

## Indonesia

### Restructuring of the social security system (Part 1)

ILO PROJECT INS/00/M04/NET

Project Report  
(April 2001-31 December 2002)



**International Labour Organization**  
**Social Security Policy and Development Branch**  
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# 1. Executive summary

## 1.1. Background

1.1.1. The development of social security in Indonesia can be seen as having had the following major characteristics:

- a strong reliance on the extended family and communities to provide an informal social safety net against loss of income, ill health or other misfortune;
- limited reliance on employers through labour legislation reinforced by collective agreements, to directly provide benefits such as wages during sickness and maternity and on termination of employment;
- only limited social insurance for the private sector with reliance on the provident fund system to provide a lump sum on retirement;
- an integrated package of conditions of service and social benefits for civil servants and members of the armed forces.

1.1.2. Responsibility for the different elements of the system is spread between different Ministries and public organisations. The Department of Manpower and Transmigration is responsible for the labour legislation and for the supervision of Jamsostek and the implementation of its related legislation; the Ministry of Finance acting for the Ministry of State Owned Enterprises is responsible for the oversight of all public limited liability companies (Perseros such as Jamsostek, Askes and Taspen) as well as for the supervision of insurance companies and pension schemes; the Ministry of Health is responsible for the provision of health care but health insurance schemes are implemented by PT Jamsostek and PT Askes. The responsibility for Social Welfare has been passed between the National Social Welfare Agency, the Ministry of Health and Social Welfare and the Ministry of People's Welfare. This division of responsibility together with the absence of a clear strategy or any coordinating mechanism has resulted in a piecemeal approach to social security development and to some uncertainty and policy inconsistency. There have also been differing views as regards the respective roles and responsibilities of the public and private sector in the provision of social security. The general inability of existing social security institutions to provide effective social protection in response to the needs exposed by the crisis reopened general concerns as to the structural weaknesses and the management of the system and in particular of Jamsostek. This linked with reports of political interference and the mismanagement of funds stimulated calls for the reform of Jamsostek from various quarters.

1.1.3. The need to restructure the social security system and, in particular, to address the weaknesses of Jamsostek were analysed by a National Steering Committee, established by the Ministry of Manpower in September 1999 to work with ILO specialists. This culminated in a National Workshop on the Restructuring of Social Security held in Jakarta on 16/17 November 1999 which resulted in the following conclusions:

- there is a need to define the respective roles of the State, the private sector, employers and individuals in providing social protection and a strategy for reform of the social security system should be devised on this basis;
- Jamsostek should remain the core of the system but its legal status should be changed to reflect this so that it should be constituted on trust fund principles with a tripartite supervisory body comprised of representatives of the Government, employers and workers;

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- there is a need to improve the benefit programme to include, for example, pensions for private sector workers, extended access to health insurance, maternity benefits and to consider the feasibility of unemployment benefit;
  - the scheme should extend coverage to at least all those who work as employees and progressively also to the self-employed;
  - the investment programme of the scheme must be both more professional and more transparent;
  - the service to insured persons and employers must be improved and linked to prescribed performance indicators and targets;
  - strengthening of compliance and enforcement was essential and combined with improved service and public relations would, to an extent, address the coverage problem;
  - the programme provided by Jamsostek should be universal and cover all employees: they would provide a social protection floor of basic protection and private sector provision and employer based schemes would be essential to provide better benefits for those who sought them and who together with their employers had the resources to provide them.

## 1.2. Immediate objectives and outputs

1.2.1. The immediate objectives of the project relate to the establishment of a new institutional structure for the national social security scheme and to the development of a national strategic plan for the restructuring of the social security system.

### ***Immediate objective 1***

*The government will by the end of the project have established an autonomous social security organisation based on trust fund principles under the supervision of a tripartite Board of Directors whose roles and responsibilities and relationship with Government are prescribed and understood. It will also have enhanced its capacity to manage the funds of the institution and have established an investment policy and management unit.*

1.2.2. This immediate objective was to be achieved by a number of *outputs* supported by activities such as workshops, seminars and training – both in Indonesia and through study tours overseas. The outputs were to be:

#### ***(i) Output 1.1***

Legislation to amend the status of Jamsostek, to determine the roles and responsibilities of the Government, the Board of Directors and the executive management of the scheme.

#### ***(ii) Output 1.2***

Publicity material and presentation on new status of Jamsostek.

#### ***(iii) Output 1.3***

Establishment of the Board of Directors.

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(iv) **Output 1.4**

Policy and code of practice on investment and financial management.

(v) **Output 1.5**

Establishment of investment management Committee and specialist unit.

1.2.3. Many meetings were held on the status of Jamsostek and an informal consensus reached that the Persero should be changed to a Trust Fund supervised by a tripartite Board. Workshops were also held in Jakarta and 5 Regions confirming the central consensus. But despite the fact that a bill to amend Law No.3 of 1992 went to the House of Representatives during the course of the project, further capacity building is necessary before an informed, formal consensus is reached. It was hoped that this might be achieved during a possible extension to the project but, although the project was finally extended twice – firstly to 31st October (with a break during June and July) and subsequently to the end of 2002 – little further progress was made towards achieving this output.

1.2.4. Views were also obtained on improvements in the control of compliance via Jamsostek inspectors to replace the present enforcement by labour inspectors. A decision on this issue was awaited at the time of drafting this report.

1.2.5. The investment provisions were covered by the ILO Actuary and are dealt with in the separate report: “Report to the Government on the Financing and Investment of Jamsostek and Social Budgeting in Indonesia”.

1.2.6. In the absence of decisions on the change of status, provisions for the nomination and appointment of Trustees, the status of social security inspectors, etc. it was not possible to undertake all the related training and publicity activities anticipated in the project document. However, a valuable study tour was arranged for some senior staff of Jamsostek and Depnaker (including some commissioners), members of the Presidential Task Force on Social Security Reform and also for Jamsostek IT staff. This gave exposure to social security activities in the Australian Department of Family and Community Services (FaCS) and the servicing agency, Centrelink, in Canberra and Sydney, Australia.

## **Immediate objective 2**

*By the end of the project, the Government will have formulated a national strategic plan for the reform and development of the social security system, based on studies which will have components relating to improvement and expansion of the benefit programmes, the extension of coverage to sections of the labour force at present excluded and to improvements in the capacity of the social scheme administration to provide an effective service to its members and to employers.*

1.2.7. This immediate objective was to be achieved by the following outputs, also supported by workshops, seminars and training:

(i) **Output 2.1**

Technical reports relating to studies conducted as to the design and costing of different policy options for benefit programme reforms on:

- a social budget which analyses and projects total social expenditure against anticipated income;
- the replacement or partial replacement of the JHT provident fund by a defined benefit pension scheme;

- the replacement of lump sum payments in respect of employment injury benefit by periodic payments;
- the introduction of a maternity benefit scheme based on social insurance principles to replace reliance on employers liability provisions;
- the introduction of an unemployment insurance scheme;
- the establishment of a social assistance system as a component of a permanent social safety net.

(ii) *Output 2.2*

*A Report setting out policy recommendations on the extension of coverage to sections of the labour force not covered and with regard to the improvement in compliance of those who are currently liable to be covered under the scheme but not in practice within its scope.*

(iii) *Output 2.3*

*Technical reports on the organisational and administrative structure of Jamsostek including recommendations for improvements in efficiency and customer service.*

1.2.8. Separate reports on the benefit programme studies referred to above, a report on the provision of Health Care under the Jamsostek programme and the technical report on Jamsostek Operations and IT Systems will be published by the ILO and only salient points are referred to in this present report. However, the provisional report on the extension of coverage to excluded groups can be found at Chapter 9 of this present report. This formed the basis for further study and a survey of the economically active population in areas of Jakarta, Bandung and Yogyakarta made possible by virtue of the project extension. This, more detailed study is the subject of a separate report – Part 10 of the project report series.

1.2.9. Under the terms of the project document a tripartite National Project Steering Committee (NPSC) was appointed, under the chairmanship of the Director General for Industrial Relations and Labour Standards of the Department of Manpower and Transmigration. The NPSC met on eight occasions during the period of the project – rather less than envisaged in the project document.

1.2.10. It was not possible to make arrangements for a formal presentation of the Project Reports, their findings or recommendations during the original time span of the project (to April 2002) or the extensions. Even a national workshop on social security development to be held jointly with the Task Force in December 2002, had to be cancelled due to an extended Lebaran Festival being announced in 2002. However, it was possible to arrange two, half-day Consultation Meetings on 28th and 29th November 2002 at which experts presented the major work of the studies and the ILO recommendations. These were received with interest by the audience from the Task Force, government, workers' and employers' organizations and academia – evidenced from the lively questions and discussion. The work of the Task Force was also presented and a summary of the Concept of the new national social security scheme, JAMSOSNAS, tabled. General, strategic recommendations, taking account of feedback emanating from this Consultation can be found in the Conclusion at the end of this Report.



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## 2. Introduction

2.1. The International Labour Office has been involved in the development of social security in Indonesia for more than 20 years but during the last decade this has been limited to technical advice drawing attention to the weaknesses in the national social security system. The financial crisis again exposed these weaknesses and following a further analysis in early 1999 and an increased level of public criticism against Jamsostek, the ILO provided resources for short-term technical assistance between September and December 1999. The need to restructure the social security system and, in particular, to address the weaknesses of Jamsostek were analyzed by a National Steering Committee, established by the Ministry of Manpower in September 1999 to work with ILO specialists. This culminated in a National Workshop on the Restructuring of Social Security held in Jakarta on 16/17 November 1999.

2.2. The report produced at the end of this technical assistance input (ILO/TAP/ Indonesia/R.20) set out recommendations for follow-up and this present project: “Restructuring of the Social Security System” (INS/00/M04/NET) was implemented as a direct result of these recommendations. The objectives of the project are the establishment of a new institutional structure for the national social security scheme and the development of a national strategic plan for the restructuring of the social security system.

2.3. The present legal status of Jamsostek under Law 3 of 1992 as a Persero, a public limited liability company required to make profits and pay taxes, is considered to be inappropriate for a system based on State responsibility and constitutional rights. The strategy of the project was to reconstitute Jamsostek as a public social security institution that will hold its members’ contributions in trust against future benefit entitlement under the supervision of a tripartite Board. Alongside this the project was to focus on the reform of the institution to ensure that it will be able to undertake the role envisaged as the core of the social security system in Indonesia entailing review of the organizational and administrative system aiming at improved accountability and efficiency and improved service to the public.

2.4. On the basis that whatever improvements are made in governance and operating efficiency would still leave the programme weaknesses, the project had a second objective of studying options for improvements in the benefit programme including:

- the feasibility of replacement or partial repayment of the existing provident fund scheme (JHT) by a Social Insurance Pension scheme;
- improvements to the occupational injuries scheme – to introduce pensions more fully into employment injury insurance for long-term contingencies of serious disablement and death within the present financial system;
- the feasibility of converting the employers’ liability Maternity Benefit into a social insurance benefit by utilizing the same resources as are now expended by employers – in order to overcome evasion and avoid discrimination against the employment of female workers;
- the feasibility of introducing an unemployment benefit insurance scheme;
- the feasibility of introducing social assistance – establishing a basic social safety net to the most vulnerable of the poor;
- a social budget which analyses and projects total social expenditure against anticipated income – this to include an actuarial analysis and an assessment of the administrative implications and recommendations for policy decisions.

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2.5. The project was also to undertake a special study to formulate policy options for the extension of coverage to those presently excluded i.e. those who work for small employers, the informal economy and the self-employed.

2.6. The Director-General of the International Labour Office appointed Mr Michael Smith, an international expert on social security planning and administration as Chief Technical Adviser of the project. Also appointed were: Messrs John Angelini, Ole Nielsen, David Gent, Aniceto Orbeta, David Preston and Paguman Singh – respectively international experts on Information Technology; Actuarial Valuation; Pensions Policy; Labour Market Economy; Unemployment Insurance and Social Assistance Policy; and Occupational Injuries and Maternity Benefits Policy – to undertake detailed work on the studies.

2.7. The Director General also appointed Mr Kenichi Hirose of the ILO Social Security Finance, Actuarial and Statistical Services Branch and Mr Cristian Baeza of the ILO Global STEP Programme to participate in the studies. Professor Sentanoe Kertonegoro, Dr Hasbullah Thabrany MD, Dr James R. Marzolf MD and Messrs Carunia Firdausy, Wendi Usino and Mrs Sofiati Mukadi were appointed as national experts to the project.

2.8. The Government Agency responsible for managing the project was the Department of Manpower and Transmigration which appointed Mr Mohd. Syaufii Syamsuddin and, from 1st August 2002, Mr Masri Hasyar as National Project Directors. Other cooperating agencies were the Department of Health and PT Jamsostek.

2.9. The Director-General of the ILO would like to thank Minister Jacob Nuwa Wea of the Department of Manpower and Transmigration; Mr Muzni Tambusai, Director General for Industrial Relations and Labour Standards and his staff; the Members of the National Project Steering Committee; Mr A Djunaidi, the President Director of PT Jamsostek and officials in the Head Office, Regional Offices and Branch Offices; and Professor Dr Yaumil C. Agoes Achir, Chair of the Presidential Task Force on Social Security reform for their invaluable support and assistance.

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## 3. Definitions

3.1. In order to aid comprehension of this Report a list of definitions of social security terms used in this Report follows.

### 3.1. Social security

3.1.1. The protection which society provides for its members, through a series of public measures against the distress that otherwise would be caused by the stoppage or substantial reduction of earnings – resulting from: sickness, maternity, unemployment, invalidity, old age, or death. Social security also includes the provision of medical care and the provision of subsidies to families with children.

Social security is composed of:

- social insurance;
- social assistance;
- family benefits;
- provident funds; and
- provisions made by employers such as:
- workmen's compensation schemes; and
- other, complementary programmes.

### 3.2. Social insurance

3.2.1. Social insurance is based on the principle of the pooling of risk. Thus everyone covered by a social insurance scheme makes a contribution to a common fund. When a contributor meets the prescribed conditions for benefits – his or her needs (or at least part of them) are met from the insurance fund.

3.2.2. Social insurance schemes may differ from one another but their principle elements are that:

- they are financed by contributions normally shared between workers and employers, (often with some State participation);
- require compulsory participation; and
- the contributions are paid into special funds out of which benefits are paid.

3.2.3. In social insurance schemes:

- surplus (reserve) funds are invested to earn further income – returned to members through improved benefits;
- benefits are guaranteed on the basis of the qualifying conditions set out in the legislation, with regard to the payment of contributions and without means testing (i.e. taking income and wealth into account);

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- contributions and benefit are often proportionate to earnings; and
  - employment injury schemes are usually financed wholly by employers.

### **3.3. Social assistance**

3.3.1. In social assistance schemes, benefits are provided as a legal right when the prescribed conditions are met. Generally speaking, means are taken into account when arriving at the assessment of the benefit to be paid.

### **3.4. Social protection**

3.4.1. Social protection is a broader concept reflecting international economic and social change. It includes:

- social security; also
- private or non-statutory schemes.

3.4.2. Social protection also includes:

- occupational or employer-based schemes;
- community based support systems; and
- micro-insurance schemes.

### **3.5. 3-Tier social protection systems**

3.5.1. Many social protection systems consist of three tiers or layers of protection:

- *1st Tier – a social safety net* providing basic protection such as primary health care and subsistence level income security (which would ordinarily be provided by the State, financed from taxes). 1st Tier Pension Schemes are, therefore, normally non-contributory. To the extent that the option of a 1st tier pension has been considered under the present project, it will be mentioned in the Feasibility Study on Social Assistance.
- *2nd Tier – Social insurance schemes financed by contributions* from employers and workers – providing income maintenance benefits during periods of interruption of employment and a broader range of health care with some redistribution of income within and between generations. The pension scheme options discussed in this report are 2nd Tier Pension Schemes (except where stated otherwise).
- *3rd Tier – Supplementary (voluntary) private provision* by individuals, employers or occupational schemes for pension savings and health insurance.

### **3.6. Defined benefit schemes**

3.6.1. In defined benefit schemes the rules or the insurance contract (in a public scheme, the provisions of the legislation) clearly define the benefit rights of members (in line with a range of criteria:

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replacement rate, reference earnings, duration, etc.) while leaving the contribution rate and the financial system to be set by actuarial assessment.

3.6.2. Members are thus guaranteed (and can predict) entitlement to a benefit representing a certain rate of replacement of their former earnings. Responsibility for the scheme's solvency is borne by those who finance it, usually employers and workers, who may be required to supplement their contributions or to raise the book reserves which provide for the benefit payments. Sometimes governments contribute directly to the Fund or meet part of the administration costs and, in the case of a public scheme established by law, government stands behind the promises made by the legislation and is the ultimate guarantor.

### **3.7. Defined contribution schemes**

3.7.1. In defined contribution schemes, only the contribution rates and bases of calculation are determined in advance. The benefit is a direct product of the contributions paid together with the return on their investment. Consequently, the financial risk is borne by the employees. Benefit levels can vary significantly, depending on how the investments perform. There are no guarantees in this regard because the employer makes no commitment as to the value of the pensions. On the other hand the cost of the scheme is easier to control.

### **3.8. Social security financing**

#### *(i) Pay-As-You-Go (PAYG)*

3.8.1. Under PAYG systems of financing, no funds are set aside in advance (except for a small contingency reserve) and benefits plus administrative costs are paid from current contributions. Each worker and employer pays a monthly contribution into a common fund from which pensions are paid to current pensioners who have contributed during the years when they were working. Thus current contributors pay for the benefits of current pensioners and income is transferred vertically between generations. Risks are shared under a PAYG scheme. For example if an unmarried worker dies say, one year after retirement, his pension dies with him. If his twin brother, also single, lives until he is 95 years old, he will have been paid a monthly pension for the whole of his life. In PAYG funding for short-term benefits (e.g. maternity benefit or unemployment benefit) financing is again by current contributions representing horizontal income transfer (i.e. within the same generation).

3.8.2. Given the pattern of rising annual expenditures in social insurance schemes, contribution rates (as a percentage of insured earnings) tend to be low in the early years of a scheme and increase annually for many years thereafter.

#### *(ii) Advance Funding*

3.8.3. With advance funding systems the annual contribution and investment income will exceed annual outgo on benefits and administrative costs in the early years allowing reserves to be built up that are available for investment. The return on investments is then used to supplement contribution income when the annual disbursement eventually exceeds the annual contributions. This build-up of reserves during the early years delays the need to increase contribution rates. But the contribution rate should not exceed the capacities of workers, employers and the economy to support it; the reserves generated should not exceed the capacity of the country to absorb the investments; and contribution rates should remain relatively stable for extended periods of time – with only gradual increases.

