protection in Social and Economic Development**  
09.30 – 12.00

"The Role and Structure of Social Protection"  
Mr. Clive Bailey, ILO Geneva

"The Policy Guidelines for Social Security Development" Mr. Mohd. Syaufii Syamsuddin, DG of Industrial Relations and Labour Standards

"The Social Security System in Indonesia, especially its Limitations and Weaknesses"  
Prof. Sentanoe Kertonegoro, Senior Expert of the Dept. of Manpower

Moderator : Mr. Endomen Saragih, Dept. of Finance

12.00 – 13.00 : Lunch

**Panel II** : **The Interrelationship Amongst Social Protection Systems**  
13.00 – 14.30

"The Multi-tier System of Social Protection with Reference to the Social Security Systems in ASEAN Countries"  
Mr. Kenneth Thompson, ILO Consultant, Bangkok

"The Relationship Between Pension Scheme and Private Pension Funds"  
Mr. Kadarisman, ADPI

Moderator : Mr. Sayadi, DPP APINDO

14.30 – 15.00

**Panel III** : **Extension of Coverage**  
15.00 – 16.30  
"Extension of Membership Coverage Including Informal Sector and Selected Contingencies"

Mr. Bambang Purwoko, Director of Development and Membership, PT. Jamsostek

"Extension of Health Protection"

Dr. Widyastuty Wibisono, Director of Community Health  
Dept. Of Health

Moderator : Mr. Syukur Sarto, Sec.Gen. of DPP FSPSI

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Day 2, Wednesday, 17 November 1999

- 08.00 09.00 : Registration/Morning Coffee
- Panel IV**  
09.00 – 11.00 : **The Legal and Administrative Structures of Social Security**
- "The Role and Responsibilities of Government, Social Security Agencies, Employers' Organisation and Trade Unions".  
Mr. Amrinal Baharuddin, Director of Wages and Social Security, Dept. of Manpower;  
Mr. Purbadi Hardjoparjitno, Sec. Gen of DPP APINDO;  
Mr. Syukur Sarto, DPP FSPSI
- "The System of Governance of Social Security"  
Mr. Clive Bailey, ILO Geneva
- Moderator : Dr. Widyastuty Wibisono (Mrs), Dept. of Health
- 11.00 11.15 : Coffee Break
- 11.15 – 13.30 : General Discussion of the Future National Policy of Social Security
- Closing Session by Mr. Mohd. Syauffi Syamsuddin, DG of Industrial Relations and Labour Standards
- 13.30 – 14.30 : Lunch
- 14.30 – 17.00 : Conclusions on the Future National Policy of Social Security (by National Steering Committee).

## **Annex 3. Amendments to the legislation**

### **Part A Revision of Chapter VI Executive Body of Law 3 of 1992**

#### **Articles 25 to 28**

Replace the text with the following:

#### **Article 25**

- (7) There shall be established a public social security institution Jamsostek governed by a tripartite Board of Trustees and accountable through it to the Minister, with sole responsibility for the administration of the social security scheme specified in this Act. Jamsostek shall be directed and controlled by the Board of Trustees (hereinafter termed the "Board") which shall hold and maintain the social security funds in trust for the purpose of the social security protection of the members and beneficiaries of the scheme and their families. Jamsostek shall be constituted under a trust fund concept for the purpose of maximizing the social security protection provided under this Act and therefore shall be non-profit making and exempt from taxation on the income obtained from investment of the social security funds.
- (8) The Minister shall be responsible for policy and legislative matters relating to social security in consultation with the Board, and other concerned bodies. The Minister :
- shall appoint members of the Board and its Chairman in accordance with the Regulations;
  - shall consult the Board on any proposals for changes in social security contributions and benefits or other aspects of the scheme;
  - shall consider periodical and special reports by the Board, including a comprehensive annual report and audited accounts which he shall refer to the legislature for its consideration;
  - may request studies and reports by the Board on social security issues and problems, including any concerning aspects not included in the existing social security scheme; and
  - shall consider reports and recommendations submitted at the initiative of the Board on social security issues and problems, including those outside the scope of coverage of the existing social security scheme.

#### **Article 26**

- (1) The main principles for the composition of the Board are:
- it shall have equal numbers of representatives of Government , appropriate trade unions and employers' organizations respectively, in accordance with the Regulations, and shall include the President Director of Jamsostek;
  - the representatives of workers and employers shall be nominated by their organizations for the purpose of appointment by the Minister;
  - the normal term of office shall be 3 years, but may be varied for the initial appointments to ensure continuity in the work of the Board;
  - the first Chairman shall be appointed by the Minister and thereafter the chairmanship shall rotate at 3 yearly intervals amongst the three groups represented on the Board;
  - the Board shall elect the Deputy Chairman from one of the groups which does not hold the chairmanship;
  - the Board shall conduct its business on the basis of consensus but may call for a vote of the appointed members if necessary;
  - the Board may regulate the frequency of meetings and the conduct of the proceedings provided it meets at least once per month; and
  - the Board members shall receive such emoluments and allowances as are prescribed in Regulations on the subject.

