

**Second Progress Report on the  
Implementation of the Management Action Plan**

Approved by the World Bank's Board of  
Executive Directors along with the  
Inspection Panel Second Report and Recommendations

**For the Democratic Republic of Congo**  
Private Sector Development and Competitiveness Project  
(PSDCP- Credit No. 3815-DRC)

May 5, 2011

## ABBREVIATIONS AND ACRONYMS

BCA	<i>Banque de Crédit Agricole</i>
BCCE	<i>Banque Congolaise du Commerce Extérieur</i>
COPIREP	<i>Comité de Pilotage de la Réforme des Entreprises du Portefeuille</i> Steering Committee for Reform of Public Enterprises
CPDS	<i>Cadre Permanent du Dialogue Social</i>
DRC	Democratic Republic of Congo
ECOREC	Commission Économie et Reconstruction
FC	<i>Franc Congolais</i> (DRC currency)
GCM	The mining enterprise Gécamines
Gécamines	<i>La Générale des Carrières et des Mines</i> General Quarry and Mines Company
IDA	International Development Association
INSS	<i>L'Institut National de la Sécurité Sociale</i> National Institute for Social Security
IP	Inspection Panel
NBK	<i>Nouvelle Banque de Kinshasa</i>
MAP	Management Action Plan
M&E	Monitoring & Evaluation
MTP	Multimodal Transport Project
NGO	Non-Governmental Organization
OCPT	<i>Office Congolais des Postes et Télécommunications</i> Congolese Post and Telecom Office
OHADA	<i>Organisation pour l'Harmonisation du Droit des Affaires en Afrique</i>
PARSS	<i>Projet d'Appui à la Réhabilitation du Système de Santé</i>
PDO	Project Development Objective
PIU	Project Implementation Unit
PME	Participatory Monitoring and Evaluation
PSDCP	Private Sector Development and Competitiveness Project
REGIDESO	<i>Régié de Production et Distribution d'Eau</i> National Water Supply Authority
SNCC	<i>Société Nationale des Chemins de Fer du Congo</i> National Railways Company of Congo
SOE	State Owned Enterprise
TTL	Task Team Leader (of the World Bank)
TOR	Terms of Reference
VDP	Voluntary Departure Program

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<sup>1</sup> A large number of project documents, including Consultants' Reports, Aide memoires, Back-to-Office Reports, Terms of Reference and other documents mentioned in the Report are all available in IRIS and can be forwarded by the Task Team upon Request.

## EXECUTIVE SUMMARY

1. Following the three requests received by the Inspection Panel concerning the Democratic Republic of Congo (DRC) Private Sector Development and Competitiveness Project (PSDCP) financed by the International Development Association (IDA Credit No. 3815-DRC), the first two of which were registered respectively on February 25 and March 13, 2009, and the third on December 15, 2009, Management submitted its Response to the first two Requests on April 27, 2009 along with an Action Plan to deal with the issues raised by the requestors. The Inspection Panel's eligibility report was submitted to the World Bank Board of Executive Directors on May 27, 2009 (INSP/R2009-0002), which approved the report on June 11, 2009.
2. After the third request was received on December 15, 2009, Management issued a Second Response on March 9, 2010 informing the Inspection Panel that this Second Response will (i) focus on the specific issues raised in the third Request, and (ii) provide an update on the Action Plan with respect to matters raised in the two previous Requests, supplemented by any additional actions considered to be warranted by the Third Request. The Inspection Panel ultimately issued a second eligibility report (Second Report and Recommendation, 53760-ZR) on April 5, 2010, which addressed all three Requests and the two Management Responses.
3. In its second eligibility Report, the Inspection Panel noted the Management Response and recommended to the World Bank Board of Executive Directors its proposal to: (i) refrain from issuing a recommendation at this time on whether an investigation was warranted, and (ii) await further developments on the matter raised in the Requests for Inspection. On April 19, 2010, the World Bank Board of Executive Directors approved the Recommendation of the Inspection Panel to provide a period of additional time for Bank Management to implement a proposed strategy and action plan to address concerns of affected people raised in the three Requests, and for the Panel to report back to the Board on progress in implementing these actions by February 2011.
4. The Management Action Plan (MAP) approved by the World Bank's Board of Executive Directors included actions to be implemented to (i) address the critical issues raised by the requestors in their three requests to the Inspection Panel, and (ii) further improve the quality of the overall Bank's portfolio in DRC in connection with social and other

aspects of public sector reform including State-Owned Enterprises (SOEs) and public administration. These actions are as follows:

- a. Action plan for the GECAMINES (GCM) for the benefit of staff who seceded to apply under the Voluntary Departure Program (VDP)<sup>2</sup>
  - b. Action Plan for the Former Workers of the three liquidated banks (BCA, BCCE, NBK)<sup>3</sup> and of OCPT<sup>4</sup>
  - c. Applying lessons learned to forthcoming retrenchment and other social plans to be applied to SOEs or civil service and public administration, and
  - d. Support to the Government to develop a comprehensive strategy to settle social debts of SOEs.
5. After its adoption of the Management Action Plan (MAP), a World Bank team engaged the Government agencies and entities at all levels, SOEs (including GECAMINES, SNCC, REGIDESO, et al), affected persons and groups, civil society organizations and labor unions' representatives to discuss the best ways and means to address the various challenges posed by the implementation of the Management Action Plan to correct past actions and help Government agencies and entities to better deal with retrenchment plans, retirement plans and other social plans involved in SOE reform and restructuring in a fragile and unstable socioeconomic environment. Regular field missions and activities including fact findings, surveys, policy dialogue sessions and workshops were conducted, which produced tangible outcomes and benefits as described in the report below and summarized in the MAP Matrix included in the Main Report for each of the actions of the MAP.
6. As part of its supervisory vigil, the World Bank team conducted due diligence in February 2011 to assess the education and health services delivered to GCM beneficiaries under the MAP approved in April 2010. Findings from this mission generated several high-impact adjustments to the MAP that will enhance its benefits, inclusiveness and effectiveness with regards to health and education services delivery. The new approach will not only deliver greater benefits to a larger population in a more cost-effective way, but it will also deepen reforms by accenting stakeholder empowerment and incentives for self-reliance to realize their social security outside the confines of a financially distressed, capacity-constrained mining enterprise. As such, it

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<sup>2</sup> The VDPs of Gecamines filed the First and Second Requests to the Inspection Panel

<sup>3</sup> The former workers of the three liquidated banks filed the Third Request to the Inspection Panel

<sup>4</sup> Though the VDPs of OCPT did not file a formal Request to the Inspection Panel, the Bank took note of their grievances being similar to those of the Gecamines VDPs and included them in the MAP as a pre-emptive measure to involve them in the dialogue and problem-solving along with the other Requestors

underscores the achievability of sustainable reforms in the GCM community as a model for transformation of the broader DRC economy.

7. Key actions in the MAP include (see above):
  - Provision of education support (for the years 2011-2012) to VDP children enrolled in GCM schools and in non-GCM schools of record during 2010-11, up to end of secondary education or age of cutoff to be agreed;
  - Provision of free access to health care (through an NGO) for GCM VDPs for up to two years;
  - Participatory Monitoring and Evaluation of the education and health programs;
  - Support to VDPs and former employees of the three liquidated banks to resolve contributions to and entitlements from the national pension system (INSS); and
  - Institutional reinforcement for effective administration of the social dimension of public enterprise reform, including reform of the INSS, future retrenchment and reinsertion programs, and communications support.
  
8. Finally, the implementation of the MAP provided the team with an opportunity to pursue dialogue with government officials at the highest level to ensure that they are exploring ways to address VDPs' requests, including financial claims in accordance with DRC's policy and legal framework. This dialogue is yielding some positive results, as illustrated by the release of a Prime Minister's instruction to competent ministers and agencies requesting them to take actions to address all of VDP's requests<sup>5</sup>.
  
9. The MAP is now being fully integrated within the PSDCP, and all funding of the MAP has been accommodated through a process of restructuring of the PSDCP (displacement of other components of the project and reallocation of approximately \$12-14 million), which will be completed in June 2011. The implementation of some tasks was launched in 2010 with funding diverted from savings generated by efficiencies from other project activities. Although the MAP is being implemented across several parallel streams of activity, most of the desired outcomes are end products of a sequence of tasks that must be done linearly and in some cases tied to use of the same expert resources.

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<sup>5</sup> Prime Minister's Letter dated April 4, 2011 Under Reference CAB/VPM/MIN/PTT/BGS/SF/sm/449/2011

## REPORT

### Introduction

1. Following the three requests received by the Inspection Panel concerning the Democratic Republic of Congo (DRC) Private Sector Development and Competitiveness Project (PSDCP) financed by the International Development Association (IDA Credit No. 3815-DRC)<sup>6</sup>, the first two of which were registered respectively on February 25 and March 13, 2009, and the third on December 15, 2009, Management submitted its Response to the first two Requests on April 27, 2009 along with an Action Plan to deal with the issues raised by the requestors. The Inspection Panel's eligibility report was submitted to the World Bank Board of Executive Directors on May 27, 2009 (INSP/R2009-0002), which approved the report on June 11, 2009.
2. After the third request<sup>7</sup> was received on December 15, 2009, Management issued a Second Response on March 9, 2010 informing the Inspection Panel that this Second Response will (i) focus on the specific issues raised in the third Request, and (ii) provide an update on the Action Plan with respect to matters raised in the two previous Requests, supplemented by any additional actions considered to be warranted by the Third Request. The Inspection Panel ultimately issued a second eligibility report (Second Report and Recommendation, 53760-ZR) on April 5, 2010, which addressed all three Requests and the two Management Responses.
3. In its second eligibility Report, the Inspection Panel noted the Management Response and recommended to the World Bank Board of Executive Directors its proposal to: (i) refrain from issuing a recommendation at this time on whether an investigation was

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<sup>6</sup> The first Request was submitted by two residents of Likasi, Katanga, in the Democratic Republic of Congo (DRC) as former employees of the State enterprise "Générale des Carrières et des Mines," (Gécamines). On March 27, 2009, Management received notice of additional signatories to the first Request from the "Association Congolaise pour la Défense des Droits Economiques et Sociaux" (the Congolese Association for the Defense of Economic and Social Rights). The second Request was submitted by the President of "le Collectif des Ex-agents Gécamines ODV" ("the VDP [Voluntary Departures Program] Collective of former Gécamines employees"), who is also a resident of Likasi.

<sup>7</sup> The third Request concerns the same project subcomponent of the PSDCP, "support to social cost of reform". It was submitted by Mr. Freddy Kituba Kimbwel and Mr. Timothée Lobe Bangudu, on behalf of the "Intersyndicale," which represents former employees of three state-owned banks: the Banque de Crédit Agricole (BCA), the Banque Congolaise du Commerce Extérieur (BCCE) and the Nouvelle Banque de Kinshasa (NBK) which the government liquidated after they had been inactive for years. The Requestors claim that the workers were legally entitled to more generous severance packages than were paid out by the liquidation trustees. The Bank's role was to partially finance the liquidation process, including trustees and analytic studies by consultants.

warranted, and (ii) await further developments on the matter raised in the Requests for Inspection. On April 19, 2010, the World Bank Board of Executive Directors approved the Recommendation of the Inspection Panel to provide a period of additional time for Bank Management to implement a proposed strategy and action plan to address concerns of affected people raised in the three Requests, and for the Panel to report back to the Board on progress in implementing these actions by February 2011.