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(iii) *Funding from Taxation*

3.8.4. Some social security schemes, particularly social assistance and residence-based schemes, are funded through taxation. As there is no direct link between the sums paid by an individual by way of tax and the amount of benefit that he or she may receive, funding from taxation is generally less popular than other forms of social security financing.

### **3.9 International social security standards of the ILO**

The international social security Conventions of the ILO are international treaties. They are open for ratification and once they are ratified they are binding for the contracting party. The Conventions are by nature universal and are intended to be applied to all member states of the ILO irrespective of their level of economic and social and development and their political status. To make it easier for member states to ratify them, they contain a number of flexibility clauses without jeopardising their universality.

The ILO has adopted at all 31 social security Conventions out of which 7 are up-to date Conventions. The Social Security (Minimum Standards) Convention 1952, No. 102 is the flagship amongst those Conventions as it introduced the objective of a basic level of social security that should be progressively attained everywhere in the world. It covers all the nine branches of social security which are medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors= benefit and sets minimum standards for those contingencies with regard to:

- S the percentage of coverage of the population,
- S the level of benefits,
- S the duration of the payment of benefits, and
- S the qualifying conditions for the entitlement to the benefits.

The other up-to-date Conventions set either higher standards for the different branches of social security or they deal with equality of treatment of migrant worker with regard to social security and the maintenance of their social security rights.

A member state which ratifies Convention No. 102 has to accept at least three of the nine branches, including at least one of the following five: unemployment benefit, old-age benefit, employment injury benefit, invalidity benefit and survivors=benefit. And any state may then subsequently notify the ILO that it accepts one or more additional parts of the Convention.

Both Convention No. 102 and the Conventions setting higher standards, may limit their scope of application by the exclusion of certain categories of employees and workers, such as public servants, persons performing casual work or members of the employers family, etc.. They also provide for a flexibility clause to take into account the situation of developing countries whose economic and medical facilities are insufficiently developed.

The Conventions not only set standards in social security but moreover they contain worldwide accepted basic principles of social security which should be taken into account from all the member states when designing or reforming their social security systems. These principles are:

- S the responsibility of the state for the proper administration of the social security institution,
- S the responsibility of the state for provision of the benefits irrespective of the method of financing,
- S the financing of the schemes through contributions or taxes,
- S benefits in form of periodical payments, not lump-sum benefits,

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- S the participation of the insured persons in the administration of the schemes,
  - S the right of appeal of claimants against adverse decisions,
  - S the suspension of benefit is prescribed circumstances such as whilst living abroad, or where the person concerned is guilty of wilful misconduct.





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## 4. Status of Jamsostek

4.1. The private sector social security in Indonesia was originally administered through the social security foundation, Yayasan Dana Jaminan Sosial under the Ministry of Manpower. Government Regulation No. 34 of 1977 transformed this foundation into Perusahaan Umum Astek (Perum Astek for short) with profits shared with government. The present social security institution administering the scheme for the private sector is Perseroan Terbatas Jaminan Sosial Tenaga Kerja (translated as: limited liability company for employees' social security), abbreviated to PT Jamsostek. The status of PT Jamsostek as a Persero, or State-owned limited liability company is required under the 'Jamsostek Law' – Law No. 3 of 1992. Under the provisions of Law No.1 of 1995 the State must be the majority shareholder of a Persero. In the case of PT Jamsostek all the shares are State-owned. Ownership used to be vested in the Ministry of Finance but currently Minister of State-owned Enterprises is the sole shareholder.<sup>1</sup> However, it is understood that in practice the supervision is still carried out in the Ministry of Finance. This current status means that PT Jamsostek must operate to generate a profit for its shareholder and, like other limited liability companies operating on a commercial basis, the profit earned is taxable. In year 2000 Jamsostek paid a dividend to the Ministry of Finance of Rp.110 billion and tax of Rp.3 billion. The daily newspaper, Kompas, reported on 15th April 2002 that the profit earned by Jamsostek in the year 2001 was Rp.320.6 billion – an increase of 40 per cent.

4.2. In the past the profit orientation of Jamsostek has given rise to suggestions that the system should be open to commercial competition and that the monopoly status of PT Jamsostek should be removed. However, the international view and that now widely held in Indonesia is that profit-taking is inappropriate for a social security scheme and that in the absence of a profit motive, monopoly status *is* appropriate.

4.3. The consensus in favour of changing the status of Jamsostek to that of a trust fund has been forming over a number of years and several attempts have been made to draft legislation to amend the Jamsostek Law to effect this change. However, in the absence of a law (similar to those relating to *Persero*, *Perum*, etc.) to regulate the constitution and administration of trust funds in Indonesia (a so-called 'Trustee Law'), there is no wide understanding of the implications of trust fund status and no general agreement on how to proceed to transform PT Jamsostek into a trust fund. Law No. 11 of 1992 on the establishment of pension funds (*dana pensiun*) is the closest in concept (in that it provides for full return of proceeds from contributions, etc. to be returned to members through future benefit and provides for control by a board consisting of representatives of employers, members and the bank in which the fund is kept in trust; the board in turn is controlled by the Ministry of Finance).

4.4. Similarly, although there is an informal consensus in favour of tripartite supervision of the trust fund, no informed, formal consensus has been reached on the detail. Such important issues as qualification and procedures for nomination, appointment and rotation or dismissal of trustees, conduct of Board business (including such issues as quorum), method of accountability, etc. are still undecided.

4.5. The essential features of social security trust funds are:

- They are independent from Government;
  - ☐ income and investments (assets) are held in trust for the members;
  - ☐ assets are used *exclusively* for the benefit of members; and
  - ☐ investment income is generally free of tax and returned to members in increased benefits.

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<sup>1</sup> Prof. Sentanoe Kertonegoro 2002.

- While Jamsostek is run as a *Persero*:
  - ☐ financial control is by Ministry of Finance/ State-owned Enterprises and Operational control is by Depnaker;
  - ☐ investment is controlled by Finance, although this should be in accordance with the Investment Regulations (No. 28 of 1996);
  - ☐ dividends are paid to the single Shareholder (Govt.); and
  - ☐ profits are taxable.

4.6. While the social security scheme continues to be run as a government ‘milk cow’:

- there is a Profit motive but little direct motivation for Depnaker to ensure that contribution income is maximized. Historically (as shown by a cumulative index over the period 1978 to 2000)<sup>2</sup> income from investment has been 38 per cent below the level of inflation and 63 per cent less than the average market rate, although there is some improvement since. Thus the net result of the Government’s stewardship of the social security scheme indicates that less than half of the contributions due to be paid have been collected with very little effort to enforce compliance – and there has been a negative real return on the investment of those that have been collected. Meanwhile large sums in dividends and taxation have been channelled away from direct benefit to the members – directly counter to the objectives of the principles of social security.
- there is the possibility of competition (there is already a measure of competition for business in the health care market) but this is not necessarily ‘healthy’ competition; and
- there are complex, arcane control mechanisms but they do not help efficiency or transparency.

4.7. The decentralization process has further complicated the line of operational control. During the currency of the project a number of attempts were made by ILO experts to establish what measure of policy and operational control was actually exercised and how effective this was. But it was not possible, despite many enquiries and two separate joint meetings with Depnaker and Jamsostek officials, to obtain any concrete evidence of policy guidelines. Questionnaires designed to inform policy and control lines were prepared and circulated at the meetings but none was returned to the project office. Some changes were made to the legislation affecting the level and period of payment of occupational injury benefit in October 2001 but, as far as could be established, the changes were instituted under a Jamsostek (not Depnaker) initiative.

4.8. As far as control of compliance is concerned this, according to Article 31 of Law No.3/1992, investigation is carried out by labour inspectors. Inspectors used to be under the direction of the Department of Manpower but since decentralization this responsibility has been delegated to Provincial Governors through *Dinas Tenaga Kerja*. This raises questions about consistency and, since Provinces will be collecting local taxes, also the priority that would be given to collection of social security contributions. Unless there is rigid control, the possibility of corruption or collusion between inspectors and errant employers will arise.

4.9. Thus there is a general recognition that the status of Jamsostek should change and even agreement on the general direction of that change but action to effect any change has been uncoordinated and seemingly lacking in real commitment. A number of draft bills to amend Law No. 3 of 1992 have been prepared but little concerted effort has been made at discussion of the implications or the detailed

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<sup>2</sup> See ILO Report to the Government on financing and investment of Jamsostek.

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provisions and no formal, informed consensus has been reached – even on the concept. Late in 2001 a draft bill was submitted by the Department of Manpower and Transmigration to the House of Representatives under an ‘Initiatives Procedure’ but the draft appears not to have been circulated within government or shared with the social partners. Although a copy (in Bahasa Indonesia)<sup>3</sup> was made available to the ILO after its submission, the project was not invited to comment on the draft before its submission, even though this legislation was prescribed as Output 1.1 of Immediate Objective 1 of the project and the work of drafting the legislation was Activity 1.1.2.

4.10. In an attempt to progress activities and outputs on the legislation and to stimulate discussion, the project CTA tabled copies of the 1999 ILO drafting proposals, an early draft by the project national Social Security Adviser and the project’s current outline ‘legal drafting instructions’ at the National Project Steering Committee (NPSC) in August 2001. Inconclusive discussion took place within a special ‘tripartite plus’ NPSC meeting in September and workshops were held with workers’ and employers’ representatives to explain the trust fund concept. The project submitted a proposal to the Director General early in October for a process to achieve a formal consensus together with an indication of the essential provisions for inclusion in amending legislation but this was never discussed nor did it appear to be taken into account before the draft bill was submitted to the legislature.

4.11. The need to change the status of Jamsostek, the trust fund concept and its implications, including the question of operational control, featured in a workshop programme in January, February and March 2002 consisting of a national Keynote workshop in Jakarta and regional workshops in Medan (Sumatra); Bandung (West Java); Makassar (Sulawesi); Balikpapan (East Kalimantan); and Surabaya (East Java). A senior representative of Depnakertrans attended only the final workshop and it remains to be seen the extent to which the views will be taken into account in future drafting amendments to the bill.

4.12. The ILO’s view is that such an important change to the institutional base of the social security system as would be brought about by a change in the status of Jamsostek is a matter of *national* concern. A broad based consensus among not only interested government departments and the social partners but also including the broader Civil Society (including employers’ and workers’ representatives, women’s groups, professional organizations and consumers’ and patients’ groups, academia, etc.) in favour of the change and all its implications is, therefore, called for. The detailed arrangements for supervision by the tripartite board and the public accountability process need to have widespread support if Jamsostek is ever to achieve public confidence. The process towards achieving such a consensus, though commenced by project activities, has not yet been supported at a sufficiently senior level within government. While a measure of consultation is said to be provided for within the legislative process, it is unclear how broad this consultation will be or the extent to which international social security experience will be taken into account. Further support by the project, including policy papers, other countries’ social security legislation and workshop discussion has been offered.

4.13. The ILO *recommended* that a process to change the status of PT Jamsostek should be continued on the following lines<sup>4</sup>:

- a formal consensus should be reached within Government as to what, in precise terms is intended by the proposal to change the status of Jamsostek.
- such a consensus should be reached on the basis of a clear understanding of the implications. The consensus should be based on agreement to a *written* proposal.
- this proposal should be put to the social partners and the wider civil society and agreed (or modified) on the basis of negotiation.

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<sup>3</sup> The translation into English is reproduced at Annex 1; and the CTA’s comments at Annex 2.

<sup>4</sup> A proposal on these lines was sent to Depnaker by the project on 4th October 2001.

- legislation to amend Law No.3 of 1992 (the Jamsostek Law) should be drafted on the basis of the agreed proposal and circulated for comment before submission to the legislature.
- ‘drafting Instructions’ for amending Law No.3 to be undertaken by Depnaker Binawas, Depnaker Biro Hukum and the ILO (preferably the Project CTA or another expert in social security legislation), in collaboration with National Project Steering Committee.

the amending legislation should be limited to the essential provisions to change the status of Jamsostek and clarify the respective responsibilities of Government, the Board of Trustees and the Executive Body (Jamsostek). But a full Explanatory Memorandum, describing the implications and the supporting detail, should be drafted to accompany the bill.

- the need for consequential amendments to other principal laws (particularly Law No.8 of 1981) and for other processes (such as audits) to achieve the objective of establishing Jamsostek as a Trust Fund should be considered as a matter of urgency.
- subordinate details should be provided for in Government Regulations and other secondary legislation.
- action to publicize the ‘new’ Jamsostek should proceed as soon as an appropriate consensus has been reached with social partners – without waiting for the amended law to be enacted.

4.14. The proposal detailed above is based on the presumption that:

*The term ‘Trust Fund’ in relation to Jamsostek means that it would have a legal entity that is independent from Government but it would be accountable to Parliament via the Board of Trustees, through the Minister or President, by means of an Annual and other periodic or special reports. In particular, the reports should be accompanied by a full annual government audit and an actuarial valuation.*

4.15. The Trust Fund would have the following features:

- the Trust Fund should be governed by a tripartite Board of Trustees;
- it would consist of a Fund into which should be paid – all social security contributions, interest from investments, etc. and out of which should be paid – all benefits and administrative expenses of the scheme;
- thus all income and investments (assets) would be held ‘in Trust’ for the Members – investments being decided by Trustees on the basis of professional advice, according to published Guidelines approved by the President (to replace and up-date the provisions in Government Regulation No. 28 of 1996);
- investment income should be free of tax and returned to worker Members in increased benefits; and
- assets are to be used exclusively for the benefit of worker Members.

4.16. Trust Fund Jamsostek would be free from Departmental control – either by Ministry of Finance, Ministry of State Enterprises or Department of Manpower and Transmigration.

4.17. It is recommended that Jamsostek (the Executive Body) would be subject to control by:

- the President;
- the Tripartite Board of Trustees; and

- 
- the Chief Executive Officer (President Director).

4.18. The respective responsibilities might be as follows:

- The President to be responsible (on the advice of Ministers) for:
  - ☐ appointing the Board of Trustees from nominations submitted by Government, Employers' representatives and Workers' representatives (in accordance with provisions detailed in Regulations);
  - ☐ appointing the Chief Executive Officer of Jamsostek;
  - ☐ appointing Inspectors with authority to enter business premises, require the production of wages and other records or documents, and interview workers – to ensure compliance with the Social Security Law;
  - ☐ approving an annual budget for the operations of Jamsostek, including programme costs, administrative costs;
  - ☐ approving (by Presidential Decree or otherwise) salary scales and allowances of Jamsostek Staff and the Tripartite Board of Trustees;
  - ☐ social security strategy, introduction of new benefits or extension of coverage (on the advice of the Board of Trustees and on the basis of actuarial valuation);
  - ☐ the legislation and amendments thereto; and
  - ☐ implementation and good governance.
- The Board of Trustees to be responsible to the President for:
  - ☐ the application of the laws and operational issues (e.g. geographical extension of coverage, registration or compliance exercises);
  - ☐ decisions on liability and employee status (e.g. whether or not a contribution is due, has or has not been paid, etc.), subject to the right of appeal to the Supreme Court.
  - ☐ recommending changes in Regulations, in particular the need for changing entitlement conditions, the level of benefits and contributions on the basis of actuarial advice;
  - ☐ adjudication of appeals against quantity or quality of benefit;
  - ☐ annual reports or special reports to Minister/President;
  - ☐ the performance of Jamsostek (the Executive Body) according to agreed performance targets; and
  - ☐ an internal audit group established on tripartite grounds to monitor the internal accounting, assessment of contribution liability, payment of benefit, investment and social security inspection processes.
- The Chief Executive Officer (President Director) to be responsible to the Board of Trustees for all day-to-day operations of the Executive Body, in particular:
  - ☐ collection of contributions;

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- ☐ payment of benefit;
  - ☐ registration of employers and employees;
  - ☐ regular (annual) notification of contribution records to employee Members;
  - ☐ compliance and enforcement of the social security laws (including preparation of cases for prosecution). This implies that ‘social security inspectors’ should be employed by and controlled by Jamsostek (and not as at present be labour inspectors with wider duties and under the control of Depnakertrans or Dinas); and
  - ☐ a decision will need to be taken as to whether Inspectors or other Jamsostek officials could represent the Board of Trustees in Court proceedings.

4.19. In the process stage there are a number of issues that need to be resolved within Government before presenting the proposal to social partners. These issues are:

- *The Legal status of Trust Funds* – Whether a separate law is required stipulating what a trust fund is (similar to the laws on Dana Pensiun, Perum and Persero), or can a ‘Trust Fund’ simply be established by describing its function in the amending legislation? Professor Sentanoe Ketonegoro, the National Social Security Adviser, has written a paper in Bahasa Indonesia comparing the different relevant Indonesian legal entities entitled ‘Formation of Jamsostek’s Trust Fund’. This and the English translation are at Annex 2. *Note: A copy of the Malaysian Trustee Act of 1949 has been obtained for reference purposes and is available in the Project Office.* However, the ILO’s view is that such a trustee law is not necessary and the problem could be overcome by avoiding the expression ‘Trust Fund’ in the legislation. It is the independent, tripartite supervision that is important, not the name.
- Is there a *need* to wind up PT Jamsostek legally *before* the Trust Fund is established?
- Does Ministry of Finance/Ministry of State Enterprises agree to transfer the assets of PT Jamsostek to the Trust Fund – if so is a formal audit necessary prior to the transfer?
- What should be the Reporting line upwards from the Board of Trustees and what should be the frequency of reporting? (e.g. to Minister/President by annual or special report).
- Trust Fund status implies that there should be no residual departmental control over Jamsostek (after the change), other than via periodic reports from the Board of Trustees to Minister/President. Do Ministries of Finance, State Enterprises, Manpower, etc. agree to this?
- In particular, do Department of Manpower and Transmigration, Ministry of Justice and MENPAN agree that enforcement of the social security laws should be undertaken by Jamsostek (not Depnaker) either directly or by seconded inspectors?
- In view of the extent of the span of control necessary to ensure the good governance of social security and the development of the programme, consideration might be given as to whether ‘Social Security’ warrants the establishment of a new Cabinet post and a new ministry that are able to focus on the important issues that, in the future will go beyond the present interests of private sector manpower, health services, etc. In the longer term, once the general shape of the fully restructured social security scheme is agreed, it would be advisable for the question of institutional rationalization to be studied. But in the medium term it is recommended that the existing institutions should be strengthened and provisions possibly be harmonized between the public and private sectors. As with any institutional change there are vested interests in retaining the status quo that will tend to inhibit the speed of change and even the change itself. The creation of a new government agency with

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executive responsibility for the development of the new social security scheme should overcome such resistance.