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- (9) The Board shall be responsible for:
- overall direction and control of the administration of the social security scheme so as to implement short and medium-term development plans for Jamsostek as established by the Government in consultation with the Board, and achieve agreed objectives for improvements in service, efficiency and in the structure of the social security scheme;
  - appointment of the President Director of Jamsostek;
  - approval of the organization chart and personnel appointments submitted by the President Director;
  - establishment of performance standards for the operations of the scheme and review of periodical progress reports by the President Director;
  - the planning and implementation of studies into specific changes in the social security scheme;
  - approval of the annual budget and any supplementary budgets which may be necessary;
  - selection of investment strategies which are fully consistent with trust fund principles and those governing the investment of social security funds, utilizing as necessary the advice of a sub-committee of the Board on investments which may be assisted by professional advisers appointed by the Board;
  - approval of the audited annual accounts;
  - preparation of a comprehensive annual report containing full details of operations and investments, and targets established for the following year; and
  - submission to the Minister of reports on issues and problems in the Jamsostek scheme which the Board considers warrant attention by the Government.

Articles 27 and 28 are not needed. If the above is adopted, consequential amendments will be needed to replace "Executive Body" by "Jamsostek" in Articles 10, 18, 22, 25 and 32 and some changes may be needed in Regulations ( see Part B) to specify details of Board procedures and the conduct of its meetings.

## **Part B Model Provisions on the Procedures of the Board**

The following general provisions should be adapted to the size of the Board and the general practice and regulations for the conduct of business by similar public Boards. The general purpose is to ensure that the Board can function freely and flexibly within a legal framework so that it can pursue its objectives without undue interference. At the same time, these powers place the Board in a position where it can be held to account for the outcomes during its tenure of office.

### **Article 1 Meetings of the Board and Procedures**

- (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Board may determine. Provided that the Board shall meet not less frequently than once per month.
- (2) The Chairman, or, in the event of his being for any reason whatsoever unable to act, the Deputy Chairman, may at any time call a special meeting of the Board and shall do so within 7 days of a request for that purpose addressed to him in writing by any 4 members;
- (3) The Chairman, or in his absence the Deputy Chairman, shall preside at all meetings of the Board;
- (4) The Chairman, or, in his absence, the Deputy Chairman and four other members shall form a quorum;
- (5) The decisions of the Board shall be by consensus or, if no consensus, by a majority of votes cast and, in addition to an original vote, in any case in which the voting is equal, the Chairman, or Deputy Chairman when presiding at the meeting, may have a casting vote;
- (6) Minutes in proper form of each meeting shall be kept by the secretary or such officer as the Board may appoint for the purpose and shall be confirmed by the Board at the next meeting and signed by the Chairman or Deputy Chairman, as the case may be;
- (7) The Board may co-opt any one or more persons to attend any particular meeting of the Board for the purpose of assisting or advising the Board in any matter with which the Board is dealing, but no co-opted person shall have the right to vote;
- (8) Where any person is co-opted under sub-section (7) or where any person, not being a member of the Board, is a member of a committee appointed by the Board, the Board may by resolution

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declare the remuneration and allowances of such person in accordance with the regulations on this subject and such sums shall be properly payable out of the Fund.

**Article 2 Power to Appoint Committees**

- (1) The Board may appoint such committees of the Board as the Board thinks fit; Provided that any such committee so appointed shall include not less than two members;
- (2) The constitution and functions of a committee of the Board shall be determined by the Board.

**Article 3 Power to Delegate**

The Board may delegate to any member or committee of the Board the power to carry out on its behalf such functions as the Board may determine.

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## **Annex 4. List of main persons met**

### **Ministry of Manpower**

Mr H. Bomer Pasaribu, Minister  
Dr Payaman J. Simanjuntak, Assistant Minister of Manpower  
Mr Shauf Syashuddin, Director-General of Industrial Relations  
Mr Amrinal Baharuddin, Director, Labour Law and Social Security

### **Ministry of Finance**

Mr Manalu, Director of Pension Funds  
Mr Endomen Sarigih, Director of Insurance

### **Ministry of State-Owned Industries**

Mr Lakesmana Sukardi, Minister

### **Ministry of Health**

Prof. Asrul Azwar, Director-General Dept. of Health  
Dr Widyastuty Wibisono, Director of Community Health

### **PT Jamsostek**

Mr Adminal Hussain President Director  
Mr Bambang Purwoko, Director of Development and Membership

### **PT Taspen**

Mr Muljohardjoko, President/CEO  
Mr Didi Achdijat, Executive Director of Operations

### **PT Askes**

Dr Sonja Roesma, President Director

### **FSPI**

Dr Sjukur Sarto Secretary General

### **APINDO**

Dr Suparwanto, President  
Dr Sajidi Hadipoeetro, Executive Director  
Fx Djoko Soedibjo, Vice Secretary General

### **Adviser to NSC**

Prof. Sentanoe Kertonegoro, Pancasila University

### **Indonesian Pension Fund Association**

Mr Kadarisman, President

### **World Bank**

Mr Samuel S. Lieberman, Country Sector Coordinator for Human Development

### **ADB Pension and Provident Fund Reform Project**

Mr Darrel Brown, Team Leader  
Mr Orin Bustard, Legal and Regulatory Adviser  
Mr Haris Eko Santoso, Economist

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**ILO**

Mr Ifitakhar Ahmed, Director

Mr Carmelo Noriel, Senior Specialist in Labour Law

Ms Winda Darmelia, Programme Officer.

Ms Helene Lindgren, Programme and Research Officer

**Friedrich Ebert Stiftung**

Mr Georg Rosenthal, WISO Project Adviser

**Gak International**

Mr Pieter Buyten, Director

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