4. The three Requests, the two Management Responses, and the Inspection Panel's Eligibility Reports were discussed extensively among the World Bank management and staff, the Government of DRC, and the requestors and other stakeholders involved in the implementation of the PSDCP and of the Management's Action Plan (MAP). All the reports were disclosed on the respective websites of the World Bank and of the Inspection Panel, where they are accessible in English and French languages.
5. After approvals of the Inspection Panel's proposal and of the MAP by the World Bank Board of Executive Directors, the World Bank Country Operations Director informed the Borrower and the Requestors of the decisions taken and mandated a team (led by the PSDCP TTL) to implement the action plan in consultation with the Borrower and other stakeholders. These consultations have been ongoing throughout the implementation of the MAP, to ensure that the issues raised by the Requests are addressed appropriately and adequately. This Progress Report summarizes the issues and recommendations from the consultations, some of most recent meetings, workshops, and field visits shown in Annex 2b, in addition to the regular monthly consultations with representatives of GECAMINES and OCPT at the Bank offices in Kinshasa.
6. This timing of this Progress Report was affected by need to incorporate findings from the Bank's supervision/PME mission to Katanga province, which required additional dialogue with the government of DRC, at a time of heightened security in both Kinshasa and Lubumbashi, and coinciding with handover of responsibilities between ministers responsible for overseeing execution of this Management Action Plan.
7. Based on due diligence findings from the February mission, the Bank's MAP supervision team produced recommendations outlined in this Report (currently being acted on by the Government) that will improve the impact of the MAP by:



- i. expanding the inclusiveness of beneficiaries to those outside of Katanga province;
  - ii. expanding the range of benefits made available to the GCM VDPs, and thereby meeting their demands for more comprehensive no-cost health care (including basic package of medicine and follow up treatment) than was previously offered (routine consultation);
  - iii. deepening the impact of the original intent of the VDP program, by advocating solutions that reinforce, rather than contradict, the overarching objectives of the reforms (to rehabilitate the GCM as a viable going concern), with respect to the degree of continued integration and reliance by the VDP community on GCM infrastructure and social networks;
  - iv. offering paths to sustainable solutions beyond the closure of the PSDCP in December 2012; and
  - v. instituting additional best practices (beyond the lessons already learned and applied to other retrenchment/retirement operations supported by the Bank in DRC) which will ensure the involvement of beneficiaries in assessing the delivery of agreed services to the correct population, through a participatory governance framework which includes monitoring and feedback provisions managed by independent evaluators, along with a corrective actions mechanism that will serve to institutionalize the dialogue between principal stakeholders based on mutual checks and balances, beyond the life of the PSDCP.
8. Detailed reporting on the components of the MAP is set out below.

### **A- Action plan for GECAMINES, for the benefit of staff who decided to apply under the Voluntary Departure Program (VDP)**

9. A survey of the GECAMINES (GCM) Voluntary Departures Program (VDP) was conducted between July and August 2009. The objective of the survey was to have a better understanding of the VDP current situation and to help determine if any special actions were needed for VDP at this stage. The report summarizing its key findings was

forwarded to the Inspection Panel and disclosed on the Panel's website. The survey which took place in Lubumbashi, Kipushi, Likasi and Kolwezi, included thorough investigations on the current situation and status of 534 households, (most of which were VDP). The results were compared with that of the initial survey done in 2003. The survey shows that overall: (i) there is no deterioration of the economic situation of PV since 2003. However, the VDPs do appear to find themselves in a more difficult situation than that of other Katanga inhabitants, who live in urban areas and belong to the same age group, (ii) the Katanga province has experienced significant economic growth the few last years, but VDPs were not able to benefit from that growth due to their age and the challenges faced in adjusting to life outside of GCM.

10. A Short Term Action Plan proposed in the Management Response to the Inspection Panel was agreed with the DRC Government and endorsed by the Prime Minister, for implementation by COPIREP (Steering Committee for the Reform of State-Owned Enterprises) and GCM. The Action Plan contained short term solutions for providing: (a) free access for eligible VDP children of school age (7-25 yrs of age) to the GCM school system, for a period of 2 years, i.e. until the closure of the PSDCP in December 2012, and (b) free access for eligible VDP family members to the GCM health care system (also for 2 years), limited to consultations with medical staff (diagnosis and prescriptions) and excluding cost of medicines or further treatment, and (c) restored access to the national pension system (INSS) upon recreation of their work histories and calculation of pension contributions owed to INSS for which financing would be provided through collaboration with the government.
11. These short term measures were a replica of the program already implemented once before it was extended to the VDPs immediately after implementation of the VDP program in 2004-2006 which was perceived to have been effective<sup>8</sup>. No further information or statistical data was available that would give reason to doubt the effectiveness of repeating this exercise in 2010-2012, though conditions under which it was implemented in 2004-2006 differ substantially from those of today.

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<sup>8</sup> Between March 2003 and February 2004, GCM, DRC's state-owned mining company, carried out a wide-spread retirement operation in which approximately 10,500 employees were offered retirement packages through two World Bank credits, an Economic Recovery Credit and the Private Sector Development and Competitiveness Project. In 2004, as part of the package of reinsertion activities designed under the operation, financial support was provided to teachers and health workers "so that they could continue to care for *partants volontaires* and their families". A total amount of US\$1.1 Million was provided over a 2-year period, until the end of 2006. The organization URK was responsible for issuing allowances to teachers and health workers in the GCM education and health systems, with the understanding that the children of PVs would be given access to education services, and that PVs and their families would be granted access to health care. A total of 1183 teachers and 1040 health staff were given allowances, totaling 411,840 USD for education staff and 698,820 USD for health staff. Results were measured by the fact that there were no strikes from 2004-2006, whereas before the payment of additional allowances strikes were commonplace.

12. Mirroring the 2004-2006 scheme, two “Protocoles d’accord” (Accord) were negotiated between GCM and COPIREP, laying out modalities for the payment of stipends (“motivation payments”) to GCM education and health service providers, including a 6.5% allocation to COPIREP for Monitoring and Evaluation (and audit), and other incidental costs (including a provision for subsidies to pharmaceutical products/medicines, which remains contentious as no funding is available for this from the PSDCP).
13. The premise of the motivation payment is that by receiving extra funds per month (\$50-60), GCM staff would make their services available to a larger number of people. In the case of education, teachers would be expected to accept the children of VDPs into their classrooms. In the case of health care providers, workers would be expected to not turn away VDPs and their families from GCM health centers, but to provide them with equal care to that provided to current GCM employees (except for omitting to reimburse them the costs of pharmaceuticals and further treatment, as is done for active employees, albeit apparently irregularly).
14. **Free access to GCM education system:** The negotiated Accord between COPIREP and GCM provides to eligible children of VDP the benefit of tuition-free access to GCM administered schools for a period of two years. The Accord was predicated on a comprehensive census (with survey questions) to locate VDPs and identify children who would be eligible for free tuition benefits under the Accord, as well as to quantify and identify the GCM teaching staff who would need to remunerated, all within the total funding envelope of US\$2 million that was available from the PSDCP. The survey work was completed in the Katanga province (Lubumbashi, Kipushi, Likasi, Kambove and Kolwezi) on Sept 23, 2010 and in Luena, on Oct 21, 2010, by three teams of enumerators, with a separate team concurrently completing the surveys of VDPs residing in other parts of the country, including Kinshasa and Matadi (Bas-Congo province)<sup>9</sup>. The enrollment of VDP schoolchildren at various GCM schools took place in the second week of September, as result of coordination between COPIREP and GCM, without payment of school tuition. GCM authorized the registration of children of VDP before the actual signature of the Accord in order to avoid any delay in attending school. Motivation payments to GCM teaching and support staff targeted schools that had enrolled VDP children. The first payment was contingent upon completion of a follow-up statistical survey which would confirm the precise enrollment in GCM schools and classrooms by VDP children, and a mission to conduct due diligence on the performance to date.

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<sup>9</sup> A basic census was carried out in the fall of 2010 under the auspices of COPIREP, organized by the consultant Jacques Bajika, based on the 2004 findings of survey carried out by the NGO “URK”. This census found that 34% (3647), 32% (3384), and 31% (3319) of the PVs were living in the South, Center and West regions of Katanga, respectively. 3 % (291) were found to be living in Kinshasa-Matadi. Of the 34% living in the southern region, about 52% were in Lumbumbashi, and 47 in Kipushi. *Further breakdowns of the geographical distribution of the PVs are available (See October 2010 report by Jacques Bajika).* The study also found that the annual death rate for Pvs is about 2.3%..

15. The follow-up statistical survey began in late October 2010 and was not completed until end January 2011<sup>10</sup>. The survey examined all 112 schools in the GCM system, with total enrollment of 39,761 across 939 classrooms and with 1764 staff (847 teachers and 917 aides/support staff). Findings of the survey indicate that, out of a total population of eligible VDP children (age 7-25) of 19,944, only 3277 chose to enroll in GCM schools (some of whom had already been enrolled in the GCM system as paying students). Of the remainder, 22,411 students were children of the (approximately) 9,000 current employees of GCM<sup>11</sup>, and 14,073 were non-GCM tuition-paying students (generating revenue for GCM used to subsidize education to the GCM children enrolled in the GCM system<sup>12</sup>).
16. This Accord is currently being modified in order to adopt a more equitable, inclusive, and measurably beneficial approach for the VDPs than that provided by the 2004-2006 approach described above..
17. **Free access to GCM health care:** A similar Accord was negotiated to allow VDPs (eligible family members) free access to GCM healthcare services for 2 years. The Accord, however, did not contain provision of medicine and follow-up care. It only provided for pro-bono consultations starting in January 2011, with the understanding that the Accord would be signed as soon as the funding solution was found, and once the Bank financing became available (first, upon Board approval of Second Additional Financing, and then, after this financing was not available, upon a restructuring of the PSDCP in June 2011). The same comprehensive survey (described above) for the identification of VDPs, their families, and the GCM service providers indicated that of a total population of around 65,000 family members of VDPs, some 38,851 family members would be eligible for health care (10,006 ex-employees, 193 widows, 7,907 spouses, 19,944 children, and 801 still being confirmed). GCM agreed to provide free healthcare consultations to VDP families even while solutions were still being sought for outstanding issues, namely the provision of medicine and the availability of additional financing.

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<sup>10</sup> The effort required was severely underestimated in this environment. From an estimated 65,000 VDP applicants interviewed, the final tally of "eligible" population was 38,851 though with some margin for error. Some VDPs continue to report themselves from neighboring countries. Many had remarried and had additional children, which would not be eligible. Many, reportedly, could not recall the names or ages of their children, nor have documents to prove their claims, which necessitated additional rounds of interviews. Many revised claims resulted in constant adjustment to the statistical data base. There was also considerable variability among VDPs in terms of how they understood the purpose of the census. Many were disappointed not to receive amounts of cash which they felt was the reason for the census, and thus refused to cooperate, but later had change of heart. Moreover, the logistics due to number of institutions and sheer scale of the census covering multiple geographic centers, along with dispersion of VDPs, all made the effort more difficult and delayed the final report.

<sup>11</sup> Note that the population of VDPs now exceeds the number of active GCM employees

<sup>12</sup> At no time in the history of the GCM school system did all children of active GCM employees have traditionally attended the GCM education system, due to high admission standards (competitive process), constraints on capacity, and relatively few non-technical course offerings. At all times, many GCM children were enrolled in non-GCM schools (though it is not clear if the parents received any subsidy- this is still difficult to ascertain).