#### **4.1. Implications of JAMSOSNAS for ‘Trust Fund’ Status of Institutions**

4.1.1. However, by the end of the project it was clear that the change of status of Jamsostek was continuing to meet with resistance, possibly by forces with a vested interest in retaining the status quo. It also emerged, from discussions with the Task Force that the concept of JAMSOSNAS as a social security umbrella for all the existing social security institutions might present an alternative solution to the problem.

4.1.2. Although the ‘trust fund’ system described above and recommended for Jamsostek Baru may be used as a possible model for other social security institutions, it may not be appropriate for the JAMSOSNAS umbrella itself. This is because there seems no need for a separate ‘fund’ for JAMSOSNAS while its individual institutions remain autonomous. However, it would benefit from a similar form of tripartite management.

4.1.3. It is, therefore, recommended that a JAMSOSNAS Board (or Council) be established on similar lines proposed for the Jamsostek Board of Trustees. The role of the Council would be to have tripartite supervision of all the institutions under its umbrella. This would ensure harmony, equity and eventually facilitate integration. With such broad, tripartite control there would be no need to establish separate Boards of Trustees in the individual institutions and no need for the problematical amending legislation to change the status of the Persero’s to Trust Funds.

4.1.4. There would, however, still be the need to achieve tax-free status and to alleviate the payment of dividends to the Government. But instead of trying to achieve this through amendment of the existing social security laws establishing the Persero’s, it could be done via the framework JAMSOSNAS law. A relatively simple provision on the following lines might achieve this:

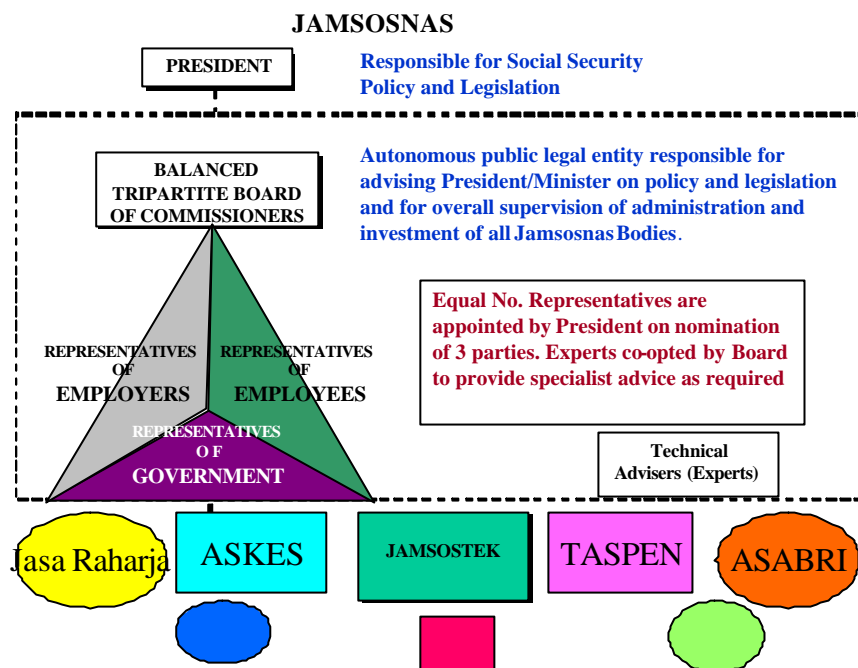
*“Notwithstanding the provisions of the law [law on Persero’s] requiring the payment of annual dividends to the Government and the levying of tax on the profits, no such dividends or tax shall become payable in respect of any social security institution covered by the JAMSOSNAS Law.”*

4.1.5. The framework law might indicate:

- What the objectives of JAMSOSNAS are, who should be covered, how the law will be applied and when it will be introduced. The Law should also provide for a tripartite Council or Board with equal representatives of Govt; Employers; and Workers. The Council would be responsible to the President (or Minister of Social Security) for ALL the schemes – ensuring equity, honesty and transparency, starting with harmonization and leading to gradually unification between the public and private sectors. In the meantime urgent consideration should be given to introducing portability of benefit rights for workers transferring between the public and private sectors.

4.1.6. The effect of a JAMSOSNAS Council is illustrated in the diagram below.

## 4.2. Possible Reform of JAMSOSNAS Council





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## 5. Jamsostek core business

5.1. During the workshop programme in 2002 a number of suggestions were made, particularly by workers' representatives, that Jamsostek should do more for workers' welfare including investing in such programmes as: hospital building; low cost housing; workers' banks; subsidized workers' transport; and retail outlets for workers. It is understood that some similar investments were made during the course of 2001 utilizing money 'clawed back' from the Ministry of Finance from dividends. There are strong reasons against such investments continuing into the future.

5.2. In particular, Jamsostek is already having difficulty in managing its core business efficiently and sometimes experiences difficulty in recruiting staff of sufficiently high calibre to process claims, etc. accurately and on time. The report on Jamsostek Operations and IT Systems describes the operational and systems changes that are required for the institution to meet the demands of the change to a social insurance system and periodic payments. Given that these operational changes, the extension of coverage, improvements to the benefit programme and proper enforcement of the law will make heavy demands on human resources, branching out into new, non-social security ventures can only dissipate resources and have a detrimental effect on efficiency of its core business – which is collecting and recording contributions, paying benefit and investing reserve funds.

5.3. Should the status of Jamsostek be changed to a trust fund it follows that the payment to the government of dividends and the taxation of income from investment would cease. The investment of *all* Jamsostek funds must be to the benefit of members and directed at maximizing the funds available for the payment of benefit and improvements to the benefit programme. Investments will be under the supervision of the board of trustees according to the guidelines laid down in the relevant legislation. This legislation, in common with internationally recognized standards, requires that investments must meet criteria of *security, yield and liquidity*. It follows that although some worker-orientated projects may benefit some workers, it would be difficult to build hospitals and houses or set up transport systems throughout Indonesia so that *all* workers may benefit. It is doubtful whether the yield from such investments would be high and, more importantly, it would be difficult to liquidate such assets in order to pay benefits when these became due. It seems likely that such investments would be ultra vires and could lead to the fund experiencing difficulty in meeting its future commitments.



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## 6. Operational control

6.1. The change of status of Jamsostek to a trust fund – new Jamsostek, '*Jamsostek Baru*' – implies that it will enjoy a measure of independence from the Government in its day-to-day operations as well as its longer-term policy direction. Government supervision would be replaced with supervision by the tripartite board of trustees. This more direct and focused control is expected to lead to improved public perception of Jamsostek as a social security institution and help meet the two important conclusions about Jamsostek reached at the 1999 workshop on restructuring the social security system which were:

- “the service to insured persons and employers must be improved and linked to prescribed performance indicators and targets”; and
- “strengthening of compliance and enforcement is essential and, combined with improved service and public relations should, to an extent, address the coverage problem”.

6.2. In order to establish how policy direction and operational control of Jamsostek was actually exercised by Depnaker, a number of meetings were held at Director and Head of Section level. Such issues as:

(i) *Depnaker Regional Network*

- Location of regional and area offices;
- their roles and responsibilities;
- IT network summary;
- IT hardware and software summary; and
- IT strategic Plan.

(ii) *Policy Links with Jamsostek*

- National office – national office;
- regional office – regional office; and
- branch office – area office.

(iii) *Description of Monitoring and Control Processes*

Administrative Arrangements with Jamsostek

- Whether or not there is any Memorandum of Understanding;
- formal;
- informal;
- reporting;
- liaison;

- 
- delegations; and
  - protocols.

(iv) *Decentralization*

- Effect on Depnaker;
- changes that will occur to Depnaker network;
- when the changes will occur;
- how will these changes affect Depnaker and Jamsostek relationships?
- reporting processes under decentralization.

(v) *Compliance and contributions*

- Which organization is authorized to collect, enforce and invest contributions;
- delegation for enforcement;
- regulations of processes of enforcement; and
- details of enforcement history, performance and statistics.

(vi) *Jamsostek Improvements*

- what are the general areas of formal complaint about Jamsostek performance?
- what are the general areas of informal complaint about Jamsostek performance?

(vii) *Control*

- Are the links to Depnaker essential for Jamsostek operation?
- do the links Depnaker-Jamsostek improve performance and accountability of Jamsostek?
- could Jamsostek report directly to People's Assembly and not through Depnaker?
- would this streamline operations and decision-making?
- which agency is responsible for audit of Jamsostek and how often is this done?

(viii) *Division of Responsibility for Jamsostek between Ministry of Finance and Depnakertrans*

- What is the division of responsibility between the two Departments?
- what arrangements there are for liaison between the two?
- are reports on financial returns, performance, etc. shared?

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6.3. In the absence of any meaningful response to several hours of meetings directed at information gathering, Depnaker was invited to complete questionnaires based on the above questions. None was returned and the experts had to rely on anecdotal evidence to support their recommendations.

6.4. The report on Jamsostek Operations and IT Systems indicates operational improvements and paves the way for establishing MIS systems that may be used to monitor the achievement of performance indicators. But these will have to be devised and negotiated as the systems are developed and link in with possible changes in the management system and culture, including support for human resources development of Jamsostek Baru. It is believed that further technical assistance will be necessary to establish the new management control systems that could form part of a second phase project designed to further strengthen Jamsostek.

6.5. Law No. 3 of 1992 provides for investigation and enforcement of compliance to be undertaken by labour inspectors with rights of entry to business premises, to interview persons employed there and with powers to take possession of items of evidentiary value. These labour inspectors have been part of Depnaker – not under the control of Jamsostek. The inspectors have other duties, including:

- health and safety inspections;
- labour standards;
- wages inspection; and
- investigation of industrial disputes.

6.6. Since 2001 the responsibility for labour inspectors has been devolved to provinces and undertaken by Dinas. The force of labour inspectors is under complement in many areas.

6.7. The report on enforcement of Law No.3 of 1992 by the Department of Manpower and Transmigration for 2001<sup>5</sup> shows that labour inspectors carried out enforcement in only 11 of the 30 thirty provinces. Despite widespread non-compliance, only 56 employers were prosecuted – 47 of these were from the Jabar province, indicating the unevenness of the enforcement process under government control.

6.8. The report further indicates that:

- in the eleven provinces where the enforcement is carried out, 12 per cent of the employers are liable but have not registered;
- only 46 per cent of employers had been informed of the requirements of Jamsostek;
- notices were sent to only 40 per cent of employers who had not complied with the Law; and
- only 1.3 per cent of these employers who were given notices of non-compliance were prosecuted in the Courts.

6.9. Information gained from discussions during the regional workshops in February 2002 indicated that since decentralization some Provinces had introduced local taxes that were being collected by Dinas. In these provinces the enforcement of Jamsostek contributions was accorded a lower priority than other collections. Thus the inconsistency indicated for the enforcement process under the direct control of Depnaker is likely to deteriorate further following decentralization. It was also alleged at regional

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<sup>5</sup> See ILO Report on Employment Injury and Death Benefits.

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workshops that in some instances Jamsostek staff were too ready to accept a low payroll figure and level of wages at the minimum wage level without confirmation.

6.10. The project considered the issue of enforcement in the light of international experience and from a number of viewpoints, including: current practice; the present scope of work of officers charged with enforcement; the need to improve the line of control; and the future needs of Jamsostek in relation to staff resources and management succession.

### **6.1.1. Current practice**

6.1.1.1. As indicated above, the present responsibility for enforcement rests with labour inspectors. As far as could be established (see paragraph 6.2), when non-compliance is suspected by Jamsostek accounts managers, this is reported to the labour inspectorate for action. In many cases it seems that an initial estimate is done by Jamsostek accounts managers of the extent of liability and that this estimated sum is the amount that labour inspectors seek to enforce. Thus the sum enforced may well be less than the actual liability since any demand for payment will not be based on an actual assessment of liability from wages records and interviews with workers. In effect this is condoning non-compliance. In only some cases is there any real investigation by labour inspectors into possible contravention with the labour laws. Discussions with Jamsostek suggested that only rarely was any feedback provided in response to reports of non-compliance, despite the arrangements for coordination meetings at Regional and Branch/Area level between Jamsostek and Depnaker. Apart from the Depnaker report referred to at paragraph 6.5 it was not possible to quantify the number of reports or the results of any investigations or validate the thoroughness of the investigations.

6.1.1.2. What should happen in a well-run enforcement system whenever non-compliance is suspected or reported is that an inspector should conduct a full inspection – including a careful examination of the wages records which should be reconciled with cash or bank transfers in respect of wages and through interview with workers on the employer's premises. The resulting assessment of liability should then be the basis of compliance action. But in order to carry out such inspections in each case of non-compliance the complement of inspectors and their span of work needs to be reviewed.

## **6.2. Scope of work of labour inspectors**

6.2.1. At present labour inspectors are responsible for:

*Jamsostek Social Security Functions including:*

- examination of wages records;
- investigating work-related accidents;
- investigating suspect non-compliance (possibly leading to appearance as a witness in Court); and

*Standards Functions including:*

- occupational Health and Safety Inspection;
- labour standards;
- wages;
- industrial disputes.

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6.2.2. In order to achieve an improvement in compliance, as it must be in future if the scheme is to remain viable, the social security inspector will need be the front line of Jamsostek's public interface – the main point of contact between employers and the institution. Inspectors will need to be directly involved in:

- registration and registration drives;
- payment of contributions;
- reconciliation and checking;
- questions of liability;
- payment of benefit;
- questions of entitlement; and
- work accidents.

6.2.3. These are some of the main areas where the operation of social security schemes directly comes into contact with the public. While much of this public contact is dealt with by caller counter services, the more difficult cases require the intervention or investigation by an inspector. This means that inspectors must have detailed knowledge of the social security scheme, including the range of benefits and qualification for entitlement; be conversant with all social security legislation, including Regulations on liability and the different insurance classification of different groups of Members; Rules of Evidence and the state of progress of each case the inspector has investigated. The range of knowledge required is broad and a range of interpersonal skills is necessary. Thus, while OHS is an important aspect of social protection, with direct implications for benefit outgo from the occupational injuries fund, given the staff complement and the need to improve the control of compliance and performance of inspectorate operations – the Project recommends that the standards functions of Labour inspection should be treated as a separate activity and deserving separate legislation and a separate inspectorate force.

6.2.4. Concern was expressed during the 2002 workshop programme that inspectorate work was open to fraud and abuse and that changing the system presented a moral hazard. This concern is fully understood by the ILO and it is considered that control certainly needs to be increased. The decentralization process – that would transfer responsibility from central, Depnaker control to Dinas through Provincial Governors – would tend to make control of abuse less consistent and more remote than formerly. What ILO is proposing is an inspectorate force with line management at Jamsostek branch and regional level with policy direction from Head Office. There would need to be a regular audit process, perhaps by a tripartite internal audit unit. This audit might routinely involve follow-up inspections to confirm the quality and honesty of inspections and having the potential to expose corrupt practices. There may be a need also to transfer inspectors from one area to another to minimize the potential for collusion. The development of standard operating procedures, performance indicators and targets and close supervision of work returns, receipt books and claims for expenses would supplement the control process.

6.2.5. The effectiveness of the enforcement process and its control can also be assisted through a simplified contribution structure (see Chapter 8).

### **6.3. Human resources**

6.3.1. The human resource requirements of Jamsostek Baru are going to be considerably greater than at present, given the need to extend coverage to groups presently excluded and assuming that there will be a phased improvement in the benefit programme. There will need to be a progressive increase in the number of Branch and Regional offices with a requirement for more managers. Should there be a new

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force of inspectors possibly with a regionalized command structure, this too will imply the need for more managerial staff with specialist compliance experience. Having trained this new cadre of inspectors it would be a huge waste of resources if they were not to be available to meet the human resource requirements of the future. Thus it is imperative that this new force of inspectors should be integrated into the Jamsostek staffing and career structure and, in the longer term, to be available to fill management succession needs. It also follows that Jamsostek should recruit, train and control the inspectorate force and that inspectors. These new inspectorate posts should carry appropriate conditions of service no less attractive than their indoor Jamsostek equivalents.

6.3.2. Through informal discussion with staff at various levels within Jamsostek it is clear that, while improvements have been made over the past two years, there is still some way to go to improve the corporate culture of Jamsostek, its staff morale and its level of performance.

6.3.3. In particular, there is a need for Jamsostek to develop and strengthen its managerial capacity to cover an enlarged membership and established new Regional and Branch offices where necessary. This creates the opportunity for a change in corporate culture to a more participative system involving staff at all levels to contribute to new strategies and systems. Such a process would benefit from developing shared values and the development of a new Mission Statement and perhaps a new logo that staff can feel ownership of. This process could evolve from a corporate strategic planning exercise with staff undertaking their own SWOT (strength weaknesses opportunities and threats) and PEST (political, economic, social and technical) analyses.

6.3.4. It would be helpful for agreed job descriptions for staff at all levels to be drawn up with procedures for review of individual staff performance against agreed standards. Following from this would be provision for an agreed management succession programme with arrangements for a comprehensive technical and developmental training programmes based on a training needs assessment. This might include the establishment of an appropriate grading structure for Jamsostek staff in Headquarters, Regional and Branch Office locations, including the newly created force of inspectors.

6.3.5. The study of the economically active population could be used not only to inform policy decisions on the phasing in of extension of coverage but also to inform an assessment of the human resource requirements and the implications for establishing additional Regional and Branch offices for Jamsostek.

6.3.6. There will be immediate needs for new staff for the inspectorate and IT and a continual need for new staff as coverage develops geographically and by sector or occupational group. This need indicates an ongoing requirement for training that can best be met by an in-house training facility. The ILO is in a position, via a future (Phase 2) technical assistance project to support the establishment of such a facility and with involvement in 'training for trainers' programmes.

6.3.7. Staff training and improved performance management should lead to increased professionalism, enable technical performance to be improved, and service to the public to be measured.

## **6.4. Contribution structure**

6.4.1. The present contributions structure of the Jamsostek programme can be seen from the following table<sup>6</sup>:

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<sup>6</sup> ILO Report to the Government on the financing and investment of Jamsostek and social budgeting in Indonesia 2002.