18. This arrangement, by which GCM hospitals began accepting eligible VDP family members for consultations, waiving the fee of 2000 CF (roughly US\$ 2), has yielded limited response from VDPs, who consider the benefit as falling short of addressing their claims for compensation and the rights to which they feel entitled. Moreover, the VDPs dismiss the Accord's core premise of motivation payments to GCM medical staff as primarily self-serving. The VDPs claim that the mere cost of transportation to a GCM hospital outweighs the free benefit offered, which can be found elsewhere at same or lower cost. Knowing that they would not be able to pay for the medicine/pharmaceuticals and follow-up care that might be prescribed by GCM medical staff, the VDPs find little incentive to travel to a GCM hospital for a pro-bono consultation.
  
19. In search for a funding solution for provision of medicines to the VDP and their families. COPIREP has appealed to the government (both to the Ministry of Finance and the Ministry of Health) on July 28, 2010 and on August 26, 2010, without receiving a positive response. The Bank team has supported the search for a solution that would not involve additional Bank financing, and has encouraged COPIREP to: (i) Seek ways to leverage the Bank's ongoing health project (PARSS) to deliver medications to GCM health care centers for VDP and their families (this proved not to be feasible); (ii) Work with NGOs involved in delivering medicines to population in areas where PV reside (this is feasible and preferred approach to the current Accord).
  
20. **February 2011 mission to follow up on Management Action Plans:** In February 2011 a mission led by the TTL and accompanied by specialists in governance, social protection, and M&E, accompanied by a consultant, met with key stakeholders in Kinshasa, Lubumbashi and Likasi to take stock of status of implementation and address remaining issues. The field mission:
  - a. Held meetings with COPIREP (PSDCP executing agency in Kinshasa and Lubumbashi), three groups of VDPs in Kinshasa, Likasi and Lubumbashi; the Minister of Health; GCM Director of Human Recourses and the directors of the Health and Education programs, 11 NGOs, including CARITAS, IRC, CEPAS, SANRU, CRONGD-KATANGA and its regional partner NGOs, World Food Program, National Parents Association in Likasi (ANAPECO) and the management teams of two GCM schools, as well as the coordinator of the identification census/survey teams<sup>13</sup>.

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<sup>13</sup> For detailed list, see Exhibit C

- b. Focused on discussing the concept and implications of establishing a participatory monitoring mechanism.
  - c. Addressed free access to education and health care for the VDPs through new schemes, as well as restoring access to the national pension system (INSS).
21. **Mission outcomes on free access to education:** The mission concluded that the program of free access to education was well underway but faced limitations in achieving the magnitude of desired results. The statistical survey conducted by COPIREP of actual enrollment by VDP children in the 112 schools and 939 classrooms of the current GCM education system indicated a participation of 3,277 from potential population of close to 21,000 students (though the latter number is yet to be adjusted downward, to exclude university-age children, which would not be accommodated by the GCM system). Reasons cited for lower than expected participation<sup>14</sup> provided insights into the actions to be considered for improving the program, and included:
- a. Reluctance of VDP parents to disrupt their children's current education program in order to transfer to the GCM system for just a two-year period, after having found other viable solutions and adjusted to life outside of the GCM system. (Moreover, the perceived advantages once enjoyed by GCM schoolchildren, of virtually guaranteed employment in the GCM enterprise after graduation, have disappeared years ago).
  - b. Lack of free transport to the GCM schools (free bussing service was discontinued years ago even for current GCM children).
  - c. Limited capacity of classrooms in GCM schools, 35% of which are occupied by non-GCM students who pay full tuition, and the resistance of GCM staff to compromise quality by increasing seating in already overcrowded classrooms, thus possibly relegating the VDP children to inferior conditions or subject to new forms of discrimination by the community.

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<sup>14</sup> It is intuitively presumed to be on the low side of historical averages, but at this time it is difficult, if not impossible, to assess more reliably what a more reasonable number would be, until additional studies are performed. Historically, only a fraction of all GCM-eligible children qualified to attend GCM schools due to high entrance standards (qualifying exams), and also because GCM schools offered a narrow range of curriculum, hence many GCM children attended non-GCM schools with broader offerings and lower selectivity. The Bank is still trying to find conclusive evidence of any subsidies issued by GCM to its employees who enrolled their children outside of the GCM system

- d. Entrance/placement exams required by GCM of all its incoming as well as returning students, without prejudice of whether children of active GCM employees, of non-GCM employees or of VDPs.
22. **Mission outcomes on free access to health care:** Similarly, the mission concluded that the scheme for providing free access to the GCM health care system would fall short of objectives, and that a new approach should be considered, based on outsourcing of the services to an established medical care network providing both consultation and treatment (including a basic package of medicines) nationwide, at more economic terms in relation to the size and geographic dispersion of the eligible VDP population, and in a more sustainable manner after the Bank financing ends in December 2012. More specifically, the team found that:
- a. The savings on cost of consultation within the GCM health care system (roughly \$2 per person, and equivalent to the cost of same service by non-GCM providers) were outweighed by costs of transport to a GCM facility (primarily, the four regional hospitals where the active GCM employees are concentrated) of a (now) highly dispersed VDP community, and would also totally exclude the VDPs residing outside of the Katanga province. Moreover, the lack of provision of medicine and follow-up treatment under the Accord (and under the MAP), and the non-affordability of such by the VDPs acts as a deterrent to seeking care within the GCM hospital network.
- b. The GCM health network would have severe capacity constraints to service the roughly 40,000 of newly eligible patients, even if all the right incentives were presented. The system has downsized and deteriorated over the years, but survives on the strength of 60% patients who are non-GCM and provide revenue with which to subsidize current GCM employees and family members. Any displacement of these revenue-generating clients would be detrimental to the viability of the GCM health care network, which is essential to long term recovery of the enterprise and of the local community. It would also further aggravate the social dynamics affecting relations between the VDPs and the active GCM and non-GCM community.
23. The team found all stakeholders to be appreciative of the evolution in the GCM environment that posed new challenges and rendered the current approach, which was modeled under different circumstances, likely to deliver limited impact in achieving the desired objectives of the MAP<sup>15</sup>. There was broad support for considering new

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<sup>15</sup> The original design considered the experience with the same approach in 2004-6, and resorted to repeating it, without having had the benefit of being able to either anticipate all the new limitations and the evolved incentives and circumstances in

modalities for offering free health and education benefits to the VDP population. The best option appears to be to outsource the provision of health services to a Katanga-based NGO (possibly as an Output Based Aid scheme) which also manages a national network of health centers. Similarly, the provision of education benefits would consist of tuition payments for VDP children without requiring them to move to different schools from the ones they are currently attending. This approach would allow for expanded provision of the services offered given the current context and circumstances, i.e. it would extend coverage to all VDPs regardless of location; moreover, this scheme would mitigate risks from discrimination (whether toward VDPs or among GCM staff) and alleviate concerns caused by capacity constraints of the GCM system (which is increasingly reliant on a growing client base of non-GCM, i.e. paying students and medical patients).

24. The **new scheme for education services** would pay tuition fees for VDP children without requiring them to change schools of current enrollment. The costs of this program are being evaluated now, using updated census of school-age children by age category and level of education in order to determine an appropriate age/level cut-off for assistance under the scheme, however, it is clear that the new scheme will provide benefits to a much larger portion of the eligible VDP children population than is possible with the current scheme, and more cost-effectively. The current Accord with GCM will be honored for the existing school year but will be revised before the commencement of registration for the 2011-12 school year (June), after additional studies are completed to document where VDP children currently attend school if not enrolled in the GCM system.
  
25. The **new scheme for health care** would have the advantage of access to a national network of primary and secondary care centers accessible to all VDPs no matter where located (whereas GCM has only 4 hospitals in Katanga providing all services, and none outside of Katanga, except for a couple of dispensaries which are not equipped to provide additional services). The NGO networks, one of which (CARITAS) already provides about 45% of all health care in DRC, offer a basic package of services including pharmaceuticals (acquired at wholesale cost) and follow up treatment as needed, which can be tailored for the needs of a specific population. Extensive experience indicates that roughly 85% of all medical needs are for routine primary care (can be handled at local health centers, instead of hospitals) and only 15% requiring secondary treatment.

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the environment of both the provider and beneficiaries, and the emergence of alternative schemes to delivery of such services since 2004-6, or to benefit from a period of evaluation of results from field implementation, which the current team has been able to do.



Moreover, all doctors are exclusively employed by the NGO network and do not operate private clinics (unlike many GCM doctors) to which they might steer patients and charge extra fees. An additional advantage of this approach is that the VDPs would be able to take part in management and M&E of their services through representation on the Health Committees (*Comité de Santé*) that exist for each health care center in the country and are staffed by elected citizens from the user populations. These Committees are also an effective means of disseminating information to the public on new epidemics and of educating the participants on issues affecting their health care needs.

26. Finally, to support the above programs, the mission undertook actions to put in place a full-fledged participatory Monitoring and Evaluation system that will target benefits being provided to the VDPs, rather than monthly payments to the service providers as currently done by COPIREP, and, importantly, that will support an effective feedback system. In that regard, the team also identified the top 3 NGOs with the necessary competencies for conducting effective monitoring of the program for GCM VDPs. COPIREP has agreed to undertake the recruitment of a suitable NGO for this purpose.
27. It is envisioned that, under the fastest possible procurement procedure permitted by Bank policies, an NGO could be engaged and begin offering services to the VDP population by August 2011, soon after the new schemes for education and health care are implemented. By that time, a restructuring of the PSDCP would be completed that would allow for financing the new scheme (in whole or part, depending on final cost projections and limitations on funds).
28. In summary, the above agreed actions would strengthen the impact and durability of reforms implemented under this program, as follows<sup>16</sup>:
  - a. Since being separated from the GCM system over the past 5-6 years, the VDPs have become accustomed to greater self-reliance and services outside of the GCM system, including seeking healthcare from public and private service networks and enrolling their children in non-GCM schools. In fact, there is broad sentiment among all stakeholders ***advocating the merits of continued devolution from GCM systems, and against incentives favoring increased re-integration, as implied by the current scheme.***

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<sup>16</sup> For additional analysis of options, please see Exhibit B

- b. Outsourcing the health (and eventually education) services to a non-GCM network, e.g. to a national NGO, would not only address short term needs of the VDP population through provision of benefits that are **more appreciable** (including drugs and medical treatment beyond mere consultations), **inclusive and accessible** (will extend reach to all VDPs throughout DRC, not only those in Katanga residing near a GCM hospital), and **better targeted and demand driven** (benefits flow directly to VDPs and are consumed as demanded, not dictated by supply constraints of GCM intermediaries), it would also pave the way for **solutions that will be sustainable for the medium and long term** (beyond life of the PSDCP which ends in December 2012) through the creation of a Mutual that is custom-designed for the needs of the VDP population. Such Mutuals already exist in DRC, based on solidarity of members to co-finance (at minimal cost) their participation (i.e. whether sick or not, the members pay a monthly fee, largely subsidized by the membership).
- c. Furthermore, the flexibility embedded in this approach is broad enough to allow for continued utilization of GCM networks, where desired and agreed among the stakeholders. Within 2-3 years the GCM social services infrastructure (schools and hospitals) will be reorganized into a Foundation that will be autonomous of GCM (as reiterated recently by new management in place since December 2010), and financed by its growing share of non-GCM (i.e. paying) clientele as well as by dividends from shareholdings in the mining enterprise GCM, as well as by private investors and other foundations, including collaboration with NGOs.
29. **Mission outcomes on restored access to pension system:** Finally, under the third pillar of the agreed MAP for GCM VDPs, the government has engaged a consultant SESOMO to calculate pension contribution arrears owed to the national pension agency INSS for each individual VDP of GCM. Once this work finishes (by end June 2011), COPIREP will ensure the availability of legal counsel to the VDPs to understand and pursue their legal rights to pension, whatever those may be for each individual case that seeks counsel, and to assist with the negotiations between GCM and INSS. Upon completion of the calculations of the outstanding dues to INSS, the Bank and government will agree on a scheme to ensure appropriate funds be available at INSS in order for the pension scheme for the VDPs to be realized.
30. The consulting firm SESOMO has been hired to conduct a reconstruction of each individual employee's case regarding social contributions arrears owed by GCM to INSS so the latter can start paying VDPs monthly pensions, if and when eligible. The SESOMO assignment contract was signed December 2, 2010, and the final report is expected by end June 2011. On the basis of SESOMO's report, the amount of arrears that was not contributed to INSS will be determined so that GCM and/or the government can

retroactively reimburse INSS in order to enable the servicing of pensions to eligible VDPs, including any arrears. It is important to note, however, that in the past few months, some VDPs have received a lump sum for their INSS retirement benefits and that others are being paid 50,000 FC on a quarterly basis. These are retirees on account of whom GCM was regularly contributing retirement fund to INSS.

31. In order to properly accompany the process allowing former employees access to INSS, it is critical to pursue the following action items: (i) assist directly the VDPs of GCM to negotiate their pension payment with INSS, (ii) identify the individuals concerned through collection of data and various personal information available, (iii) for each individual, check for the presence or lack of INSS social security number, (iv) identify individuals who fall within the legal retirement age within various groups of retrenched workers, (v) identify the amounts contributed to the pension fund by both employer and employee, (vi) assess the amount the individual may be entitled to, (vii) assess how ex-employees may have access to their retirement money, (viii) hold meetings with INSS to expose and discuss the results of the process.
32. After the above is completed and the calculations have been produced, legal experts will be deployed by COPIREP to support resolution of any legal aspects of the VDPs claims to pension (e.g. whether the correct certificates of employment termination were issued or not, etc), and then to negotiate the payments with INSS (involving also COPIREP and GCM). This work is scheduled to be done by end September 2011. Subsequently, based on the presentation of results and calculations to the government by end October 2011, it will be necessary for the government and/or GCM to deposit sufficient funds at INSS in order to capitalize the pension dues from INSS to the VDPs. .
33. Finally, it should be noted that, in line with the “best practice” techniques now being applied by the Bank to all labor retrenchment or retirement programs in DRC, as explained in section (C) of this Report, the Bank will require that all calculations and legal outputs be certified by independent auditors, and that legal opinions be issued by the Minister of Justice and the Labor Inspectorate, before any payments will be approved from the PSDCP. This is in line with lessons learned from the experience to date, and as applied recently with excellent success in the implementation of the voluntary departures program for the water utility REGIDESO, and as planned for the retirement program soon to be implemented for the railways company SNCC (with \$10 million funding from the PSDCP).

## **B- Action Plan for the Former Workers of the three liquidated banks (BCA, BCCE, NBK) and OCPT<sup>17</sup>**

34. The assistance to former employees of the liquidated banks and to the VDPs of OCPT consists of:
  - a. Connecting them to the national pension system (INSS)- as for the GCM VDPs;
  - b. Furthermore, in the case of the liquidated banks, an additional analysis is also planned to explain the discrepancies between the amounts arrived at by the independent consultant (at the time of liquidation of the banks) and those of the Labor Inspectorate. When completed, these will be discussed with all the stakeholders to achieve a common understanding and agreement on the implications.
  
35. All the work above is predicated upon completion of lengthy undertakings to recreate all the work histories for all ex-employees of the banks, and of OCPT. This task is severely challenging due to difficulty of tracing records on the former employees, as these were largely destroyed or lost over the years. Workers were severed from employment as a result of owner-led liquidation, and not through an incentive-based retirement or retrenchment scheme (as in the case of GCM and OCPT), hence subject to laws on bankruptcy and liquidation in addition to labor laws and labor agreements, and further complicated by the involvement of multiple institutions coordinating the work from different angles, i.e. the government, COPIREP, Central Bank, the bank liquidation trustees/directors, et al. This task is funded by the current project, benefiting from economies realized from other components of the PSDCP. To this end, the consulting firms of FIGEPAR and SESOMO have been hired by COPIREP to compile new data bases of the ex-workers from the liquidated banks and OCPT, respectively, by building upon whatever personnel records can be located and/or recreated from the bank liquidation exercise (which took place after years of inactivity by the banks) and from files maintained by OCPT, in order to produce fresh archives on each of the former workers, complete with work history and payroll records.
  
36. Under best circumstances, these two projects will be completed by end July 2011, assuming success in overcoming difficulties presented by having to trace through

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<sup>17</sup> Inclusion of OCPT VDPs is a pre-emptive measure, and not a direct response to a Request to the Inspection Panel, but it has proven to be correct, as evidenced by good regular dialogue with OCPT representatives in Kinshasa, which have helped greatly in understanding the grievances and acting upon them

records from periods and geographic locations severely affected by periods of civil unrest and destruction. Both the banks and OCPT were national organizations with dozens of branch locations across DRC, including some in areas that are still difficult to access. In the case of OCPT, the data will need additional reconciliation, as there are an unknown number of ex-workers who were reportedly re-employed by OCPT after collecting retirement benefits. These two undertakings are currently ongoing, with partial funding from the existing PSDCP budget and partial expected from the reallocation of PSDCP in June 2011, which will continue to finance the activities under this task.

37. Subsequently, to enable access to the national pension system (INSS) for all above ex-workers, it will be necessary to calculate the value (cost) of social contributions due to INSS on an individual basis, as is now underway for the GCM VDPs. Then, after the arrears dues to INSS have been assessed, it will be necessary for the government (along with the Central Bank, in the case of the liquidated banks) to pay back the contributions to INSS so the latter can start paying the former workers of these enterprises. All the above work is expected to be completed by end September 2011 in order to allow COPIREP to report to the government the conclusions of the consultants' analysis no later than end October 2011, for the government to make any pending decisions.

### **C- Applying lessons learned to forthcoming retrenchment and other social plans to be applied to SOEs or civil service and public administration**

38. The World Bank has also provided assistance to COPIREP on development and implementation of good practices on retrenchment plans through additional technical assistance on labor policy and public sector restructuring. This has further helped to educate and mobilize public officials on the social dimension of public enterprise reform, including measures needed to develop a comprehensive program to monitor social dimension of SOEs.
39. The cornerstone of this reinforced ownership of the learning and application of best practices was a national workshop on the social dimension of SOEs reform which was organized and attended by high level decision makers on February 2, 2010 and its outcomes forwarded to the CPDS (Cadre Permanent du Dialogue Social) and the Government. The workshop made recommendations to ensure a sound implementation of SOEs including retrenchment plans and/or social plans for potentially employees and workers which may cost at least US\$ 1 billion. On the basis of outcomes of this workshop, the government confirmed its resolve to take leadership of future

retrenchment and social reform programs at SOEs, with continued assistance from the Bank both in terms of capacity strengthening as well as the application of best practices and lessons learned from both good and bad experience.

40. The lessons learned from past retrenchment plans were used in the design and implementation in the restructuring of SNCC and REGIDESO, including individualized payment calculations duly audited and certified, approved by labor unions, endorsed by the Labor Inspectorate and officially mandated by the government through formal legal opinions. This also includes implementation of economic impact surveys to benchmark progress and closely monitor reinsertion activities, particularly in the case of REGIDESO, which was a VDP program (whereas SNCC is a retirement-eligibility based program). These plans are being implemented smoothly and effectively and have involved consensus building, social follow up measures and monitoring and evaluation. The SNCC and REGIDESO plans involve payments of salary arrears (by the government) and arrears to INSS (by Bank-supported projects), with the latter institution also benefiting from custom reforms under the MAP to restore its viability as pension-provider to the retiree population. This assistance to INSS is part of the support provided to the Government to settle social debts of SOEs, as explained below.

**D- Institutional reinforcement for effective administration of the social dimension of public enterprise reforms (including reform of INSS, future retrenchment and reinsertion programs, and communications support of a comprehensive strategy to settle the debts of SOEs):**

41. The Bank is engaged in a policy dialogue with the Government in view of developing a common understanding on how it can assist in dealing with the social aspects of public enterprise reform which is a critical element that weighs heavily on the implementation of state owned enterprise (SOEs) reform. COPIREP advised the Government of the need to develop a comprehensive program to monitor social dimension of SOEs.
42. After a December 19, 2009 Presentation to ECOREC (Economic and Reconstruction Commission) and under the patronage of the Ministry of Labor, Employment and Social Security, COPIREP organized on Feb 2, 2010 a workshop on the social dimension of SOEs reform. The workshop was attended by representatives of government agencies, state-owned enterprises (SOEs) and labor organizations and unions. The outcomes of the workshop were forwarded to the CPDS (Cadre Permanent du Dialogue Social) before being reviewed by the Government. The workshop identified a number of hurdles that need to be overcome to allow progress on SOEs reform process. These include: (i)

- public misperceptions that the state often gives away its enterprises at bargain price, (ii) lack of financial resources to support the reform of SOEs, (iii) lack of communication from stakeholders involved in the reform process, (iv) limited understanding on the part of labor unions on several key aspects of the reform. Labor unions often do not consider the broader economic implications of reforming an enterprise and are primarily motivated by short financial incentives. During the workshop, it was agreed that the social liabilities of reforming SOEs in DRC is estimated to be more than USD 1 Billion. The workshop made recommendations to ensure a sound implementation of SOEs reforms, including retrenchment plans and/or social plans for concerned workers. These recommendations are as follows: (i) Adopt a clear legal framework to deal with rights and obligations of the SOEs, workers and Government (ii) Develop better knowledge and management of retrenchment programs to avoid massive departure of needed workers and loss of institutional knowledge (iii) Avoid massive workers departure and planning to avoid unbearable social liabilities and gradual replacement of qualified staff (iv) Assess the effects of decreasing payroll expenses that account in some cases for up to 40% of the annual revenues of some companies. This needed to be done urgently and jointly with involvement of all stakeholders, including workers (v) Ensure that any retrenchment or social plan within a SOE will be done in compliance with existing labor laws and regulations, ILO standards, as well as taking into consideration the different collective labor agreements
43. **Reform of the national pension agency INSS and provision of access for ex-employees of GCM, liquidated banks and OCPT to the pension fund.** While supporting the reform of INSS, the management action plan will also provide technical assistance to former employees of the GCM, the three liquidated banks and of OCPT to allow them to access the national pension system (INSS). Consultants have been hired for each of the three institutional cases and are in the field now, with expected delivery of final reports by end September 2011. It is important to mention that due to the poor quality of data and absence of baseline, this consultancy will involve the following: (i) for the bank employees, COPIREP will start with an existing database of ex-bank employees and proceed with individual consultations; (ii) for OCPT, since no data exist, the consultants will be expected to do extensive field investigation. Both the banks and OCPT had operations throughout DRC, making this effort complicated and time consuming.
44. The entire program of selective reform of INSS and provision of access to INSS funds for ex employees of GCM, OCPT, and liquidated banks would roughly involve US\$ 3,000,000 from the restructured PSDCP, including (i) US\$ 300,000 to complete a financial and organizational audit of INSS, (ii) US\$ 300,000 to develop a digital database of employees and employers, (iii) US\$ 200,000 for actuarial studies, (iv) US\$ 200,000 to develop an information technology master plan for INSS, (v) US \$ 1,500,000 for implementation of recommendations, and (vi) US \$ 500,000 to assist ex-employees of GCM, OCPT, and

liquidated banks with calculations, certifications and legal assistance to be reconnected to the pension system administered by INSS. The Bank is already assisting the government with an overall development strategy for the sub-sectors of social and other insurance, as part of its reform of the non-banking financial sector.