**Table1. Table of the breakdown of contribution rates of Jamsostek**

	Employer	Worker	Total (per cent)
Old age	3.7	2.0	5.7
Death	0.3	-	0.3
Work injury	0.24 to 1.74 (*)	-	0.24 to 1.74
Health care	3.0 (single) 6.0 (with dependents)	-	3.0 / 6.0

Note (\*): The contribution rates of employment accident benefit is set by group of business classification IV: 0.24%, 0.54%, 0.89%, 1.27% and 1.74%, respectively.

6.4.2 While it is essential that each branch of the social security scheme should have a measure of discrete accounting to ensure that contribution income, etc. is sufficient to meet future benefit liabilities, administrative costs of each branch, etc. It is considered that the contributions structure is needlessly complicated and indeed makes the enforcement of compliance more difficult and costly. It would be more in keeping with social insurance principles of shared risk and far simpler to administer if there were a unified contribution rate applicable to all employers.

6.4.3. The report on Occupational Injuries and Death Benefits recommends that there should be a unified rate for this benefit branch. There are a number of reasons for this including the fact that the high occurrence of accidents that occur while commuting to and from work (a risk common to all employment groups); the fact that in the present system no benefit accrues to the employers who introduce effective safety measures; and no account is taken of the relative benefit to the economy of some high risk occupations (such as oil production or mining) or potential harm to national health from some low risk industries (such as cigarette manufacture). There would certainly be administrative savings from a unified contribution. Since this programme shows an excessive profit of contribution income against benefit outgo it should be possible to unify the contribution, giving a greater solidarity and pooling of risk with only the lower risk groups suffering an increase in the level of contribution.

6.4.4. The other programme with variable rates, is the health care programme where there is a difference in contribution payable in respect of the single and the married worker and between those employers covered compulsorily and those who have 'opted out' on the basis that they have better health care protection in place. A number of reports<sup>7</sup> have commented on the 'opt out clause' indicating that not only is it regulated ineffectively but also that it conflicts with the social insurance principle of sharing risk across the whole of the workforce. There are also indications that the enforcement of contributions at the correct rate may not be done other than as a result of a claim in respect of the family of a married worker.

6.4.5. Thus, in the interests of risk sharing and simplification of the enforcement process, consideration should be given to introducing a unified rate of contribution across the board. The contributions once collected and recorded would, however, continue to be separated for discrete accounting within each element of the programme to ensure that benefit outgo and the cost of administration for each was matched by the contribution income, taking account of the differing needs to accumulate reserve funding.

6.4.6. When the contributions structure is reviewed, consideration should also be given to extending and advertising the various payment possibilities for contributions, especially those available to would-be voluntary members. The availability of voluntary membership by groups presently excluded (such as self-employed, informal sector workers and migrant workers) needs wider publicity. Such payment systems should, in future, take account of new technology such as internet banking that would enable people to contribute while working abroad.

<sup>7</sup> ILO Report on Jamsostek Health Care Programme. ILO Report: Project Preparation Mission in the Area of Social Health Insurance in Indonesia 5th To 28th November 2000.



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## 7. Extension of coverage to excluded groups

### 7.1. Social security coverage in Indonesia

7.1.1. Indonesia has a population of some 210 million people of whom about 95 million were classified in the year 2000 as being in the labour force. The majority of these were classified as being in the “informal” sector. Alternative definitions of what constitutes formal and informal sectors exist. However, using the formal classifications of employment status used in the labour force survey, about 35 per cent of the employed labour force of 90 million can be regarded as employees or employers, with the other 65 per cent being in various forms of self employment or irregular and mixed activity. These range from peasant farming to a wide variety of trades and casual activity, with large numbers of unpaid family workers. In urban areas the informal sector includes many street vendors and people seeking remuneration from casual activity.

7.1.2. There were also around 8 million people classified as formally unemployed. This latter figure excludes the large numbers in the informal sector who would take up wage employment if they could find jobs. In addition about 1.5 million Indonesia migrant workers are estimated to be officially employed abroad, notably in Malaysia and the Middle East, particularly Saudi Arabia. The true totals of those employed abroad may be higher than this because of large numbers of undocumented and technically illegal workers also understood to be employed abroad.

7.1.3. Social Security coverage in Indonesia is currently confined to a minority of employee groups in the formal sector of the economy. These comprise members of Jamsostek, the private sector employee Social Insurance and Provident Fund scheme, plus members of the counterpart Government Employees and Armed Forces Social Insurance schemes.

7.1.4. Jamsostek is funded by contributions from employers and employees, and provides four programmes:

- old age benefit (a lump sum retirement benefit);
- occupational injury insurance;
- death benefit; and
- health insurance.

7.1.5. The Jamsostek provision for Old Age is (in practice) only a lump sum benefit – unlike the Government employee and military schemes which provide pensions.

7.1.6. The Jamsostek health care package covers worker members, spouse and the first 3 children only. Article 2(4) of Government Regulation No.14 of 1993 provides that employers with their own private health care provisions may opt out of the Jamsostek Health Insurance component of the system if the benefits they provide for their employees is ‘*superior to the basic Health Care Package*’. This has resulted in some adverse selection with better-paid workers more likely to be covered by private (or employer-funded) packages with the lower-paid, more vulnerable workers covered by Jamsostek. The risk pool is in consequence much smaller than it should be and with a lower level of funding than it should have. The year 2002 estimate of the number of persons covered by Jamsostek package was 2.7m persons (of whom 1.3 m were workers). The coverage of the public sector health care scheme (Askes) was estimated to be 13.8m (plus 0.72m ‘commercial’ members). Thus only some 17.22m people in Indonesia (with a population of 210 m) are covered by the formal health insurance schemes – leaving 91.8 per cent of the population excluded. Even adding in those covered by private health insurance, there are estimated to be 85 per cent of the population excluded.

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## **7.2. Membership of social insurance funds (income replacement schemes)**

7.2.1. Current Jamsostek active membership is understood to be around 9 million, though different estimates exist because of doubts about the extent to which the 18 million names recorded in the system include duplicate accounts and people who have moved out of employment. The 18 million aggregate also includes people who have formally retired or drawn benefits for other reasons. The Jamsostek system currently relies heavily on employer records, but these are often incomplete when workers change employers or exit employment. In addition the Government and Armed Forces schemes have somewhat over 4 million members. In total perhaps 13 million employed people in Indonesia have some form of active contributory social insurance cover. This is about 14 per cent of the labour force and about 45 per cent of the number of employees including those in the Government and Armed Forces. However, in the private sector Jamsostek membership is perhaps 35 per cent of the total of private sector employees.

7.2.2. Actual membership of Jamsostek is drawn mainly from large and medium scale enterprises. While the Labour Force Survey recorded over 2 million employers in the year 2000, only just over 97,000 were Jamsostek members, or less than 5 per cent of the total. It is clear from the statistics and also from field visits that most small employers do not enrol their staff in Jamsostek – even though legally liable to do so.

7.2.3. Legally, private sector employers are required to enrol their staff in Jamsostek if they have 10 or more staff or a monthly payroll of Rp. 1 million or more. However, since minimum wages in many provinces exceed 400 thousand Rupiah a month, most employers with more than 2 or 3 staff are legally supposed to be Jamsostek members. In practice this legal requirement is widely ignored, and Jamsostek lacks the capacity to enforce it.

## **7.3. Reasons for non-compliance with Jamsostek registration**

7.3.1. Consultations and discussion with employers and employees yielded a variety of reasons why people did not join Jamsostek:

- Jamsostek contributions were a cost to employers and a reduction in net wages for employees. Many felt that they could not afford this, or had better current uses for the money;
- some considered that Jamsostek programmes were not a good economic deal, with benefits being less than proportional to the scale of contributions;
- Jamsostek was not regarded as providing a very good client service – offices were few, particularly in the more remote areas, and response times slow;
- Jamsostek was seen as having invested members' assets unwisely;
- the large share of profits going to the Government in taxes and dividends was also seen as shrinking the scale of benefits that could be provided to members; and
- some people were not aware of the details of what Jamsostek provided, and others thought that membership was now voluntary.

7.3.2. To this list should be added the lack of inspection and enforcement capacity in Jamsostek. This is currently the responsibility of the labour inspectors in the Department of Manpower (Depnaker) and in the provincial administrations. These people also have many other duties.

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## **7.4. Exclusions from social security coverage**

7.4.1. In summary six groups in the labour force or population and their dependents currently lack coverage by formal social security arrangements. Some of these will access the limited forms of Social Assistance provided under the emergency Social Safety Net Programme which was put in place after the 1997 crisis. However, this is commented on in the separate paper on Social Assistance. The six groups excluded from formal social security coverage are:

- employees who are legally required to be members of Jamsostek, but are not currently enrolled;
- employees not currently required to be members of Jamsostek;
- people in the informal sector;
- the unemployed;
- migrant workers temporarily abroad; and
- households without adult earners.

7.4.2. Comments on possible strategies for covering these groups follow.

## **7.5. Illegal non-compliers**

7.5.1. The main strategies for increasing the rate of compliance with legal requirements for Jamsostek membership are dealt with in detail in the separate reports on Jamsostek covered elsewhere in the project. These include:

- turning Jamsostek from a Government profit making body (Persero) into a Trust Fund with a representative tripartite Board, thereby formally providing that member funds are to be used only for members;
- improving the Jamsostek information systems to provide better client information and help facilitate better client service;
- developing a client service culture and an expanded network of offices; and
- allowing Jamsostek to appoint its own inspectors to improve compliance.

## **7.6. Expanding the legal requirement to join Jamsostek**

7.6.1. Once Jamsostek has improved its administrative capabilities; it should be possible to initiate a process of progressively expanding the legal requirement for formal sector employees to be enrolled in Jamsostek. This could include the following steps:

- progressively lowering the size limit from 10 to perhaps 5 employees, and ultimately to cover all formal sector employees. There are, however, advantages from the enforcement point of view in including all employers in the next phase of extension, bringing in the whole of rest of the formal sector at a stroke; and
- using regulations to define various forms of “contracted” and casual employment as being subject to Jamsostek membership requirements.

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7.6.2. The path of progressive expansion of coverage to smaller and smaller enterprises is one used elsewhere in the world. Expanding the definitions of dependent employment is already possible under the Jamsostek law and its interpretation, but has not been widely implemented in practice.

7.6.3. However, enterprises in the construction sector have been compulsorily required to register since 1987. But the coverage is only for employment injury under a program known as JAKOM. Registration must take place before the start of a contract irrespective of the number of employees or the wages paid. The employer pays the highest rate of the variable rate of contribution for occupational injury coverage – that is 1.74 per cent of the total value of his contract.

7.6.4. Similarly, protection has been extended to transport workers in Makassar through their association. The association collects a flat-rate (Rp. 1,690 per member per day) for coverage of the contingencies of employment injury, death, medical and old age.

7.6.5. Workers employed at the harbour are also covered through special arrangements through their unions and at rates calculated by Jamsostek. Other groups are also being considered for coverage through special arrangements, including: Jakarta Port delivery drivers; public service vehicle drivers; Ojeg (motor cycle taxi) drivers and fishermen.

7.6.6. While this gradual extension of coverage is to be welcomed for the protection it provides, there appears to be no legal provision for such new instruments of coverage (other than that implied by the elucidation of Article 2 paragraph 3 of Government Regulation No. 14 of 1993 which permits voluntary membership). These arrangements can be compared with provision in group insurance coverage provided by private insurance companies and while on the one hand they indicate possible ways of extending coverage to informal groups by organizing them into associations or cooperatives and obtaining group (rather than individual) coverage, on the other they tend further to fragment social security coverage and are likely to lead to the proliferation of schemes within schemes – each with separately negotiated contribution rates and levels and ranges of benefit. There is thus an urgent need to study the arrangements and to draw up guidelines or model agreements to facilitate their eventual amalgamation with the mainstream of Jamsostek coverage. Such a study needs to take account of any possibility that there is an identifiable ‘employer’ who is controlling the manner or method of the services rendered by the worker. If such an ‘employer’ exists or such an entity could be treated as existing under a modification to the law, the employment could be treated as ‘formal’ and subject to the normal provisions of the scheme. Other persons could be treated as ‘self-employed’ and decisions may be taken regarding the scope of coverage for this group. Only the truly informal will then require separate, special treatment but even with the truly informal there should be some consistency of treatment.

## **7.7. The informal economy**

7.7.1. Covering the informal economy is a more difficult issue because of its enormous variety. Informal sector people range from urban street people with no assets seeking casual earnings from “minding” parked cars or directing traffic turns, to small traders with handcarts or street stalls, to farmers, traders and craftspeople with property and premises and equipment, and to unpaid family workers in farms and small businesses. In parts of Indonesia there are still people who are hunter-gatherers or slash and burn shifting cultivators. All these very different situations are currently classified as being in the “informal” sector.

7.7.2. At the stage of drafting this chapter of the report there was insufficient information to determine what approaches are likely to be the most successful with each of these groups. Basic information which will be required to determine this, includes:

- the financial capacity of various informal sector groups to contribute to social insurance type schemes of social security;

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- priority needs of each of the groups for various types of cover;
  - the mechanisms by which this is best achieved, including individual membership group membership, occupation-specific levies, or other forms of funding; and
  - the extent to which these needs and options can be incorporated in existing or revised Jamsostek programmes.

7.7.3. These informal sector groups were included in a further study on extending social security coverage (see paragraph 9.11).

7.7.4. Apart from contributory social insurance or related schemes, some of these groups may be eligible for Social Assistance in areas such as Health.

## **7.8. The unemployed**

7.8.1. Proposals to extend unemployment insurance to cover insured people in the formal sector who become unemployed are included in a separate Report (Part 4 of the project series).

7.8.2. For the unemployed who are not recent employees of the formal sector, (i.e. mostly school leavers and housewives seeking employment) there is currently little that can be suggested. Some options in the social assistance sector (e.g. special employment at low wages) may offer some options. Social Assistance may also offer some health cover. Coverage of other earners in the household through social insurance may also assist.

## **7.9. Migrant workers**

7.9.1. Indonesian migrant workers abroad lack domestic social insurance and are predominantly not covered or not adequately covered by social security in their countries of employment. The problems of covering this group of excluded workers once they return to Indonesia will be covered in the separate Report on extension of coverage (Part 10 of the project series).

7.9.2. Coverage for migrant workers abroad is a specialist area where coverage needs to be defined and ensured in reciprocal or other agreements covering migrant workers between Indonesia and the host countries.

## **7.10. Households without adult earners**

7.10.1. There is a minority of households in Indonesia which lack active adults capable of undertaking employment. These include some of the elderly, those where the adult members are physically or mentally disabled, and some sole parent situations. To the extent that there is no larger extended family or other group able to provide assistance, these people may subsist by begging.

7.10.2. In the long run this group will need to be supported by social assistance. This is commented on in the separate report on Social Assistance (Part 5 of the project series).





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## 8. Extending the coverage of social security

8.1. While some of the paths to extending social security coverage in Indonesia are clear, and involve actions which can be progressively implemented, in other areas options and possibilities are less clear. A scoping exercise was undertaken in the early stages of the project in May and June 2001 in order to identify the options for the study on extending coverage and literature research to identify the range of information available and the extent of the stakeholders. The scoping exercise also involved a number of visits to locations that employed workers not covered by existing provisions including a range of informal sector workers in the fishing, garment and food processing industries.

8.2. The study identified the groups not currently covered by social security, including in particular non-coverage by Jamsostek and other social insurance schemes, and proposed a strategy for extending coverage to these groups. It also distinguished the situation of three distinct groups, and identified the appropriate approaches for incorporating these groups into social security coverage, notably:

- workers in formal sector employment who are legally required to be members of Jamsostek, but are not currently in membership;
- workers in the formal sector who are not members of Jamsostek or other formal social insurance schemes, and are not currently required by law to be members, including groups which can be covered by broader definition of employment;
- workers in the informal sector; and
- overseas migrant workers.

8.3. The study comprise three distinct phases:

- phase I used existing statistical sources including the Social and Economic Surveys, the Rand Corporation Indonesian Family Life Studies, and Jamsostek and other statistical information to identify the size and composition of each of these groups, and in particular their apparent financial capacity to contribute to social insurance type schemes. It also examined selected international experiences with extension of cover and local projects on empowerment and self-help schemes for the poor and in the informal sector;
- phase II identified the extent and reasons for non-coverage of workers in the formal sector by Jamsostek, and the feasible options for extending coverage of Jamsostek by increasing compliance of those legally required to be Jamsostek members, and those in the formal sector who might be brought into coverage by extensions to the present law; and
- phase III involved surveys of people employed in the informal sectors of the economy to identify –
  - ☐ their priority needs in terms of social security cover;
  - ☐ the extent to which they have capacity to fund membership of contributory schemes, either individually or in terms of joint coverage of identifiable groups;
  - ☐ alternative options for funding social security coverage for these groups, including group schemes of various types; and
  - ☐ the extent to which these options can be fitted within Jamsostek or other social insurance programmes.

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8.4. The project extension to the end of 2002 granted by the Netherlands Government enabled completion of the survey of the economically active population in an area of Jakarta and another in Bandung, West Java. Considerable enquiry was made of people working in the informal economy regarding their social protection needs and ability to contribute. In a later phase, the study focused on informal sector workers in the handicrafts industry in and around Yogyakarta in Central Java. The objective was to explore contractual links between the various levels of activity – the craft making, distribution, retailing, etc. to establish what control was exercised in quality, quantity and manner and method of working – with a view to identifying possible sources of capital to tap for a social security contribution and also to consider broadening the definition of ‘employer’ to enable handicraft workers to be ‘treated’ as employed persons within the meaning of the legislation and so bring them under a similar level of protection as formal sector workers.

8.5. Clear priorities were expressed within the informal economy that health care was of paramount importance, followed by accident insurance. Since most people in the informal economy would be unable to afford the full Jamsostek contribution giving access to the full range of benefits, the possibility of provision for partial cover being made for the sector is being considered. The alternative of micro insurance for individual groups is thought to suffer from too small a risk pool unless there is re-insurance via the main scheme funded through cross subsidy. But the law will need to be changed to enable this to be done as, with the exception of the ‘opt out’ clause in the provision of healthcare, it does not permit less than the comprehensive range to be provided. The difficulty of confirming that any accident to an informal sector worker in respect of which benefit may be claimed is ‘work-related’ adds support to the view expressed elsewhere in this project report that broadening the scope of employment injury to include all accidents should be considered.