45. **Establishment of a dedicated government capacity to support the social dimension of public reform, including retrenchment programs and reinsertion activities.** The plan will support government capacity to take charge of retrenchment programs and reinsertion activities, and for the workout of social debts as well as new covenants with organized labor. Ex-employees of GCM, the liquidated banks, and OCPT would be eligible for reinsertion support.<sup>18</sup> A total of US \$2,500,000 is being provided from the restructured PSDCP to fund activities under this reform agenda that will be spearheaded by the Deputy Prime Minister with support from COPIREP and a dedicated unit within the Ministry of Labor, Employment and Social Welfare. Showing its commitment to this process, the government has set up a preparatory commission in charge of developing and implementing cross cutting issues of public enterprises reform as mandated by the legal text 'arrêté ministériel n° 0018/CAB/PVPM/ETPS/2010' of June 5, 2010 emanating from the Vice Prime Minister, Minister of Labor, Employment, and Social Welfare.
46. The preparatory commission is made up of the following members: (i) 2 government experts (ii) 4 Experts from the Ministry of Labor, Employment, and Social Welfare (iii) 2 experts from INSS (iv) 2 experts from the COPIREP (v) 2 experts from ANEP (vi) 2 experts representing unions (vii) 2 experts from the World Bank, and (viii) 1 independent expert. The operating budget of the commission was approved by the Bank on November 19, 2010.
47. The action plan will be based on earlier identified priorities that will be financed by the PSDCP, such as: (i) Provide the terms of references for the positions needed in the dedicated structures. The TOR will developed and finalized based on the propositions made by the preparatory commission; (ii) Conduct a survey that will lead to the certification of the social debt of the six largest enterprises. TOR of this assignment will be finalized with the preparatory commission and funding will come from PSDCP budget reallocation; (iii) Launch a feasibility study of a complementary pension system that will compensate part of the social debt. TOR for this assignment will be finalized with the preparatory commission and funding will come from PSDCP budget reallocation; (iv) Provide technical assistance to the Government to elaborate a communication strategy on the social cost of public enterprise reform. TOR will be finalized by the preparatory commission with funding from PSDCP budget; (v) Launch the feasibility study for a social

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<sup>18</sup> Because some of these employees might be too old to benefit from reinsertion activities, the possibility of implementing a voucher scheme will be analyzed. Under such a scheme, each former employee would benefit from one voucher. The employee could decide to use the voucher him/herself or give this voucher to a family member.



debt defeasance structure<sup>19</sup>. TOR for this assignment will be finalized with the preparatory commission and funding will come from PSDCP budget reallocation; (vi) Support the development of a standard contract template for the negotiations of new collective bargaining agreements. This activity will be prepared by the preparatory commission; (vii) Review the labor code and renegotiation of collective bargaining agreements at the SOEs. This activity will be prepared by the preparatory commission; (viii) Conduct a retrospective analysis of the CARP (reinsertion, i.e. redeployment) process with lessons learned from REGIDESO Social Plan. This activity will be prepared by the preparatory commission; (ix) Provide technical assistance to the steering committee to set up a monitoring mechanism for VDPs of GCM regarding the terms of their separation contracts. This activity will be prepared by the preparatory commission.

48. The work of the preparatory commission and the implementation of their action program will continue through the 2011 elections period and throughout 2012. Meantime, in December 2010, under the PSDCP all public enterprises (including GCM and OCPT) were transformed and re-registered as corporations with limited liability, which introduces new governance structures and new relations with organized labor, as well as more fiscally and commercially prudent behavior, since the companies are expected to become commercially viable without further subsidization from government. With the OHADA legal framework expected to be adopted in DRC in July 2011 (also a reform under the PSDCP), the enterprises will be subjected to new laws on corporations and vulnerable to a new bankruptcy regime, which will place greater pressures on them to work out settlements with creditors. Given that most of the enterprises are currently undergoing financial restructuring and having their debts reduced, the largest remaining debt component burdening their recovery plans will be the social debts, whose continuing growth threatens the success of efforts to restructure the enterprises for financial and operational viability. Such prospects will make it even more pressing for government to accelerate this reform agenda, as described above, under supervision by the same PSDCP team that has been supervising the implementation of the MAP, underscoring the integrity of the PSDCP with the MAP.

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<sup>19</sup> It is proposed that a feasibility study be conducted for the implementation of a defeasance structure for public enterprise debt to employees. The said defeasance structure must be consistent with fiscal constraints. The terms of references of the consultants that will be recruited for the study are done, with the work to be funded from the PSDCP budget re-allocation

## E- Next Steps for Implementation and Supervision of the MAP

### 49. For the VDPs of GECAMINES:

- a. **By July 2011:** COPIREP to revise the Accord for free access to education that will be applicable in school year 2011-2012, opting to provide direct payment of tuition for VDP children enrolled in GCM schools, also extending benefits to outside the GECAMINES education system within affordability dictated by agreed PSDCP budget envelope and upon adjusting the maximum age-eligibility for benefits (from current max age of 25 yrs to 19 yrs, which corresponds roughly to completion of secondary education). Additional survey work will be conducted during April-May 2011 of the 16,000 VDP children to confirm the economics and approach.
- b. **By August 2011:** COPIREP to complete all contractual arrangements for effective startup of an NGO-operated provision of free access to health care (possibly as an **Output Based Aid** scheme) for GCM VDPs for up to two years, including the establishment of a Mutual for GCM VDPs before closure of PSDCP in December 2012. A TOR is currently being prepared, and COPIREP has integrated this activity in their report to the Prime Minister in March 2011. This activity will be financed by the reallocated funds of PSDCP (restructuring done by June 2011).
- c. **By August 2011:** COPIREP to institute NGO-administered Participatory Monitoring and Evaluation (PME) for the health care and education programs, financed by the reallocated funds of PSDCP (restructuring done by June 2011). The TOR will be finalized by June 2011.
- d. **By June 2011:** The consultant SESOMO to complete calculations of supplemental INSS contribution payments that will be required in order to provide GCM VDPs with access to pension system. This exercise will require identification of VDPs already receiving pensions and understanding transparently the basis under which these have been provided over the years. This activity is currently ongoing, financed by the PSDCP.
- e. **By October 2011:** COPIREP to complete provision of legal assistance to VDPs to facilitate their linkage to INSS, including consultations, options, and attestations that INSS will require on an individual basis in order to reinstate pension rights wherever applicable and possible, as well as to help with the negotiations between GCM and

INSS on the financial settlement that will enable the servicing of pensions for the VDPs. This activity will be financed by the reallocated funds of PSDCP.

- f. Continue to work with government on seeking solutions to VDPs' claims for additional financial compensation, according to government policy on the matter.

50. **For the former workers of the three liquidated banks (BCA, BCCE, NBK) and of OCPT:**

- a. **By end July 2011:** The consultant FIGEPAR (for the liquidated banks) and consultant SESOMO (for OCPT) to complete the reconstruction of former employees' data base and of detailed individual work histories for each of the former workers of the respective institutions, to the best of available information. These activities are currently ongoing and financed by the PSDCP.
- b. **By end September 2011:** After conclusion of the above activity, and using the data bases and individual dossiers created:
  - i. In the case of the liquidated banks, the consultant FIGEPAR will produce expert analysis of the difference in total severance compensation that the ex-workers were entitled to at the time of liquidation, taking into reference the reasoning and calculations submitted by the government's consultant at the time (which were basis for the actual payments made) and the amount of compensation entitlements that would have been mandated by the regulations enforced by the Labor Inspectorate; COPIREP will ensure that the findings are discussed with the stakeholders, to gain common understanding and agreement on the implications.
  - ii. The consultant FIGEPAR (for the workers of the liquidated banks) and the consultant SESOMO (for the VDPs of OCPT) will complete calculations of individual contribution payments still owed to INSS, and will support the negotiations between the government/Central Bank and INSS on the settlement to restore pension payments to the affected former workers.
  - iii. The TORs for both above activities are already prepared, and the projects will be financed by the reallocated funds of PSDCP.
- c. **By end October 2011:** COPIREP to present to the government the results of above undertakings, with options and recommendations for government consideration of capitalization/funding to enable INSS to recover its capacity to deliver pension entitlements to eligible workers and former workers.

51. **Institutional reinforcement for effective administration of the social dimension of public enterprise reform (including reform of INSS, future retrenchment and reinsertion programs, and communications support of a comprehensive strategy to settle social debts of SOEs):**
- a. **By July 2011:** COPIREP to complete recruitment of (a) financial and organizational auditors, (b) IT strategy/data base development experts, and (c) legal/statutory and actuarial specialists to conduct projects in support of reform of INSS, targeting completion by December 2011, based on current effort estimates, subject to consultants' proposals. The TORs for these activities have been prepared with inputs from the government and the ILO, and will be advertised in May 2011, with the projects to be financed by the reallocated funds of PSDCP.
  - b. **By end December 2011:** Launching of implementation of reforms prepared by consultants/auditors for INSS and of the social dimension for settlement of social debts of SOEs, with the organization and technology to be financed by reallocated funds from PSDCP and anchored within a steering unit at the Ministry of Labor and Employment with support from specialized experts at COPIREP in labor reform and communication strategy on the social costs of SOE reform.
52. **Costs of the MAP<sup>20</sup>:** The total costs to the government of implementing all actions described above (but excluding any supplemental awards of financial compensation that may result from implementation of National Assembly recommendation, court decisions or from the ongoing dialogue between the government and labor representatives), are estimated at \$12-14 million, of which \$2 million is already provided from the current PSDCP project and additional \$10-12 million to be made available through reallocations from other components and consequent restructuring of the PSDCP by June 2011.
53. **Supervision of MAP:** The World Bank's team working on the implementation and monitoring of the Management Action Plan in the field is comprised of: (i) two private development specialists, including the TTL, (ii) a senior social development specialist, (ii) operations officer(s) and consultants, and is assisted by HQ-based staff including (i) a lead counsel, (ii) a senior social scientist, and (iii) safeguards specialist(s).

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<sup>20</sup> See **Exhibit A** in back of this Report for detailed breakdown.

- a. With the restructuring of PSDCP in June 2011, the MAP will complete its full integration into the funding and results framework of PSDCP, i.e. it will be duly supervised (and evaluated) as an integral part of the Bank project.
- b. Management has provided the needed budget and other resources to continue to carry out and report on the implementation of the Action Plan including coordinating with the other projects which are addressing retrenchment plans and other social plans and programs connected to implementation of retirement plans.
- c. The team will continue to closely supervise the implementation progress in a participative way with the stakeholders, continuing to meet with their representatives on a monthly basis in Kinshasa and in the Katanga province, as has been the practice since September 2010, and to reinforce dialogue between the stakeholders and the government of DRC.