8.6. Some of the other relevant findings from the survey include the salary of informal sector workers which ranged between about one half and four times the average minimum salary, most were self employed and the 40 per cent of self employed respondents employed a total of over 4000 employees suggesting that the employer/employee relationship requirements of the social security law would provide for these workers to be covered by Jamsostek. Other important findings suggested that about 60 per cent of respondents believed that individuals should be responsible for their social security contributions and 42 per cent indicated that they would be prepared to contribute to a suitable scheme.

8.7. The findings concluded that extension of coverage to the informal sector if feasible and should be based on the self-help groups and cooperatives that are supported by a combination of existing NGO’s and suitably trained field officers from the social security agency. The programs must be tailored to the needs of the relevant groups and will vary from place to place. The principles of any extended scheme to the informal sector and overseas migrant workers should be flexible, affordable and sustainable and based on an extended pilot programme in a few sites with a view to extending the successful model to other parts of the country. Full details of the findings and recommendations are contained in the report Study on the Extension of Coverage to Excluded Groups (Part 10 of the project series).

8.8. It should be mentioned that the International Expert was authorized to supervise the Yogyakarta component of the study from Australia in view of security concerns immediately following the Bali bomb explosion on 12th October 2002.

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## 9. Benefit programme studies

9.1. The benefit programme studies required under Output 2.1 were feasibility studies on:

- the replacement or partial replacement of the JHT provident fund by a defined benefit pension scheme;
- the replacement of lump sum payments in respect of employment injury and death benefit by periodic payments;
- the introduction of a maternity benefit scheme based on social insurance principles to replace reliance on employers' liability provisions;
- the introduction of an unemployment insurance scheme; and
- the establishment of a social assistance system as a component of a permanent social safety net.

9.2. A study of the *Jamsostek Health Care Programme* was also undertaken. This study was to review the role of Jamsostek in relation to the provision and financing of access to health care and its relationship with other health care providers and insurers.

9.3. The reports on the feasibility studies are contained in separate Parts (2-7) of this *Report and the Report to the Government on the financing and investment of Jamsostek and social budgeting in Indonesia*, which analyses and projects total social expenditure against anticipated income, is Part 8. The Report: "*Review of Operations and Information Technology Systems of PT Jamsostek*" that was undertaken as part of this present project is also published separately (Part 9). Part 10 of the series is the report on *Extension of Coverage to Excluded Groups* undertaken in the period 16th September to 15th November 2002 of the project extension.

### 9.1. Pensions study

9.1.1. The report: "Pensions Reform in Indonesia" is Part 2 of the series of reports of the social security project. It explains the various options for converting the Jamsostek provident fund into a scheme for paying periodic pensions on reaching pensionable age or retirement from regular employment. The options identified are:

- conversion of the provident fund directly into a pension scheme, by activating the provision of Article 24 (2)(b) of Government Regulation No.14 of 1993 (made under the social security legislation – Law No.3 of 1992) for paying out the accumulated balances as periodic pensions. It would be necessary to remove the limitation of payment over a maximum 5-year period and develop a system for calculating annual interest on decreasing balances. The report points out that, while this may be the simplest solution, requiring only minor legislative change, it has certain notable disadvantages including:
  - ☐ the average lump sum accumulated up to the present time is too low to be converted into a meaningful pension;
  - ☐ this would still be individual savings not 'social insurance' and there would be no change in solidarity within the workforce;
  - ☐ there would be no income redistribution within or between generations; and
  - ☐ it would be difficult to provide for indexation of pensions with the movement of prices or wages;

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- a notional defined contribution scheme whereby workers earn ‘pension points’ from their social security contributions towards an eventual pension. In this system a worker earning the equivalent of the national minimum wage might receive one pension point per year, while a worker with earnings at or above an upper earnings level for contribution liability (e.g. three times the national average wage) might receive three pension points in the year. Pension points could be re-valued annually in line with changes in earnings levels, prices or a combination of the two. There could be simplified recording of pension points rather than earnings or contributions and pensions would eventually be awarded on the total points earned during the working life. However other technical considerations make the introduction of such a scheme not feasible at the present time;
  - a mandatory defined contribution scheme in which contributions are collected and invested by Jamsostek or transferred for investment by an approved and regulated private pension company. The accumulated sums would be used at retirement age to purchase an annuity (with the possibility of commuting a part of the accumulated sums to a lump sum). The advantages of this system for Indonesia, many of which also apply to other options, are considered to be outweighed by the disadvantages. In particular, such schemes are complex and need strict regulation. The risk of poor investment returns is carried by the contributor and such schemes are vulnerable to economic recessions;
  - a mixed pension system under which a flat rate defined benefit system would be mandatory for all workers, supplemented by a defined contribution system (with the possibility of investment choice) being mandatory only for workers with an income above a certain level. Although such a system might suit the diverse labour market in Indonesia, operating two different systems in tandem may be considered to be too divisive and too complicated to meet the objective of transparency and too administratively expensive to be viable in the short term;
  - a partially funded public defined benefit scheme that would pay benefit after a fixed number of years during which contributions have been paid is the system that the Report recommends as being most suitable for the conversion of the Jamsostek Provident Fund. Such a scheme provides the opportunity for policy choices concerning the level of income redistribution. The level of pensions payable are easily capable of being revalorized in line with inflation or movement in wages since current pensions are paid for by current contributors rather than being a direct product of the pensioner’s own previous contributions. This basically pay-as-you-go (PAYG) system can include the desired measure of advance funding so that substantial reserves can be built up that will be available for investment. This would not only assist economic development but also delay the need to increase contribution rates. The scheme would provide reasonable and predictable pensions, taking advantage of pooling principles of social insurance – on retirement, for invalidity or death (i.e. survivors’ benefit) within a few years of the scheme’s inception.

#### 9.1.2 The main features proposed for such a scheme are:

- coverage would be all workers except those covered by TASPEN or ASABRI, possibly including self-employed in prescribed occupations or status;
- contributions would be close to the present level – a rate of 6 per cent (4 per cent for employers, 2 per cent for workers and 6 per cent for self-employed) is the starting rate proposed in the Report but this would probably need to be increased when a full actuarial valuation is undertaken with up-to-date data;
- a contribution ceiling of Rp. 2m above which higher wages would not attract contribution liability is proposed. This could be raised periodically in line with wage increases;
- part-time and low-paid workers could be covered by flat-rate contributions of Rp. 40,000 per month (shared between workers and employers) plus an additional Rp. 20,000 payable by employers for

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every full-time worker as a subsidy to the scheme. Lowly paid self-employed would pay a Rp. 40,000 contribution instead of the normal 6 per cent;

- pension age recommended is 60 years with no retirement condition or 55-60 years subject to retirement from employment;
- qualifying conditions would be 180 months contributions (15 years) with at least 120 contributions actually paid. This would give rise to a pension of 25 per cent of average insurable earnings with each additional month attracting an additional 1 per cent. Special qualifying conditions could apply to provident fund members and persons unable to qualify for a pension;
- minimum pension would be 60 per cent of the minimum wage (or a lower percentage of the national average wage); and
- benefit ceiling based on three times average earnings (i.e. currently Rp. 1.5m).

## **9.2. Employment Injury and death benefits**

9.2.1. The report: “Employment Injury and Death Benefits” is Part 3 of the series of reports of the social security project. The Report notes that a previous ILO study conducted in 1993 made a number of recommendations for improving the operation of the Jamsostek JKK scheme and its benefit structure that have not been implemented. Inevitably many of these recommendations are made again in the 2002 Report.

9.2.2. In particular, it is recommended that the present variable of contribution should be changed to a unified rate payable by all employers, irrespective of their ‘risk’ category. A unified rate would be more simple and cheaper to administer, facilitating more effective compliance enforcement – a major problem with the Jamsostek scheme. It would also be more consistent with risk pooling principles of social insurance that are understood to be enshrined in the model for the new Indonesian national social security system presently being planned. The present contribution system, while potentially impacting on occupational health and safety outcomes, contains no direct reward or benefit to employers with low accident rates or who introduce improved safeguards. Neither does it penalize employers who flout OHS regulations since there is no provision for employers to move up or down from one category to another. The increasing incidence of commuting accidents – an accident risk common to all categories of employment – further indicates that the time is ripe for a change to a shared-risk contribution system. The possibility of broadening the scope of coverage to all accidents, whether work-related or not, would simplify entitlement decisions but the cost of such coverage would need careful costing. The Report mentions the current trend in Asia for travel insurance to be brought under the social security umbrella and refers to the compulsory, third party travel insurance provided through PT Jasa Raharja since 1964. In order to avoid the complication of different levels of cover in respect of different accidental causes, the Report further speculates about the possibility of an eventual ‘incapacity benefit’, covering the affects of general sickness and accidents, whatever the cause.

9.2.3. The consistently large excess of contribution income over benefit expenditure for this branch of Jamsostek provides the opportunity not only to review the level and range of contributions but also to improve the level of benefits. Especially necessary, despite increases to benefit levels made in October 2001, is a change to periodic benefits payable throughout the contingency to replace the present, largely lump sum system. This would bring the JKK scheme closer to the requirements of the ILO Minimum Standards Convention No.102.

9.2.4. The Report also comments on the need to review:

- the scope of coverage of occupational diseases – due to the list of diseases not reflecting developments in this field;

- the scope of commuting accidents – with a view to extending it to other work-related journeys;
- the provision of artificial aids or prosthetics – presently these are provided only once with no provision for replacement or repair;
- the extension of coverage to all enterprises (i.e. those employing less than 10 employees);
- the need for enhancement of medical care for the injured and improvement in provision for vocational and physical rehabilitation; and
- the need for the provisions for Death Benefit to be changed to provide survivor's pension to the primary dependants of the deceased or, where there are none, to the secondary dependants.

### **9.3. Unemployment insurance benefit**

9.3.1 The report: “Report on the Feasibility of Introducing Unemployment Insurance Benefit in Indonesia” forms Part 4 of the series of reports on this project.

9.3.2. Despite the long-term desirability of introducing unemployment insurance benefit there was no consensus on the priority to be accorded for planning this. The thoughts of workers, particularly, were focused on changes to the controversial redundancy payment provisions. Although the ILO considers that provisions for severance payments should be a matter for collective bargaining between employers and workers (rather than forming part of the social security programme), there is clearly a need to avoid double provision by employers and ‘double dipping’ by workers who lose their jobs. On this basis the report considered possible ways of taking account of the two methods of protection against unemployment. A possible mechanism for employers to deduct the amount of unemployment benefit payable from any liability for severance pay seems the most feasible funding option involving severance pay.

9.3.3. The Report concludes that it would be feasible to set up a system of contributory unemployment insurance for the formal sector, though not yet for the wider, unemployed population. A rough estimation of the cost of a scheme is given suggesting that unemployment benefit, for a maximum duration of 3 months and set at 50 per cent of insured wages could be funded by a contribution of 2 per cent of insured wages. It was also concluded that it would take at least 3 years to plan and implement a scheme, including capacity within Jamsostek for making periodic payment of benefit.

9.3.4. Discussions with workers’ and employers’ representatives regarding who should pay contributions in the event of the introduction of unemployment benefit insurance indicated not surprisingly, that views on this were conflicting. The pros and cons to each of the options are discussed in the report.

9.3.5. An unemployment insurance benefit scheme could be added to the programmes presently operated by Jamsostek, the existing employee social insurance fund. However, it would first be necessary to implement a series of reforms in Jamsostek to enable unemployment insurance to be implemented and safeguarded. Many of the reforms necessary also apply to improvements to other branches of benefit within the present Jamsostek benefit programme or to its future enhancement.

### **9.4. Social assistance**

9.4.1. The report: “Report on the Feasibility of Introducing Social Assistance in Indonesia” forms Part 5 of the series of reports on this project. This report looks at the feasibility of developing a more long-term system of social assistance in Indonesia following on from the emergency Social Safety Net measures which were set up following the 1997 crisis.

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9.4.2. The Report concludes that Indonesia will need to have some form of longer term ongoing social assistance programme. However, the existing system, while innovative, is poorly administered and badly targeted with high “leakages.” Its longer term funding is also in question. Indonesia is in a social and economic situation where it can no longer rely solely on traditional relationships to deal with problems of poverty and loss of livelihood.

9.4.3. A number of options for administering and funding social assistance are discussed in the report. The most promising options for further exploration would seem to involve some negotiated arrangements between central and local governments. The amount of central Government assistance could be in proportion to the number of poor people in the area. Knowledge about variations in aggregate poverty rates by area is one of the issues upon which the Government of Indonesia has reasonably good statistics which could be used as the basis for a “sliding scale” of grants to local areas. Such an approach would mean that poor areas would get more assistance in relation to the size of their total population than richer areas. It would also mean that if rich areas chose to provide a more generous level of social assistance than any national minimum standard, then they would have to pay for the extra out of their own revenues.

9.4.4. To make this system work it would be necessary to have regular evaluations and audits to ensure that funding was being used for the approved purposes. Government funding could be reduced or withheld in the event of substantial irregularities occurring.

9.4.5. The Report noted that the public authorities have limited financial capacity to provide Social Assistance to the poor, and lack effective administrative channels to ensure accurate targeting of what assistance can be provided. There also appears to be little social consensus on future directions for Social Assistance.

## **9.5. Maternity protection**

9.5.1. The Report on “Maternity Protection” is Part 6 of the series of reports of the social security project. This Report recognizes the fact that the position of women in the economy has changed over the past decade with more women being in employment, in both the formal and informal sectors. The present system of maternity protection: consisting of the provision of health care during pregnancy and confinement via the Jamsostek basic health care package or, where employers have opted out of this, by private provision; and employers’ liability cash maternity benefit, appears to be working satisfactorily based on the absence of recorded complaints. However, anecdotal evidence from individuals and women’s groups suggests that the system tends to breed discrimination against women in terms of their employment and security of employment. There is inadequate provision for the employers’ liability scheme to be policed to ensure that women actually receive their entitlement; the levels of benefit – both in cash and in kind – are inadequate; and there is inadequate enforcement of occupational health and safety regulations to safeguard the expectant mother and her foetus against exposure to toxic substances and hazardous working conditions. It is also true that the OHS provisions do not adequately protect men to similar exposure which may affect the health of a future foetus but this was rather outside the scope of the present study.

9.5.2. Although it was not possible within this study (or the social budget exercise undertaken as part of this project) to obtain data on the real cost to employers of meeting their obligations under Government Regulation No.21 of 1954 to pay maternity benefit for 12 weeks (6 weeks either side of the date of confinement), the consultant estimated that a contribution of 0.9 per cent of insurable earnings payable by all employers in respect of all their employees (i.e. both men and women on the basis of shared risk) could fund not only cash maternity benefit but also the cost of health care during pregnancy and confinement. Such a social insurance maternity benefit would be administered by Jamsostek. The contributions would be collected together with those for other social security branches but separated following payment for discrete accounting of administrative costs, benefit outgo, etc.

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9.5.3. Employers might be responsible in the first instance for paying the benefit but this would be refundable by Jamsostek on proof of entitlement and payment. While such a scheme would not, overall, increase employment costs, it should ensure less discrimination against women and also have a beneficial effect on the high incidence of maternal deaths.

9.5.4. The Report also commented on the need to make better provision for care of the expectant mother during pregnancy (rest periods and improved working environment) and after confinement (time off and facilities to feed the baby and provision for storage of breast milk or formula feeds).

9.5.5. While the Report recommended that the provision of cash maternity benefit should be limited to the first three children, in line with the present Government policy to influence family size, it recommended that the provision of health care to the mother and new-born child should not be so restricted in case this were detrimental to the health and safety of the mother and child.

## **9.6. Jamsostek health care provision**

9.6.1. The Report on the Jamsostek Health Care Programme is Part 7 of the series of reports on the project. It includes a study and assessment of health care policy in Indonesia and the extent to which the systems in place have been able to meet the expectations of the persons covered by health insurance and those who are not.

9.6.2. It describes the system of financing and the results of the previous piecemeal approach to planning this. In particular the report describes the elements of the 3-tier system, which is additionally fragmented by the size and geographical sub-division of the country.

9.6.3. The report discusses the issues of equity and the difference between the level of protection provided to workers in the formal sector where the public and private sectors belong to different schemes, each with its own contribution and benefit structure. Neither group is particularly content with the way these schemes are administered – or with the levels of benefits provided.

9.6.4. The mechanisms used for health care provision for the poor and disadvantaged groups. Possible ways of reorganizing health care provision so that each group is better protected are discussed. The following scenarios for reform are examined:

- reforming each sub-sector separately – addressing main efficiency and equity issues within each sub-sector separately while maintaining system segmentation;
- the integration of social health insurance – maintaining system segmentation between the poor and informal population and the formal population but developing a single, unified system for the formal sector with either:
  - ☐ an actual single integrated system with a single payer or insurance carrier; or
  - ☐ virtual single integration through ‘same rules of the game’ for all insurers (premium setting, package, etc.) but with competition permitted between insurers, possibly with some mechanisms in place to compensate for the eventuality of market failure;
- total system integration – with the formal sector subsidizing the premium for the poor and the informal sector, so that they can join any insurer they choose (within the above scenarios). It would mean total separation of purchasing and provision and a radical shift from historic supply-side financing to “portability” of the public subsidy.

9.6.5. In order to put the question of possible reform into context, the report examines the shortcomings of the present system – focusing on the problems of the JPK Jamsostek health care programme. A prima



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facie case is made for considering the possible merger of the Jamsostek health care programme with the parallel scheme run for civil servants by PT Askes. However, given the national commitment to develop a comprehensive social security scheme (JAMSOSNAS), it follows that there is a strong probability that a new network will be required. Once the system has been designed embodying the specific national answers to a number of policy issues, then will come the time for the structure appropriate for its implementation to be considered. This may call either for new (or different) institutional arrangements, or for some kind of integration or rationalization of the existing ones. Thus it is the design of the system that should determine the institutional arrangements – not the other way round.

9.6.6. Thus, the report argues, further detailed argument on possible institutional rationalization of the provision of health care is premature and that further study is necessary in the light of the shape of the new, comprehensive programme being developed by the Task Force.

## **9.7. Actuarial report and social budget**

9.7.1. The International Labour Office has prepared a report entitled: “Report to the Government on the financing and investment of Jamsostek and social budgeting in Indonesia”– Part 8 of the project series. This report presents the main findings and conclusion of the actuarial and social budget expert team in the project “Restructuring of the Social Security in Indonesia (INS/00/M04/NET)”. The scope of the report covers an assessment of the demographic and economic background for the development of social expenditure, an actuarial valuation of the Jamsostek scheme to examine its financial sustainability and to identify weaknesses in its financial structure, a review of the investment policy and financial management, and a development of a social budget model for Indonesia for the national financial planning.



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## 10. Conclusion

10.1. This project on restructuring the social security scheme should really be regarded as the first step in an ongoing process of reform. The development of any social security programme is inevitably a long-term process taking many years. There is no doubt that the process in Indonesia will be no more swift than in other countries and the ongoing financial problems may even mean that it takes a good deal longer than most.

10.2. This ‘first step’ focused on the private sector social security scheme administered by PT Jamsostek. One aspect of the project – assistance with the change of status of the institution from a profit-orientated limited company into a trust fund – did not fully achieve its objectives during the life of the project, despite the fact that the objective has wide support. The change of status is virtually certain to take place eventually. But whether it does or not, the other outputs of the project clearly indicate the need to proceed with further institutional strengthening of Jamsostek so that it can become a respected institution administering the social security scheme with efficiency, transparency and honesty. There are many facets to this including the need for:

- changes to the operational systems including and especially the numbering system;
- re-engineering the IT systems;
- re-orientation of the culture from employer-centred to employee-centred;
- introducing an effective compliance enforcement system with inspectors employed and controlled by Jamsostek;
- introducing reliable internal audit systems, probably tripartite based to ensure their credibility;
- changing the management culture based on performance with improved Human Resources policies to ensure that corporate values are shared throughout the institution, that all employees have proper job descriptions, performance standards and that their performance is reviewed and appraised periodically;
- the new culture is supported by a meaningful training programme with the establishment of on-going training facilities;
- the membership base is increased so that the whole of the formal sector is covered – with progressive extension of coverage to the informal sector; and
- that the benefit programme is meaningful and reactive to national priorities.

10.3. The feasibility studies have indicated many areas where improvements might be made to the benefit programme – some without the need to increase the burden on the economy. Others, like the possible introduction of a social assistance scheme, are likely to be longer in reaching the Statute Book. But the reports should be read in the context of providing a basis for GOI to develop strategic objectives for the development of the social security scheme.

10.4. In this connection the establishment of the Presidential Task Force on Social Security Reform has been especially timely. The stage has been reached when longer term planning of social security needs to be coordinated across the board to obviate the piecemeal approach that has hitherto characterized social security development. There is no doubt that in future one part of the programme cannot be developed or changed without impacting on the other parts. The interrelated issues include: contribution collection – the establishment of dual or multiple collection mechanisms are too administratively expensive; financing – the level of contribution for all the programmes needs to take account of the impact on the economy;

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and policy – possible changes or enhancements to benefits such as health care, unemployment or redundancy and pensions interact on the other programmes.

10.5. Thus it is recommended that any future social security project should work closely with an agency (such as the Task Force) responsible for coordination of policy across the whole range of social protection. Individual technical Departments should have inputs, of course, on issues such as quality but overall policy development needs to be undertaken at the highest level.

10.6. The commitment being given currently to the development of the national social security scheme (JAMSOSNAS) – with possible implications for a future comprehensive system with benefit provisions that are unified or harmonized between the public and private sectors – indicates the need, once the overall design of the scheme is known, for consideration to be given to the most appropriate institutional structure to run it. Such consideration is likely to reveal that the system may call either for new (or different) institutional arrangements, or for some kind of integration or rationalization of the existing ones. It is worth remembering, even at this early stage that it is the design of the system that should determine the institutional arrangements – not the other way round. In the meantime coordination of technical cooperation projects and inputs should be aware of the need of the ‘big picture’ and try to ensure that the development of individual parts of the programme, including any institutional changes are not inconsistent with longer term objectives and do not make future integration more complex or difficult.

10.7. An outline project proposal (SPROUT) has been prepared indicating possible technical assistance activities during a 3-year project. This, 2nd Phase project has the principal objective of assisting the Task Force to develop the concept of a national social security umbrella. This will entail consensus-forming meetings and workshops leading to a formal discussion document that should be made available to fuel a national debate. It is anticipated that the feasibility studies undertaken as part of this present project and intended to assist the Government to formulate a national strategic plan will assist with this development process. Thereafter technical assistance will be needed to draft an enabling bill.

10.8. The project also envisages the need for further strengthening of Jamsostek and bringing to fruition the process of changing its status. If successful, the lessons learned from the process could assist with the institutional strengthening of the other social security institutions under the JAMSOSNAS umbrella and Jamsostek Baru could represent the model for the others, since the Task Force are inclined to the belief that the ‘Trust Fund’ concept should be adopted for the new scheme.

10.9. Also part of the 2nd Phase are proposals for implementing benefit programme improvements; extending the scope of coverage to groups presently excluded from the social security programme – in particular: the rest of the formal sector, migrant workers, and the informal sector; and for coordination with other social security projects (including the EU projects on developing social health insurance).

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## 11. Annexes

### 11.1. Annex 1- English language version of the bill to change the status of PT Jamsostek

**Draft bill number... year 2001**

**On the amendments of Articles 25, 26, 27, and 28 of Chapter VI of Act No. 3 Year 1992  
on the Social Security for the Labor Force**

**The President of the Republic of Indonesia**

Considering:

- a. That principally, the fund accumulated in the Social Security System for the Labor Force is the participants' possessions that are entrusted to the administering agency to be managed in order to provide the benefits as referred to under Act No. 3 of Year 1992 on the Social Security System for the Labor Force,
- b. That, in accordance with TAP MPR RI No. IV/ MPR/ 1999 on the State Policy Guidelines for the 1999-2004 Period, the management of social security for the labor force [shall] involves the government, the enterprise and the worker,

[Translator's note: TAP MPR RI No. IV/ MPR/ 1999 refers to the decree number IV issued in 1999 by the People's Consultative Assembly of the Republic of Indonesia, which is the country's highest legislative body.]

- c. That, because of that, it is considered necessary to make changes to the way the accumulated fund is treated, to the accounting system and the legal status of the agency that manages the social security,

In view of:

1. TAP MPR RI No. IV/ MPR/ 1999 on the 1999-2004 State Policy Guidelines,
2. The 1945 Constitution, Subsection (1) of Article 5, Subsection (1) of Article 20, and Subsection (2) of Article 27,

With the approval of the House of Representatives of the Republic of Indonesia

#### **Decides**

To establish: an Act on the Amendments to Articles 25, 26, 27, and 28 of Chapter VI of Act No. 3 of the Year 1992 on the Social Security System for the Labor Force.

#### **1. Article 1**

Articles 25, 26, 27, and 28 of Chapter VI of Act No. 3 of the Year 1992 on the Social Security System for the Labor Force are amended as follows:

Article 25        The fund accumulated into the Social Security System for the Labor Force that comes from the contributions of employers and workers and the results of the investments of the contributions shall be treated as a fund being committed or entrusted by social security participants or members to the administering agency to be managed in order to provide the security stipulated under Article 6 of Act No. 3 of the Year 1992. Hence, the benefits shall not be subjected to the income tax.

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## Article 26

- (1) The accumulated fund shall be managed by the Social Security Council (or the Council for short), which shall be formed on the basis of this Act [and serve] as the trustees of the fund on behalf of the participants
- (2) The Council referred to under subsection (1) of this Article shall be made up of members who represent the aspirations of:
  - the worker, who shall be represented by 3 (three) persons;
  - the employer, who shall be represented by 3 (three) persons;
  - the government, who shall be represented by 3 (three) persons, one from the Ministry of Manpower and Transmigration, one from the Ministry of Finance, and the other from the central bank, Bank Indonesia;
  - social security-related experts and there shall be 3 (three) of them; one of them shall be a social security expert; another one shall be an actuary and the other one an accountant;
  - the President Director of the Executive Body of the Social Security for the Labor Force.

The Council shall be appointed by the President for a term of office of 3 (three) years extendable to another three-year term

- (3) The Council shall be equipped with an Investment Committee, which consists of social security experts and investment experts, and an Audit Committee, which consists of financial and management auditing experts, to help the Council carry out its duties and obligations.

## Article 27

The operation, administration and day-to-day management of the social security system for the labor force shall be carried out by the Social Security Executive Body (or Body for short), which shall be established on the basis of this Act as an implementing agency that implements the policies set by the Council.

## Article 28

The administrative and accounting systems, investments, organizational structures, job descriptions, obligations and responsibilities of the Council and Body as referred to under Articles 25, 26, and 27 shall be regulated further under a Government Regulation.

### 1.1.1. Article 2

This Act shall come into force upon the date of its promulgation. So that everyone takes cognizance of this, [the President] orders the promulgation of this Act by having it placed in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta

On ..... 2001

The President of the Republic of Indonesia  
Megawati Soekarno Putri

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Promulgated in Jakarta  
On.....2001

State Secretary of the Republic of Indonesia  
Bambang Kesowo, SH. LLM.

**The State Gazette of the Republic of Indonesia Year... Number...**

**Explanatory Notes on**

**The Act of the Republic of Indonesia**

**Number ... of the Year 2001**

**On the Amendments to Articles 25, 26, 27, and 28 of Chapter VI of Act Number 3 of the Year 1992 on Social Security for the Labor Force**

**1.2. Generalities**

The social security for the labor force, which serves as a protection and welfare program for the labor force, shall apply to all labor force in an compulsory manner and in accordance with the legislation. This program shall be fully financed through the contributions paid by the worker and the employer. Therefore, the fund that results from the accumulations of the contributions is essentially the participant's mandate that is entrusted to the administering agency to be managed for the benefits and interests of the participant.

In administering the social security for the labor force, the government shall provide the administering agency with an initial capital to enable it to operate. The government shall also be responsible for law enforcement when it comes to the participation in social security and this responsibility shall be shared among government officials working with the Ministry of Manpower, the Police of the Republic of Indonesia, and the offices of the counsel for the prosecution.

Therefore, the three parties – the employer, the worker and the government, which is collectively known as the tripartite – have direct interests in the administration of social security for the labor force.

However, a tripartite cooperation institution like the Board of Trustees needs an executive body to professionally implement the policies of the Board in operational, business, administrative activities and the day-to-day management of social security for the labor force.

In the administration of social security trust fund, a trust fund accounting system shall be used, in which the results of the management of the trust fund [the income earned as a result of investing the trust fund in income-generating undertakings], after being deducted by administrative expenses, are added to the fund's balance or the net assets available for [the payment of] benefits and interest to the participant. In this way, the administration of social security for the labor force is a non-profit activity and shall therefore be exempted from the income tax.

**1.3. Article by article**

**2. Article 1**

Article 25 confirms that the fund accumulated in the social security system for the labor force shall be treated as a trust fund and therefore, a trust fund accounting system shall be used to deal with it. With the system, the results of the investments of the trust fund are exempted from the income tax. Moreover, the surplus earned in administering the social security for the labor force is returned to the participant, thereby adding to the fund's balance or the net assets available for the benefit of the participant.

Article 26 establishes the Social Security Council as the board of trustees, which consists of tripartite constituents plus experts and the leadership of the Executive Body.

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Article 27 establishes the Executive Body of the Social Security for the Labor Force as the implementer of the day-to-day operation, administration, and management of social security for the labor force.

Article 28 commissions the government to develop administrative and accounting systems, organizational structures, job descriptions, obligations and responsibilities of the Social Security Council and the Executive Body of the Social Security for the Labor Force.

**2.1. Article 2**  
Sufficiently clear.

**Supplement to the State Gazette of the Republic of Indonesia Number...**  
**The draft of**  
**The regulation of the Government of the Republic of Indonesia Number... Year...**  
**On trust fund, board of trustees, and the implementing agency of the Social Security for the Labor Force**

### **3. The President of the Republic of Indonesia**

Considering

- a. That in order to implement Act Number... Year... on the Amendments to Articles 25, 26, 27, and 28 of Chapter VI of Act Number 3 of the Year 1992 on the Social Security for the Labor Force, it is necessary to have a regulation on trust fund, and the structure and working procedures of the administration of the social security for the labor force;
- b. That, in conjunction with this, it is considered necessary to establish a government regulation on trust fund, board of trustees, and the implementing agency of the social security for the labor force.

In view of:

1. Article 5 Subsection (2) of the 1945 Constitution
2. Act Number 3 of the Year 1992 on the Social Security for the Labor Force (State Gazette Year 1992 Number 14, Supplement to the State Gazette Number 3468);
3. Act Number... Year... on the Amendments to Articles 25, 26, 27, and 28 of Chapter VI of Act Number 3 Year 1992 on the Social Security for the Labor Force (State Gazette Year... Number..., Supplement to the State Gazette Number...)

### **Decides**

To establish:

The regulation of the Government of the Republic of Indonesia on trust funds, boards of trustees, and implementing Agencies of the Social Security for the Labor Force

#### **Chapter 1** **General Definition**

##### **Article 1**

Under this government regulation, what is meant by

1. The social security for the labor force, or JAMSOSTEK for short, is the social security as referred to under Act Number 3 of the Year 1992 on the social security for the labor force.
2. The JAMSOSTEK Trust Fund, abbreviated to the Fund, is the fund which originates from the contributions paid by the worker and the employer which is deposited, committed, and entrusted by



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the participant to the Board of Trustees, to be managed and developed in order to provide benefits to the labor force and their families in the future.

3. The JAMSOSTEK Board of Trustees, abbreviated to the Board, is a legal entity made up of representatives of the worker, the employer and the government, the President Director of the Executive Body, and several experts who are responsible for managing and developing the JAMSOSTEK Trust Fund.
4. The Executive Body, abbreviated to the Body, is a legal entity that administers JAMSOSTEK as the implementing agent of the JAMSOSTEK Board of Trustees.
5. JAMSOSTEK's Employee Provident Fund (old age benefits) is the obligatory savings paid by both the employer and the worker, which shall be managed and developed into a Trust Fund in order to provide benefits to the worker and their families in accordance with Act Number 3 of the Year 1992. [Translator's note: JAMSOSTEK's Employee Provident Fund is a commonly accepted translation of Jaminan Hari Tua (JHT) because it is still (at least at present) a provident fund – a funded defined contribution scheme which provides benefits as a single lump-sum payment at retirement. Literally, however, JHT means old age benefits, and Sentanoe argues that it should be translated as such, perhaps in anticipation of its conversion into a defined benefit pay-as-you-go social security retirement pension scheme. Hence, throughout this paper, JHT is translated as JAMSOSTEK's Provident Fund (old age benefits).]
6. The death benefit is a benefit that provides cash compensation to the heirs or survivors of a worker upon the death of the worker, in accordance with Act Number 3 of the Year 1992.
7. The work accident benefit is a benefit that provides cash compensation to a worker or the heirs of a worker who gets an accident while at work or who contracts an occupational disease, as referred to under Act Number 3 of the Year 1992.
8. The health maintenance benefit is a medical benefit for the worker and their families if they are ill, as referred to under Act Number 3 of the Year 1992.
9. Minister is the Minister responsible for manpower affairs.

## **Chapter II**

### **Jamsostek Trust Fund**

#### **4. Article 2**

1. Since the formation of the JAMSOSTEK Trust Fund based on Act Number... Year..., all the assets and the fund of PT JAMSOSTEK shall be converted into the JAMSOSTEK Trust Fund.
2. The assets and the fund referred to under subsection (1) shall come from the balances of savings for the Provident Fund (old age benefitss), technical reserves for work accident benefits, health maintenance benefits, and death benefits, and other reserves and the capital of PT JAMSOSTEK.

#### **5. Article 3**

From now on, the contributions paid by the employer and the worker for JAMSOSTEK and the results of the contributions' investments shall become Trust Fund.

## **Chapter III**

### **The Jamsostek Board of Trustees**

#### **Article 4**

1. The JAMSOSTEK Board of Trustees established based on Act Number... Year... shall become the trustees of the JAMSOSTEK Trust Fund, to be managed and developed for the benefits of JAMSOSTEK participants.

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2. As a legal entity, the Board may legally file a lawsuit or be legally sued, make binding agreements, acquire, purchase, and possess current and fixed assets, give, sell and destroy current and fixed assets.

**6. Article 5**

1. The Board shall consist of:
  - a. A Chairperson, who shall be appointed from among members;
  - b. A Deputy Chairperson or some deputy chairpersons who shall be appointed from among members;
  - c. No less than fifteen members who shall consist of:
    - (i) four persons representing the government
    - (ii) four persons representing the employer
    - (iii) four persons representing the worker
    - (iv) four experts, that is, a social security expert, an accountant, an actuary, and an economist
  - d. the President Director of the Executive Body as an ex-officio member
2. The Chairperson, the Deputy Chairperson, and members of the Board shall be appointed by the President of the Republic of Indonesia for a term of office of no longer than 3 (three) years, and may be reappointed for no more than another term of office.

**7. Article 6**

The main responsibility of the Board includes the following tasks and responsibilities:

- (i) serving as the trustees of the assets and money collected from the implementation of JAMSOSTEK, to be managed and developed for the benefits of the participant;
- (ii) administering the participation and security in the form of cash benefits or medical benefits to the participant in an effective and efficient manner.
- (iii) establishing the JAMSOSTEK executive body to carry out the Board's duties and responsibilities on a day-to-day basis.

**Chapter IV**

**The JAMSOSTEK Executive Body**

**8. Article 7**

1. The JAMSOSTEK Executive Body shall be established by the JAMSOSTEK Council of Trustees to carry out the duties and responsibilities of administering social security for the labor force on a day-to-day basis.
2. The Executive Body shall be led by a President Director, and assisted by three directors: Director of Membership and Benefits, Director of Finance and Investments, and Director for General and Personnel Affairs.
3. The President Director and the three directors shall be appointed by the Minister upon the recommendations of the Board for a term of office of three years and may be reappointed for no more than another term of office.

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**9. Article 8**

1. The President Director shall be responsible for the implementation of the overall duties and responsibilities of the JAMSOSTEK Executive Body. This requires the president director to deal with the overall aspects of membership, benefits, finance, investments, general affairs, and personnel affairs.
2. The Director of Membership and Benefits shall be responsible for the administration of social protection programs. This job includes:
  - (i) selling membership
  - (ii) administering membership
  - (iii) issuing membership numbers and cards
  - (iv) providing services and settlements of cash benefit payments
  - (v) providing medical services through the implementing agency for health services
3. Finance and Investment Director shall be responsible for the administration of the entrustment of the JAMSOSTEK trust fund. This job includes:
  - (i) charging and accepting contributions
  - (ii) recording the contributions and publishing the balances of the old age benefits account for each participant
  - (iii) financing the whole JAMSOSTEK activities
  - (iv) providing funds for cash payments and medical services
  - (v) managing and investing JAMSOSTEK funds
4. General Affair and Personnel Director shall be responsible for the provision of facilities and human resources in a certain quantity and qualities, which shall cover:
  - (i) procurement of office structures
  - (ii) maintenance of office structures
  - (iii) procurement and placement of human resources that are needed
  - (iv) maintaining secure and harmonious industrial relations
  - (v) carrying out education and development of human resources

**10. Article 9**

The Executive Body has branch offices at provincial level, representative offices at regency level or regions of second administrative level, and connecting offices in other special regions which carry out functions pertaining to membership, benefits, finances, general and personnel affairs at regional level.