## **Management Action Plan (MAP) Matrix:** **(Status as of April 2011)**

The Management Action Plan (MAP) approved by the World Bank's Board of Executive Directors included actions to be implemented to (i) address the critical issues raised by the requestors in their three requests to the Inspection Panel, and (ii) further improve the quality of the overall Bank's portfolio in DRC in connection with social and other aspects of public sector reform including SOEs and public administration.

These actions are as follows: (a) Action plan for the for the benefit of ex-employees of the enterprise Gecamines (GCM) who terminated employment under the Voluntary Departure Program (VDP) in 2003-4, (b) Action Plan for the ex-employees of three liquidated banks (BCA, BCCE and NBK) and OCPT, (c) Applying lessons learned to forthcoming retrenchment and other social plans to be applied to SOEs or other civil service and public administration, and (d) Institutional reinforcement for effective administration of the social dimension of public enterprise reform, including future retrenchment and reinsertion programs in support of a comprehensive strategy to settle social debts of SOEs.

Progress achieved under each of these actions is summarized in the right-most column of the following matrix, with the original Actions and Timelines that were stated in the Second Management Response shown in the left columns:

<b>ACTION PLAN FOR THE GECAMINES VDPs</b>		
<b>Action</b>	<b>Original Timeline/<i>Revised</i></b>	<b>Status as of April 2011</b>
Undertake a survey of GCM "Partants Volontaires" (VDP) to have a better understanding of their current situation. This survey will help analyze if special actions are needed for VDPs	April – June 2009	<p><b>Fully implemented.</b></p> <ul style="list-style-type: none"> <li>• Report forwarded to the Inspection Panel and disclosed on the Panel's website.</li> </ul> <p>The survey, done between July and August 2009 in Lubumbashi, Kipushi, Likasi and Kolwezi, included thorough investigations on the current situation and status of 534 households, (most of which were VDPs). Results were compared with that of the initial survey done in 2003. The survey shows that overall: (i) there is no deterioration of the economic situation of VDPs since 2003. However, the latter do appear to find themselves in a more difficult situation than that of other Katanga inhabitants, who live in urban areas and belong to the same age group, (ii) the Katanga province has experienced significant economic growth the few last years, but VDPs were not able to benefit from that growth due their age and the challenges they have of adjusting to life outside of GCM.</p>

<p>Formulate short, medium and long term solutions for access to GCM' health and education services to the VDPs</p>	<p>On-going by COPIREP, in the context of the formulation of GCM restructuring options</p> <p><b>Education:</b>  <i>September 2010-December 2012</i>  <i>(benefits eligible to May 2013)</i></p>	<p><b>In progress, but requiring modifications, as proposed in this Report, to enable access to services outside of the GCM system.</b></p> <p><b>Access to Education:</b></p> <ul style="list-style-type: none"> <li>• For school year 2010-11, benefits limited to VDP children enrolled in the GCM school system.</li> <li>• For school year 2011-12, benefits extended to VDP children enrolled in GCM schools or same schools where enrolled in 2010-11</li> </ul> <p>COPIREP and GCM have concluded a "Protocole d'Accord" (PA) to allow children of GAP to attend schools administered by GCM over a period of two years. This Agreement was signed following: (i) a survey of the VDP schoolchildren, (ii) the identification of three teams of enumerators with respective supervisors was established to cover the three main areas inhabited by VDPs in Lubumbashi, Likasi and Kolwezi. Kinshasa and Matadi were together, assigned enumerators, (iii) the VDP schoolchildren were enrolled at various GCM schools, in the second week of September, as result of consultations between COPIREP, GCM, without payment of school fees, (iv) COPIREP will pay a premium to GCM following an agreed rate and schedule. Payments target schools that have enrolled GPV children, and all respective teaching and support staff . The premium would be paid after COPIREP conducts a survey of school attendance by VDP children during first semester of the school year 2010-11.</p> <p>(i)The comprehensive survey to identify children of VDP (and take census of GCM teachers) who are eligible for free tuition benefits under the Protocole agreement was completed in the Katanga province. (Lubumbashi, Kipushi, Likasi, Kambove and Kolwezi) Sept 23, 2010 and in Luena, Oct 21, 2010 (ii) GCM authorized the registration of children of PV before the actual signature of the Protocole in order to avoid any delay in attending school (iii) The delivery of ID cards to the teaching staff of GCM is currently ongoing (iv) Release of funds for the first installment for the payment of stipends to teachers, which was scheduled for the first half of January 2011 (and amended to May 2011), subject to any revisions to the Accord.</p> <p>It has been agreed in March 2011 to revise the Accord in order to pay tuition for all VDP children enrolled at any school where they were enrolled in 2010-11, including at GCM schools and any children that still wish to switch to GCM schools</p> <p><b>Access to Health:</b></p>
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	<p><b>Health:</b>  <i>January 2011-December 2012</i>  <i>(benefits eligible to May 2013)</i></p>	<ul style="list-style-type: none"> <li>From January 2010, benefits limited to free consultations available exclusively at GCM health clinics</li> <li>From August 2011- December 2012 (with benefits eligible until May 2013), benefits expanded to basic health care package including medicine and secondary treatment provided by participating NGO health centers throughout DRC.</li> </ul> <p>In September 2010, a “Protocole d’ Accord” (PA) was negotiated between COPIREP and GCM establishing the conditions and requirement for funding the program for free access to healthcare of VDPs and their family members at GCM health clinics over a period of 2 years, starting in January 2011. However, this Accord was predicated upon resolution of an important hurdle related to the provision of medicines which cannot be financed as proposed by GCM in the Accord. Findings to date indicate that the current scheme, as embodied in the Accord, will not deliver the desired impact, as the provision of free consultations alone is not likely to improve the welfare of VDPs.</p> <p>It has therefore been agreed to adopt a new plan for provision of free health care to the VDPs, based on outsourcing the administration of health care services to a nationally-active NGO (possibly as an Output Based Aid scheme) which delivers primary health care including medicine and treatment to VDPs throughout VDP, without restricting them to the GCM health system.</p>
<p>Institute an effective M&amp;E framework for health and education benefits, with corrective action system to act on problems and grievances</p>	<p><i>August 2011-December 2012</i></p>	<p><b>In progress of launching Participatory M&amp;E framework, with financing forthcoming from restructuring of PSDCP.</b></p>
<p>Provide technical assistance to enable the GCM VDPs to have access to the national pension system (INSS) – in parallel to the support to the reform of INSS (as per GCM additional action plan)</p>	<p>March – December 2010</p> <p><i>December 2010- June 2011 (phase I)</i></p> <p><i>July- October 2011 (phase II)</i></p>	<p><b>In progress, for completion by October 2011.</b></p> <p>Technical discussions between the Bank team and COPIREP concluded that it is essential to (i) identify the workers concerned by this action through various personal information available (ii) check whether each worker does have or not an INSS social security number (iii) survey individual who fall within the legal retirement age within various groups (iv) audit past pay practices to monitor what amounts were contributed by both employers and employees to the pension fund, if any (v) assess the amount the individual may be entitled to, (vi) assess how and when retrenched and or retired employees may have access to their retirement money, (vii) assist directly ex employees of GCM to negotiate their pension payment with INSS, (viii) hold meetings with INSS to expose and discuss the results.</p>



		<p>To this end, the consulting firm SESOMO was engaged in December 2010 to reconstruct the individual cases for social contributions arrears owed to INSS. The SESOMO report is expected by end June 2011. On the basis on the SESOMO report, the amount of arrears that was not contributed to INSS will be determined and GCM and/or the government will have to find the funds necessary to contribute retroactively to INSS so it pay the arrears to ex-employees. In the past few months, it was noted that many ex-employees received a lump sum for their INSS retirement benefits, while others are being paid 50.000 FC on a quarterly basis. These are retirees on account of whom employers were regularly contributing retirement fund to INSS.</p> <p>Funding of pensions for VDPs will involve negotiated settlement between INSS and GCM, and will need financial support from the government support and GCM. It is expected that all negotiations with INSS will be completed by end October 2011. Implementation of funding agreement, and commencement of pension payments, to follow.</p>
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**ACTION PLAN FOR THE FORMER WORKERS OF THREE LIQUIDATED BANKS (BCA, BCCE, NBK) AND OCPT**

Action	Original Timeline/Revised	Status as of April 2011
<p>(For the former workers of the liquidated banks) Undertake a detailed analysis, with the support of a specialized consultant, to fully explain the differences between the calculations of the consultant and those of the Labor Inspectorate</p>	<p>By end March 2010</p> <p><i>February – July 2011 (phase I)</i></p> <p><i>July - October 2011 (phase II)</i></p>	<p><b>In progress, for completion by October 2011, pending registration process and meticulous reconstitution of work histories for each individual worker.</b></p> <p>Due to the poor quality of data and absence of baseline, this activity is highly complex and labor intensive. It begins with an existing database but will rely greatly on extensive field investigation and individual consultations. The work is ongoing nationwide amidst complex logistics. Data will need extensive purification, involving iterative analysis and interaction with stakeholder populations.</p> <p>Following the compilation of the data base and individual work histories (and agreement with the stakeholders in question), specialized consultants will conduct the analysis of the difference between the amounts arrived at by the consultants hired by the government in 2003 and those produced by IGT (General Labor Inspection), to assess the full legal entitlements owed to former employees of the liquidated banks. Consultants' reports will be submitted to COPIREP by end September 2011, in order for COPIREP to report to government the conclusions of the consultants' analysis by end October 2011, with recommendations to government on proper course of action. COPIREP will ensure</p>

		<p>that all results get shared with the stakeholders in order to gain common understanding and agreement on the implications of the findings.</p>
<p>Provide technical assistance to the former employees of the liquidated banks (and OCPT<sup>21</sup>) to access the national pension system (INSS) – in parallel to the support to the reform of INSS (as per GCM additional action plan)</p>	<p>March – December 2010</p> <p><i>February – July 2011 (phase I)</i></p> <p><i>July - October 2011 (phase II)</i></p>	<p><b>In progress, for completion by October 2011.</b></p> <p>Technical discussions between the Bank team and COPIREP concluded that it is essential to (i) identify the workers concerned by this action through various personal information available (ii) check whether each worker does have or not an INSS social security number (iii) survey individual who fall within the legal retirement age within various groups (iv) audit past pay practices to monitor what amounts were contributed by both employers and employees to the pension fund, if any (v) assess the amount the individual may be entitled to, (vi) assess how and when retrenched and or retired employees may have access to their retirement money, (vii) assist directly the ex-employees of OCPT and liquidated banks to negotiate their pension payment with INSS, (viii) hold meetings with INSS to expose and discuss the results of the process. (ix) present the findings to the government and OCPT (to Central Bank in case of the liquidated banks) for proper course of action.</p> <p>OCPT: (i) Consultant SESOMO is engaged since February 2011 to conduct reconstitution of the individual cases for social contributions arrears owed to INSS (ii) On the basis of the consultant report expected by end September 2011, the amounts of arrears to INSS will be presented by end October 2011 to OCPT and the government for appropriate action.</p> <p>Liquidated banks (BCA, BCCE, NBK): (i) Consultant FIGEPAR is engaged since February 2011 to conduct reconstitution of the individual cases for social contributions arrears owed to INSS to start paying PVs (ii) Report on the individual situation of liquidated bank retirees is expected by end September 2011. On the basis of the consultant report the amounts of arrears owed to INSS will be presented to the government and Central Bank by end October 2011 for appropriate action. Payment of pensions will depend on decisions by government, Central Bank and OCPT to fund the pension rights as appropriate.</p>