**Chapter V**

**The Investment Committee and the Audit Committee**

**Article 10**

In carrying out its responsibilities, duties and obligations, the Council shall establish an Investment Committee, which shall provide studies and recommendations on the management and fund investments,

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and an Audit Committee, which shall perform auditing on the management and finances of the Council and the Executive Body.

**11. Article 11**

1. The main duties and responsibilities of the Investment Committee are as follows:

- (i) To carry out studies on various kinds and forms of social security fund investments
- (ii) To provide recommendations on how to manage and invest the social security fund based on security, result-oriented, liquidity and solvability principles.

2. The Investment Committee shall consist of:

- (i) a chairperson;
- (ii) a representative from the Ministry of Finance as a member;
- (iii) a representative from the central bank, Bank Indonesia, as a member;
- (iv) a representative from the Executive Body as an ex-officio member;
- (v) three experts in investments and finances as members.

The chairperson and members of the Investment Committee shall be appointed by the Council for a term of office of 3 (three) years and may be reappointed for no more than another term of office.

**12. Article 12**

1. The duties and responsibilities of the Audit Committee are as follows:

- (i) to perform management auditing and financial auditing on the Council and the Executive Body;
- (ii) to make reports and recommendations on the results of the management and financial auditing.

2. The Audit Committee shall consist of

- (i) A chairperson
- (ii) A representative from the Supreme Audit Agency (BPK) as a member
- (iii) A representative from the Audit and Development Supervising Agency (BPKP) as a member
- (iv) An accountant and an expert consultant as members

**Chapter VI**  
**Closing paragraphs**

**Article 13**

This Government Regulation shall come into force upon the date of its promulgation. For the cognizance of everybody, orders the promulgation of this Government Regulation by having it placed in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta

On...

The President of the Republic of Indonesia

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Megawati Soekarnoputri

Promulgated in Jakarta  
On...

State Secretary of the Republic of Indonesia  
Bambang Kesowo, SH, LLM

State Gazette of the Republic of Indonesia Year... Number...

**Explanatory Notes on the Regulation of the Government of the Republic of Indonesia  
Number... Year...  
on trust fund, board of trustees, and the Executive Body of the Social Security for the Labor Force**

**Generalities**

Social security for the labor force is a protection program for the labor force against certain social economic risks in the future through the financing by the employer and the worker, which must be accumulated, managed and developed in order to provide sufficiently meaningful benefits.

Therefore, the JAMSOSTEK fund shall have the following attributes:

1. The fund shall be a locked-in fund. This means that the JAMSOSTEK fund shall be kept locked in for future use in order to provide certain benefits according to the target the fund is aimed at. This lock-in feature shows that the social security fund is committed to certain intentions and objectives.
2. The fund shall be a trust fund. This means that the JAMSOSTEK fund is deposited with or entrusted to a trusteeship by the fund's owners on behalf of the owner in the future. This feature shows the trusteeship of the social security fund.
3. The fund shall be a mutual fund. This means that the JAMSOSTEK fund must be managed and developed together to bring greater benefits in the future. This feature shows that investments are made on social security.

These features must be reflected in the way the JAMSOSTEK fund is treated and managed.

The fund accumulated from the contributions paid by the employer and the worker shall be placed into a trusteeship, and referred to as trust fund. This fund is a deposit or entrustment of the employer and the worker to the board of trustees to be managed and developed for the benefit of the worker and their families. The Council shall be appointed by the President of the Republic of Indonesia on Minister in charge of manpower affairs' recommendation, and consists of tripartite constituents: the employer, the worker, and the government plus the leadership of the executive body and related experts.

In order to manage and develop the trust fund, and to administer social security protection program on a day-to-day basis, the Council shall establish the Executive Body. The management of the Executive Body shall be appointed by Minister on the Council's recommendation. Both the Council and the Executive Body work for the benefits of members, and the financing of the two shall be based on certain fees drawn from the results of managing and developing the trust fund.

Because the management and the development of trust fund are of utmost importance and strategic, the Council and the Executive Body, with the assistance of the Investment Committee, shall carry out studies and give recommendations on the investments of assets in order to provide as much benefit as possible to members. Moreover, in order to supervise and control the management and finances, an Audit Committee

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shall be established to guarantee that the activities of the Council and the Executive Body conform to what has been planned and the results are in accord with the set targets and the objectives.

**12.1. Article by Article**

**12.2. Article 1**

Sufficiently clear.

**13. Article 2**

At the start of its formation, the trust fund consists of the balances of the savings for old age benefitss (JHT), technical reserves for work accident benefits (JKK), health maintenance benefits (JPK), and death benefits (JKM), other reserves and the capital of PT JAMSOSTEK in the form of the assets of PT JAMSOSTEK. Furthermore, all the contributions for JHT, JKK, JPK, and JKM, after being added by the results of the investments and reduced by the payments of claims and other expenses, shall add up to the trust fund.

**13.1. Article 3**

Sufficiently clear.

**13.2. Article 4**

The Board of Trustees shall represent the participant in managing and developing the trust fund and the administration of the JAMSOSTEK programs so that the interests of the participant may be ensured, according to the principle of no contribution without representation.

**13.3. Article 5**

The Board shall consist of a maximum of 17 (seventeen) members, from which a Chairperson and a Deputy Chairperson shall be picked up. The President Director of the Executive Body shall become a member of the Board to accelerate and facilitate the work of the Board. Experts are needed to facilitate the work of the Board in making decisions.

**13.4. Article 6**

The Board of Trustees shall be the highest power in the administration of JAMSOSTEK. It shall set strategic policies, and perform general supervision and control.

**13.5. Article 7**

The JAMSOSTEK Executive Body is [a body of] professionals in their respective fields of expertise in the administration of JAMSOSTEK.

**13.6. Article 9**

To approach participants, regional offices shall be established so that service can be facilitated and made easy.

**13.7. Article 10**

Sufficiently clear.

**13.8. Article 11**

The Investment Committee shall consist of professionals in the management and development of the fund so that their studies and recommendations are able to guarantee effective investments.

**13.9. Article 12**

The Audit Committee shall consist of professionals in management auditing and financial auditing so that effective supervision and control can be ensured.

**13.10. Article 13**

Sufficiently clear.

Supplement to the State Gazette of the Republic of Indonesia Number...

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**14. The draft of  
The regulation of the Government of the Republic of Indonesia Number...  
on the accounting and financial reporting system of the Social Security Trust Fund  
the President of the Republic of Indonesia,**

Considering

- a. That in order to implement Act Number... Year... on the Amendments to Articles 25, 26, 27, and 28 of Chapter VI of Act Number 3 of the Year 1992 on the Social Security for the Labor Force, a special accounting and financial reporting system is needed;
- b. That the accounting and financial reporting system is needed to administer the social security for the labor force as a trust fund which is managed by the Board of Trustees;
- c. That, in conjunction with this, it is considered necessary to establish a Government Regulation on the Accounting and Financial Reporting System of the Social Security for the Labor Force;

In view of:

1. Article 1 Subsection (2) of the 1945 Constitution;
2. Act Number 3 of the Year 1992 on the Social Security for the Labor Force (State Gazette of the Year 1992 Number... 14, Supplement to the State Gazette Number 3468);
3. Act Number... Year... on the Amendments to Articles 25, 26, 27, and 28 of Chapter VI of Act No. 3 of the Year 1992 on the Social Security for the Labor Force (State Gazette of the Year... Number..., Supplement to the State Gazette Number...);

**Decides**

To establish:

**The regulation of the Government of the Republic of Indonesia on the accounting and financial reporting system of the Social Security Trust Fund**

**Chapter I  
General Definition**

**Article 1**

Under this Government Regulation, what is meant by:

1. Financial Accounting System is a system of recording, bookkeeping, and reporting of the financial transactions of the Social Security Trust Fund.
2. Defined Contribution Program is a social security program whose contributions are set in a Government Regulation, and all the contributions and the results of their developments [the income earned as a result of investing the contributions in income-generating business undertakings] are put into the account of each participant as JAMSOSTEK's Provident Fund (old age benefits).
3. Defined Benefit Program is a social security program whose benefits are set in Government Regulation as Work Accident Benefit, Health Maintenance Benefit, and Death Benefit.
4. Financial reports are reports that provide all the stakeholders with information on the financial situation of the Social Security Trust Fund in a given period.
5. The net asset report is a report that provides information on the amount of net assets belonging to the Social Security Trust Fund that is available to the participant for social security benefits.

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6. The report on the changes in the net assets is a report that provides information on the changes in the amount of net assets available for [paying] social security benefits to JAMSOSTEK participants [or members] and describes what causes such changes in a given period.
  7. Balance sheet is a report that describes the financial situation of the Social Security Trust Fund at a certain time. Balance sheet reports the assets owned [by the Fund] and the liabilities that must be paid.
  8. [A report that] calculates the results gained from putting the social security fund into income-generating undertakings is a report that specifies the results [income] earned from putting [or investing] the social security trust fund into income-generating undertakings in a certain period of time. [Translator's note: "a report that calculates the results gained from putting the social security fund into income-generating undertakings" is a literal translation of *perhitungan hasil usaha*. According to Sentanoe, *perhitungan hasil usaha* is income statement. To the best of my knowledge, income statement is *laporan pendapatan* in Indonesian. Moreover, *hasil usaha* is normally understood as results that refer to the success (profits) or failure (losses) of a business undertaking. Thus, *perhitungan hasil usaha*, if considered as a report (*laporan perhitungan hasil usaha*), should be translated as profit and loss statement. Which implies that the administering agency, PT Jamsostek, is a limited liability company. If PT Jamsostek is turned into the Jamsostek Trust Fund, there will be no profit and loss statement. Instead, there will be income and expenditure account. As I understand it (correct me if I'm wrong), the Jamsostek Trust Fund shall be a non-profit organization and that's why it should not be subjected to income tax. However, the Jamsostek Trust Fund may invest the contributions it accumulates in business undertakings it deems secure in order to generate income.]
  9. The cash flow report is a report that provides information on the changes in net assets and their influence on the receipt and use of the cash.
  10. Notes on the financial report are various explanations, details and calculations on the administration of the Social Security Trust Fund.

## **Chapter II**

### **Financial Accounting Standards**

#### **15. Article 1**

The Accounting and Financial Reporting System of the Social Security Trust Fund shall be established based on the provisions of statutory legislation on the social security for the labor force, and in accord with the financial accounting standards that validly apply to Indonesia.

## **Chapter III**

### **Financial Accounting System**

#### **Article 2**

The Financial Accounting System of the Social Security Trust Fund shall be established on an accrual basis that enters into the books both transactions of cash receipt and payment, as well as receivables or liabilities that should have been received or paid and advance receipts or payments that provide future benefits.

## **Chapter IV**

### **Financial Report**

#### **Article 3**

The Financial Report of the Social Security for the Labor Force shall consist of:

- a. A report on [JAMSOSTEK] net assets
- b. A report on the changes in [JAMSOSTEK] net assets



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- c. Balance sheet
  - d. Income statement
  - e. Cash flow report
  - f. Notes on the financial reports.

## **Chapter V**

### **Closing Paragraphs**

#### **Article 4**

This Government Regulation shall come into force upon the date of its promulgation. So that everyone takes cognizance of this, [the President] orders the promulgation of this Government Regulation by having it placed in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta  
On...

The President of the Republic of Indonesia  
Megawati Soekarnoputri

Promulgated in Jakarta  
On...  
State Secretary  
Bambang Kesowo, SH. LLM.

State Gazette of the Republic of Indonesia Year... Number...

#### **Explanatory Notes on** **The regulation of the Government of the Republic of Indonesia Number... Year... on** **the Accounting System and Financial Report of the Social Security for the Labor Force**

##### **15.1. Generalities**

The Social Security for the Labor Force is a program for protecting workers, and is also a Trust Fund which is entrusted to the Board of Trustees to be managed and developed for the benefits of the worker. The day-to-day operation of JAMSOSTEK is administered by the JAMSOSTEK Executive Body which is established by the Board.

The JAMSOSTEK Trust Fund which comes from the contributions paid by the employer and the worker is a public fund that is deposited and entrusted to the Board and the Executive Body, so that it must be managed and developed in a transparent, effective and efficient manner. Therefore, the Accounting and Financial Reporting System of JAMSOSTEK must be able to note down and enter into the books financial transactions, and to provide reports to its stakeholders – particularly the worker, the employer and the government – in a clear and acceptable way.

The JAMSOSTEK program can be divided into two major groups:

1. The Defined Contribution Program, that is, the Provident Fund [old age benefits], and
2. The Defined Benefit Program, that is, the Death Benefit, the Work Accident Benefit, and the Health Maintenance Benefit.

Because of their different nature, the accounting for the two programs is different, so that the financial reports of the two shall be separated even though later on a consolidation financial report shall be made.

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## 15.2. Article by article

### Article 1

As a program, JAMSOSTEK involves non-financial activities such as membership, [social security] services, and settlement of claims. As a fund, JAMSOSTEK involves financial transactions such as the collection of contributions, the financing of activities, and the payment of claims. These financial transactions need to be recorded, entered into the books, reported, and also planned, analyzed, and supervised and controlled in an accounting system in accord with the way the JAMSOSTEK fund shall be treated as a Trust Fund.

### Article 2

The accounting treatment for the defined contribution program is different from the accounting treatment for the defined benefit program, particularly when it comes to income statement [report that calculates the results earned from putting the fund in income-generating undertakings]. In the defined contribution program of the Provident Fund (old age benefits), the results of income-generating undertakings are calculated by having payments of claims and other expenses deducted from the yields on the investment made of the fund. The two programs shall then be consolidated in the balance sheet.

### Article 3

- a. The net asset report shows the difference between the amount of JAMSOSTEK's assets and its short-term liabilities. The difference shows the amount of assets available for the benefits of the worker. The assets consist of investments, current assets, operational assets, and other assets. Short-term liabilities consist of debts and bills due and not yet paid and income received in advance.
- b. The report on the changes in net assets consists of
  - (i) increases in assets such as that which comes from receiving contributions and investment income;
  - (ii) decreases in assets such as that which is caused by the payment of benefits, investment expenses, operational expenses and income tax.
- c. The balance sheet shows the financial report on the consolidation of defined contribution program and defined benefit program at the end of the year, which consists of the sources of assets (called pasiva or liabilities) and the form of assets (called aktiva or assets)
- d. The calculation of the result of undertaking consists of
  - (i) the result of the undertaking of defined contribution program that includes the income from the investment of the Provident Fund (old age benefits) from which investment expenses are deducted.
  - (ii) The result of the undertaking of defined benefit program which includes the receipt of contributions and investment yields on death benefits (JKM), work accident benefits (JKK), and health maintenance benefits (JPK) from which the payment of benefits, the addition of technical reserves, and administration expenses are deducted.
- e. The report of cash flow is classified on the basis of investment activities, operational activities, and other financing activities in a given accounting year.
- f. Notes on financial reports include:
  - general explanations;
  - explanations on accounting, investment and financing policies;
  - detailed descriptions of the payment of benefits;

- detailed descriptions of investment portfolio;
- calculations of the result of undertaking.

#### **Article 4**

Sufficiently clear.

Supplement to the State Gazette of the Republic of Indonesia Number...

#### **Draft**

**The regulation of the Government of the Republic of Indonesia Number...Year  
On the extension of the membership [coverage] of the social security for the Labor Force**

**The President of the Republic of Indonesia**

#### **Considering:**

- a. That principally every employer and worker is obliged to participate in the social security program in accordance with Act Number 3 of the Year 1992;
- b. That it is time to extend the membership of the social security for the labor force so that all employers and workers, both within or outside of an employment relationship, be they in the formal sector or the informal sector, are covered.
- c. That, because of that, it is considered necessary to establish a Government Regulation on the extension of the membership of the social security for the labor force;

In view of:

1. Article 5 subsection (2) of the 1945 Constitution;
2. Act of the Republic of Indonesia Number 3 of the Year 1992 on the Social Security for the Labor Force (State Gazette of the Year 1992 Number 14, Supplement to the State Gazette Number 3468);
3. Act of the Republic of Indonesia Number... Year... on the Amendments to Articles 25, 26, 27, and 28 of Chapter VI of Act Number 3 of the Year 1992 on the Social Security for the Labor Force (State Gazette of the Year... Number..., Supplement to the State Gazette Number...);
4. The Regulation of the Government of the Republic of Indonesia Number 14 of the Year 1992 on the Administration of the Social-Security-for-the-Labor-Force Program;

#### **Decides**

To establish

**The regulation of the Government of the Republic of Indonesia on the extension of the membership [coverage] of the social security for the Labor Force**

#### **Article 1**

##### **General Definitions**

1. The Social Security (JAMminan SOSial) for the Labor Force (TEnaga Kerja), abbreviated to JAMSOSTEK, is the social security as referred to under Act Number 3 of the Year 1992 on the Social Security for the Labor Force.

- 
2. The Labor Force is everyone who is able to carry out work as referred to under Act Number 3 of the Year 1992 on the Social Security for the Labor Force. [Translator's note: the term 'labor force' is often understood as and translated into 'workers' and may have this meaning in certain sentences.]
  3. Employers are employers as referred to under Act Number 3 of the Year 1992 on the Social Security for the Labor Force. [Translator's note: the Indonesian word for employers is *pengusaha*, which also means businessman/men.]
  4. Daily/ free-lance workers are workers who work on a daily wages for an employer, a supervisor, a recruitment and job placement agency, or a project leader for a certain period. [Translator's note: the word 'workers' in this definition is the translation of the Indonesian word 'tenaga kerja,' which also means 'labor force' and 'manpower.']
  5. A self-employed worker is a person who earns income by doing his or her own business without employing others.
  6. The formal sector is an economic sector which does business according to legal regulations [for doing business] in terms of the both the legal entity as well as the employment relationship between the employer and the worker.
  7. The informal sector is a small-scale economic sector which does business without fully fulfilling legal regulations [for doing business] in terms of both the legal entity as well as the employment relationship between the employer and the worker.
  8. Wages is a receipt that serves as remuneration paid by the employer to the worker, as referred to under Act Number 3 of the Year 1992 on the Social Security for the Labor Force.
  9. The income of self-employed workers is the income received by self-employed workers from their business every month, both the real one and the assumed one.
  10. Minister is the Minister responsible for manpower affairs.

#### **Article 2**

##### **JAMSOSTEK Membership**

Principally, all workers, irrespective of whether they work in an employment relationship or are self-employed, are obliged to become JAMSOSTEK members.

- (1) When it comes to an employment relationship, the burden of obligatory membership lies with the employer. In case of self-employment, the burden of obligatory membership lies with the self-employed persons.
- (2) In view of the ability in administering social security, obligatory membership in JAMSOSTEK shall be enforced gradually.

#### **Article 3**

##### **The Tightening of the Requirement for Obligatory Membership**

Pursuant to the development in the ability in administering social security, it is considered necessary to narrow down the requirement for obligatory membership from enterprises with 10 employees or more to enterprises with one employee or more.

#### **Article 4**

##### **Membership of Daily Free-lance Workers**

Daily free-lance workers shall be included in JAMSOSTEK by the employer, the supervisor, the recruitment and job placement agency or the project leader.

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**Article 5****Membership of the Self-employed**

Gradually, self-employed workers shall be included in JAMSOSTEK either in groups or individually.

- (1) Self-employed workers shall fully pay their JAMSOSTEK contributions.

**Article 6****Level of Contributions payable by the Self-employed**

The calculation of the JAMSOSTEK contribution payable by self-employed workers shall be based on the income they earn every month from their business activities.

- (1) In case it is difficult to make a real assessment of their base income, their base income shall be assumed to arrive at a certain amount in rupiah.

**16. Article 7**

This Government Regulation shall come into force upon the date of its promulgation. So that everyone takes cognizance of this, [the President] orders the promulgation of this Government Regulation by having it placed in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta

On...

The President of the Republic of Indonesia

Megawati Soekarnoputri

Promulgated in Jakarta

On...

State Secretary

Bambang Kesowo, SH. LL.M.

State Gazette of the Republic of Indonesia Year... Number...

**Explanatory Notes**

**on the regulation of the Government of the Republic of Indonesia Number... Year...**

**on the extension of the membership of the social security for the Labor Force**

**16.1. Generalities**

No worker is exempted from contingencies such as accidents, illness, old age, and death, which cause income reduction or loss of income and which lead to the incurrence of expenses associated with medical care. Therefore, workers need financial and medical protection to deal with contingencies, and the protection takes the form of social security for the labor force.

However, because of the limited ability [of PT JAMSOSTEK] in administering social security, up to now only workers employed in large enterprises are included obligatorily [are obliged to participate] in JAMSOSTEK. Twenty five years of administering JAMSOSTEK should have developed the ability and experience to cover all workers, be they in an employment relationship or self-employed.

Given the huge number of JAMSOSTEK participants, the administration of JAMSOSTEK must be made as easy and simple as possible by means of the standardization of marketing, membership, collection of contributions, recording, services, settlement and payment of claims. Given the huge magnitude of petty traders in the informal sector, efforts to facilitate and simplify their participation in JAMSOSTEK is absolutely necessary.

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**16.2. Article by Article****16.3. Article 1**

Sufficiently clear.

**16.4. Article 2**

Sufficiently clear.

**16.5. Article 3**

The tightening of obligatory membership requirement for enterprises down to one employee or more will practically cover all employees. Such coverage will include self-proprietorship businesses such as small-scale traders who employ one or more assistants.

**16.6. Article 4**

Daily/ free-lance workers who work for a certain period frequently cannot be included in the Provident Fund (old age benefits) and Death Benefit programs. Therefore, they shall be included in the Work Accident and Health Maintenance programs.

**16.7. Article 5**

Self-employed workers are not in an employment relationship with employers. Therefore, they should [fully] pay their own JAMSOSTEK contributions.

**16.8. Article 6**

In case the base income to calculate the level of contribution to be paid by self-employed workers is assumed, the assumption shall be stated in a certain amount of money in rupiah.

For instance, the assumed base income in a month is Rp300,000

The Work Accident Benefit and Health

Maintenance Benefit contributions:  $3.24\% \times \text{Rp}300,000 = \text{Rp}10,000$

The Old age benefits and

Death Benefit contributions:  $6\% \times \text{Rp}300,000 = \text{Rp}18,000$

Total contributions in a month:  $\text{Rp}28,000$

**16.9 Article 7**

Sufficiently clear.

Supplement to the State Gazette of the Republic of Indonesia Number...

**Draft**

**The regulation of the Government of the Republic of Indonesia Number...Year  
on the increase in the level of social security benefits**

**The President of the Republic of Indonesia**

**Considering:**

- a. That the Social Security for the Labor Force must be able to provide sufficiently substantial benefits to workers;
- b. That, with the changes in the treatment and status of the social security fund and the legal entity of the social security for the labor force, its benefits can be increased;

- 
- c. That, in conjunction with that, it is considered necessary to establish a Government Regulation on the Increase in the Level of Social Security Benefits;

In view of:

1. Article 5 Subsection (2) of the 1945 Constitution;
2. Act Number 3 of the Year 1992 on the Social Security for the Labor Force (State Gazette of the Republic of Indonesia of the Year 1992 Number 14, Supplement to the State Gazette of the Republic of Indonesia Number 3468);
3. Act Number... Year... on the Amendments to Articles 25, 26, 27, and 28 of Chapter VI of Act Number 2 of the Year 1992 on the Social Security for the Labor Force (State Gazette of the Republic of Indonesia of the Year... Number..., Supplement to the State Gazette of the Republic of Indonesia Number...)

Decides

To establish

**The regulation of the Government of the Republic of Indonesia on the increase in the level of social security benefits**

**Chapter I**  
**General Definitions**

**Article 1**

Under this Government Regulation, what is meant by:

1. The Social Security (JAMminan SOSial) for the Labor Force (TEnaga Kerja), abbreviated to JAMSOSTEK, is the social security as referred to under Act Number 3 of the Year 1992 on the Social Security for the Labor Force.
2. The Provident Fund (old age benefits or JHT) is an obligatory saving financed by the employer and the worker to be managed and developed as a Trust Fund in order to provide benefits to workers and their families according to Act Number 3 of the Year 1992.
3. Death Benefit (JKM) is a benefit that provides the benefit of cash payment to the heirs of a worker who dies in accordance with Act Number 3 of the Year 1992.
4. Work Accident Benefit (JKK) is a benefit that provides the benefit of cash compensation to workers and the heirs of workers who have an accident and contract occupational diseases in accordance with Act Number 3 of the Year 1992.
5. Health Maintenance Benefit is a medical benefit for workers and their families who are ill in accordance with Act Number 3 of the Year 1992.
6. Minister is the Minister responsible for manpower affairs.

**Chapter II**  
**Increase in the Level of Benefits**

**Article 2**

Provident Fund [Old age benefits or JHT]

- 
- (1) The JHT provides benefits when the worker reaches the [pensionable] age of 55 years, suffers from permanent disability, dies, or has their employment terminated. The JHT is paid according to a certain minimum amount of money.
  - (2) The JHT provides a minimum payment of 10 (ten) times the average wages received within the last three years if the worker has been paying contributions for no less than 10 (ten) years.

#### **Article 3**

##### **Death Benefit (JKM)**

- (1) The JKM provides payment to the heirs of a worker who dies. The payment shall be given as a lump sum in addition to which a funeral allowance shall be paid.
- (2) The lump sum shall be increased to Rp5,000,000 (five million rupiah) and the funeral allowance shall be increased to Rp800,000 (eight hundred thousand rupiah).

#### **Article 4**

##### **Work Accident Benefit (JKK)**

- (1) The JKK provides compensation and recompense for expenses and money that have to be spent as a result of an accident and illness suffered by the worker in an employment relationship.
- (2) Some of the compensation and recompense shall be increased as follows:
  - (a) Transport expenses (maximum)
    - (i) by land: Rp200,000 (two hundred thousand rupiah)
    - (ii) by sea: Rp400,000 (four hundred thousand rupiah)
    - (iii) by air: Rp500,000 (five hundred thousand rupiah)
  - (b) medical care expenses (maximum): Rp800,000,000 (eight million rupiah)
  - (c) Permanent and total disability benefit, monthly for two years: Monthly: Rp100,000 (one hundred thousand rupiah)
  - (d) Death benefit for the heirs of a worker who dies:
    - (i) monthly: Rp100,000 (one hundred thousand rupiah) for two years;
    - (ii) funeral allowance: Rp800,000 (eight hundred thousand rupiah);

#### **Article 5**

##### **Health Maintenance Benefit (JPK)**

- (1) The JPK provided medical services to workers and their families who are ill. The medical services are provided through the implementing agency for health services (PPK).
- (2) The PPK network shall be extended, and the medical services shall be improved.



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## **Chapter III**

### **Closing Paragraphs**

#### **Article 6**

This Government Regulation shall come into force upon the date of its promulgation. So that everyone takes cognizance of this, [the President] orders the promulgation of this Government Regulation by having it placed in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta

On...

The President of the Republic of Indonesia

Megawati Soekarnoputri

Promulgated in Jakarta

On...

State Secretary

Bambang Kesowo, SH. LLM.

State Gazette of the Republic of Indonesia Year... Number...

#### **Explanatory Notes on the Regulation of the Government of the Republic of Indonesia**

**Number... Year...on**

#### **The increase in the level of social security benefits**

##### **16.10. Generalities**

The Social Security for the Labor Force which provides protection to workers and their families must be able to provide sufficiently meaningful benefits, be they cash benefits or medical benefits. The rates of inflation have increased prices in general. So, the level of social security benefits needs to be increased as well.

The change in the status of the JAMSOSTEK fund into a trust fund and the change in the legal entity [from a limited liability company] into trusteeship would make way for greater ability to provide benefits to workers and their families. The ability can be increase because the management and development of JAMSOSTEK trust fund are fully directed towards the interests and benefits of the worker.

##### **16.11. Article by article**

##### **16.12. Article 1**

Sufficiently clear.

##### **16.13. Article 2**

The benefits provided by the JHT, which is a defined contribution program, depend on the period during which contributions have been paid and on the results of the management of the fund. Without minimum benefits, the payment of JHT may be meaningless for old age. Because the JHT is a long-term program, the minimum benefit is linked to the period of paying the contributions for ten years of more.

##### **16.14. Article 3**

Sufficiently clear.

##### **16.15. Article 4**

Sufficiently clear.

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**16.16. Article 5**  
Sufficiently clear.

**16.17. Article 6**  
Sufficiently clear.

Supplement to the State Gazette of the Republic of Indonesia Number...

**17. Closing paragraphs**

With the change in the status of the JAMSOSTEK fund into a Trust Fund and the change in the legal entity of the administration of JAMSOSTEK into a Trusteeship, a structural change, which is fundamental enough, shall take place as far as the paradigms, principles, objectives and processes pertaining to the administration of JAMSOSTEK are concerned.

1. The legal entity of PT JAMSOSTEK in which ownership and highest power are in the hands of the shareholder as the owners of the capital shall be changed into JAMSOSTEK Trusteeship in which ownership and highest power shall be in the hands of JAMSOSTEK participants/ members, who shall be represented by a tripartite board of trustees, as the owner of the JAMSOSTEK fund.
2. The accounting system for JAMSOSTEK shall change from the Private Life Insurance Accounting Standards into the Trust Fund Accounting Standards, which directs all the assets and the management of the fund to the interests and benefits of the worker.
3. The exertion [mobilization] of all the JAMSOSTEK assets, fund and power in the best interests of its participants [members] shall result in the enhancement of the ability of JAMSOSTEK to increase the benefits so that their value is meaningful enough.
4. Increased benefits are expected to facilitate and pave the way for the extension of coverage to smaller enterprises and to self-employed workers in the informal sector whose number is extremely huge.

Such changes must be stated in statutory legislation, be it in the form of Acts that need the approval of the House of Representatives or in the form of several Government Regulations that serve as their implementing regulations, in the interests of certainty and legitimacy.

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## **11.2. Annex 2 – Comments on the draft bill**

### **Comments on Professor Sentanoe's paper on legislation –**

#### **“The concept of the bill for the restructuring of Indonesia's social security system for the labour force”**

##### ***Introduction***

11.2.1. It is understood that Professor Sentanoe submitted the ‘Concept and draft bill (plus accompanying draft regulations) via Depnaker’ and that they were subsequently submitted by Minister Jacob to the House of Representatives under the ‘Initiatives’ procedure. At no time was the CTA or other ILO experts associated with the project invited to comment on the document prior to its submission. It should be noted, therefore, that the draft bill should not be regarded as emanating from the ILO project.

11.2.2. A number of interest groups (Kadin, APINDO and Ministry of Finance) have suggested that the ‘Initiatives’ procedure is inappropriate and that there has been no opportunity for the social partners to comment on the content of the bill.

11.2.3. The scope and content of the draft go beyond (and are partially in conflict with) the Proposal for the process for and concept of, the change of status of Jamsostek submitted jointly by the CTA and NPD to Director General of Binawas on 4th October 2001.

11.2.4. The paper submitted also includes draft Regulations on Investments, Extension of Coverage, proposals for contribution structure, nature of the possible pension scheme, and increases in benefits that will be the subject of ILO feasibility studies and discussions with government.

11.2.5. ‘The proposals for the amendment to Law No.3 and the Regulations necessary for the Trust Fund are not sufficiently comprehensive and they are not all well conceived.

##### ***Comments on the draft bill (and regulations)***

11.2.6. The draft amendment to Article 26 indicates that the tripartite board should consist of 3 persons each from workers, employers and government. But the corresponding Article 5 (1)(c) in the draft Regulations suggests 4 of each! Ministry of Manpower; Ministry of Finance; and the Central Bank are indicated as the representatives of Government but there is no mention of Ministry of Health (who should have an interest should Jamsostek retain responsibility for health care of the workforce). The government representatives should be ex officio members but it is indicated that their term of office, like the workers’ and employers’ representatives should serve a maximum term of 3 years (with a further 3 on re-election). Similarly the President Director of Jamsostek (albeit recognized as ex officio) has a maximum term. ‘Ex officio’ should imply continuity of trustee status by virtue of the person’s office throughout the period the government post is held. This should give some stability and not require government officials to be rotated to comply with their eligibility to serve as trustees.

11.2.7. Three further posts (as experts) are specified. These expert posts are likely to complicate the voting process and prolong meetings unnecessarily. A better means of tapping expert advice is to have experts co-opted as required.

11.2.8. No provision is made in the bill for appointing the Chair of the Board, although Article 5 of the Regulations suggests that the Chair and Deputy(s) should be appointed from among the members (by the President). Views were expressed during the workshop programme that worker and government representatives may have little experience of Board management and that the possibility of an independent chairperson should be considered. This seems a better alternative to chairmanship rotating between the 3 groups.

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11.2.9. Nothing is indicated about provisions for voting (e.g. whether the President Director or Experts have a vote); what arrangements there should be (such as a casting vote) to avoid deadlock; or what number of members present should constitute a quorum.

11.2.10. No mention is made of the method of submission of nomination for appointment or what qualifications should be required of nominees. There also needs to be provision for dismissal of trustees in the event of non-attendance, corruption or prosecution. In the interests of gender equality, provision might be made for a certain proportion (say at least one from each grouping) of women members.

11.2.11. The amendment of Law No.3 also ought to make provision for Jamsostek to recruit and control its own force of inspectors (instead of the present system of inefficient enforcement by Depnaker/Dinas Labour Inspectors).

### ***Comments on the draft regulations***

11.2.12. Article 6 describes the responsibilities of the Board (sometimes referred to as ‘Council of Trustees’) but there is confusion about administration and management of the scheme. The responsibilities should be supervisory (not managerial) and include:

- the application of the laws and operational issues (e.g. geographical extension of coverage, registration or compliance exercises);
- decisions on liability and employee status (e.g. whether or not a contribution is due, has or has not been paid, etc.), subject to the right of appeal to the Supreme Court;
- recommending changes in Regulations, in particular the need for changing entitlement conditions, the level of benefits and contributions on the basis of actuarial advice;
- adjudication of appeals against quantity or quality of benefit; and
- annual reports or special reports to Minister/President;
- the performance of Jamsostek (the Executive Body) according to agreed performance targets.

11.2.13. Article 7 of the draft Regulations indicates the role of the Executive Body (Jamsostek) and Directors, suggesting that they should also enjoy a maximum of 3 years in office (with a further 3 on reappointment). This is not consistent with the need for professionalism in the management of Jamsostek and would be a gross waste of experience and resources spent on training. The functions of directors should be a matter for the President Director with ratification by the Board of trustees and needs to be flexible – not enshrined in legislation. Even so major functions such as control of compliance, internal audit and IT development are not mentioned.

11.2.14. The division of responsibilities between the three levels: Minister/President, Board of Trustees and the Executive Body needs to be clear as does the means of reporting between each. There is no mention of Annual or Special Reporting or how each level will be accountable to the next.

11.2.15. Chapter V mentions the Investment Committee but no mention is made of investment guidelines – an essential mechanism to control how investments are made and possible division between the traditional values of yield, security and social orientation.

11.2.16. The draft Regulations on the Accounting System need to provide for discrete accounting for each of the separate benefit funds within the Trust Fund to ensure that the level of contribution supporting each benefit is kept under review and subject to periodic actuarial valuation. Separate funding arrangements may also need to be detailed together with the degree of advance funding or reserve necessary. Mention of defined benefit and defined contribution programmes is premature at this stage.

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11.2.17. The draft Regulations on Extension of Coverage, need to be considered in the light of studies. In particular the definition proposed for self-employed worker (as 'a person who earns income by doing his or her own business without employing others') is incorrect as many people who employ others are themselves 'self-employed'. Also, although it should be an objective to bring in all workers in the formal sector, especially those working for small employers (less than 10 workers), it may be necessary to do this in phases that the proposed study will inform.

11.2.18. The calculation of a self-employed contribution may largely be a policy question but it should be done with a full understanding of the actuarial implications. As should the increases in benefit levels Professor Sentanoe is proposing (the justification for which is not clear).

25th March 2002

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