<sup>21</sup> See earlier footnote 4

<b>APPLYING LESSONS LEARNED TO FORTHCOMING RETRENCHMENT PLANS AND OTHER SOCIAL PLANS</b>		
<b>Action</b>	<b>Original Timeline/Revised</b>	<b>Status as of April 2011</b>
Provide best practices technical assistance to COPIREP on retrenchment plans	Starting in April 2009.	<p><b>Fully implemented.</b></p> <ul style="list-style-type: none"> <li>International experts are assisting COPIREP.</li> </ul> <p>In addition, the Bank is engaged in a policy dialogue with the Government in view of developing a common understanding on how it can assist in dealing with the social aspects of public enterprise reform which is a critical element that weighs heavily on the implementation of state owned enterprise (SOEs) reform. COPIREP is advising the Government on measures needed to develop a comprehensive program to monitor social dimension of SOEs.</p>
Apply lessons learnt when undertaking forthcoming retrenchment plans at SNCC and REGIDESO, in particular undertake rapid poverty assessment surveys at the time of the retrenchment to benchmark progress and closely monitor reinsertion activities	April 2009 – May 2011	<p><b>Fully implemented.</b></p> <ul style="list-style-type: none"> <li>REGIDESO social plan already completed in November 2010, now is cited as “best practice” by client.</li> <li>SNCC social plan implementation scheduled for May 2011 incorporates all lessons learned</li> </ul> <p><b>REGIDESO</b>, the Social Plan agreed upon by the Bank was based on the following criteria: (a) avoid adverse selection; (b) avoid overpayment; (c) avoid moral hazard; (d) follow appropriate legal processes and collective bargaining arrangements; (e) consider social impacts; (f) appropriately determine retrenchment payments and (g) allow for independent verification. The negotiation process between REGIDESO and Labor organizations was concluded by a “Protocole d’Accord” which was endorsed by the Government and found in full compliance with applicable laws and regulations of DRC by the Minister of Justice who issued a legal opinion to that end. A reputable consultancy firm Price Waterhouse Cooper (PWC) was retained to independently review the Social Plan and monitor its content and implementation process. The report issued by PWC mentions that beside few errors in the calculation of dues to departing workers, the amount of payments to be made by REGIDESO to its departing workers is correct including reserve made to correct the errors mentioned above. This amount takes into account all dues in compliance with applicable laws and regulations in force in DRC, including the Collective bargaining Convention (“Convention collective”) and the “Protocole d’Accord”</p> <p>The “Protocole d’Accord” was entered into by REGIDESO and INSS on September 14, 2010 providing insurance and pension coverage for departing workers. The “Protocole” was signed and implemented under the supervision of the Ministry of Energy.</p>

		<p>REGIDESO paid a total of US\$ 1.765.287 of which US\$ 1.617.885 was from World Bank financing.</p> <p><b>SNCC:</b> A “Protocole d’Accord” (PA) was negotiated and approved by SNCC and labor organizations representing workers to define the conditions and benefits for SNCC workers to retirement under un comprehensive Plan (the Plan). The PA was approved in May 26, 2009 and completed by an Amendment dated February 13, 2010. The PA defines a program for the retirement of agents that had reached the retirement age as of 12/31/2008 (Voluntary Departure Program) as well as the payment of all salary arrears.</p> <p>The Bank committed to finance indemnities and social pension contributions for employees eligible for retirement who have elected to take voluntary retirement, based on a scheme agreed with the syndicates and government. The first group of retirees eligible since December 2008 will be financed by US\$10 million from the Bank's PSDCP and US\$20+ million by the MTP. The Bank will not finance any salary arrears which remain the responsibility of SNCC and/or the Government and will come in complement of departing indemnities financed by the Bank in order to allow the retirement of eligible employees to become effective. SNCC’s outstanding social debts not financed by the Bank (i.e., salary arrears) will be paid by SNCC and/or the Government in equal annual shares over a period of five years.</p> <p>Under the Plan SNCC will pay full arrears and dues to its departing workers, and contribute to INSS in view of providing its retired workers under the Plan with full pension. The Plan was subject to a legal opinion issued by the Minister of Justice confirming that the Plan is in compliance with all applicable laws and regulations in place in DRC. A reputable consulting and accountancy firm, Okalla Ahanda was retained to audit the list and dues and compensation amounts to be paid to, already retired, and departing workers and issued a report certifying the calculation made under the Plan. The implementation of the plan is now expected in May 2011.</p>
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**INSTITUTIONAL REINFORCEMENT FOR EFFECTIVE ADMINISTRATION  
OF THE SOCIAL DIMENSION OF PUBLIC ENTERPRISE REFORM**

Action	Original Timeline/ <i>Revised</i>	Status as of April 2011
<p>Initiate reform of INSS (pension fund): undertake a financial and organizational audit to assess options for reform</p>	<p>June – December 2009</p> <p><i>July 2011- December 2011 (phase I: audits and studies)</i></p> <p><i>January-December 2012 (phase II: implementation)</i></p>	<p><b>In progress, initial stage funded by current project (TORs prepared with ILO inputs, and ready to advertize). Full implementation pending on availability of financing from the restructuring of PSDCP.</b></p> <p>INSS reform is essential to address access to pension for all retrenched and retired workers. After discussion with Government officials and COPIREP, It is agreed to provide technical assistance to (i) help reform INSS and (ii) assist ex employees of GCM OCPT, and liquidated Banks have access to their retirement funds to be paid by INSS. However, reforming INSS has some pre-requisite including: (i) completing a financial and organizational audit, (ii) cleaning up the list of eligible workers and develop a comprehensive digital database of employees and employers which is lacking at this point of time, (iii) actuarial study, including assessment of INSS legal framework and proposing reforms in eligibility and benefits, (iv) develop an Information technology master plan, and (v) assist with the implementation of various recommendations.</p> <p>Terms of reference for the consultancy that will help initiate INSS reforms have been drafted with support of the ILO, and they have been sent to the Bank for review and a no objection. Financing will be provided from the restructuring of the PSDCP.</p> <p>Five activities involved in the reform of INSS (i) Organizational and financial audit (ii) Streamlining and digitization of employees and employers files (iii) Actuarial study (iv) Development of a blueprint information system (v) Support to the implementation of the various recommendations</p> <p>The process of INSS reform and ensuring access to INSS funds for ex-employees of GCM, OCPT, and liquidated Banks would roughly involve the following amounts: (i) US \$ 2,500,000 for technical assistance to reform INSS, plus (vi) US \$ 500,000 to link the ex-employees of GCM, OCPT, and liquidated banks to INSS. Results of consultants' calculations and recommendations will be submitted to the government for funding decisions and commitments.</p> <p>For each of the five (5) activities described in the INSS reform process, consultants will be recruited by end July 2011, upon approval of reallocated funds from the restructuring of PSDCP.</p>

<p>Undertake workshop for the Government on the social dimension of public enterprise reform</p>	<p>May 2009</p>	<p><b>Fully implemented.</b></p> <ul style="list-style-type: none"> <li>Workshop conducted on February 2, 2010, which culminated in agreement by government and unions to pursue new dialogue on management-labor relations, and is basis for further reforms of public enterprises, especially with respect to social debts of enterprises.</li> </ul> <p>After the presentation to ECOREC (Economic and Reconstruction Commission) in December 2010, and under the patronage of the Ministry of Labor, Employment and Social Security, COPIREP organized on February 2, 2010 a workshop on the social dimension of SOEs reform. The workshop was attended by representatives of government agencies, state-owned enterprises (SOEs) and labor organizations and unions. The outcomes of the workshop were forwarded to the CPDS (Cadre Permanent du Dialogue Social) before being reviewed by the Government. The workshop identified a number of hurdles that need to be overcome to allow progress on SOEs reform process. These include: (i) public misperceptions that the state often gives away its enterprises at bargain price, (ii) lack of financial resources to support the reform of SOEs, (iii) lack of communication from stakeholders involved in the reform process, (iv) limited understanding on the part of labor unions on several key aspects of the reform. Labor unions often do not consider the broader economic implications of reforming an enterprise and are primarily motivated by short financial incentives. During the workshop, it was agreed that the social liabilities of reforming SOEs in DRC is estimated to be more than US\$ 1 Billion.</p> <p>The workshop made recommendations to ensure a sound implementation of SOEs including retrenchment plans and/or social plans for concerned workers. These recommendations are as follows: (i) adopt a clear legal framework to deal with rights and obligations of the SOEs, workers and Government, (ii) develop better knowledge and management of retrenchment programs to avoid massive departure of needed workers and loss of institutional knowledge, (iii) avoid massive workers departure and planning to avoid unbearable social liabilities and gradual replacement of qualified staff, (iv) assess the effects of decreasing payroll expenses that account in some cases for up to 40% of the annual revenues of some companies. This needed to be done urgently and jointly with involvement of all stakeholders, including workers, (v) ensure that any retrenchment or social plan within a SOE will be done in compliance with existing labor laws and regulations as well as taking into consideration the different collective labor agreements.</p>
<p>Include in the proposed second additional financing to the PSDC support to the establishment of a dedicated structure in charge of</p>	<p>Second additional financing to be presented to the Board before end June 2010</p>	<p><b>In progress, with startup funded by current PSDCP operation. Full implementation pending availability of financing from restructured PSDCP.</b></p>

<p>retrenchment programs and reinsertion activities. Former employees from Gécamines, the liquidated banks, and OCPT would be eligible for reinsertion support<sup>22</sup></p>	<p><i>As the Second additional financing was not available, it was decided to fund these activities by restructuring the current PSDCP.</i></p>	<p>A preparatory Commission in charge of developing and implementing a dedicated capacity of government to administer the implementation of cross cutting strategies for public enterprises reform in DRC was established by the legal text 'arrêté ministériel n° 0018/CAB/PVPM/ETPS/2010' of June 5, 2010 of the Vice Prime Minister, Minister of Labor, Employment, and Social Welfare, with the following members: 2 government experts, 4 experts from the Ministry of Labor, Employment and Social Welfare, 2 experts from INSS, 2 experts from the COPIREP, 2 experts from ANEP, 2 experts representing labor unions, 2 experts provided by the World Bank, and 1 independent expert.</p> <p><b>The work of the Commission has been ongoing since November 2010, though crippled by absence of the Minister of Labor and Employment (absent from DRC for 4 months), who was ultimately dismissed from government in March 2011.</b></p> <p>A fully-staffed and equipped government unit was to be attached to the Ministry of Labor and Employment based on the decision issued by ECOREC on December 2009, and to be supported by the above commission. Upon dismissal of the Minister of Labor and Employment by the President of DRC in March 2011, the responsibility for the commission and for the new unit was transferred to the Vice Premier for Telecommunications, who heads ECOREC. The unit oversees:</p> <ul style="list-style-type: none"> <li>• Creation of the taskforce that will manage the social reform process of public enterprises</li> <li>• Recruitment of technical assistance to the task force: Description of the positions to be finalized based on the propositions made by the preparatory commission;</li> <li>• Survey and certification of social debt of six large SOEs.</li> <li>• Feasibility study of a complementary pension system that will compensate part of the social debt.</li> <li>• Technical assistance for communication strategy to accompany social reforms of public enterprises</li> <li>• Feasibility study for a social debt defeasance structure, if such is to be considered under the broader reform program</li> <li>• Development of a standard contract template for the negotiations of new bargaining agreements</li> <li>• Review of the labor code and renegotiation of bargaining agreements</li> <li>• Retrospective analysis of the CARP (reinsertion support) process with lessons learned from REGIDESO Social Plan</li> </ul>
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<sup>22</sup> Because some of these employees might be too old to benefit from reinsertion activities, the possibility of implementing a voucher scheme will be analyzed. Under such a scheme, each former employee would benefit from one voucher. The employee could decide to use the voucher him/herself or give this voucher to a family member.

**EXHIBIT A: MANAGEMENT ACTION PLAN COSTS TABLE****Overview of costs of activities undertaken and planned in support of the Management Action Plan**

	<b>Timeline</b>	<b>Contractor</b>	<b>Amount in USD</b>	<b>Notes</b>
<b>For the GECAMINES VDP</b>				
Census/ID of GCM VDPs eligible for benefits (roughly 40,000 persons)	Sept-October 2010	Jacques Bajika	95,000	Act
Post-enrollment statistical survey of GCM schools	Nov 2010-Jan 2011	Jacques Bajika	50,000	Act
Calculation of INSS dues for linking to pension system	Jan - June 2011	SESOMO	53,000	Act
Statistical survey of VDP children in non-GCM schools	March- May 2011	Jacques Bajika	50,000	Est
Poverty impact analysis	2009	Bank	50,000	Est
Legal assistance to claim pension benefits	July- Sept 2011	TBD	90,000	Est
Free access to education	Oct 2010-Dec 2011	GCM / NGO	2,000,000-4,000,000	Est
Free access to health system	Jan 2011-Dec 2012	NGO TBD	2,000,000-4,000,000	Est
Participative M & E framework	August 2011-Dec 2012	NGO TBD	150,000	Est
<b>For the ex-workers of 3 liquidated banks</b>				
ID of ex-workers and reconstruction of individual work histories/files, and Calculation of INSS dues for linking to pension system	March- July 2011	FIGEPAR	159,000	Act
	July-Sept 2011			
Explanation of discrepancies between severance payments calculated by consultant and by Labor Inspectorate	July- Sept 2011	TBD	50,000	Est
Legal assistance to claim pension benefits	January- June 2012	TBD	50,000	Est
<b>For the OCPT VDPs</b>				
ID of ex-workers and reconstruction of individual work histories/files; and Calculation of INSS dues for linking to pension system	March- July 2011	SESOMO	55,000	Act
	July- Sept 2011			
Legal assistance to claim pension benefits	January- June 2012	TBD	50,000	Est
<b>SOCIAL DIMENSION OF REFORM</b>				
Expert assistance to COPIREP	Ongoing	Core Advice	200,000	Act
Preparatory Commission	Ongoing		35,000	Act
Reform of INSS (TA)	July 2011-Dec 2012		2,500,000	Est
Additional government capacity needs (to implement detailed action plan and communications program)	June 2011-Dec 2012		2,500,000	Est
<b>TOTAL FUNDING FROM PSDCP (approximately)</b>			<b>12,000,000-14,000,000</b>	Est
<b>BANK BUDGET FOR SUPERVISION OF MAP</b>				
	FY2011	World Bank	<b>250,000</b>	Act



**EXHIBIT B : COMPARAISON DES REGIMES*****Partants Volontaires de la Gécamines : Accès à l'éducation et à la santé***

<i>Contexte 2003 – 2004</i>	<i>Contexte 2010 – 2011</i>	<i>Situation actuelle du protocole éducation</i>	<i>Propositions des parties prenantes éducation</i>	<i>Situation actuelle protocole santé</i>	<i>Propositions des parties prenantes santé</i>
<ul style="list-style-type: none"> <li>- Personnel GECAMINES + de 20.000 agents</li> <li>- ± 17 mois d'impaiement</li> <li>- Activité quasi arrêtée</li> <li>- Vulnérabilité majeure : pas d'accès aux soins de santé, écoles en déliquescence</li> <li>- 10.650 pv's dont un tiers de l'effectif des enseignants</li> <li>- Primes aux enseignants et au personnel médical ressource importante, voire unique</li> </ul>	<ul style="list-style-type: none"> <li>- Personnel GECAMINES : près de 9.000 agents</li> <li>- Paiement régulier des salaires</li> <li>- Accès aux soins de santé et à l'éducation pour les agents actifs</li> <li>- Accès payant pour les PVS et leurs familles : 3.200 élèves des écoles GECAMINES</li> <li>- 10\$ par mois, soit ± 100\$/ an</li> </ul>	<ul style="list-style-type: none"> <li>- Paiement prime de 60\$ aux enseignants des classes des enfants des PV'S</li> <li>- Accès gratuit pour ± 3.200 enfants déjà inscrits à titre payant</li> <li>- Grand nombre d'enfants plus de 16000, étudient hors des écoles GECAMINES et n'auront pas accès à l'intervention de COPIREP</li> <li>- Caractère discriminatoire de l'intervention susceptible de créer des malaises entre enseignants et discrimination à l'égard des enfants des PV'S</li> <li>- La subvention profite d'abord aux enseignants et non au groupe cible – enfants PVS dont les plus nombreux sont hors écoles hors GECAMINES</li> <li>- Risque constitution des PV'S en groupe de pression en mobilisant autour du mécontentement</li> </ul>	<ul style="list-style-type: none"> <li>- Confier le montant de 2 millions de \$ USD à une ONG qui sera chargé de payer le minerval des enfants au standard des écoles GECAMINES, soit 100\$/ an</li> <li>- Avec cette approche l'intervention Etat/Copirep supportera 9.600 enfants en deux ans pour un montant de 1.920.000\$ au lieu de 3.200 enfants en 2011 et un chiffre non prévisible en 2012 eu égard aux capacités d'accueil des écoles GECAMINES et à leurs conditions d'accès/ test</li> <li>- Le système via ONG permettra de prendre en charge au moins un enfant par famille de PV'S ce qui est conforme à l'objectif d'atténuation de l'impact sur la pauvreté et la vulnérabilité</li> <li>- La GECAMINES sera tenue à l'écart de ces</li> </ul>	<ul style="list-style-type: none"> <li>- Paiement du personnel soignant pour accueillir les PVS e leurs familles uniquement en consultation cout environ 3\$</li> <li>- Prime de 60\$/mois soit 2\$/jour pour accueillir ± 20 malades/j jugé insignifiant par la GECAMINES</li> <li>- Impossibilité pour la GECAMINES de se limiter aux consultations sans accorder l'accès à l'hospitalisation et aux médicaments au risque de susciter des réactions incontrôlées des PV'S</li> <li>- Doublement des effectifs admis aux hôpitaux GECAMINES donc pression plus grande sur les finances des hôpitaux qui fonctionnent en autonomie</li> <li>- Coût de transport des malades supérieurs au coût de la consultation</li> </ul>	<ul style="list-style-type: none"> <li>- Confier à une ONG la gestion du budget santé en négociant un package avec les formations médicales : consultations + médicaments</li> <li>- Ouvrir l'accès aux soins sur tous les sites ou se trouvent les PV'S et familles, on atteindrait ainsi les groupes cibles et économiserait les frais de transport pour les PV'S</li> <li>- On éviterait l'implication de la GECAMINES avec la les pressions d'un groupe organisé des PV's</li> <li>- On économise les frais de gestion prévus pour la GECAMINES</li> <li>- On harmonise les interventions Etat/copirep avec celles du programme des soins de santé primaire qui donnent accès gratuit aux soins de la malaria,</li> </ul>

		<p>suscité par le système d'accès à l'éducation qui n'arrange ni les pv's, ni la GECAMINES</p> <ul style="list-style-type: none"> <li>- La prise en charge des enfants pendant deux ans ,oblige les parents à les déplacer de leurs écoles actuelles pour les réinscrire dans les écoles GCM, pour les ramener encore dans les anciennes écoles, sans compter avec les capacités d'accueil limitées dans les écoles GCM.</li> </ul>	<p>transactions et on coupera le cordon ombilical entre les pv's et la GCM, qui constitue une source récurrente des tensions et des revendications ...</p>	<p>donc aucun bénéfice pour les PVS et leurs familles, au contraire, ils dépensent plus.</p> <ul style="list-style-type: none"> <li>- Risque de constitution d'un groupe de pression des pv's pour de nouvelles revendications.</li> </ul>	<p>de la tuberculose, du VIH, de la santé mère-enfant et au programme élargi de vaccination.</p>
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**EXHIBIT C: LIST OF MEETINGS DURING MISSION**

<b>Tuesday 15 February</b>			
<i>Institut Pedagogique, Kinshasa</i>	Representative		
<i>CEPAS (Centre d'études pour l'action sociale)</i>	Representative		
<i>Caritas – DRC</i>	National Director DRC		
	Health Coordinator DRC		
<i>Minister of Health</i>	Minister		
	Conseiller Admin.		
	Responsable des Administrations et Finances, GCM director of medical and social program		
<i>COPIREP Kinshasa</i>	COPIREP Director		
	Advisor		
<b>Wednesday 16 February</b>			
<i>SANRU DRC</i>	DRC Director		
	Representative		
<i>Partants Volontaires – Kinshasa</i>	Representative		
	Representative		
	Representative		
<b>Thursday 17 February</b>			
<i>COPIREP – L'shi</i>	Katanga Project Officer		
<b>Friday 18 February</b>			
<i>Gécamines Human Resources</i>	Dir. HR		
	Dir. Education		
	Dir. Medical		
<i>COPIREP</i>	PSDCP Liaison, Advisor		
<i>CRONGD – Regional Council for NGOs in Development</i>	Representative		
<i>COPIREP Consultant</i>	Representative		
<b>Monday February 21</b>			
<i>Caritas Katanga</i>	Representative		
	Representative		
	Representative		
	Representative		
	Representative		
	Representative		
<i>INSS</i>	Sous-directeur Admin + Finance		
<b>Tuesday February 22</b>			
Meeting of Local NGOs hosted by CRONGD	SADRI	Representative	
	Caritas Katanga	Representative	
	PREMI Congo	Representative	
	CENAGRI	Representative	
	AED	Representative	
		Representative	
	OPF	Representative	
CRONGD Katanga	6 Representatives		
International Rescue Committee	Katanga Director, Health; Education;		

<b>Wednesday February 23</b>		
Gécamines HR – Education	Dir. Education	
Partants Volontaires – Lubumbashi	Representative	
	Secretary	
	President	
	Vice. President	
	Representative	
	Representative	
<b>Thursday February 24</b>		
ANAPECO – Likasi	Chief de Service, Ustawi School	
	President Anapeco Ustawi I	
Partants Volontaires – Likasi		
<b>Friday February 25</b>		
Ecole Maadini	Prefet/Director	
	Director of Studies	
Gécamines Human Resources	Dir. HR	
World Food Program	Katanga Program Officer	
	Representative	
COPIREP	Representative	
<b>Saturday February 26</b>		
Caritas Katanga	Representative	
	Representative	
	Representative	
	Representative	
COPIREP Consultant	Representative	